**English 121-01: Thinking and Writing about the Law Spring 2017**

**MW 1:00-2:15, Rm. TBA**

Instructor: Andrew Ehrgood

Office: Saybrook P-22

Office hours: Abundant, but by appointment

Email: andrew.ehrgood@yale.edu

Cell phone: 203.464.0802 (before 9:00 p.m.)

*The legal mind is marked, one might say, by an odd combination of three things: a capacity to organize the materials of argument, with great force, on either side of a question; a willingness to reach and state a conclusion; and an openness to persuasion that one is wrong. [Legal education] is among other things an experience of making up and changing your mind. Behind all the rhetorical force is a deep sense of the tentative.*

* James Boyd White

*For doubting pleases me no less than knowing.*

* Dante, *Inferno,* XI, 93

*And this constant saying what amounts to no more than variations on the theme of “I don’t like this and I do like that” tends to aesthetic Puritanism. “For goodness’ sake,” said one teacher to a class, “write for a change about what you are neither for nor against.” When one bold boy asked if there could be any such thing, he was told he had flunked the course.*

* Robert Frost, “Poetry and School”

*Everything should be made as simple as possible — but not simpler.*

* Albert Einstein

**Course description:**

Law has an intellectual structure of its own, and the lawyers and judges who make law and interpret it have peculiar ways of imagining and talking about the world, habits of thought and expression that can mystify the nonlawyer.  In this course, you will begin to learn to read and speak and write the lawyer’s language: you will learn to reason and argue in distinctively lawyerly ways about the sorts of problems that lawyers are paid to attend to.  And as you acquire and become adept at this odd language, you will also evaluate it, assessing its appeal and usefulness to you as a thinker, writer, and citizen.

**Course requirements:**

* Two papers (1500 or so words each), each in multiple drafts and each worth 15% of your grade
* Three one-hour style tests (25%)
* A final exam (20%)
* The rest (25%): substantial and polished written homework due the night before each class, intellectual exertion and pluck during class, thoughtful and thorough written comments on classmates' written work, timely submissions, and attendance (at class and at our regular one-on-one conferences at my office).

**How the course works:**

**Group Meetings and Individual Conferences.** We will meet as a group twice a week. On most weeks, I will also meet you for individual conferences.

**Daily Writing Assignments.** During most weeks of the term (weeks during which we’re not working on your first and second papers), a two-to-four-page written assignment will be due before each class.

**Oral Presentations.** Each of you will give at least one oral presentation.

**Tests.** There will be three one-hour tests on style and a final exam. (The final will cover both style and legal analysis).

**Progress Reports.** I will grade your papers, style tests, and final exam, but will not grade your daily assignments or oral presentations. (I will, however, give you a midterm “progress report” about those.)

**A note about the style exercises.** I want you to learn to see what makes some writing easy to read and other writing hard. I further want you to develop an intemperate hatred for the sort of writing that makes the reader’s job needlessly hard. Finally, I want you to be able to predict your readers’ experience of *your* prose: Will your essays make your readers struggle to uncover your thoughts, like archaeologists painstakingly and hopefully brushing away dust and sifting through dirt? Or will your prose be kinder than that – will it, in its elegant simplicity, keep your readers from having to work too hard and you from sounding like a jerk?

To these ends, I will assign you a considerable amount of work from Garner’s *Legal Writing in Plain English* and Williams and Colomb’s *Style: Lessons in Clarity and Grace.* What we’ll do with these texts is much harder than any sentence-level style exercises you may be used to -- it’s hard work for me, and I’ve had lots of experience at it. But it’s worth it: *You cannot become a good writer until you begin to get a feel for the possibilities of the English sentence.* Intensive work of the sort we’ll do is a spectacularly good way to get that feel.

**Course materials: Five books, a course packet, and a three-ring binder**

* Please order books as soon as you think that you're likely to take the course; you'll need them starting at the end of Week 3. If you're on the admit-list or wait-list and order books, and then end up *not* taking the course, I'll buy them from you.
* Please buy *print editions:* we won't be using laptops or e-book readers in the classroom.
* Please buy the specified edition (in some cases, an old edition for which you'll find lots of used copies at online sellers; in one case, a new edition that you'll need to pay full price for). I try hard to keep your textbook costs down, but I also want us to use the best editions for our purposes and to be on the same page (literally) of the books we read closely together.
* **Three books that you’ll need to buy** from the Yale Bookstore, from an online seller, or from an English 121 alumnus:

(1) *The Five Types of Legal Argument.* 3rd ed. Wilson R. Huhn. Carolina Acad. Pr., 2014. ISBN: 9781611635881. *Please buy this current edition (the third) —* not *the earlier (2nd or 1st) editions.*

(2) *Writing and Analysis in the Law.* 5th ed. Helene S. Shapo et al. Foundation Press, 2008. ISBN: 9781599414249. *Please buy* this *edition (the 5th) —* not *the new, 6th edition.*

(3) *Legal Writing in Plain English: A Text with Exercises.* 1st ed. Bryan A. Garner. U. of Chicago Pr., 2001. ISBN: 9780226284187. *Please buy* this *edition (the first) —* not *the new, second edition (which was published in late August 2013).*

* **Two books that you won't absolutely need to buy (the Yale library owns copies), but that you might find it convenient to buy**, from the Yale Bookstore, from an online seller, or from an English 121 alumnus:

(4) *Style: Lessons in Clarity and Grace.* 10th ed*.* Joseph M. Williams and Gregory G. Colomb. Longman, 2010. ISBN: 9780205747467. Five copies of this book are on Closed Reserve at Bass (you should ask for it by its title, not by our course name or number). *If you decide to buy the book, please buy* this *edition (the 10th) —* not *the new, 12th edition (which was published in January 2016).*

(5) *The Case of the Speluncean Explorers: Nine New Opinions.* Peter Suber. Routledge, 1998. ISBN: 9780415185462. This will be our principal text for legal analysis and philosophy. You can either download it from the Yale Library and print it out (we'll discuss how) or, what may be cheaper, buy a used copy from the Yale Bookstore or from an online seller.

* **A Tyco course packet** will be available after shopping period. I'll do my best to keep it thin and cheap.
* I also recommend that you own **a three-ring binder** to hold the reams of handouts that I'll be distributing in class. (And a three-hole puncher might be convenient, too.)

**Grading:**

**About A’s:** By longstanding agreement among English 120 and 121 faculty, it is our policy that:

1. “the grade of A should be reserved for only those papers that the instructor would consider nominating for a departmental writing prize”; and

2. "more than 50% of A/A- grades in any one section is excessive. Unless an instructor thinks that a particular section is so exceptional when compared to others he or she has taught at Yale in the past that it merits a higher percentage of A/A- final grades, the instructor should take 50% in that range as a rule of thumb."

**About deadlines:** They matter. Meet them.

You must complete all assignments in order to pass the course.

**Extensions:** You may hand in three daily assignments late (but not more than 48 hours late) without penalty (unless you have a dean’s excuse).

**Attendance:** You are allowed TWO ABSENCES, no questions asked. Each additional absence will affect your final grade by one full letter grade. If you are absent, you are still responsible for turning in on time anything that is due. If you miss a scheduled conference, I will treat that as an absence. If you are absent too often, you will fail the course, regardless of the quality of your written work.

I reserve the right to treat lateness as absence.