

**I410/C403/I590
Electronic Discovery**

**Department of Human-Centered Computing
Indiana University School of Informatics and Computing, IUPUI
Spring 2022**

Credit Hours: 3

Time: Online, asynchronous

Location: n/a

First Class: January 10, 2022



(Photo of Professor Biederman)

Instructor: Ray Biederman

CEO, Proteus Discovery Group

Partner, Mattingly Burke Cohen & Biederman LLP

President & Co-Founder, DiscoveryMaster LLC

Office Hours: By appointment. Please feel free to email me, call me and/or send me one of those Canvas messages. I will respond as soon as I can. If it is more than 24 hours, please feel free to reach out to me again.

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Prerequisites: None.

Required Course for the legal informatics certificate/area of specialization. Elective course for the School of Informatics and Computing degrees and for other programs, including paralegal programs.

COVID Talk: I know that this is a challenging time for all of us, with a hopeful light at the end of the tunnel. We will all need to be flexible as there are a lot of unknowns about how the semester will shake out. If you have any COVID related items come up, let me know and we can come up with a plan to address them.

Course Description: This course will cover the legal, ethical, financial, logistical, procedural and technological consideration of electronic discovery and its implications for lawyers and their clients. It will highlight federal and state rules, new state and federal legislation and recent court cases that impact electronic discovery policies and processes. We will also consider electronic discovery from the point of view of an organization that has to prepare for – and then respond to – requests for the production of electronic data.

Lawyers face a new world of discoverable information in the digital age. Digital materials, such as email, word documents, spreadsheets, images, social media, emojis, gifs and other computer generated files can, and do, play a significant role in court cases, government investigations and administrative proceedings on a daily basis. Rarely a day goes by where electronic data is not presented to a court or discussed in the news. The use of electronic data in legal proceedings is relatively new. In fact, it was not until 2006 that the Federal Rules of Civil Procedure even recognized electronic discovery. These rules were amended in 2015 (and most recently in 2020) to address continued issues at the intersection of technology and the law. In this course we focus mostly on electronic discovery in the context of civil litigation and not criminal law.

Required Textbook: eDiscovery for the Legal Professional.

Author: Broucek, Christine E.

Edition: 2020.

Publisher: New York: Wolters Kluwer

ISBN: 978-1-4548-9525-1.

(Sorry that it is expensive. I reviewed several books to try to find one that was less expensive, but they were too outdated.)

This book is available in the Barnes & Noble bookstore, but there are also online retailers that have it (there is an all digital copy as well)

In addition to the coursebook, I will have supplemental documents and readings which will be uploaded to Canvas. In addition to those, from time to time, we will have from reading from a free online book, Electronically Stored Information: The Complete Guide to Management, Understanding, Acquisition, Storage, Search, and Retrieval, 2nd ed. (available at <http://iucat.iu.edu/catalog/15545966>).

Expectations, Policies, etc.: Assignments are due at the stated deadline and time. Of course, you can send them earlier if you wish. **If you need an extension, you must have prior approval for the extension via email or canvas message. Extensions will be freely given, but if you do not seek an extension, I reserve the right to deduct points for lateness.** Exams will open in Fridays at 5:00 pm and will be available until Sundays at midnight. Responses to discussion forum questions (including replies to others) are also due at midnight on the due date. The final discussion post will also be due at midnight.

There is no final exam in this course. Also, there is no opportunity for extra credit in this course or to re-submit assignments for a higher grade. Due to time constraints and wanting to be fair to all students, I do not review and provide feedback on assignments prior to submission. If technical difficulties with your submission mean that I cannot download or access your assignment, I will contact you and you will have to resubmit the assignment to me in a different format in a timely manner.

If you believe that I made an error in grading your assignment, you must contact me within seven (7) calendar days.

Administrative Withdrawal: A basic requirement of this course is that you will conscientiously participate in and complete all required course activities and/or assignments. Please notify me via email if you are unable to participate or complete an assignment on time. If you miss more than the first 25% of the course without contacting me, you may be administratively withdrawn from the course. Since the course is online and we do not meet, I use the discussion forum questions to monitor course participation. If you have not participated in this activity by the stated deadlines, you may be withdrawn. An administrative withdrawal may have academic, financial and financial aid implications. The administrative withdrawal will take place after the full refund period and if you are administratively withdrawn from the course, you will not be eligible for a tuition refund. If you have questions about the administrative withdrawal policy at any point in the semester, please contact me.

Incomplete: The grade of Incomplete used on the final grade reports indicates that the work is satisfactory as of the end of the semester, but has not been completed. The grade Incomplete may be given only when the completed portion of a student's work in the course is of passing quality. Instructors may award the grade of Incomplete upon a showing of such hardship to a student as would render it unjust to hold the student to the time limits previously fixed for the completion of his/her work. See <https://facultystaffcentral.iupui.edu/grades/submit-grades/incompletes.html> for more information.

Other Policies: Work must be your own and it must be identified as such. Work of others, such as quotes used in a paper, must be properly identified and cited. Studying together either in person or via the Internet and email is encouraged; however, sharing significant amounts of work or presenting the work of others as one's own is not allowed. Please let me know if you have questions about the proper way to use quotations and citations.

Please state the answers to assignment questions in your own words rather than cutting and pasting text from Modules, websites, databases or other materials. I am really interested to know what you have to say about the material we cover in the course and this helps me to tailor the course content as we move through the semester.

I typically upload graded assignments with my feedback to Canvas. According to campus policy, I am only required to keep your assignments for one month after they are graded and I reserve the option to dispose of them after that time.

Regulations, policies, guidelines, requirements and updates are to be followed, including those of Indiana University, IUPUI and the School of Informatics and Computing. This includes those that are printed in the IUPUI Spring 2022 Class Schedule, the current IUPUI Campus Bulletin, posted or referenced in the course's website on Canvas, posted in a classroom, laboratory, office or other campus building or those presented or noted by faculty and staff members. There are a number of campus-wide policies governing the conduct of courses at IUPUI- see the link on the left-hand side of the Canvas screen.

I reserve the right to revise the syllabus as needed during the semester.

Equipment Needed: Because this is an online course delivered through Canvas, you will need weekly access to a computer and a sufficiently stable network to handle large files. You will need to be able to listen to podcasts, view PowerPoint presentations and short videos, download and print materials and search the Internet and library databases. You may need to download and use software from various vendors. Since this is an online course, I communicate with you by email, so all students need to have a valid email address. Please use the Canvas email system to communicate with me - I log into Canvas on the weekends, but not regular IU/IUPUI email, so Canvas is the fastest way to contact me.

Course Management and Helpful Hints: There are no class meeting times per se for this course. Instead, online courses are conducted "asynchronously," which means that we will be sending and receiving email messages and sharing our thoughts in "virtual discussions" using Canvas. Please make an effort to participate fully in the course, including submitting your responses to the Discussion Forum questions each week - not only is this a significant portion of your final course grade, but it will also be a much more rewarding course if we all share our thoughts and expertise. Points will be taken off if all questions in a Discussion Forum are not responded to or if you do not REPLY to another student per the instructions. Responses to Discussion Forum questions are due on Sundays by midnight. This is a 3-credit hour course, so you can expect to be just as busy as you would be in a face-to-face format.

The course will be divided into weekly Modules. Each Module will officially begin on Monday. Modules will officially end on Sundays, but once I have posted a Module, it will be available throughout the semester in case you want to review. There will be an extensive amount of reading each week, but I think that you will find the material interesting and practical.

Grading Information: There are 200 points total in the course.

Exam #1 (covers Modules 1-4): 20 points

Case Study #1: 25 points

Exam #2 (covers Modules 5-8): 20 points

Case Study #2: 25 points

Exam #3 (covers Modules 9-13): 20 points

Self-Reflection on Electronic Discovery: 15 points

Participation in Discussion Forums: Multiple due dates (75 points, 5 points per Discussion Forum). It will be important to read the responses of other students to get the maximum benefit from the course. Points will be taken off if all questions in a Discussion Forum are not responded to, including providing a Reply to another student's responses as indicated in the instructions for the Module.

I will use Canvas to post grades and provide feedback on your assignments.

Grading Scale [percentages and points]

200 points possible.

Cutoff	Low	High	Letter Grade
99%	198	200	A+
93%	186	197	A
90%	180	185	A-
87%	174	179	B+
83%	166	173	B
80%	160	165	B-
77%	154	159	C+
73%	146	153	C
70%	140	145	C-
67%	134	139	D+
63%	126	133	D
60%	120	125	D-
Below 60%	0	119	F

Undergraduate Students: No credits towards major, minor or certificate requirements are granted for a course grade below a C. No credits towards general education or elective requirements are granted for a course grade below C-.

Please note that earning an A means that a student must achieve true excellence in the course. We have a strict policy against grade inflation and our school's Associate Dean for Academic Affairs scrutinizes final course grades to be sure that a faculty member does not have a pattern of awarding too many A grades.

Course Schedule Detail:

Week	Week of	Topic	Assignment	Items due
1	1/10/2022	Introduction to Electronic Discovery (eDiscovery)	Chapter 1 & Other Uploaded Materials	Discussion Forum #1
2	1/17/2022	Impact of ESI on Discovery	Chapter 2 & Other Uploaded Materials	Discussion Forum #2
3	1/24/2022	Data Management and eDiscovery	Chapter 3 & Other Uploaded Materials	Discussion Forum #3
4	1/31/2022	Electronic Discovery Case Management	Chapter 4 & Other Uploaded Materials	Discussion Forum #4
5	2/7/2022	The Discovery Conference	Chapter 5 & Other Uploaded Materials	Discussion Forum #5 Exam #1
6	2/14/2022	Data Collection, Preservation and Processing	Chapter 6 & Other Uploaded Materials	Discussion Forum #6
7	2/21/2022	Data Relevancy Review and Production	Chapter 7 & Other Uploaded Materials	Discussion Forum #7
8	2/28/2022	Inadvertent Disclosures and Confidentiality	Chapter 8 & Other Uploaded Materials	Discussion Forum #8 Case Study #1 Due
9	3/7/2022	Spoliation	Chapter 9 & Other Uploaded Materials	Discussion Forum #9 Exam #2
n/a	3/14/2021	Spring Break		
10	3/21/2022	Ethical Considerations	Chapter 10 & Other Uploaded Materials	Discussion Forum #10
11	3/28/2022	eDiscovery Process Defensibility	Chapter 11 & Other Uploaded Materials	Discussion Forum #11
12	4/4/2022	Privacy, Emerging Technology and Resources	Chapter 12 & Other Uploaded Materials	Discussion Forum #12
13	4/11/2022	Rules, Cases and Terminology	Appendices A,B,C & Other Uploaded Materials	Discussion Forum #13 Case Study #2

14	4/18/2022	eDiscovery Challenges and Strategies	To Be Distributed	Discussion Forum #14 Exam #3
15	4/25/2022	Remaining Issues and New Trends	To Be Distributed	Discussion Forum #15 Self-Reflection on Electronic Discovery: Due Monday, May 2, 2022

Welcome to the course! We are going to have a lot of fun learning about eDiscovery!