




# Teaching Skills and Writing

Rutgers Law School –  
Camden



Why is Rutgers Law  
changing its Academic  
rules about Skills and  
Writing?

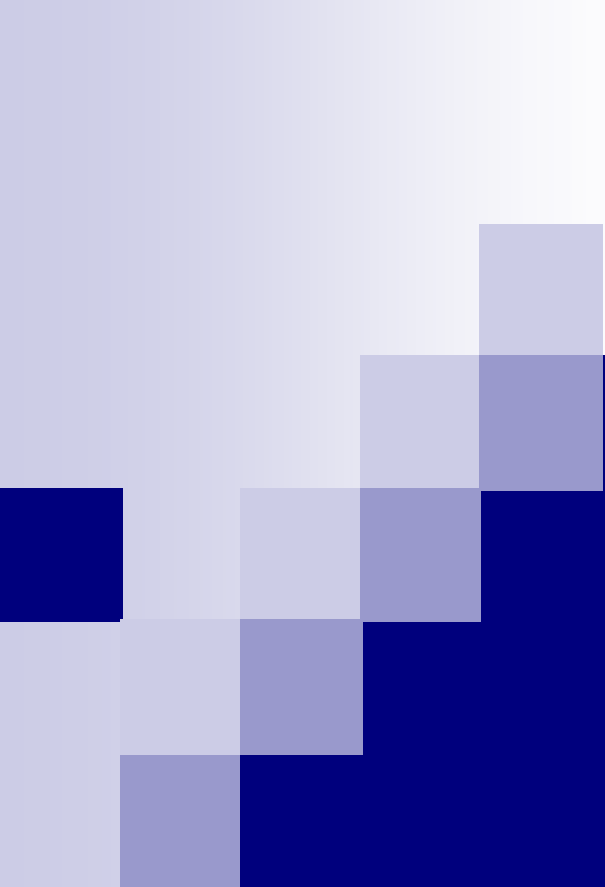


ABA accreditation rules for law schools increased emphasis on skills and writing



# Accreditation Standard 302

“A...law school shall offer substantial instruction in ...3) writing in a legal context, including at least one rigorous writing experience in the first year and at least one additional rigorous writing experience after the first year;(4) other professional skills generally regarded as necessary for effective and responsible participation in the legal profession; ...



# Background: The “nutshell” version of legal education in America



# *Legal Education Stage I*

- “Reading the law”





## *Legal Education Stage II*

- University-based method introduced by Dean Christopher Langdell at Harvard
- Emphasis on study of appellate opinions



# Criticisms about the absence of practical skills in legal education

- Jerome Frank *Why Not a Clinical Lawyer-School?* (1933)
- McCrate Report, ABA Section of Legal Education (1992)
- Teaching the Law School Curriculum (2004)
- Educating Lawyers, Carnegie Foundation for the Advancement of Education (2007)
- Best Practices, Clinical Legal Education Association (2007)



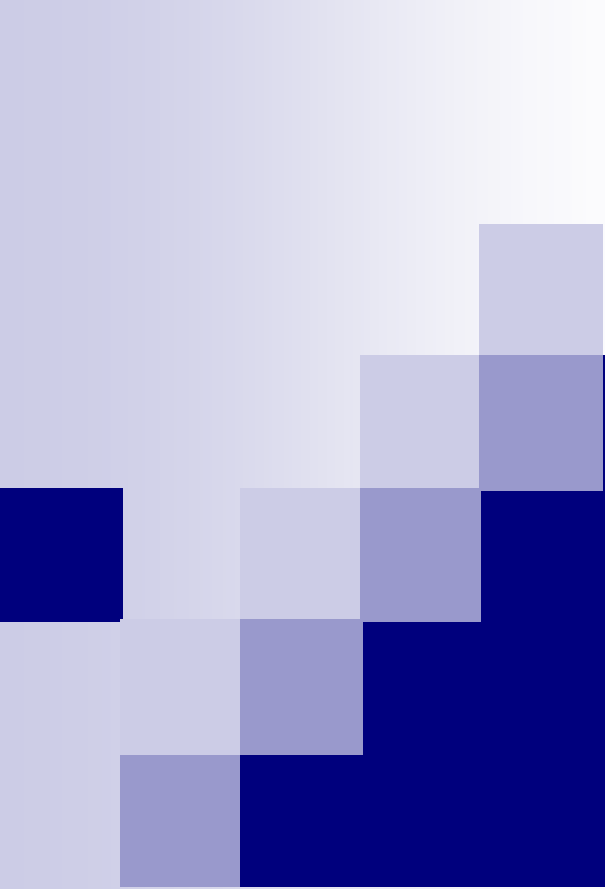
# *Legal Education Stage III* - The new law school environment

- Student practice rules
- Clinics and externships
- Skills simulation courses
- Creative use of skills as examples to enhance doctrinal courses
- The “problem method” of teaching doctrinal courses

# “Educating Lawyers” (the “Carnegie Report”) -- 3 apprenticeships

## PROFESSIONALS LEARN TO

- **THINK** Cognitive apprenticeship via case-dialogue
- **PERFORM** Practice apprenticeship via skills and experiential courses
- **CONDUCT THEMSELVES PROFESSIONALLY** Learning a lawyer’s professional identity and purpose




How do the new  
Rutgers curriculum  
rules meet this  
challenge?



# WRITING

## Rutgers Law previous writing rule

- multiple projects throughout upper level years
- no specified definition regarding length, quality, feedback



# New writing rule sets specific standards – see rule 7 in handout

- Writing in at least 3 courses
- each = 5000 words in one or more projects, (or less for carefully revised practice documents)
- Intensive Writing : one of the three is Intensive



# Intensive Writing

- writing proficiency is a goal
- instructor provides significant feedback
- no more than 14 students per instructor
- satisfactory accomplishment by student



# Remember -- NON “intensive” writing experience still counts

- Frequent writing experience has educational value
- Student learns how writing fits into practice
- Writing works to reinforce learning of substantive material



# SKILLS

- Rutgers offers numerous skills and experiential courses. Until now, skills courses were not required, but popular with students.

## Class of 2007 - Enrollment in Skills courses

0 Courses:

16%

1 Course:

27%

)

69%

2 Courses:

25%

)

3 Courses:

17%

)

4 or more Courses:

15%



# The new skills course rule – see rule 7A in handout

- Reach every student
  - Every student must complete at least one Upper Level Skills Course
- Set standards

# Standards? To be designated as a skills course...

- Development of skill proficiency is a purpose of the course
- Each student has repeat opportunity to practice a skill or perform a series of related skills
- Individual feedback on performance is provided by the faculty for each student
- Skills performance is a substantial part of the grade (for a graded course)
- No more than 25 students per instructor

# What are "skills"?

- Client-oriented - Interviewing and Counseling, preparation for testimony;
- Lawyer-to-lawyer - Negotiation, advocacy, transactional, courtroom, drafting;
- Contextual (taking into account clients, lawyers, and agency mission) - case planning, strategy, problem-solving



Various Courses are “skills” courses

# Clinics and externships



# Advocacy and simulation courses





PSST! Some courses may include skills assignments but not be “Upper Level Skills” course

- Role plays have purposes **OTHER THAN** individual proficiency


- ...to illustrate challenges in advocating for or counseling clients
- ...to demonstrate challenges of determining legal rules
- ...to provide examples of skills that are discussed in class

# Designation by Dean

- Current designations for S or W are tentative
- What's best for your educational plan?



# Skills and Writing in Externship

- 
- Skills rule begins to apply to externs next year – this year we will identify skills
  - Writing rule applies now
  - Compliance with rules will be monitored by Prof. Katz and Prof. Legge
  - Which skills are most effectively experienced in your placement?

# Writing in Externship

- <http://camlaw.rutgers.edu/site/clinics/extern.shtml> provides all forms and information
- From that page go to Form: Writing at <http://camlaw.rutgers.edu/site/clinics/extern/superwriting.pdf>



# Skills and Writing in Advocacy courses

**ADVOCACY  
Skills  
7A. 2: E & 4:B**

**Sub. Basis  
for  
Grade**

**\*Sequential  
Lawyering  
Skills**

**\*One or More  
Individual  
Feedback**

# Writing in Advocacy Courses

## 7.3 Non Intensive Writing Credit

Example: Pretrial

- ✓ >14 students
- ✓ <5000 words
- ✓ Pleadings, Interrogatories, etc.
- ✓ Individual Feedback

## 7.5 Intensive Writing Credit

Example: Seminar Courses

- ✓ 14 students or less
- ✓ 5000 words +
- ✓ Multiple drafts
- ✓ Individual Feedback



# NITA METHODOLOGY FOR CRITIQUING ADVOCACY

- **HEADNOTE:** Identify the problem
- **PLAYBACK:** Replay student's exact words
- **RATIONALE:** Explain why it is a problem
- **PRESCRIPTION:** Model the "fix"



# TEACHING THE ROOM

Critique performance not person

No more than two points per critique

Avoid war stories

Consider skills evaluation sheets



educationally  
meaningful student  
performance and  
effective feedback

Advice from clinical-externship  
faculty



# 1. Plan it

- Design (or acquire) a simulation or
- Select real experience (in externship or clinic)

.....that meets educational objectives for that student or that point in the course



## 2. See it

- Observe (in person or via recording). May also get reports and discuss



### 3. Clarify expectations and goals for each skill experience

- identify challenging but appropriate level of accomplishment
- limit # of factors to be assessed
- communicate purpose and expectations
- see examples in your packets

The importance of considering your BATNA before negotiations begin.



"Would've been cheaper to pay the ransom."



## 4. Communicate feedback

- engage the student in the critique via discussion or written self-assessment
- offer critique in person or in writing
- best practice: feedback is timely, constructive, concrete, offers models of alternatives, and engages the recipient



## 5. Make the student keep responsibility

- Student should make corrections, or try again – get back on the bicycle!



## 6. Aim for student self-assessment and commitment to improvement

- Excellent lawyers work for continued improvement
- Students need to believe in the importance of the skill and their ability to improve
- Students need to have basic tools of the skill



# Effective feedback for legal writing

Advice from our legal writing  
faculty

# Effective Feedback

- Law students are more likely to develop expertise when teachers use a feedback method that:
  - Reinforces student feelings of **control and competence**; and
  - Minimizes the power imbalance between student and teacher.



# Feedback Form

Identify what aspect(s) of this assignment you think you did well:

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Identify what aspect(s) of this assignment you think you did not do well:

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Thank you!

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