

Classroom-Based Experiential Teaching: An Intellectual Property Illustration

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The Problems Faced by the “Podium” Teacher:

1. Mismatch of teaching methods and learning goals
 - From the school’s perspective: Incompleteness of the “thinking like a lawyer” premise of legal education
 - From the students’ perspective: Divorce of teaching and practice
 - From the teacher’s perspective: Inability to make productive use of my time in practice
2. Insufficient attention in law school to writing and composition skills
3. Weak assessment methods that divorce academic expectations from professional expectations
4. Resource constraints: Limited support for collaborative teaching (one staff member, many students)

The (Still Evolving) Solutions: Goals

1. Realize a vision of the legal professionals and lawyers that my students will become
2. Inspire students to learn and to learn by doing, rather than only by thinking. Focus is on doctrine in the context of higher-order, non-discipline specific cognitive and practical skills. Integrate “cognitive,” “practical,” and “professional” attributes of legal education.
3. Cultivate in students a sensibility guided by accountability to clients.
4. Give students abundant guided practice in critical writing that closely resembles what they may encounter in practice, characterized by high expectations, severe resource constraints, and uncertain, incomplete facts.
5. Observe student progress during the semester and course correct as needed

The (Still Evolving) Solutions: Methods

1. Retain traditional teaching materials
2. Eliminate final exams
3. Assess students based on written law office-style responses to complex, incomplete hypos that ask “what should I [the client] do?” rather than “identify claims and defenses and assess their strengths and weaknesses.”
 - Emulate the tone, style, content, and format of a client/lawyer interaction or a senior lawyer/junior lawyer interaction
 - Go beyond writing exercises that prepare students for exam-style hypothetical questions
 - Evaluate on analytic content, responsiveness, and writing quality
4. Adopt client-centered focus; address ethics occasionally
5. Get students in the mood: incorporate complex hypos (up to 8-10 participants) into class sessions



The “Motion W”

First use in commerce: 1991

Federal Registration: 1996

University of Wisconsin Badgers

NCAA Division I

Madison, WI



2003-2007



1991-2007



1996-2002

Washburn University
Ichabods

NCAA Division II Topeka,
KS





Post-settlement (since 2009) at Washburn



Wisconsin Lutheran High
School, WI



West Lakota West High
School, OH



The (Still Evolving) Solutions: Assessment

Justifications

- Benefits of recognizing recursive relationship between thinking and experiencing (doing)
- “Writing to Learn” and “Writing in the Disciplines” literature

Drawbacks

- Coverage: course coverage goes down because we take time in class to preview the assignments
- Time: doubling my time assessing students
- Expertise (students’): prior law school work does not prepare them well for the rigor, the uncertainty, or the time demands

Outcomes/evidence

- A range of performance remains, but the low and mediocre performers almost always achieve analytic and compositional competence by the end of the semester
- Anecdotal praise from alumni/practitioners
- Students come back for more

The (Still Evolving) Solutions: The Future

What's changed

- Greater transparency in assessment framework: expectations, rubrics, scoring
- Increased framing of the course to align with “Innovation Practice Institute” and the goal of producing 21st century lawyers who are more than problem-solvers and risk avoiders

What hasn't changed

- Ripped from the headlines, just-in-time assignments
- No clear issues to spot, no neatly-outlined solutions expected
- Treating students like the young professionals they are
- No anonymity

The future?

- <http://madisonian.net/home/> [Course Home Pages]

michael.j.madison@gmail.com with questions, comments, suggestions, invitations, and so on!