Diversifying the First-Year Skills Coverage by Creating Three Separate Tracks for 1Ls

By Tracy L. Turner

Tracy L. Turner is Director of the Legal Analysis, Writing and Skills Program and Professor of Legal Analysis, Writing and Skills at Southwestern Law School in Los Angeles, Calif.

First-year legal writing and skills courses have become a popular home for the broad array of skills that law schools now seek to introduce to their students. However, the incorporation of additional skills poses a challenge because these first-year courses already need to provide intensive training in the fundamental skills of legal analysis and writing. It is difficult for the courses also to adequately cover professionalism, client counseling, interviewing, professional identity, negotiation, trial briefs, appellate briefs, trial advocacy, and oral argument.

As we mulled over this challenge at Southwestern Law School, our conversation went something like this:

“Our existing program provides rigorous training in key research, writing, and oral advocacy skills.”

“Yes, but our exclusive focus on appellate advocacy does not match our students’ future careers well. Most of our students become prosecutors, public defenders, nonprofit advocates, and transactional entertainment lawyers. Even the litigators write mostly motion briefs rather than appeals. Others may never even write a brief.”

“Well, if they can handle the rigors of our moot court problem, they can handle any other task too.”

“Still, we could envision a program that is more closely tailored to their future practice areas. Students might be more able to understand the course’s relevance to their career and become more engaged than they currently are. Wouldn’t it be nice also to involve our Trial Advocacy and Negotiation honors teams in the 1L intramural competitions?”

Once we answered these questions with a resounding “yes,” a new idea emerged. Rather than trying to cram everything into one course, why not let our students select from different menus of skills to suit their personal interests and career goals?

The result of our discussions was a new three-track program. It offers students three variations of our first-year Legal Analysis, Writing, and Skills (LAWS) course: appellate advocacy, negotiation, and trial practice. It also offers three matching intramural competitions held at the end of the spring semester, followed by a combined banquet to celebrate the students’ accomplishments.

Now, in our program’s fifth year, we can see many signs of its success. More 1Ls participate in the intramurals. More alumni come on campus to serve as judges. More upper-division students participate in our Moot Court, Trial Advocacy, and Negotiation honors programs. And our LAWS course is more relevant to our students’ future careers.

---

**Design**

To implement our vision, we had to navigate some difficult decisions. First, how distinct did we want the three tracks to be? Should students in the negotiation track draft contracts instead of a persuasive brief, and students in the trial-practice track draft dispositive motion documents? Piling such tasks on top of a complex legal research and writing assignment, however, would be too much for students. We would have to sacrifice either our program’s traditional “big brief” writing assignment or some of the alternative coverage the new LAWS tracks could offer.

An important consideration was that LAWS was nearly the only course that exposed students to the “big brief.” In contrast, several upper-level courses offered students extensive training in negotiation and trial advocacy. Therefore, we ultimately decided to accommodate the “big brief” and take a more modest approach to coverage in the new tracks.

Our fall semester has retained its focus on objective legal writing and research. It remains unaffected by the three-track selection. In the spring, we guarantee a universally deep experience in the fundamental skills of legal research and persuasive writing for students in all three tracks. We use one flexible hypothetical case as the basis for the writing assignment for all three tracks. While appellate advocacy students write an appellate brief, students in the other two tracks write a memorandum of points and authorities in support of or in opposition to the dispositive motion (pre-appeal) on the same issue with the same fact pattern. The uniformity in the writing and research component of the course ensures that students will be trained in fundamentals and enables our LAWS faculty to move fairly easily between tracks.

We changed our past practice of designing the spring problem to present a question of first impression in the jurisdiction. Instead, we now design a problem that has existing precedent on the issue but also a gray area into which the fact pattern falls. Consequently, our spring problems are now much more typical of the challenges our students will face in practice. They provide opportunities for further training in rule synthesis, fact-based analysis, analogical reasoning, and large-volume legal research.

Despite the uniformity in coverage of fundamentals, the three tracks nonetheless offer unique experiences to our first-year students. The different procedural settings require different strategies: the appellate students need to focus on the appropriate standard of review, while students in the other tracks need to focus on the procedural standard for the particular type of motion. Also, the three tracks offer completely different oral advocacy training. In the appellate advocacy track, students practice oral argument based on their appellate briefs. In the negotiation track, we create a factual addendum to the problem that gives rise to a contractual or settlement negotiation in which students participate. In the trial practice track, the motion is denied and the parties proceed to trial; the students practice witness examination and closing arguments.

**Track Selection**

We next had to address when and how students would select their tracks. We considered having students select a track in mid-fall and reshuffling the LAWS sections in the spring to accommodate their choices. However, LAWS faculty members valued having students for an entire year to foster a close mentoring relationship. Therefore, incoming students now select a track before the fall semester so that they can remain with the same professor for both semesters.

To aid students’ decision making, the LAWS Director speaks about the three tracks at a summer event for incoming students, and the school posts video presentations by the LAWS faculty. In addition, we work closely with the student honors programs that run the three intramural competitions to ensure that students may compete in any one of the three intramurals regardless of which LAWS track they choose. Students must participate in one mandatory round of competition in their LAWS track. Thereafter they can switch into a different competition for the competitive rounds. Students who switch into a different competition receive training from the relevant
When we had only a moot court competition, approximately 60 percent of our 1Ls participated in the optional rounds of the competition. That number has risen to a fairly consistent 75 percent. In addition, the popularity of the new tracks has confirmed our assumption that students would be interested in being exposed to negotiation and trial practice skills.

In sum, our exciting but initially daunting idea turned out to be extremely manageable. We maintained the course's core focus on fundamental legal analysis and writing skills while allowing our students to tailor their skills training to their particular career interests. We increased participation in the intramurals and in the upper-division honors programs. More of our students are benefiting from the excellent skills training the upper-division intramural competitions provide. And more of our alumni are coming back to campus to participate as judges and thus to connect with our students as mentors. It has been a win-win situation for everyone.

© 2014 Tracy L. Turner

Accessing Perspectives

To receive Perspectives by e-mail, sign up at <https://pc2.mypreferences.com/ThomsonReutersUSLegal/?tid=NEWSLETTERS>. Authors are encouraged to submit brief articles on subjects relevant to the teaching of legal research and writing. The Perspectives Author's Guide and Style Sheet are posted at <http://info.legalsolutions.thomsonreuters.com/signup/newsletters/perspectives/perstyle.aspx>.