

Yale Law School's Plan for Satisfying New York Court of Appeals Rule 520.18
Adopted by the Faculty on May 30, 2018

Yale Law School expects that its J.D. students who apply for admission to the New York Bar will be certified for admission through Pathway One, which requires the Law School to identify and incorporate into its curriculum the skills and professional values necessary for our graduates' basic competence and ethical participation in the legal profession. This memorandum identifies the skills and professional values incorporated in our curriculum.

First-Semester Instruction

Yale Law School endeavors to introduce its students to the skills and values set forth in Appendix A during their first semester at the School and to provide ample opportunity to practice and master these skills and values throughout their law school education. In the first semester, students take four required courses: Civil Procedure, Constitutional Law, Contracts, and Torts. In these doctrinal courses, students are introduced to and engage in legal thought and analysis. Students are expected to read cases carefully, analyze cases and statutes, understand how facts shape judicial decisions and the law, and appreciate law in the larger societal context. These courses also enhance the students' capacity to organize their thoughts, formulate arguments, and express rules of law while recognizing factual and legal nuances. These skills are tested by the Socratic method, more general classroom discussions, oral and written assignments, and final examinations. All first-semester courses are graded on a credit/fail basis.

Legal research and writing are also introduced and practiced in the first semester. One of the four required first-semester courses is taught as a seminar-style "small group" that provides opportunities for instruction in legal research and writing. The small group professor and two Coker Fellows, who are third-year law-student teaching assistants, train students in the basics of legal writing. Some small groups have, in addition, an intensive half-semester engagement with a specially hired legal writing instructor resulting in the production of a short legal memorandum. For all small groups, two senior writing instructors give lectures on a variety of writing topics, including objective and persuasive legal writing and the mechanics of memoranda and briefs. Experienced law librarians instruct the students on the process of legal research. Students produce a variety of legal writing that can include memoranda of law, appellate briefs, bench memoranda, and judicial opinions. Students are provided with extensive feedback on their assignments, and resources are made available for students requiring additional instruction. Instruction about professionalism and legal values is interwoven in the writing assignments.

In addition, most Civil Procedure sections include written assignments that are supervised by law-student teaching assistants. In drafting pleadings and motions, students have the opportunity to apply the rules of procedure and to understand the strategies underlying the preparation of these written instruments. These assignments may also introduce issues of legal ethics and the duties attorneys have to their clients, opposing parties, and the courts.

Upper-Level Instruction

After the first semester of required courses, students are free to select their own curriculum, but they must complete (1) a basic course in Criminal Law or Criminal Law and Administration, (2) a course of at least two credits substantially devoted to issues of professional responsibility or legal ethics, and (3) six credits of experiential learning. In addition, students must write a Substantial Paper and a more ambitious Supervised Analytic Writing Paper.

In students' work to satisfy the writing requirements, they explore in depth areas of law in which they are especially interested and refine their analytical skills and writing style. Students work closely with professors on their papers, receiving constructive criticism, and preparing multiple drafts. Many of the papers that earn Substantial Paper or Supervised Analytic Writing credit are submitted to journals and nominated for school prizes.

Yale Law School offers a number of courses that satisfy its professional responsibility/legal ethics requirement and regularly sends the list of new courses to the New York Bar for approval under Rule 520.6 (b)(3)(vi)(a), the Bar's professional responsibility requirement. Students are notified each semester of the courses that have been approved by the New York Court of Appeals to satisfy its professional responsibility requirement. These courses examine the values and ethics in the profession of law and challenge students to recognize the central role these values and ethics play in a lawyer's practice. The fundamental ethical values the Law School expects students to internalize from these courses are listed in Appendix B. More broadly, faculty are attentive to and raise issues of ethics and professional responsibility in upper-level courses.

Yale Law School has a rich history of clinical course offerings and long has been at the forefront in recognizing the importance and evolution of experiential learning. Our experiential course offerings, including trial practice, live-client clinics, advanced legal writing, and various transactional and litigation simulation courses, offer students opportunities to practice and master the skills and internalize the values required for basic competence and participation in the legal community. The skills and values to which experiential courses expose our students are listed in Appendix C.

Unique to Yale Law School, students are allowed, and encouraged, to participate in live-client clinics after their first semester of law school, an experience made possible by Connecticut's student practice rules¹. A majority of our students has regularly participated in at least one clinic during their law school career. Because our students can start practicing these skills and values as soon as their second semester in law school, they have more time than other law students have to hone these skills and values.

¹ Connecticut is the only state with a one-term student practice rule and Yale Law School is the only law school in Connecticut that takes advantage of the rule by allowing second-term students to take clinics. Indeed, efforts of the Yale clinical faculty in the 1970s were instrumental in the adoption of this student practice rule.

Appendix A

First-Term Skills for the J.D. Program

- (1) Legal Thought and Analysis
 - a. Develop analytical reasoning skills
 - b. Analyze cases and statutes
 - c. Synthesize multiple cases and statutes to extract legal principles
 - d. Understand the interplay between facts and law
 - e. Integrate legal and factual analysis
 - f. Anticipate and address potential arguments
 - g. Distinguish major and minor issues within case law
 - h. Appreciate law in the larger societal context

- (2) Legal Research
 - a. Effectively and thoroughly research an issue using available databases and materials
 - b. Distinguish between primary and secondary sources
 - c. Differentiate between controlling and persuasive authority

- (3) Oral and Written Communication
 - a. Organize thoughts and analysis in coherent and concise written and oral presentation
 - b. Tailor communication to target audience
 - c. Learn objective and persuasive legal writing
 - d. Draft and edit legal documents
 - e. Cite authorities properly
 - f. Practice active listening skills
 - g. Present arguments orally with clarity and persuasiveness
 - h. Explain legal concepts concisely and accurately

Appendix B

Professional Responsibility Skills and Values

- (1) Model professional responsibility and ethics
- (2) Understand the nature of the attorney-client relationship, including how to initiate, maintain, and terminate the relationship
- (3) Engage in diligent and competent representation of clients
- (4) Maintain clients' confidential information
- (5) Identify and cure or avoid conflicts of interest
- (6) Act honestly and candidly as an officer of the court
- (7) Serve clients loyally and advocate for clients' interests
- (8) Engage in pro bono representation
- (9) Promote equality, inclusion, and nondiscrimination in the legal profession
- (10) Adhere to the ABA Model Rules of Professional Conduct and the rules of ethics in particular jurisdiction of practice

Appendix C

Experiential Skills and Values²

- (1) Problem Solving
 - a. Identifying and diagnosing the problem
 - b. Generating alternative solutions and strategies
 - c. Developing a plan of action
 - d. Implementing the plan
 - e. Keeping the planning process open to new information and ideas

- (2) Legal Analysis and Reasoning
 - a. Identifying and formulating legal issues
 - b. Formulating relevant legal theories
 - c. Elaborating legal theory
 - d. Evaluating legal theory
 - e. Critiquing and synthesizing legal arguments

- (3) Legal Research
 - a. Knowledge of the nature of legal rules and institutions
 - b. Knowledge of and ability to use fundamental tools of legal research
 - c. Understanding of the process of devising and implementing a coherent and effective research design

- (4) Communication
 - a. Effectively assessing the perspective of the recipient of the communication
 - b. Using effective methods of communication

- (5) Interviewing and Counseling
 - a. Practicing active listening skills
 - b. Understanding the proper nature and bounds of the lawyer's role in a counseling relationship
 - c. Understanding core duties, including confidentiality, loyalty, and zealous advocacy
 - d. Establishing a relationship of trust
 - e. Gathering information relevant to the decision to be made
 - f. Analyzing the decision to be made

² Adapted from the ABA Section of Legal Education and Admissions to the Bar, Legal Education and Professional Development – An Educational Continuum, *Report of the Task Force on Law Schools and the Profession: Narrowing the Gap* (1992) (commonly referred to as “MacCrate Report”).

- (6) Factual Investigation
 - a. Determining the need for factual investigation
 - b. Planning a factual investigation
 - c. Implementing the investigative strategy
 - d. Memorializing and organizing information in an accessible form
 - e. Deciding whether to conclude the process of fact-gathering
 - f. Evaluating the information that has been gathered

- (7) Negotiation
 - a. Preparing for negotiation effectively
 - b. Conducting a negotiation session effectively
 - c. Counseling the client about the terms obtained from the other side in the negotiation and implementing the client's decision

- (8) Litigation and Alternative Dispute-Resolution Procedures
 - a. Knowledge of the fundamentals of litigation at the trial-court level
 - b. Knowledge of the fundamentals of litigation at the appellate level
 - c. Knowledge of the fundamentals of advocacy in administrative and executive forums
 - d. Knowledge of the fundamentals of proceedings in other dispute-resolution forums

- (9) Organization and Management of Legal Work
 - a. Formulating goals and principles for effective practice management
 - b. Developing systems and procedures to ensure that time, effort, and resources are allocated efficiently
 - c. Developing systems and procedures to ensure that work is performed and completed at the appropriate time
 - d. Developing systems and procedures for effectively working with other people
 - e. Developing systems and procedures for efficiently administering a law office

- (10) Recognizing and Resolving Ethical Dilemmas
 - a. Familiarity with the nature and sources of ethical standards
 - b. Familiarity with the means by which ethical standards are enforced
 - c. Familiarity with the processes for recognizing and resolving ethical dilemmas