

## **Interviewing & Counseling**

Spring Semester 2019

Fridays 10AM-12PM

Prof. Sabrina Rivera

Email: srivera@wsulaw.edu

Office Hours: Email to schedule appointment

### **Course Description:**

Welcome to interviewing and counseling! This course is a two-credit course that introduces you to a set of skills critical to the practice of law in any context. The goals of the course are: 1) to develop your skills in interviewing and gathering information from clients; and, 2) in counseling clients to solve problems and achieve their goals.

### **Course Materials**

The following text is required:

- 1) David A. Binder, Paul Bergman, Paul R. Tremblay, Ian S. Weinstein, Lawyers as Counselors: A Client-Centered Approach, 3<sup>rd</sup> Ed. (West Academic).

### **Additional Readings & Lexis Classroom**

Additional readings will be posted on a LexisNexis Classroom. All students are required to sign up for the course's Lexis Classroom page.

### **Attendance:**

All students are expected to attend class and to come prepared. Since this is a skills course, not attending class, or not being ready when class starts, may significantly interrupt the flow of the session and may affect your final grade. If there are times when you know that you will not be able to attend class in advance, please email Prof. Rivera. More than 2 absences may result in your receiving a failing grade for the course.

### **Grading Criteria and Evaluation**

The two units are graded on the law school's 4.0 scale. Grading will be determined according to three general categories of evaluation, listed below:

- In-class participation (regular class attendance, participation and simulation exercises): 40%
- Client interview outline: 10%
- Client meeting & outline (final exam): 50%

Each grading component is described in greater detail below or in a handout distributed later in the semester.

### **Simulation Exercises:**

A significant part of the course will involve in-class simulation exercises where you will play the role of an attorney with a partner playing the role of the client. Instructions for these simulations will be distributed prior to each simulation. Your performance will be evaluated by me, by you and your partner. A self-evaluation will be due the class after a simulation. A self-evaluation is

your opportunity to reflect on your performance and make your own determinations about what you do well and what you believe you can improve in future simulations.

### **Reflection Papers**

Students are required to submit two short written papers during the course of the semester. These papers are intended for you to reflect on certain aspects of your interviewing and counseling skills as the course progresses. Reflection papers should adhere to the following guidelines:

- (1) Reflection papers should be submitted via email to [srivera@wsulaw.edu](mailto:srivera@wsulaw.edu) on or before the due dates listed below.
- (2) Reflection papers should be 2-3 pages, double-spaced, in Times New Roman font.
- (3) Below are some general themes and questions to consider for writing each reflection:
  - a. Pick one or two skills from the readings. How do you plan to utilize the skills while interviewing clients?
  - b. Pick one or two skills you feel need improvement. How can you improve on these skills in the future?
  - c. Which interviewing and counseling skills do you believe make an effective or successful attorney and why?
  - d. What have you learned about yourself throughout the semester?

You have the opportunity to improve your class grade through your reflection papers. Good papers submitted on time will be given a  $\checkmark$  (“check”) grade. Excellent papers will be given a  $\checkmark+$  (“check plus”).  $\checkmark+$  performance on both papers will improve your overall class grade. Consistent  $\checkmark$  performance on the two papers will not affect your class grade. Please note, however, that poor papers or papers submitted late will be given a  $\checkmark-$  (“check minus”).  $\checkmark-$  performance on both papers will result in a reduction in your overall class grade.

### **Course Schedule of Topics, Readings and Assignments:**

The assigned readings should be done before class. Please be prepared to (1) discuss readings; (2) conduct simulation exercises; and, (3) complete all exercises assigned within each chapter. It is estimated that, on average, the assigned reading and other classroom preparation for every class should require four hours of outside class preparation time.

**\*This syllabus will be updated/revised as the class progresses.**

#### **Friday, January 18, 2019: Course Introduction; Client-Centered Approach; What Motivates a Client to Share Information with You?**

- Course Syllabus (*Available on Lexis Classroom*)
- Chapter 1 & 2 – Lawyers as Counselors
- Chapter 1, 4 – Just Mercy: A Story of Justice and Redemption (*Available on Lexis Classroom*)

#### **Friday, January 25, 2019: The Lawyer-Client Relationship; Professionalism; Building Rapport with Your Client; Nonverbal Communication**

- Chapter 2 – Essential Lawyering Skills (*Available on Lexis Classroom*)
- Chapter 4 & 5 - Interviewing Clients Across Cultures (*Available on Lexis Classroom*)

- California Rules of Professional Conduct, Rule 3-100, 3-110, 3-500 – PDF (*Available on Lexis Classroom*)
- In-Class Practice: Building rapport with your client

**Friday, February 1, 2019:**

- In-class Simulation #1

**Friday, February 8, 2019: Implicit/Explicit Bias; Unconscious Bias; Cross-Cultural Competence; Review on Motivation/Facilitators**

- Addressing Implicit Bias in the Courts, National Center for State Courts and Race & Ethnic Fairness in the Courts (*Available on Lexis Classroom*)
- Bryant, Susan. The Five Habits: Building Cross-Cultural Competence in Lawyers, 8 Clinical L. Rev. 33 (Fall 2001) (*Available on Lexis Classroom*)

**Friday, February 15, 2019: Fundamental Counseling Skills (Active Listening & Forms of Questions)**

- Chapter 3-4 – Lawyers as Counselors
- Chapter 10 - Just Mercy “Mitigation” (*Available on Lexis Classroom*)
- The Trial Lawyer’s College Podcast, Talks About Courage & the Power of Listening, Oct. 19, 2016

**Friday, February 22, 2019: Information-Gathering (Beginning & Concluding Client Conferences); Working with Interpreters**

- Chapters 5, 11 – Lawyers as Counselors
- Chapter 6 - Just Mercy “Surely Doomed” (*Available on Lexis Classroom*)
- Chapter 7- Interviewing Clients Across Cultures (*Available on Lexis Classroom*)

**Friday, March 1, 2019 – Information-Gathering (Eliciting Timelines)**

- Chapter 6 – Lawyers as Counselors

**Friday, March 8, 2019 – Information-Gathering (Theory Development Questioning – Pursuing Helpful Evidence, Questioning Undermining Adversaries’ Likely Contentions)**

- Chapter 7 & 8 – Lawyers as Counselors

**Friday, March 15, 2019**

- Submit Client Interview Outline via email and hard copy in class.
- In-class Simulation #2

**Friday, March 22, 2019: Guest Speakers from the O.C. Public Defender’s Office**

- Chapter 22 – Counseling Criminal Defendants

**Friday, March 29, 2019: Gathering Information from Difficult Clients**

- Chapter 12 – Lawyers as Counselors
- Chapter 8 – Interviewing Clients Across Cultures (*Available on Lexis Classroom*)
- Review

**Friday, April 5, 2019: Decision-Making (Principles Underlying Effective Counseling); Decision-Making (Implementing an Effective Counseling Process and Clarifying Clients' Objectives); Counseling (What Happens When a Lawyer Counsels a Client)**

- Chapter 13-15 – Lawyers as Counselors
- Chapter 18 – Essential Lawyering Skills (*Available on Lexis Classroom*)

**Friday, April 12, 2019: Decision-Making (Identifying Alternatives and Consequences, Final-Decision-Making); Ethical Considerations**

- Chapters 16-18 – Lawyers as Counselors

**Friday, April 19, 2019: Information-Gathering (Transactional Clients); Decision-Making (Counseling “Deal” Clients, Counseling Formal and Informal Organizational Clients)**

- Guest Lecture
- Chapters 9, 20, 21 – Lawyers as Counselors

**Friday, April 26, 2019 – Interviewing Witnesses**

- Chapter 9 – Essential Lawyering Skills (*Available on Lexis Classroom*)
- Conducting Witness Interviews: A Primer for New Lawyers; Eastern District, The Legal Intelligencer (*Available on Lexis Classroom*)
- Submit Reflection #2 via email before end of class.
- In-Class Simulation #3

## **DISABILITY SERVICES STATEMENT**

Western State College of Law provides accommodations to qualified students with disabilities. The **Disabilities** Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Students Services Suite 119. Dean Espinoza's phone number and email address are: (714) 459-1117; [despinoza@wsulaw.edu](mailto:despinoza@wsulaw.edu). When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Allen Easley at [aeasley@wsulaw.edu](mailto:aeasley@wsulaw.edu) or 714-459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

Western State College of Law Programmatic Learning Outcomes (PLOs), attached.

Argosy University Institutional Learning Outcomes (ILOs), attached.

## **Argosy University**

### **Institutional Learning Outcomes:**

#### **1. Analytical Reasoning**

Analyze issues objectively, interpret and synthesize data and ideas, and develop feasible, flexible, and creative solutions to real world problems

#### **2. Effective Communication**

Identify audiences, assess information provided, interpret needs, and present relevant information using appropriate written, oral, and listening skills and media to meet the needs of the situation

#### **3. Information Competency**

Gather, evaluate, and ethically use information from a variety of relevant technological and library resources to make decisions and take action

#### **4. Interpersonal Effectiveness**

Develop individual and group interpersonal skills to improve and foster participation and interaction critical for achieving individual and group goals

#### **5. Personal and Professional Integrity and Ethical Behavior**

Demonstrate a multi dimensional awareness of individual and social responsibility to act ethically and with integrity in a diverse, global society.

#### **6. Professional Competence**

Apply skills appropriate to program objectives and employ critical reasoning to contribute to one's field and profession

## Western State College of Law – Programmatic Learning Outcomes

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) **Doctrinal Knowledge**

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) **Practice Skills**

Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) **Legal Analysis**

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) **Legal Research**

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

**(5) Communication**

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

**(6) Advocacy of Legal Argument**

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

**(7) Client Sensitivity and Cultural Competency**

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

**(8) Legal Ethics**

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.