

**WESTERN STATE UNIVERSITY
COLLEGE OF LAW**

**INTERVIEWING AND COUNSELING 488A
SPRING 2020**

SYLLABUS & POLICIES

Professor: Renato L. Izquieta
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Class Time: Thursdays, 6:40 p.m. – 9:50 p.m.
Office Hours: By appointment

1. **COURSE DESCRIPTION:** This course provides students an opportunity to develop skills in interviewing, counseling, fact finding, and problem solving in a variety of litigation and transactional settings. Students will engage in simulated client counseling sessions in which they will be required to provide the "client" meaningful expertise that incorporates legal analysis with economic and ethical considerations that will shape the legal strategy developed for the client. Emphasis will be placed on the values of professionalism and the ability to integrate non-legal concerns into client representation; counseling (including active listening, questioning, and information gathering) and problem solving.
 - **Course Materials:** David A. Binder, Paul Bergman, Paul R. Tremblay, Ian S. Weinstein, Lawyers as Counselors: A Client-Centered Approach, 4th Ed. (West Academic)
 - **Legal Analysis:** Another course objective is to further develop your ability to identify the factual and legal issues implicated by fact patterns. Students will also demonstrate the ability to identify and evaluate public policies and how they can impact the application of a rule to legal issues.
 - **Legal Research:** To gain further practical skills of locating relevant legal authority, statutes and other material through legal research and other secondary source materials, including online sources such as Westlaw and/or LexisNexis.
 - **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 and your partner. A self-evaluation will be due the class after the simulation. A self-evaluation is your opportunity to reflect on your performance and to make your own determination about what you did well and what you believe you can improve in future simulations.

3. **EXAMS AND GRADING:**

There will be a take-home final examination in essay format and no mid-term. Grading will include class participation and in-class simulation exercises.

4. **CLASS PARTICIPATION, ATTENDANCE & RULES:**

Class Preparation and Participation: Legal education is a cooperative venture, and this is especially critical in this course relating to client interviewing and counseling. Each student should be prepared to participate in class on a regular basis. If you are unprepared, **you will be deemed “absent” for that class session.**

Pursuant to ABA Standard 310, you are expected to devote at minimum two (2) hours of out of class time preparing for each hour of classroom instruction. The assigned readings and case book problems each week have been calibrated for you to achieve this minimum requirement.

This class meets for 3 hours per week, you will be expected to read and prepare outside of class for a minimum of 6 hours in the week leading to each class. Note: Class coverage of reading assignments is fluid. We may not always cover all the assigned material during the scheduled class periods. However, it's your responsibility to make sure you are prepared for each class. In addition, I may distribute additional reading and other materials for additional review and class discussion.

Attendance:

1. Students must be in their assigned seat before the start of class.
2. Attendance will be taken every class.
3. Students must sign in.

Absences:

1. If students incur more than 2 (two) absences, you will be withdrawn from the course and receive a failing grade, which is in accordance with the policies of Western State College of Law.
2. Unpreparedness will be marked as an absence for the class.
3. Late to class will be marked as an absence and must not sign in.
4. If you depart early, you will be marked as absent.

Note, that pursuant to WSCL's attendance policy, students cannot make up an absence by attending another professor's class.

Seating Chart:

1. A seating charted will be created on the first day of class.
2. If you wish to change your seat, please notify the professor to consider your request to make any appropriate changes.

Electronic Devices:

1. *Computer Use:* Students may use a personal computer during class for note taking only. Students are prohibited from being on the internet, checking email, playing games, texting, assessing social media, instance messaging, or the like. If a student violates this rule, the professor reserves the right to prohibit compute use in the class for the student.
2. *Cell Phones:* Students are required to shut-off or silent cell phones before the class begins. Students are prohibited from using cell phones in class. However, if you have a genuine emergency requiring you to monitor your cell phone, please inform the professor in advance for the use.
3. *Audio/Video Recording and Photography:* Taking or transmitting photographic images during class or recording transmitting audio or video of any portion of any lecture, comments, or remarks by the professor is prohibited advance written permission.

EXAMS, PARTICIPATION AND GRADING:

Each student will receive a numeric grade based upon a final exam and class participation.

- **Final Exam (60%):** The final examination will consist of an essay(s) take home examination. The examination will require analysis of any issues, reading assignments, applicable law, statutes, and/or policy issues covered in the course and class discussions. The exam will be open book and notes.
- **Class Participation (20%):** Each student will be required to participate in class. Participation will consist of either the student answering questions of the assigned reading, providing an analysis and problem solving, analyzing and applying any applicable rules and statutes, or providing an analysis on any question posed in class by the professor. Students must also participate in the class simulation exercises. The student's demeanor, professionalism, and how well they articulate the issues and their analysis will be factors considered in the grade for class participation.
- **In-Class Simulation (20%):** Students must participate in-class simulation exercises. You will play the role of an attorney with a partner playing the role of the client. Your performance will be evaluated by me and your partner. The

purpose is to provide students with hands on experience of the skills to effectively interact with clients and to establish a successful attorney-client relationship.

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. 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 or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

WESERN 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.

READING ASSIGNMENTS AND COURSE CALENDAR

Week	Subject	Reading
Week 1: Feb.20 th	Course Introduction: Client Centered Approach; What Motivates a Client to Share Information with You?	<ul style="list-style-type: none"> • Chapters 1 & 2
Week 2: Feb. 27 th	Active Listening: identifying Substance and Feelings; Passive Listening Strategies; Difficulties in Mastering Active Listening; Nonverbal Communication	<ul style="list-style-type: none"> • Chapter 3 • California Rules of Professional Conduct, Rule 3-100, 3-110, 3-500 • In-Class Practice: Building rapport with your client
Week 3: March 5 th	In-Class Simulation #1 Forms of Questions Implicit/Explicit Bias; Unconscious Bias; Cross-Cultural Competence; Review on Motivation/Facilitators	<ul style="list-style-type: none"> • Chapter 4 • Addressing Implicit Bias in the Courts, National Center for State Courts and Race & Ethnic Fairness in the Courts <i>(Available on Lexis Classroom)</i> • Bryant, Susan. The Five habits: Building Cross-Cultural Competence in Layers, 8 Clinical L. Rev. 33 (Fall 2001) <i>(Available on Lexis Classroom)</i>

<p>Week 4: March 12th</p>	<p>Interviewing: Getting Started</p> <p>Interviewing: Eliciting Timeline Stories</p> <p>Fundamental Counseling Skills (Active listening & Forms of Questions)</p>	<ul style="list-style-type: none"> • Chapters 5 & 6 • The Trial Lawyer's College Podcast: Talks About Courage & The Power of Listening, Oct. 19, 2019
<p>Week 5 March 19th</p>	<p>No Class Spring Break</p>	
<p>Week 6: March 26th</p>	<p>Interviewing Theory: Theory Development Questioning</p> <p>Interviewing: Responding to Challenging</p> <p>Interviewing: Concluding Stages of Initial Meetings</p>	<ul style="list-style-type: none"> • Chapters 7, 8 & 9
<p>Week 7: April 2nd</p>	<p>In-Class Simulation #2</p> <p>Interviewing: Strategies for Transactional Clients</p>	<ul style="list-style-type: none"> • Chapter 10
<p>Week 8: April 9th</p>	<p>Interviewing: Strategies for Criminal Defense</p> <p>Counseling: An overview</p>	<ul style="list-style-type: none"> • Chapters 11 & 12
<p>Week 9: April 16th</p>	<p>Counseling: Identifying Alternatives</p> <p>Counseling: Exploring Consequences</p> <p>Counseling: Final Decision Making</p>	<ul style="list-style-type: none"> • Chapters 13, 14 & 15

<p>Week 10: April 23rd</p>	<p>In-Class Simulation #3</p> <p>Counseling: Strategies for Civil Litigation</p>	<ul style="list-style-type: none"> • Chapter 16
<p>Week 11: April 30th</p>	<p>Counseling: Counseling for Transactional</p> <p>Counseling: Strategies for Organizational Clients</p> <p>Counseling: Strategies for Criminal Defense</p>	<ul style="list-style-type: none"> • Chapters 17, 18 & 19