

Interviewing & Counseling

Fall Semester 2020

Mondays 4PM – 6PM

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, 3rd 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: 5%
- Client meeting memorandum: 5%
- 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 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.**

Monday, August 24, 2020: Course Introduction; Client-Centered Lawyering; What Motivates a Client to Share Information with You?

- Course Syllabus (*Available on Lexis Classroom*)
- Chapter 1 & 2 – Lawyers as Counselors

Monday, August 31, 2020: 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*)
- Chapter 1, 4 – Just Mercy: A Story of Justice and Redemption by Bryan Stevenson (*Available on Lexis Classroom*)
- In-Class Practice: Building rapport with your client

Monday, September 7, 2020: NO CLASS (Labor Day)

Monday, September 14, 2020: Gathering Information from Difficult Clients; Bias; Cross-Cultural Competence

- Chapter 8 – Lawyers as Counselors
- Chapter 2 and 8 – Hardball for Women (*Available on Lexis Classroom*)

Monday, September 21, 2020: Fundamental Counseling Skills (Active Listening & Forms of Questions)

- Chapter 3-4 – Lawyers as Counselors
- Chapter 10 - Just Mercy: A Story of Justice and Redemption by Bryan Stevenson (*Available on Lexis Classroom*)

Monday, September 28, 2020: Fundamental Counseling Skills (Active Listening & Forms of Questions)

- The Trial Lawyer’s College Podcast, Talks About Courage & the Power of Listening, Oct. 19, 2016
- In Class Simulation #1

Monday, October 5, 2020: Information-Gathering (Beginning & Concluding Client Conferences); Working with Interpreters

- Chapters 5, 11 – Lawyers as Counselors
- Chapter 6 - Just Mercy: A Story of Justice and Redemption by Bryan Stevenson (*Available on Lexis Classroom*)
- Chapter 7- Interviewing Clients Across Cultures (*Available on Lexis Classroom*)

Monday, October 12, 2020: Information-Gathering (Eliciting Timelines)

- Chapter 6 – Lawyers as Counselors
- Review: Chapter 10 - Just Mercy: A Story of Justice and Redemption by Bryan Stevenson (*Available on Lexis Classroom*), Build Timeline Questions

Monday, October 19, 2020: Information-Gathering (Theory Development Questioning – Pursuing Helpful Evidence, Questioning Undermining Adversaries’ Likely Contentions)

- Chapter 7 – Lawyers as Counselors
- Review Chapters 1, 4, 6 and 10 – Just Mercy: A Story of Justice and Redemption by Bryan Stevenson (*Available on Lexis Classroom*)

Monday, October 26, 2020

- In-class Simulation #2
- Submit Reflection #1 via email before end of class.

Monday, November 2, 2020: 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 12-13 – Lawyers as Counselors
- Chapter 18 – Essential Lawyering Skills (*Available on Lexis Classroom*)
- Submit Client Interview Outline via email and hard copy in class.

Monday, November 9, 2020: Decision-Making (Identifying Alternatives and Consequences, Final-Decision-Making); Ethical Considerations

- Chapters 14-15 – Lawyers as Counselors

Monday, November 16, 2020: Decision-Making (Identifying Alternatives and Consequences, Final-Decision-Making); Ethical Considerations

- Chapters 14-15 – Lawyers as Counselors

Monday, November 23, 2020

- In-Class Simulation #3

Monday, November 30, 2020 – Last Day of Class; 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*)
- Practice
- Submit Reflection #2 via email before end of class.

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. 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."

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.

Requirements for Students in Zoom Sessions:

- Find a dedicated quiet space to attend Zoom sessions, to minimize the chances that you will be disrupted during the session.
- Arrive to class early and dressed as you would to attend an in-person class.
- Your camera must be turned on for the duration of the class. If desired, you can use the background settings in Zoom to create an artificial background that blocks the view of your space while still allowing you to be seen on camera.
- Come prepared, as you would for an in-person class. Participation in Zoom classes is as important as it is during an in-person class session.
- Do not multitask – stay focused on the class discussion – do not wander in and out of the Zoom session.
- If you have to miss a Zoom session, or arrive late or leave early, notify the professor in advance, as you would for an in-person class.
- If you have connectivity issues, whether it be long-term or short-term, that impact your ability to participate (e.g., if you are limited to dial-in without video), notify your professor so other accommodations can be explored.
- Do not post screenshots or recordings of any Zoom classes on social media. Such actions would constitute a violation of the Student Honor Code. If you need access to a recording of the Zoom session, please contact your professor.
- Sign into Zoom with the name under which you are registered for class. If you prefer to be called by a different name or nickname, please notify your professor in advance so you are not marked absent.
- Zoom classes are not YouTube or Netflix. You should be actively engaged in answering questions, taking notes, writing down questions you wish to ask later during class or during office hours, etc. This will not only help you stay engaged and participating in class, it will also help your learning in the online format.
- If you are using your computer to take notes and/or using an e-casebook, remember that you may not be able to easily switch between those apps and the Zoom session. This could undermine your ability to pay attention to the class discussion. Figure out how you will resolve that technological issue before your first class session and consider possible modifications to your normal note taking style (e.g., handwritten notes) or using a two-screen set-up.

- Zoom has a number of tools available to you as a student: yes/no symbols, raise hand and thumb icons, share screen (with permission of the professor), chat windows, etc. Please familiarize yourself with those tools before class so that you can use them as requested by the professor. Your professor will inform you about the ways in which you should use these tools in that particular class.
- Professors may use a number of interactive functions in Zoom to engage with students, e.g., polling questions, breakout rooms, as well as asking you to share your screen, type in the chat window. Like being called on in a live classroom, you are expected to participate fully in these activities and functions, i.e., answer polling questions, speak with your classmates in breakout groups, share your screen as requested, etc.