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A BETTER BEGINNING: FAMILY LAW IN THE FIRST YEAR OF LAW SCHOOL

Wanda M. Temm

The American Bar Association's Section of Legal Education and Admission to the Bar's Standards Review Committee has focused law schools' efforts to modify their curriculum with an appeal to focus on outcomes and assessments. A cornerstone of the outcomes and assessments discussion is skills training. The committee's call for more skills training has prompted family law faculty to consider innovative methods to bring that training into substantive courses or to bring the substantive curriculum into a skills course. This essay discusses how law faculty are incorporating family law doctrines into first-year legal research and writing courses.

Keywords: *outcomes, assessments, skills training, legal research and writing, LRW*

THE CALL FOR MORE SKILLS TRAINING

Legal education is on the brink of reform not seen since the origin of the casebook method. Leading the push is the academy's call to focus on outcomes and assessments rather than on the coverage of specific subject matter.¹ A "student learning outcome" specifies "what students will know, be able to do, or be able to demonstrate when they have completed a [course or program]."² Outcomes include skills, as well as knowledge.³ "Assessment" focuses on gathering information about student learning.⁴

Focusing on the specific skills a law student is expected to have at the end of their legal education has motivated the academy to rethink its entire curriculum. No doubt some schools will embrace this opportunity to shape their program of instruction to focus on skills training. Other schools will make more modest adjustments.

Law professors are encouraged to rethink their courses to include skills training, to identify learning outcomes, and to consider implementing different methods of assessment to include skills rather than knowledge alone. This focus on specific skills is no more necessary than in the teaching of family law.

Traditional family law courses do not instruct students on the practical skills needed to practice law.⁵ Moreover, traditional family law courses expose students to the rules of family law, but do not focus on skills, policy, or reform.⁶ Some schools have added skills-focused courses such as Family Law Mediation⁷ and Divorce Processes & Procedures.⁸ Elective courses are not the only courses subject to change, however. The call for curriculum reform to focus on skills training rather than solely on knowledge has encouraged family law faculty to also think outside the box of traditional courses offered to first-year law students. For example, teaching family law in the first year.

SPECIALIZED LEGAL RESEARCH AND WRITING SECTIONS

Family law during the first year of law school? Yes, through the first-year legal research and writing (LRW) course, a handful of faculty members from different law schools across the country are incorporating family law concepts and skills into their first-year courses.⁹ These skills include legal research, legal writing, drafting, interviewing, and negotiating, which are often left out of typical family law courses.

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Specialized sections of legal research and writing are not a new idea.¹⁰ These sections most frequently arise based on the LRW faculty member's practice or scholarship interests.¹¹ Most LRW faculty will tend to prefer research and writing exercises in their interest areas and thus unintentionally center their LRW course on an area of law. Specialized LRW courses do so explicitly.

These sections tend to follow the syllabus and course guidelines of "regular" LRW courses. Family law is introduced through focusing the research and writing exercises solely on family law issues. In this way, the objectives of the LRW course are met and the students are introduced to family law concepts and skills. These courses are not designed to substitute for the upper-level family law course, but to create a "dynamic [that] increases both students' active engagement in their work and their learning."¹²

Teaching a specialized section of LRW also results in enhanced teaching. "A teacher's natural enthusiasm for the subject always shines through to the students."¹³ Combine the teacher's enthusiasm for the subject with the students' burgeoning interest results in an improved learning experience for the students. In addition, because the assignments are in the LRW faculty member's area of expertise, the assignments are better crafted as the faculty member "will know what pitfalls may occur in certain research paths, where the lines of case analysis branch off, or how a statute really works. . . ."¹⁴

Some schools have stepped beyond including family law in a LRW course and have included family law in its first-year curriculum.¹⁵ City University of New York School of Law links its LRW family law section with a family law course that is a mandatory first-year course. The students' writing and oral argument assignment is based on a simulation set in family court and the students argue at the end of the semester in front of family law judges and practitioners.¹⁶

UMKC'S LRW FAMILY LAW SECTION

The University of Missouri-Kansas City School of Law began its specialized family law section of its first-year LRW course, Introduction to Law and Lawyering Processes, in 2009. The specialized section was introduced in the second semester when the focus of skills instruction shifts from predictive or objective writing to persuasive writing. Students volunteer to take this section as their first-year LRW course. The course is taught by the Legal Writing Director, a former adoption social worker and family law practitioner. Since the program began, enrollment has grown each year.

One goal of developing the course was to identify students with an interest in family law earlier in their legal education. The premise was that identifying these students in the first year would allow for greater participation in the family law offerings and allow faculty to advise interested students about necessary prerequisites. Students would then not miss opportunities because of missed prerequisites. Moreover, earlier identification would aid in nurturing relationships with family law faculty and give first-year students an exposure to a practice field they may not have previously considered.¹⁷

The Introduction to Law—Family Law section follows the same syllabus and uses the same course guidelines as the other Introduction to Law sections. All research and writing assignments are grounded in family law. In-class analysis and writing exercises are set in family law topics such as parental immunity and adoption.

In addition to class sessions centered on legal analysis, legal research, and legal writing, additional class sessions have a distinct family law focus. One session early in the semester focuses on advocacy in family law and invites all the family law professors to sit on a panel and address different aspects of advocacy unique to family law, such as the special challenges of representing children and families. The panel also discusses the clinic opportunities available to students, some of which can be taken as early as the second semester of the second year. The family law faculty highlights the skills training available through the various clinic and externship opportunities and shares specific experiences of clinic students.

Later in the semester, the students observe practice oral arguments of the Family Law Moot Court Team as the team prepares for competition. This allows first-year students to get to know upper-level students interested in family law and establish peer mentorship opportunities. Members of the team

frequently have already participated in various clinic opportunities and taken other family law courses. At this point, first-year students are finalizing their appellate brief assignments. Hearing oral arguments on a family law topic empowers the students in their ability to make similar arguments. This opportunity assists the students in understanding how to frame a persuasive argument. As a result, the students become more engrossed in their writing exercises. An interesting topic and an interest in the subject matter makes research more enjoyable, writing less arduous, and learning come more easily.¹⁸

Researching and writing the appellate brief assignment and then participating in an oral argument on a family law problem is the culminating drafting assignment of the semester. Epitomizing the advantages of having family law faculty work in conjunction with LRW faculty with family law practice experience bring realism into the course. In the Spring 2010 semester, the advocacy problem involved a second parent adoption by a same sex partner. A client of one of the family law faculty consented to address the class. Putting a face to their problem made it real for the first-year students. As the client shared her experiences, the students connected those experiences with the arguments they were making in their briefs. The doctrine learned was linked to its use in law practice.¹⁹ The brief was no longer based on a hypothetical problem, but an assignment loaded with realism. The result was well-written briefs, more persuasively presented. The students came away with a better sense of true advocacy for families and their potential role in the field.

An unintended but quickly becoming the top benefit of a LRW course specializing in family law is “in building a community where the student can feel supported and comfortable.”²⁰ First-year students often have a relationship with their LRW faculty sooner than they develop a relationship with doctrinal faculty. This is in part because of the smaller LRW class size and because of the intimacy of reviewing writing in regular individual conferences. Combining that familiarity with a mutual interest in a topic area leads to the possibility of a more supportive relationship. For instance, DePaul University’s family law LRW section has regular lunch meetings with the director of its family law center as a community-building activity.

CONCLUSION

The academy’s push to focus on law students’ skills in applying the law into practice, rather than just the knowledge they attain through textbooks and lectures, should encourage law faculties to include more skills training in their classrooms. Pairing skills training with a subject area of interest to both the faculty member and the students improves both teaching and learning. Thus, specialized sections of LRW courses are ideal to accomplish that purpose.

NOTES

1. “A law school shall identify, define, and disseminate each of the learning outcomes it seeks for its graduating students and for its program of legal education.” ABA SEC. OF LEGAL EDUC. AND ADMISSIONS TO THE BAR STANDARDS REVIEW CMTE., STANDARDS & RULES OF PROC. FOR APPROVAL OF LAW SCHS. Standard 302(a) (Proposed Draft 2011), available at http://www.americanbar.org/content/dam/aba/migrated/2011_build/legal_education/committees/standards_review_documents/july2011meeting/20110621_ch_3_program_of_legal_education_clean_copy.authcheckdam.pdf [hereinafter “ABA PROPOSED STANDARDS”].

2. University of Rhode Island, *Student Learning Outcomes 101*, available at http://www.uri.edu/assessment/media/public/page_files/uri/outcomes/student/outcomes/outcomes_tools/Handout_Student_Learning_Outcomes_101__8_7_06.pdf [hereinafter “University of Rhode Island”]. ABA proposed standard 302(a) does not define “learning outcome,” instead leaving to the schools the responsibility to define and identify outcomes for their institutions. See ABA PROPOSED STANDARDS, *supra* note 1.

3. University of Rhode Island, *supra* note 2. Proposed standard 302(b) does address the competency areas each law school curriculum must address. See ABA PROPOSED STANDARDS, *supra* note 1.

4. DAVID THOMSON, SOPHIE SPARROW & LORI SHAW, HOW LRW FACULTY CAN CONTRIBUTE TO THEIR LAW SCHOOL’S ASSESSMENT PLAN, Presentation at the Am Ass’n of Law Schs. Annual Meeting (Jan. 6, 2011), available at <http://www.law.du.edu/thomson/AALS2011.htm>. Proposed standard 304 requires law schools to apply a variety of formative and

summative assessment methods. ABA PROPOSED STANDARDS, *supra* note 1. “Formative assessment methods are measurements at different points during a particular course . . . that provide meaningful feedback to improve student learning.” ABA PROPOSED STANDARDS, *supra* note 1, Standard 304, Interpretation 304-1. An example of a formative assessment would be the written critique on a draft of a seminar paper. “Summative assessments [sic] methods are measurements at the culmination of a particular course . . . that measures the degree of student learning.” *Id.* An example of a summative assessment would be a final exam.

5. Mary E. O’Connell & J. Herbie DiFonzo, *Family Law Education Reform Project Final Report*, 44 FAM. CT. REV. 524, 525 (2006) (suggesting a family law curriculum that would prepare law students for the realities of contemporary practice) available at <http://www.afcnet.org/pdfs/FLERP%20Final%20051806.pdf>.

6. *Id.* at 527 (noting substantive law remains at the core of legal education with casebooks focused on litigated appellate cases).

7. DePaul Univ. College of Law Child & Family Law Certificate Requirements, available at http://www.law.depaul.edu/programs/areas_specialization/family_law_cert.asp.

8. University of Missouri-Kansas City School of Law 2011 Summer Schedule, available at <http://law.umkc.edu/pdfs/registration-sul1-course-schedule.pdf>.

9. Nineteen law schools offer specialized sections of LRW courses. 2007 AWLD/LWI Survey. Four schools offer family law sections of LRW: University of Missouri-Kansas City School of Law, Loyola University-Chicago School of Law, City University of New York School of Law, and DePaul University College of Law.

10. See Susan E. Thrower, *Teaching Legal Writing through Subject-Matter Specialties: A Reconciliation of Writing Across the Curriculum*, 13 J. LEGAL WRITING INST. 3, 3–4 (2007); Susan P. Liemer, *Many Birds, One Stone: Teaching the Law You Love*, in *Legal Writing Class*, 53 J. LEG. EDUC. 284, 286 (2003); Deborah A. Schmedemann, *Finding a Happy Medium: Teaching Contract Creation in the First Year*, 5 ALWD 177, 181 (2008); Michelle S. Simon, *Teaching Writing Through Substance: The Integration of Legal Writing with All Deliberate Speed*, 42 DEPAUL L. REV. 619, 622 (1993); Douglas E. Abrams, *Integrating Legal Writing into Civil Procedure*, 24 CONN. L. REV. 813, 814 (1992).

11. Thrower, *supra* note 10, at 9 (noting LRW specialized sections have been offered at DePaul University College of Law in intellectual property, family law, health law, and public interest law).

12. *Id.* at 5.

13. Liemer, *supra* note 10, at 289.

14. *Id.* at 290.

15. Email from Sue Bryant, Professor, City University of New York School of Law, to Wanda M. Temm, Director of Legal Writing, University of Missouri-Kansas City School of Law (April 27, 2011, 11:15 a.m. CST) (on file with author).

16. *Id.*

17. Not all students who volunteer for the course have an active interest in family law. Some wish to continue with the same legal writing faculty member they had the first semester.

18. E-mail from Allison Ortlieb, Legal Writing Instructor, DePaul University College of Law, to Wanda M. Temm, Director of Legal Writing, University of Missouri-Kansas City School of Law (April 26, 2011, 11:48 a.m. CST) (on file with author).

19. Liemer, *supra* note 10, at 286.

20. Ortlieb, *supra* note 18.

Wanda Temm joined the University of Missouri-Kansas City School of Law faculty in 1991 and became Director of the Legal Writing Program in 1999. In 2003, Professor Temm began the UMKC Bar Prep Program, which has assisted numerous graduates in passing the bar exam. Professor Temm is co-author of Missouri Legal Research and Missouri Legal Research Workbook. She presents regularly at regional and national conferences on issues related to legal writing and bar preparation. She is currently treasurer of the Association of Legal Writing Directors. Professor Temm received her bachelor of arts in 1977, graduating summa cum laude from Ottawa University. After receiving her Master of Science from Purdue University in 1979, Professor Temm was an adoption social worker until she entered the University of Kansas School of Law. She received her J.D. in 1988 after serving as note and comment editor of the Kansas Law Review. Prior to joining the UMKC faculty in 1991, she practiced with the firm of Shook, Hardy and Bacon specializing in family law, business litigation, product liability litigation, and appellate practice.