



Lawyering Process

Law 200S & 200L

Professor Donna Shestowsky

Spring 2024 Semester

GENERAL COURSE INFORMATION

Professor of Record:

Professor Donna Shestowsky

Email: dshest@ucdavis.edu

Office Hours: Thursdays 8:30 to 9:45AM in 2135 King Hall (and very flexible by appointment in person, by phone, or on Zoom)

Course Description:

This course introduces students to different types of interactive skills needed for effective litigation and transactional work. Students will gain a better appreciation for the varied tasks in which different types of lawyers engage. In conjunction with the companion laboratory section (Law 200L), this course provides simulation-based opportunities to acquire and practice skills in negotiation, client interviewing, client counseling, and verbal presentations focused on presenting information objectively. It also covers networking in the legal profession. The benefits of honing these skills as early as the 1L year are emphasized.

Course Structure:

This course is a two-unit class that will help you satisfy the skills unit requirements for graduation. Two-unit classes meet for about 2 hours per week (but because this class is a compressed course, ending before spring break, we will sometimes meet more than 2 hours a week). Two-unit classes also have an outside-of-class work requirement of 4 hours per week.

This course has a novel structure. You will attend large section meetings with me (your Professor of Record for Law 200S) and participate in a smaller laboratory section (Law 200L) headed by your Lab Instructor who currently works in the legal field. Law 200S and Law 200L have separate Canvas sites. My Canvas site contains all readings and assignment instructions. The Canvas site for your lab will be used to turn in your graded assignments and obtain feedback from your Lab Instructor on those assignments. The present document is the Syllabus for both components of the course.

Labs meet four times during the semester: weeks ending January 26th, February 2nd, February 16th, and March 15th. In addition, you will also schedule a 60-minute in-person session with your Lab Instructor in groups of 4, during which you will conduct a short negotiation with a classmate serving as co-counsel. You also will schedule a short in-person session with your Lab Instructor, during which you will deliver a brief objective verbal presentation.

Lab Instructors will provide individualized feedback on many of the lawyering skills we will practice this semester. They will evaluate your written assignment and assign your participation grade. They also warmly welcome the opportunity to informally share advice on careers, networking, and professionalism issues during office hours (as do I).

Required Readings:

There is no textbook for this course. Instead, required readings for large section meetings and labs will be posted to my Canvas under Files → Assigned Reading.

Learning Outcomes:

By the end of this course, you should be able to:

- identify and understand key principles of effective client interviewing, client counseling, and negotiation
- conduct an initial client interview
- prepare for, and conduct, a basic negotiation
- network with greater effectiveness and confidence
- appreciate the key differences between litigation and transactional practice, and have a better understanding of what different types of lawyers, including junior lawyers, do in their day-to-day work
- articulate some current trends in legal practice, including the growing importance of alternative dispute resolution (ADR)
- be more comfortable and proficient delivering verbal presentations of objective information

UC Davis School of Law Learning Outcomes:

In compliance with ABA Standard 302, the Faculty of the University of California, Davis School of Law has adopted the following institutional learning outcomes for our J.D. students.

A graduate of this law school should:

- be able to identify and understand key principles of substantive and procedural law.
- be a competent legal analyst and researcher.
- be able to communicate effectively orally and in writing.
- be able independently to learn new areas of the law and address new problems.
- have had exposure to methods and techniques enabling lawyers to practice effectively in a diverse society and world, including the ability to work collaboratively, to communicate effectively with clients, and to engage competently with persons from a variety of backgrounds and holding a variety of views.
- understand the role of law in policy.
- understand the broader social and intellectual context of the law and legal system through, for example, study of legal theory and interdisciplinary perspectives on law.
- learn and understand the rules of professional ethics.
- understand the legal profession's values, standards, and traditions of professionalism.

Course Website:

Please ensure that your Canvas settings are set so that you receive daily and complete course notifications and announcements.

Tutor:

We are fortunate to have 2L Dyanna Castañeda as the Tutor for our section. Dyanna will hold office hours on Wednesdays, 3:30pm-4:30pm at the ASP couches or Peets (weather permitting). She is available to assist with course material, conduct mock job interviews, and review resumes and cover letters. She also welcomes the chance to answer any questions you may have about law school more generally (as do I). Her email address is dcast@ucdavis.edu.

Student Evaluation:

Your final grade will consist of:

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|--|-----|
| 1. Participation (in Laboratory section) | 15% |
| 2. Negotiation Performance Assessment (in-person negotiation) | 33% |
| 3. Client Interviewing and Counseling Self-Analysis Paper (apx. 5 pages) | 33% |
| 4. Verbal Non-Persuasive Communication Presentation | 19% |

There is no final exam for this course.

This is a pass/fail class. To receive a “pass” you must satisfy **the following requirements:** (1) receive a “pass” for each Item 1 through 4 above; (2) meet the attendance requirement for the course (see below); (3) participate in the in-person negotiation session during which you will get feedback from your laboratory instructor; and (4) participate in the in-person verbal non-persuasive communication presentation.

You must conduct the Lab 1 client interviewing simulations and the Lab 2 client counseling simulations to complete the Client Interviewing and Counseling Self-Analysis Paper (item #3 above).

Your final grade will be recorded on your transcript as “Satisfactory” or “Unsatisfactory.” The top 2 students from each lab will be awarded the special distinction of “Academic Excellence Award in Lawyering Process,” which will be noted on their transcript.

Participation: Your participation will be evaluated on the quality of your contributions and insights during the laboratory sessions. Quality comments are ones that:

1. Offer a unique, but relevant, perspective based upon analysis and theory (not intuition or casual observation)
2. Contribute to moving the discussion and analysis forward
3. Relate analytically to previous concepts introduced in the course
4. Build upon the comments of your classmates, or
5. Transcend the “I feel” syndrome; that is, include evidence or logic

Negotiation Performance Assessment: Negotiation is a fundamental lawyering skill; every lawyer’s practice includes some form of negotiation. This course will help you improve and refine your negotiation skills. For this assignment, you will prepare for a simulation along with “co-counsel” from your lab section using a negotiation planning document (which will not be turned in/evaluated), conduct the simulation outside of class time in the presence of your Lab Instructor

(schedule TBA), and obtain their constructive feedback. This feedback will come through a form completed by your Lab Instructor (which constitutes the assessment that will be part of your course grade), as well as verbal feedback that they will give at the conclusion of the negotiation. This performance feedback is intended to be friendly in nature and offered with the objective of helping you learn and grow in the area of negotiations. Most of the feedback will concern the process and strategy employed, not the outcome of the negotiation. Even the most effective negotiators do not reach agreements in every negotiation. Similarly, you need not reach an agreement in the negotiation simulation to earn a high-performance rating.

Client Interviewing and Counseling Self-Analysis Paper: Many law students, as early as their first summer jobs, are asked to conduct in-take interviews of prospective clients. This activity is also common in 2L and 3L externships. In practice, lawyers verbally assess legal scenarios and provide advice during the course of conversation with clients. We will practice these skills by conducting simulations wherein students will take turns assuming the role of lawyer and client. This short paper will consist of answering questions regarding the assigned readings and providing your personal reflections on some of the themes discussed therein as well as in class. This paper is due at 7PM on February 9th.

Verbal Non-Persuasive Communication Presentation: Persuasive communication and advocacy, as well as the ability to deliver a stand-up presentation with visual aids, are important lawyering skills. That said, a lawyer's day-to-day work often involves the *objective* transmission of information, delivered in a manner lying somewhere between an extemporaneous presentation and a formal stand-up presentation. This course will help you practice and hone this public speaking skill by inviting you to deliver a three-minute objective sit-down presentation to your Lab Instructor outside of class, followed by a short Q & A. You will report on a short reading selected from a list that I will distribute later this semester. Your Lab Instructor will provide feedback regarding the substance and delivery of the report and how well you responded to follow-up questions.

CLASSROOM POLICIES

Attendance Policy:

Skill courses come with somewhat unique attendance and participation expectations. Attendance in lecture and lab is required. The first absence (across the large section meeting and lab components combined) is excused without explanation, but any graded assignment associated with that class must still be turned in on time. A second absence may be excused but you must discuss the circumstances with me (in advance, if at all possible) and I will identify a suitable make-up assignment. If either the first or second absence involves a simulation, then you are expected to find a well-prepared substitute who will take your place in the simulation (someone who has not done/is not assigned to do the same simulation elsewhere) and email me their name before class or seek my assistance in finding a substitute at least 24-hours in advance, so that your partner is not precluded from practicing their skills in class. Under extraordinary circumstances, students with additional absences may still be able to earn units for the course but must seek permission from the Senior Assistant Dean for Student Affairs.

In addition, you must participate in the in-person negotiation session and participate in the in-person verbal non-persuasive communication presentation.

The Tutor will take attendance during large section meetings. Your Lab Instructor will take attendance for the lab meeting.

Commitment to Dialogue on Cross-Cultural Competencies, Racism and Bias:

UC Davis School of Law is committed to ensuring that all students engage with issues of racism and other forms of subordination in the law. Our diverse student body – and our diverse faculty – come to these conversations with widely divergent experiences, opinions, and background knowledge. I will work to find the right methods and language to use in leading these discussions as they come up, and that will not always be easy. If you, or any of your classmates, have concerns or questions related to these discussions, please contact me directly as I would appreciate this dialogue. Alternatively, you may consult with our Director of Diversity and Student Life, our Dean of Students, or an ASP Tutor.

Sharing Course Content:

My lectures and course materials and those of your Lab Instructor, including PowerPoint presentations, assessment questions, notes, and similar materials, are protected by U.S. copyright law as well as University policy. We are the exclusive owners of the copyright in those materials we create. You may take notes and make copies of course materials for your own use. You may also share those materials with another student who is enrolled in or auditing this course. You may not reproduce, distribute or display (post/upload) lecture notes or recordings or course materials in any other way — whether or not a fee is charged — without our express prior written consent. You also may not allow others to do so. If you do, you may be subject to student conduct proceedings under the UC Davis Code of Academic Conduct.

Simulations:

You will engage in a series of simulations. To maximize learning for you and the classmates with whom you are paired, you are expected to be well-prepared and on time for each simulation. The dates of the simulations are listed on the course schedule. The simulation materials are copyrighted and may not be used outside of our class this semester.

The materials you get will contain confidential information for your role/side of the simulation. Thus, you may *not show these materials* to anyone else (except for the instructors and tutors), unless you have co-counsel for the simulation (in which case your materials will be identical). *Do not discuss the simulations outside of class as these discussions can harm the educational experiences of students in other sections.*

In selecting any strategy that you use during a simulation; you should comply with the ethical rules and notions of professionalism expected of lawyers. If you are assigned simulation preparation as part of your homework, you should learn the facts well enough that you do need to review the role play materials during the simulation itself.

Laptop and Phone Policy:

Given the nature of this class, laptops and phones are unnecessary and not permitted (except for phones, for emergencies) in lecture or lab. To facilitate notetaking during lecture, copies of most

slides (i.e., those that are not copyrighted and do not give away answers to questions posed in class) will be distributed at the start of class.

Recordings:

Please be advised that the general law school policy regarding recordings applies to our course. That is, the following will be true for each large group meeting, except for the session with external guest speakers, which will not be recorded:

“This session and any personal information you share during the session will be recorded. Participants are prohibited from electronically capturing or re-disclosing session information. Participants may opt-out of being personally identified only with advance host/instructor approval.”

Recordings are deleted once they are no longer needed for the educational purpose of this course. Labs will not be recorded except through special requests via your Lab Instructor.

OTHER IMPORTANT INFORMATION

Disability Accommodations:

The Student Disability Center (SDC) on main campus offers advising, assistance and resources to students with Medical, Mobility, Visual Disabilities, Deaf or hard of hearing (DOHH), Cognitive & Learning Disabilities, ADD/ADHD and Psychological Disabilities as well as for temporary impairments. Academic assistance/accommodations include testing accommodations, access to print material through assistive technology, reader services, braille, e-text, and enlarged print as well as a wide range of note taking tools, equipment to enhance sound, lecture recordings and tools to convert hard copy text into an electronic format on demand. Students may wish to consult with their professors about how their accommodations may best be used to support the learning process. (No student is required to meet with their Professor as a condition of requesting or receiving reasonable accommodations).

With respect to mobility impairments, support services include SDC's shuttle service for temporary impairments and accessible bus transportation to campus for wheelchair users. Disability information and referrals to community resources are also available through the SDC. Students with disabilities must establish eligibility for services through the SDC and are encouraged to contact the SDC as early as possible:

UC Davis Disability Center
54 Cowell Building
(530) 752-3184 (voice)
(530) 752-6TDD (telephone device for persons who are deaf or low-hearing)
<http://sdc.ucdavis.edu>

Please reach out to Dean Scivoletto, with any questions or concerns you may have in this area.

Religious Accommodations:

UC Davis requires instructors to accommodate requests for alternate examination dates, without penalty, when they violate a student's religious creed (UCDPPM 210, §50). I have attempted to schedule any examinations in this course outside of major holidays. Still, if an examination in this course falls on a date that would violate your religious creed, please contact the Law School Registrar's office at registrar@law.ucdavis.edu and they will work with you to provide an alternative examination date.

Statement on Credit Hours:

ABA accreditation standards, which govern all of our law school courses, include a formula for calculating the amount of work that constitutes a credit hour. According to ABA Standard 310(b)(1), "a "credit hour" is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time." As this is a two-credit hour class being held for nine weeks (spread out over ten weeks), applying the ABA standard to the number of credits offered for this class, you are expected to spend at least 6.7 hours per week on out-of-class work.

A Note on Academic Honesty:

Academic dishonesty includes using somebody else's words as your own, paraphrasing someone else's thoughts without acknowledgment, and receiving or providing unauthorized assistance on examinations. Under the [UC Davis Code of Academic Conduct](#), plagiarism includes:

- Taking credit for any work not created by the student; work includes, but is not limited to, books, articles, experimental methodology or results, compositions, images, lectures, computer programs, internet postings, and content generated by software or artificial intelligence ("AI")
- Copying any work not created by the student without indicating that it is copied and properly citing the source of the work
- Using ideas that are not the student's without putting such work in their own words or form and/or failing to provide proper citation

Be aware that misconduct in law school may be reported to the Bar, and may affect admission to the Bar. Please ask me before turning something in if you are unclear about what is acceptable.

Regulation 2.4 of the Law School's Regulations states as follows:

"2.4 The Honor System

- A. Unless the instructor announces otherwise, all written work at this school is governed by the honor system.
- B. Under the honor system students may neither give nor receive aid on written work.
- C. Any student who learns that another student has violated the honor system should report the violation to a member of the faculty or to the dean.
- D. Violations of the honor system will be treated in accordance with university disciplinary procedures."

The University's regulations on academic integrity can be found at: <https://ossja.ucdavis.edu/code-academic-conduct>.