

Southwestern Law School
Syllabus and Course Information
Spring 2024

LEGAL PROFESSION (155-EX)
Professor James M. Fischer

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This syllabus is subject to a number of institutional policies, included in the Spring 2024 Syllabi Institutional Policies document, available on the [Institutional Policies page](#). Please be sure to review that document.

Professor Contact Information

Professor James Fischer
Telephone: (213) 738-6742
Email: jfischer@swlaw.edu
Office location: BW 425

Office Hours

I will be holding virtual office hours on the following days and times:

- Thursdays, 4pm – 6pm
- Other times by appointment

I will hold all virtual office hours using Calendly. If you wish to schedule a meeting, send me an email and I will send you a link to schedule a meeting. Meetings can be individual or in groups. Meetings are for 20 minutes. If you wish to schedule a longer meeting, let me know and it will be arranged.

I will not be holding on-campus office hours during the Spring 2024 semester. If this changes, I will let you know.

Course Description

This course examines the lawyer's individual and professional obligations to clients, to other lawyers, to the courts, and to the larger society.

Special attention is given to the lawyer's role as a professional and the concomitant obligations and conflicts that the professional role creates.

The course also canvasses the means by which the professional role is defined, including professional codes of conduct, professional traditions and history, ethical philosophy, and social and cultural expectations of lawyers and the legal system.

Course Meeting Times and Place

Our classroom is W329. Class will meet Mondays from 6:00 PM to 9:00 PM.

Please bring your laptop to class each session because you may need to log into Zoom for some activities, and I take attendance using the Qwickly online app.

Course Learning Objectives

- Students are aware of the duties and obligations of lawyers when representing clients (1.2)
- Students can correctly identify a lawyer's legal and professional duties and obligations that arise out of sets of hypothetical facts that mirror the work of practicing lawyers (3.2; 4.2)
- Students can propose reasonable, professionally acceptable solutions to problems of professional responsibility raised by hypothetical facts that mirror the work of practicing lawyers (4.1)
- Students can identify differences and similarities between the professional role of lawyer and the personal role of non-lawyer. (5.2)

(Note: Numbers correspond to Southwestern Learning Outcomes)

Canvas Information

Please access "Legal Profession" on our Learning Management System (Canvas) by visiting <https://swlaw.instructure.com> and logging in with your school email and password.

From your Canvas Dashboard, you should see the "Legal Profession" card. If you do not see the card for this course, [please email me](#) right away.

If you have any trouble accessing or using Canvas, please call the dedicated SW LAW Student hotline at (833) 347-3082. We also have a comprehensive Canvas help page on the [Portal](#).

Course Materials

Required course materials

- Course Materials Packet (available through the on campus Print Shop and CANVAS)¹
- California Rules (available through the on campus Print Shop and CANVAS)²
- ABA Model Rules of Professional Conduct (2023 ed.) [ISBN: 9781639052998](#)

Course Information

The information provided here should answer most questions about the administration of this course. If you have other concerns or questions, however, please contact me. You may email questions or comments regarding the class to me at jfischer@swlaw.edu.

What does it mean to say that one practices law? It seems a simple question, but it is not. As we will explore in this course, the practice of law is a highly regulated activity. First, there are Rules of Professional Conduct that address how lawyers must and should practice law.

The violation of these Rules can result in professional discipline which ranges from the loss of the right to practice law (disbarment) to mild reproach (private reproof). Second, lawyers are subject to civil liability for breach of the duty of due care (legal malpractice) and breach of the duty of loyalty (fiduciary duty) owed to clients. Third, lawyer may be judicially sanctioned for unprofessional conduct. In this course, we

¹ Materials are organized with assignments only on CANVAS.

² The California Rules may also be downloaded from the California State Bar website. Make sure you download the new Rules, not the old Rules.

explore what the “practice of law” means by an examination of these obligations, e.g., when does a person become a “client”, what “duties” are owed to clients, what does “loyalty” require of lawyers, what duties do lawyers owe the legal system and society in general and the consequences that follow from a breach of these obligations the lawyer-client relationship creates for a lawyer.

Course Themes

- About half the practice of a decent lawyer consists of telling would-be clients that they are damn fools and should stop. Elihu Root, 1845-1937 (U.S. Attorney Southern District of New York, Secretary of War, Secretary of State, U.S. Senator, Nobel Peace Prize recipient, and Lawyer.)
- I don’t want a lawyer to tell me what I cannot do; I hire him to tell me how to do what I want to do. J.P. Morgan, 1837-1913 (Financier, Banker, and Client)
- Technique without values is a menace; values without technique is a mess. Karl Llewellyn, 1893-1962 (Law Professor and Legal Realist)
- The occupation of attorney at law is both profession and a business. In *Re Galusha*, 195 P. 406 (Cal. 1921).

The first two bullet points express the oftentimes divergent views that lawyers and clients have regarding the purpose of the lawyer-client relationship. The latter two bullet points reflect the inherent tension that personal and business concerns place on lawyers seeking to balance the conflicting views expressed in the first two bullet points.

Course Rules

All students will be expected to observe a modicum of decorum and civility while in class. This means, at a minimum:

- I expect all students to show civility toward one another and respect for the views of one another and not to be shy about expressing their own

views. Disagreement and discussion is encouraged but should be conducted in a civil and professional manner.

- Remember that the reputation you will have as a lawyer begins here while you are a law student.

What the class can expect from the Professor:

- To deliver accurate information on the rules and principles that govern lawyers.
- To guide students through learning the above.
- To teach students how to apply what they learn.
- To be on time and prepared.
- To cover material that will be on the MPRE and California State Bar examinations.
- To keep current in all significant developments in the law governing lawyer conduct as covered in this course and share relevant information with the class.
- To be available outside of class to speak with the students, and by appointment. See Office Hours section in this syllabus.
- To support and guide students to take responsibility for their own learning.

Importance of Attendance

I understand that some students believe an attendance policy, and certainly a rigorous attendance policy, is belittling, demeaning, and counter-productive to learning and morale. The data that I have read on the subject show that regular, consistent attendance improves understanding of, and the gaining of competence over, the course material. With that in mind, I believe that attendance is valuable, and I expect students to respect school policies on this subject. More importantly, this is a professional school, training you for entry into a profession in which punctuality and compliance with time constraints and norms of civility are of uppermost importance. Your professional career begins in law school, and I expect no less than I would expect were I a judge, and you were a lawyer in my courtroom.

Grading Criteria and Evaluation

CLASS EXERCISES: These assignments will be done outside of class. A maximum of 35 points are available for these exercises, which count toward the calculation of the course grade.

FINAL EXAMINATION: The final examination will be comprehensive of all materials assigned. The Final Examination will be worth a maximum of 100 points.

The final examination will be a closed-book exam.

The total possible points that can be earned in the course is 135 points. The Course grade for each student will be based on points earned.

Grading method

The course grade will be based on the points earned in the course (exercises and exams) and the awarding of Class adjustments pursuant to the School's Preparation and Engagement policy.

Class Preparedness, Engagement and Professionalism Policy

I use the Class Preparedness, Engagement and Professionalism Policy. Careful preparation is essential for this course. I may raise or lower your final grade by one-third of a grade (e.g., from a B to a B+, or from a B- to a C+) based on your preparation for class, engagement with the class, and willingness to contribute to the class. I am looking for quality over quantity. I will not adjust any student's more than one-third of a grade based on class preparedness and engagement. I will not adjust an "A+" upward or an "F" grade downward. *[For your reference, at the end of this syllabus is the full "Class Preparedness, Engagement and Professionalism Policy.]*

I will award letter grades and will strictly follow Southwestern's grading policies located on the [Institutional Policies page](#). After the grades are released officially, I am happy to discuss ways to improve your performance.

In determining whether to raise or lower a student's grade, I will consider, among other things, the student's daily knowledge of the required course readings, the student's ability to answer questions based on the course readings, the student's willingness to contribute to class discussions and the quality of those contributions, the student's timely completion of non-graded exercises (e.g., practice exams, quizzes, and other evaluative methods), the student's participation in any opportunities for discussion outside of class such as office hours and on-line discussion forums, and the student's timely attendance or lack of timely attendance. I will also consider the respect and attention that a student gives to class lectures, class discussions, and comments made by other classmates. I will also consider whether a student's comments and questions advance the learning experience in the classroom. Student grades will not be adjusted upwards solely because a student often volunteers to speak in class: the volume of participation in itself is only one factor I will consider. Grades will also not be adjusted upwards based solely on a student's good attendance and timely arrival to class, or because a student completes the required readings for a course, or because a student participates in class discussions. Students are expected to arrive on time, prepare for all classes, and participate in class discussions.

Students will not be rewarded for meeting those basic expectations. I may lower a student's grades, however, for conduct that violates the Class Preparation section of this Syllabus, because the student was disruptive in class, was uncivil to another student, or could not comply with basic norms of professionalism as outlined in the Class Preparation section. I have not used this policy to lower a student's grade since the policy was adopted. I hope and expect that will continue to be the case.

Assignments and Course Outline

Reading assignments are for a class meeting. Reading refers to the Course Materials.

We will not always cover (go over) all of the assigned reading in class; nevertheless, you are responsible for all of the material assigned in the sense it may be tested on the Midterm and Final Exams, and the bar exams for that matter.

If you have a question or are uncertain regarding some issue pertinent to this course, "Ask a Question!" You pay a lot of money for your legal education; get your money's worth.

Class #1: Topic: Course Introduction / Practice of Law
Reading: Preface; Chapter 1
Model Rules³: 5.5

Class #2: Topic: Admission to the Profession; Forming the Lawyer – Client Relationship; Selecting Clients
Reading: Chapter 2; Chapter 3
Model Rules: 8.1, 8.4(g)

Class #3: Topic: Competency; Advising Clients
Reading: Chapter 4; Chapter 5
Model Rules: 1.1, 1.2(c), 1.2, 2.1, 6.1-6.2

Class #4: Topic: Communicating with Clients; Professional Duty of Confidentiality
Reading: Chapter 6; Chapter 7
Model Rules: 1.3, 1.4, 1.6, 1.14, 2.3

Class #5: Topic: Attorney-Client Privilege; Conflict of Interests – Current Clients
Reading: Chapter 8; Chapter 9
Model Rules: 1.7, 4.4(b), 5.4

Class #6: Topic: Conflict of Interests – Special Rules; Prospective and Former Clients
Reading: Chapter 10, Chapter 11
Model Rules: 1.8, 1.9, 1.18

No Class Monday, March 4 – Spring Break

Class #7: Topic: Conflict of Interests – Attribution of Conflict of Interests; Organizational Clients
Reading: Chapter 12; Chapter 13
Model Rules: 1.10, 1.11, 1.12, 1.13, 2.4

³ California uses essentially the same numbering system for its Rules of Professional Conduct.

Class #8: Topic: Fees for Services Rendered; Ending the Lawyer-Client Relationship

Reading: Chapter 14; Chapter 15

Model Rules: 1.5, 1.15, 1.16

Class #9: Topic: The Duty of Candor to the Court; Perjury and the Duty to Remediate

Reading: Chapter 16; Chapter 17

Model Rules: 3.3, 8.4

Class #10: Topic: Candor Versus Advocacy; Honest Dealings

Reading: Chapter 18; Chapter 19

Model Rules: 3.4, 3.5, 4.1 – 4.4

Class #11: Topic: The Lawyer as Negotiator; Lawyer Conduct

Reading: Chapter 20; Chapter 21

Model Rules: 3.1 – 3.2, 4.1, 8.4

Class #12: Topic: Negotiation Exercise; Lawyer Roles

Reading: Chapter 22

Model Rules: 2.3, 3.6 – 3.9

Class #13: Topic: Marketing of Legal Services; The Firm; Review and Course Evaluations

Reading: Chapter 23; Chapter 24

Model Rules: 5.1 – 5.3, 7.1 – 7.3

Class #14 Topic: Make-up class or Guest Speaker

Reading: None

Model Rules: None

Note: This is a floating class depending on scheduling.

Class Preparedness, Engagement, and Professionalism Policy

Southwestern is committed to creating a culture of professionalism in law school. Professionalism begins in the classroom: it is reflected in how students prepare for class, their timely arrival to class, and how they engage with the class and in class discussions. Because the school seeks to encourage professionalism, students who are prepared for class and engaged should be rewarded.

A student's grade in this class may be raised or lowered by one third of a grade (e.g., from a B to a B+, or from a B to a B-) based on the student's preparedness for class, engagement with class, and overall professionalism. In determining whether to raise or lower a student's grade, I will consider, among other things, the student's daily knowledge of the required course readings, the student's ability to answer questions based on the course readings, the student's willingness to contribute to class discussions and the quality of those contributions, the student's timely completion of non-graded exercises (e.g., practice exams, quizzes, and other evaluative methods), the student's participation in any opportunities for discussion outside of class such as office hours and on-line discussion forums, and the student's timely attendance or lack of timely attendance. I will also consider the respect and attention that a student gives to class lectures, class discussions, and comments made by other classmates. I will also consider whether a student's comments and questions advance the learning experience in the classroom. Student grades will not be adjusted upwards solely because a student often volunteers to speak in class: the volume of participation in itself is only one factor I will consider. Grades will also not be adjusted upwards based solely on a student's good attendance and timely arrival to class, or because a student completes the required readings for a course, or because a student participates in class discussions. Students are expected to arrive on time and prepared to all classes, and to participate in class discussions, and will not be rewarded for meeting those basic expectations. I may lower a student's grade, however, for poor attendance, for repeatedly arriving late to class, or for repeatedly leaving class early. Grades may also be lowered for students who play video games; use personal email, twitter or Facebook or surf the internet during class; or engage in other disruptive behavior.

No student's grade will be adjusted more than one third of a grade based on class preparedness and engagement. An "A+" will not be adjusted upwards, and

an "F" grade will not be adjusted downwards. Whether to adjust a grade under this policy is in the faculty member's discretion. Once grades are finalized, grade adjustments under this policy may not be changed.