



Innovative and Interactive Teaching and Learning

Today, if you walked into the Evolution of a Business Transaction class taught by Amy Deen Westbrook, Kurt M. Sager Memorial Distinguished Professor of International and Commercial Law, you would find that something is missing — textbooks.

What you would find instead are primary documents needed for students to walk through a transaction from start to finish. The documents, which include a Letter of Intent, Escrow Agreement, and a Credit Agreement, were specifically created for the class. Students begin with a discussion of the reasons for the transaction and work from there to the closing checklist. Because law students need to be “practice-ready” after graduation, innovative and interactive practical teaching methods that offer experiential opportunities address this need.

Taking a step back in time, Washburn Law classrooms from the late 1960s were furnished with a podium and a chalkboard, with a

professor speaking to a large lecture class. Law schools across the country had a uniform model of teaching that was intended to address the American Bar Association’s accreditation standards, which were designed to achieve quality in the legal education system. Conformity was the standard fare being offered at law schools, with an emphasis on teaching theory over practical skills.

Fast forward to 2013 at Washburn Law and you will find smaller class sizes with professors engaging in small group discussion of advanced theory and technique, and students interacting with practicing lawyers and drafting legal memoranda for the law clinic at the Free University of Tbilisi, in the Republic of Georgia.

Passive learning is being replaced with active learning by professors who are rethinking their approach to teaching law. This type of learning requires different classrooms than those currently in use at the law school.

Domestic law schools have been dealing with decreased enrollment and increased competition. Cookie-cutter teaching methods are being replaced by innovative and interactive programs to attract the best and brightest students who want to learn from more than just a textbook and a lecture.

Programs like Professor Westbrook’s are finding their way into Washburn Law classrooms and receiving a positive student response. Lectures and note-taking are still fundamental to teaching and learning, but they are being complemented by fresher approaches that speak to the skills students need to apply the substantive law they learn in class.

THE FLIPPED CLASSROOM

One innovative teaching method being used in education is the flipped classroom, where active learning occurs in the classroom and passive learning becomes an outside activity performed by the student using technology. In the classroom, students get to roll up their sleeves and work through an exercise using advanced legal analysis and practical skills. The flipped classroom applies the concept of not only knowing but doing.

Business Associations

Professor Lori McMillan uses the flipped classroom approach in her Business Associations class by posting blogs and videos to present the core class concepts. For example, liability rules are summarized on the blog and supplemented with a video that she created. Prior to class, students are asked to review the blog and video.

Advantages to students include being able to do the prep work at their own pace, on their own schedule, and as many times as needed to understand the concepts. Students with a learning disability or who speak English as their second language easily adapt to using the online resources. As a result, students come to class with a better understanding of the course material and are excited to learn.

In a traditional lecture, students interpret what they think they hear and may miss important points for various reasons, whereas a video can be stopped, re-started, and reviewed as many times as needed. The video clips are less than 10 minutes, compared to using 15 minutes of class time to present the material.

In the first hour of her flipped classroom, McMillan supplements the materials on her blog and video to flesh them out. During the second half of class, students apply what they've learned.

The first part of the Business Associations course is agency law, which is not the “sexiest part of law by any stretch” according to McMillan. She had never seen a class as excited about agency as the one she had in the fall 2013 semester with the flipped approach. Coincidentally, the high-profile *Jackson v. AEG* case surrounding singer Michael Jackson’s death was being decided at the same time. Students explored this case as they were learning agency law.

For one month, students divided into two legal teams representing the Jackson family and sports and entertainment promoter AEG and spent their time fact-finding. They applied the agency rule to determine if somebody is an agent, sorted out the facts, determined the pros and cons, took a vote as the jury, and determined that Dr. Conrad Murray, Jackson’s personal physician, was an agent of AEG.

The students were able to follow the proceedings, review testimony, and ultimately had close to the same findings as the real jury. They took real world facts as they were unfolding and applied the laws. The flipped classroom allowed McMillan to guide and correct the students’ arguments and witness their application first-hand.

McMillan said students perceive the pre-work as beneficial, as opposed



to it being busy work or a time-waster, which is sometimes a misconception of the flipped classroom.

During a recent Business Associations class, students were introduced to a limited liability corporation (LLC) operating agreement. In the first hour of class, McMillan asked students to get into small groups to discuss how an LLC differs from a corporation. Students compared what they had previously learned about corporations with new LLC material that McMillan presented in her blog and video. In the second hour of class, students shared the answers they gathered.

In a flipped classroom, students experience active learning that offers a true value for their education and will make them practice-ready.

Visit McMillan’s blogs at

- wubusinessassociations.blogspot.com/
- mcmillanlawandeconomics.blogspot.com/
- wuincometax.blogspot.com/



[1] In 1965, Clayton Davis listens to a professor's lecture. [2] Current Professor Nancy Maxwell started teaching at Washburn Law in 1979.

Contracts I

Initially a skeptic of flipped classrooms, Associate Professor Andrea J. Boyack, assistant director of the Business and Transactional Law Center, questioned its concept.

"If there are things we are doing in the classroom that can be moved out of the classroom, then why are we doing them in the classroom at all?" she wondered.

Boyack discovered that the flipped classroom aligned with her teaching theory by incorporating a number of exercises that simulate practical skills needed after graduation in addition to knowledge of legal doctrine.

Boyack found that if she could do some things for the students prior to

class through videos or other targeted assignments, then she could free up class time and spend it with the students engaged in learning activities. Her low-tech video development utilizes PowerPoint to create the visuals, and her narration is recorded by library staff, then posted on the class video website. Last semester, she applied the flipped approach for the first time in her Contracts I class, using six online videos.

Targeted assignments are posted by Boyack on TWEN, an online courseware site, for students to complete prior to class. One assignment, Dear Student Lawyer (akin to Dear Abby) letters, is used to analyze a hypothetical situation and write a reply to address or solve the problem. Boyack reads the letters during class and provides verbal and written feedback. She selects the best answers (anonymously) for

a newsletter, which has created an unofficial competition among the students.

"I thought I understood this material until I started trying to explain it," is a comment often heard from students. "These exercises help students get to the next level to be able to understand and articulate what they've learned, not just restating the concepts of law," explained Boyack.

Another type of targeted assignment that Boyack provides is reading a fact scenario and asking the students to analyze it. Then when students get to class, they are prepared to engage in group discussion. Preparing before class also allows students more time to absorb and analyze the facts rather than doing a quick reading at the beginning of class. Boyack wants to ensure that "their time in person is legitimately valuable to be there."

Boyack's flipped approach assigns a fair amount of prep work and then puts students into groups or their 'firm' during class time. She is able to move around from group to group observing their interaction and identifying problem spots. When the small groups reconvene as one, she provides observations of the groups' conversations and shares solutions. For example, she might suggest what they could have done differently, how they might look at their decision from a different perspective, or how their approach may actually benefit the opposition instead of their own client. This flipped classroom turns passive listeners into active learners.



HANDS-ON INTERACTIVE LEARNING

Bar Exam Practice Essay

Professor Westbrook, who also teaches Business Associations, uses a hands-on interactive approach to learning in her classroom. Much of the material covered in her course is tested in the essay portion of state bar exams. Rather than fight against the fact that a number of students are in the class because it is a “bar class,” and not because of their interest in business law, the class embraces the chance to help the students understand the bar exam and how it relates to what and how they study in law school.

Five times during the semester, students practice writing bar exam essays. Before the first practice essay, members of the Washburn Law bar review staff visit the class to talk about the scope of bar exams and techniques for writing bar exam essays. Then, after completing a

particular business association topic (e.g., agency, partnership, or entity formation), the students practice writing a bar essay on that topic. Each student completes the essay in a blue book in 23 minutes (simulating bar exam conditions), then exchanges with another student in his or her assigned group. The students use the model answer and an essay-specific grading checklist to review each other’s answers, then provide feedback to their classmate.

The students understand that these are not “unit tests” for the topics. The differences among what they need to know for law school exams, for the bar, and for practice are discussed in detail. Completing the essays multiple times during the semester serves to demystify the bar exam essays, helping students think about the test and how it relates to their law school studies and law practice. In addition, the students show significant improvement in how they present their answers during

the course of the semester (such as using headings and making positive statements of the rule).

Practice-Oriented Exercises

The class also requires the students to draft and learn about actual documents for business associations-related practice. For example, using the American Bar Association model third-party legal opinion, the students draft and then negotiate a legal opinion based on a model transaction document created for the class.

Students are also required to review and negotiate the transfer provisions of an LLC agreement. In addition, the class teaches students how to set up a corporation and an LLC in Kansas: reviewing the state statutes, using the Secretary of State’s website to check name availability, drafting and filing the articles of incorporation or articles of organization, and drafting bylaws and operating agreements.



INTERACTIVE STUDENT AND LAWYER INTERSESSION COURSES

Since January 2012, Washburn Law has offered a course that includes law students and lawyers as attendees. The Mineral Title Examination intersession course is an intensive three-day program. David E. Pierce, Norman R. Pozez Chair in Business and Transactional Law and Professor of Law, organized the course and was assisted by 20 practicing lawyers who specialize in oil and gas law and title examination.

Mineral Title Examination is administered like a Continuing Legal Education course, using multiple instructors and offering coffee and lunch breaks, to keep the students engaged in the learning process throughout the day. To help cover the costs associated with the CLE format, the course is opened for limited enrollment to lawyers. The lawyers are able to obtain high-

quality CLE instruction while using their CLE dollars to make it possible for students to enjoy the CLE format without additional charge.

The course focuses on the waning yet essential skill of examining title to oil and gas interests from the original government grant up to the present. No oil and gas well is drilled, nor revenue check issued, until the lawyer conducts an examination of title, identifies defects, and passes on the curative actions taken to perfect title. With oil and gas development expanding in the U.S., the demand for lawyers competent in title examination is also growing.

In 2013 and 2014, Washburn Law subscribed to a service provided by one of the register of deeds offices in a county with extensive oil and gas development. This allowed students online access to the various index and document books lawyers use to create a chain of title, examine the relevant documents in the

chain, determine ownership, and identify title issues that need to be addressed. This service is used by the practitioners, working with students in small groups, to demonstrate the actual title examination process and the array of issues lawyers confront when examining title.

Students worked through an actual title that one of the instructors had previously examined. During the process, the students identified a chain of title but immediately observed a number of issues that required judgment in the application of existing law, and often required a business decision by the client. Students had the opportunity to observe firsthand that preparing a title opinion requires a high level of legal analysis and often results in a difference of opinion in the interpretation of existing law.

One benefit for students and instructors is the discourse that takes place among the practitioners. The

Washburn Law continues to experiment with innovative and interactive ways to deliver legal education to its students.

course format allows them to discuss, and often debate, the finer points of title examination based upon their decades of experience. These debates are often triggered by a student question.

By providing the practitioners with a structured topical course design, they are able to share their collective knowledge on many topics and discuss the skills they have developed to deal with issues. Each practitioner provides a sample of a title opinion and discusses their philosophy supporting their particular format, procedure, and practices. Evaluations completed by lawyers and law students revealed this is one of the most unique and valuable benefits of the course.

An accidental innovation provided by this course is the insight gained through the practitioner discourse. This is made possible by careful analysis of the relevant topics, and an orderly presentation of the foundational material, followed by identification of the resolved and unresolved issues. Because the practitioners have to deal with the unresolved issues on a daily basis, they are able to discuss and defend the varying approaches and rationales they developed to deal with uncertainty.

The combined CLE/classroom format works well with a compressed course schedule. For example, Professor Pierce opened his Drafting Contracts and Conveyances course, taught last summer, to practicing

lawyers. The course was offered in 90-minute classes for eight evenings over two consecutive weeks. The course was divided into four sessions on contract drafting and four sessions on drafting conveyances. Lawyers could take one or both of the four-session packages for CLE credit.

The third experiment in combined student/lawyer classes was conducted with the new Oil and Gas Conservation Law and Practice course offered over a three-day period as a summer/fall intersession course in Wichita. It was presented with the Kansas Corporation Commission, the agency that administers the oil and gas regulatory system in Kansas. The format and CLE offering was similar to the Mineral Title Examination course. This course was also a success and received high marks from the lawyers and students who attended.

These three courses have one thing in common: they are skills-intensive courses designed to teach lawyers and students how to engage in a particular type of legal practice. They go beyond merely acquiring knowledge of substantive legal concepts by demonstrating how that knowledge must be marshaled to achieve a client's goals.

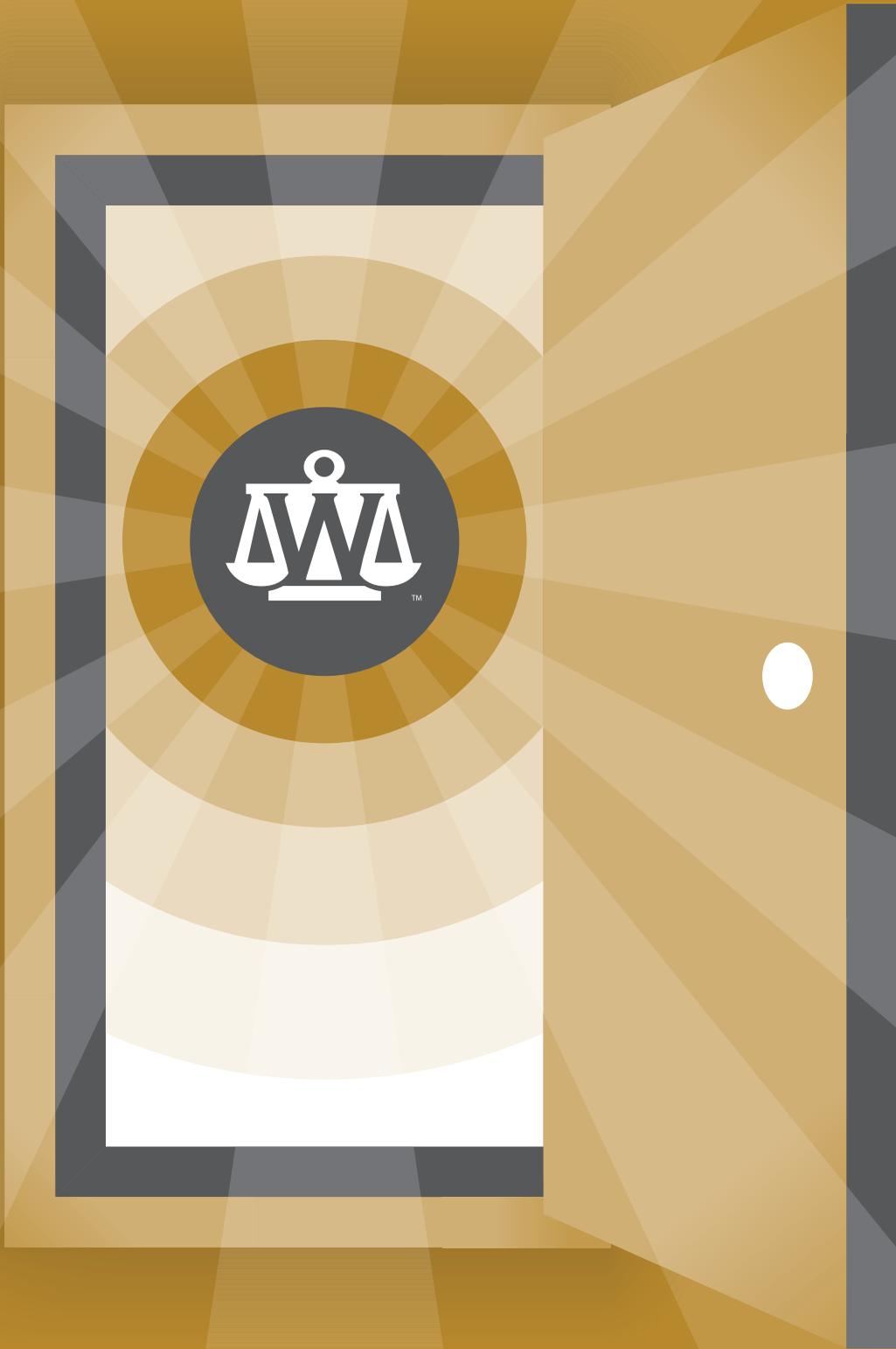
For example, in the Mineral Title Examination course one must have a firm grasp of property law. The skill involved in title examination is learning how to identify, assemble, and manage the information that

must be evaluated so substantive property law concepts can be applied to arrive at a conclusion: who owns what. This process also demonstrates the relevance of a student's property studies by demonstrating how lawyers must apply property concepts with precision to effectively advise their clients.

The Drafting Contracts and Conveyances course takes all the substantive principles learned in contracts and property and teaches how to structure and word documents to put the law to work for a client.

The Oil and Gas Conservation Law and Practice course takes the student into the inner workings of the administrative agency charged with regulating the exploration and production of oil and gas. The skills learned address how to effectively represent an oil and gas client before the administrative agency that controls all of the client's development activities. During this course, students were instructed by all of the lawyers who routinely practice before the Oil and Gas Conservation Division of the Kansas Corporation Commission. They were also instructed by the lawyers and technical staff that compose the Commission, including the three Commissioners.

Bringing law students and lawyer-students together in a learning environment has proven to be beneficial for everyone involved.



INNOVATIVE LEARNING ABROAD

Law learning stretches across continents with Professor Bill Rich's cooperative program in Constitutional Law with the Free University of Tbilisi in the Republic of Georgia. As a program of the Washburn Law Center for Law and Government, law students and faculty work with students and faculty from the Free University's Constitutional Law Clinic.

Each fall, Georgian faculty identifies two or three cases pending before the Constitutional Court of Georgia. Students at Washburn Law draft legal memoranda explaining how the pending issue could be analyzed based upon U.S. precedent and share that information with students in Tbilisi.

A video conference is held for students from the two schools to discuss the American research, and the Georgian students then author an amicus brief for the Constitutional Court.

In 2012, the process resulted in a landmark property law decision of the Constitutional Court in which the judges recognized the contribution of the Washburn Law students to their decision.

Faculty from the Washburn Law Center for Business and Transactional Law are discussing ways this model might be extended to work at the new Commercial Law Clinic at Free University.

The Washburn Law program grew out of a U.S. State Department grant. Such programs engage students in research, open the door for serious study of comparative constitutional law, and help to address problems associated with limited legal research facilities in a country such as Georgia.

INTERACTIVE LEARNING VIA TECHNOLOGY

Technology entered the classroom during this past decade as professors supplemented their lectures with PowerPoint presentations and class web pages and provided students with class material online.

Associate Professor Craig Martin has turned to blogging as a tool to interact with his students. He uses a "course blog" for both Public International Law and the Law of Armed Conflict (wulaw-loac.blogspot.com/) as a means of encouraging students to become more familiar with current world events that relate to issues discussed in the classroom.

The blogs are designed to provide short summaries of issues, with links to news stories and a brief explanation of how they relate to issues under discussion in the classroom, as well as introduce students to other sources of information. Students are invited and encouraged, through the use of participation marks, to engage in discussion on the blog sites.

The format, being closer to what students are likely to consume on the Internet in their free time, and employing graphics and video as well as text, is designed to be more attractive than a dry TWEN site, or similar portal, for class information. Course evaluations have consistently reflected positive comments on how the blogs assist students in understanding how the course material related to the unfolding events in the world.

Hybrid Learning

The Legal Analysis, Research, and Writing for the Government Client course is innovative in its design and delivery, as it is one of the first "hybrid" online/in-person classes offered at the law school. The class meets in person two to three times each semester, but the majority of the coursework is completed through Desire2Learn (D2L), Washburn University's online learning management system.

D2L allows students to share resources, and review and edit others' work products. Additionally, this format accommodates class auditors' schedules, because they can complete much of the course at their own pace, in their own time.

Typical writing tasks of government attorneys are the course's focus. Assignments include drafting a letter responding to citizens' requests for information, a memo evaluating a client's liability, and legislation and policy. Writing tips and techniques that will help sharpen writing skills for any type of work also are taught in the course.

Professor Katharine Jackson, who teaches the course, is an attorney with more than 10 years of experience working with government clients. "Although a large portion of the coursework is done independently, the class is also highly interactive," she notes. The in-person meetings involve in-class exercises, individual and group discussions, and collaborative projects. 