Appendix 9-1: Assessment Instruments

Peer Feedback Formative Assessment Exercise

Observations and details about conducting a peer feedback class on writing client letters.

- Students found writing a client letter was harder to do than they thought.
- It was hard not to just cut and paste their memo.
- Very helpful to read and apply the rubric to classmate’s letter.
- It was hard for them to keep their client audience in mind.
- They realized that they had learned more than they thought.
- Writing a letter after a memo was like writing an executive summary.
- It is hard but ok to give the client bad news.
- At the end of the day, almost everyone said, “I have to rewrite the whole letter.”
- Got some requests for more assignments like this, including having letters to opposing counsel.

Here is how class went today:

- Each student picked a card from a group of 8 — they matched up with corresponding card — sat together.
- Took out their client letters.
- Gave them a blank client letter rubric — had them put their name, followed by “consultant” or “senior analyst” or any other term they liked that was similar.

Ask them to put themselves in the context of the busy smart client:

- You are a dental surgeon.
- Picked up your mail after a long day at the office fixing people’s teeth.
- In the mail are some catalogs, bills, requests for donations, and this letter from your attorney.
- You still have to do laundry, make a meal, etc.
- You are tired and hungry.
- You don’t have a legal background.
- This is who you are when you read this draft.
- Pay attention: what confused you? What made sense?

Give “reader-based feedback” — the reader, like the customer, is always right.

- If the reader is confused, the letter needs clarity.
- If the reader can’t follow the information, the letter needs clearer organization.
- This letter should be at the level of writing the directions for the game of Monopoly: Steven Stark says, “9 year olds can mortgage real estate by following those directions.” And they don’t need to know about fixed and variable rates of interest.

Write on the rubric and the partner’s letter — these will be returned to your classmates. 10 minutes: read each other’s complete rubric.
I circulated after the first 10 minutes to answer questions or pose my own.

Put on the board: as they read each other’s

- Salutation—Dear ___: [should be Dr. Rienzo]
- What is the likely outcome of her claim—known or unknown? [unknown; likely need more legal research and factual investigation]
- What is the status regarding settlement? [Montshire unlikely to settle without filing a complaint]
- Who decides whether to pursue this claim? [the client]
- Legalese? [discussed whether client needs to know the terms “licensee” or “invitee” or “matter of law” — my view: probably not]
- Further action—discussed the need to gather more evidence and do more research—probably want her to come in and have a follow-up conversation.
Midterm/Peer Feedback, Reflection Assessment

Guidelines for Mockterm Phase II (Review of Peer Essay) and Phase III (Reflection)

Introduction

In the last class session (Phase I of this midterm experience), you wrote an essay in response to a hypothetical question. As I announced in class, the process for this midterm has two additional phases. In Phase II, you anonymously will be providing feedback to one of your peers in the class. In Phase III, you will be reviewing your own essay, and the feedback from your peer and from me and then reflecting on what you have learned from the entire process. I will be evaluating all three phases in assigning you a grade for this midterm. Please review the syllabus for the relative weight and grading criteria I will be using in evaluating your work and assigning you a grade.

Guidelines for Phase II: Review of Peer Essay:

General Guidelines.

Note: There is no reason for you to hold back on any critique you feel is appropriate because I intend to exercise my own, independent judgment in evaluating your peer’s work.

Be sure to mix positive and negative comments.

Be concrete and specific. Rather than saying “too conclusory,” say, “this failed to explain why fact X was important in resolving the issue.”

Pay attention to details. Did the student identify all of the relevant facts? Did the student explain the significance of each fact the student stated? Did the student quote or paraphrase the rule correctly (either is fine) or did the student paraphrase the rule in a way that changed its meaning?

Provide feedback on the student’s time management. Did the student devote more time (more bluebook space) to the major issues and less time to the minor issues? Did the student state unnecessary law? Did the student address non-issues?

If you encounter a paper that addresses a matter or argument not addressed below, acknowledge that fact and use your common sense in evaluating whether the issue is really an issue and how well the student did in analyzing it.

Guidelines re issues on exam.

There was no parol evidence issue (PER) on the exam. In fact, there was no even possible basis for thinking there was a PER issue.

There was no statute of frauds issue—the contract was written and signed.

The first issue was a pure ambiguity/interpretation issue. Here’s what students should have been discussing regarding this issue:

• Students MUST have explained, in depth, what aspect of the contract is ambiguous and what the parties’ arguments were about that ambiguity: Here, the ambiguous word was “ethically.” Students needed to explain that the word could only refer to the ethical standards stated in the state’s applicable statute, which seems to require only disclosure or could refer to compliance with statutes and a broader concept of moral behavior so that refusing to meet with persons for whom the SCAM deals would be foolish is not a breach of contract.
Excellent papers also would attempt to resort to an English dictionary and quote from it. My dictionary, however, cuts both ways. On the one hand, it states that ethically refers to "conforming to accepted and especially professional standards of conduct" but also "of or relating to ethics" which it defines as "a discipline dealing with moral duty..., moral principles or practice."

Students then must apply the contract interpretation principles to try to resolve the ambiguity. Principles students could have discussed were:

- Trade usage — Whether the statute created a trade usage was debatable at best — I don't think it really was a trade usage because there were no facts indicating the trade had adopted the statute as a usage or was otherwise using it (many students will recognize this fact and simply not address trade usage — I wouldn't have addressed trade usage)

- Interpret the contract to be consistent with itself (i.e., reconcile the various provisions) (Note: I did not expect every student to see every argument below):
  - The provision re making the contract consistent with all applicable statutes
    - D may argue that this statute suggests the parties intended ethical to have its technical, statutory meaning.
    - P may argue that the clause really isn't on point because the interpretation that ethical includes moral obligations and not just statutory obligations is entirely consistent.
    - P's best argument in the whole case is that the word “ethically” would be unnecessary, given the comply with law clause, if it only referred to technical rules of professional behavior.
  - The provision re SCAM advertising “encouraging all GREEDS residents to consider SCAM deals” probably does help a little because it suggests SCAM was not permitted to decide which residents with which to meet. There was a decent counter-argument here — the clause really only addresses who hears about SCAM’s services, not who must receive them

- Interpret to be reasonable (this argument goes both ways):
  - Could argue that it is reasonable to not take a paternalistic approach because some residents would want the comfort of secure lifelong care, even if it is a poor investment decision and SCAM cannot know for certain how long each resident will live, how much each resident values security or whether each resident has any relatives worthy of giving an inheritance
  - Could argue it is reasonable to save residents and SCAM time and effort where a SCAM deal would be a terrible decision

- Contra proferentem was not a viable argument because we cannot charge either party with being the drafter.

The second issue was a pure specific performance issue.

- There really wasn't a 13th Amendment issue because the parties are corporations and therefore the fact that services were being rendered by individuals doesn't matter (I wouldn't deduct points from students if they raised the issue as long as they immediately dismissed it).
Inadequacy

- Ability to collect really was not an issue
- Inability to calculate: Can find what another company would charge to work with the people SCAM is not seeing but cannot know how many such residents would have signed up, what those residents' assets would have been upon death and how much their care would have cost GREEDS so cannot estimate at all GREEDS' damages
- Inability to replace (D will argue that they are not the only company that provides such services and the fact that SCAM is the largest and most highly-respected firm doing this work doesn't make it difficult to find another company to do it; P will argue that, with D already advising most residents, having someone else come in will be seen as an obvious scam against the wealthy residents and the length of the contract (10 years) and the benefit to D of using the most highly-respected company doing these services, which may increase sign-ups with SCAM deals, cannot be replaced)

Discretionary considerations

- Undue burden on the D—given that the contract required this per the call, there is NO extra burden at all so this really is not an issue
- Undue burden on the court: Excessive supervision because complicated interactions between SCAM employees and residents may generate complaints about how SCAM employees are counseling the residents at issue [e.g., are they using body language cues and negative phrasing of the options to discourage such residents] plus long-term length of contract
- Unfair K is NOT an issue
- Public interest (some students may make other arguments):
  - Pro: Enforce contracts
  - Con: SCAM deals are usually unfair and SCAM was working to minimize the most egregious abuses so ordering specific performance would make the most abusive contracts more possible and encouraging professionals to think about ethics as meaning more than just doing what is legal is a good thing!
Guidelines for Phase III: Reflection

Part I: Complete Exercise 16-2 from Expert Learning for Law Students Workbook (below):

This exercise focuses in on the recommended approach to learning from examinations addressed both in Chapter 16 and in Chapter 8. Select an exam, legal writing paper or exercise on which you have received feedback and then answer the following questions. Keep in mind that the key to learning in general and to learning from examinations in particular is being open to feedback and to change.

1. How well did you think you had learned the material before you took the test/quiz/exercise/paper? (check the item that best describes your perception of the degree to which you achieved mastery)
   - Excellence
   - Mastery
   - Competence
   - Approaching competence
   - Poor

2. How well did you do on the test/quiz/exercise/paper? (check the description that best describes your outcome)
   - Excellence
   - Mastery
   - Competence
   - Approaching competence
   - Poor

3. Given your results on the test/quiz/exercise/paper, how accurately did you self-assess your learning? (check the description that best describes your outcome)
   - Very accurately
   - OK
   - Poorly

   If you did not check "very accurately" in response to the above question or if you "very accurately" predicted a poor outcome, discuss why your self-assessment was inaccurate or why you predicted a poor outcome.

4. Given your results, discuss how efficient and effective your learning strategies were.
5. If you did not perform as well as you would have liked to have performed or if you believe that your learning process, while effective, was inefficient, identify the cause of your performance issue. Below is a checklist of possible causes. Check all that apply.

Possible problems in the forethought phase

___ Failure to set appropriate goal (you set no goal or set an improper one)

___ Incorrect assessment of the learning task (you erroneously classified the task)

___ Failure to invoke self-efficacy (you failed to identify past success in similar learning enterprises)

___ Failure to develop intrinsic interest in the learning task (you did not determine why you needed to learn the material)

___ Poor motivational strategy choices (you could not stay motivated)

___ Poor environmental choices (you made bad location, timing, rest sequence choices)

___ Poor cognitive strategy choices (the strategy choices proved unsuited to the learning task or you also should have used additional strategies)

Possible problems in the performance phase

___ Incorrect implementation of strategy choices (you incorrectly used the strategies)

___ Failure to maintain focused attention (you were unable to focus during implementation)

___ Failure to self-monitor (you failed to recognize a breakdown in the learning process while it was ongoing)

___ Insufficient persistence (learning task simply requires multiple learning cycles)

Possible problem in the reflection phase

___ Failure to pursue opportunities for self-assessment (you did not take advantage of or create opportunities for practice and feedback)

6. How did I do on this test / quiz / exercise / paper in comparison to tests / quizzes / exercises / papers I took before law school?

How did I do on this test / quiz / exercise / paper in comparison to other tests / quizzes / exercises / papers I have taken in law school? Why did I do better or worse on this test / quiz / exercise / paper?
7. What were the most common aspects of feedback you received from your peer and from your professor on this test / quiz / exercise / paper?


What did they mean by these comments?


8. Based on your outcome and your response to the above questions, how do you feel about yourself and your law studies and why do you feel that way?


9. Based on your outcome and your response to the above questions, how will you change your approach to studying similar material in the future?


Part 2: Reflective Essay

On separate sheets you attached hereto, reflect thoughtfully on what you have learned from grading your peer’s paper and what you have learned about exam-taking strategies from the entire process of taking this midterm, reviewing your peer’s essay, and reviewing your peer’s and my feedback on your essay. Use two pages at most.
International Environmental Law Quiz

Treaties (True/False) (Explain why and/or your support for your answer)

1. Treaties create specific legal obligations on parties through their express consent.
2. The United States is not a party to and does not comply with the Vienna Convention on the Law of Treaties.
3. Treaties governed by the Vienna Convention on the Law of Treaties must be between states and in writing.
4. Adoption of the treaty by 2/3 of the states present at an international conference makes the treaty provisions binding on all states that participate in the conference.
5. Ratification of treaties by the U.S. requires either the signature of the president or the 2/3 vote of the Senate.
6. Accession allows states that were not involved in treaty negotiation to be bound by the treaty by their consent.
7. A state may agree to be bound by only part of a treaty, unless the treaty prohibits reservations.
8. The U.S. is not bound by a treaty until the treaty enters into force and the U.S. ratifies the treaty.
9. Treaties can be updated by amendments, protocols, and technical annexes, all of which require unanimous consent of the parties to the treaty.
10. A treaty should be interpreted beginning with the ordinary meaning of the treaty terms in context and in light of the treaty's purpose.

Treaties (short answer)

Explain the roles the following play in treaty development, negotiation, and/or administration.

Secretariats

Conference of the parties

IGOs (such as UNEP)

NGOs (such as public interest groups or corporations)
Custom, General Principles, and Judicial Opinions (short answer)

1. Identify the two elements to establish customary international law.

2. On what states is customary international law binding?

3. How can treaties contribute to the creation of customary international law?

4. Identify potential sources of general principles of international law.

5. On what states are general principles of international law binding?

6. In the Gaabcikovo-Nagymaros Project case, the ICJ characterizes sustainable development as a "concept" that the parties must consider in their negotiations. Identify at least three ways Judge Weeramantry characterizes sustainable development in his separate opinion.

7. Compare and contrast the ICJ opinion in the Gaabcikovo-Nagymaros Project case to a typical opinion from the U.S. Supreme Court.

Soft Law

1. What is it?

2. Identify sources of "soft law."

3. How does "soft law" contribute to the development of binding IEL?

4. Give examples of "soft law" principles of IEL.
Civil Procedure—Reflections on Civil Litigation

Court Field Trip and A Civil Action

The purpose of this document is to describe two activities and the Litigation Perspectives Assignment that take place after Spring Break.

Court Field Trip

Between Monday, March 8 and Friday, March 19, please review a civil file and observe a hearing at the United States District Court for the Eastern District of Washington, the Spokane County Superior Court, or both. For either court, leave cell phones, laptops, and cameras at home. Bring a picture ID. No hats in court. Please be quiet entering and leaving the courtroom.

United States District Court for the Eastern District of Washington

The court is located at 920 West Riverside. The Clerk’s office is in room 840.

File Review. The Clerk has selected five closed files. To review one, go to the Clerk’s office, identify yourself as a student in my class, and request a file. The clerk will select one for you to review. The files will be available during business hours (8:00–5:00); the Clerk requests that you arrive before 4:00.

Hearing. Trials and motion hearings will take place throughout the week. Check the schedule in the Clerk’s office or the court’s Web site—www.waed.uscourts.gov. Please do not call the Clerk to check on scheduling for hearings.

Spokane County Superior Court

The court is located at 1116 West Broadway. The Clerk’s office is on the third floor.

File Review. You can review civil files at any time during normal business hours (8:00–5:00). To review a file, go to the Clerk’s office, identify yourself as a student in my class, and ask to see one of the files the clerk has selected for you to review. If the person at the desk appears not to know what you are talking about, ask to speak with Tom Fallquist, the Clerk of the Court, or one of the supervisors. They will direct you to a table and to files they have selected for you to review.

Hearing. At any time, there are motions and trials going on at the Superior Court. In the Clerk’s office you will see signs that tell which case each judge is hearing that day. Pick one!

A Civil Action

The week of March 15 will be devoted to Unit 12, which explores civil litigation in the context of A Civil Action. Please finish reading the book by the beginning of the week. There is a movie based on the book. The movie is so-so. The book is not only a gripping story it is an outstanding device for understanding civil procedure in real life. Do not cheat yourself by seeing the movie instead of reading the book.

Litigation Perspectives Paper

The court field trip and A Civil Action are designed to give you some experience with civil litigation in real life. One important element of experiential learning is for the learner to reflect on the experience. Consequently, reflection is the focus of this assignment.

Court Field Trip.

- What did your observations of the file and hearing teach you about civil litigation?
• About the practice of law?
• About law school?
• About yourself as a future lawyer?

A Civil Action.
• What did you learn about the process of civil litigation (pleading, motions, discovery, trial, appeal) from the book?
• What did you learn about ethics that you believe may be important for you as an attorney?
• A Civil Action paints quite a picture of the practice of law. What are your personal views and feelings about the implications the book has for your future as an attorney?

Your assignment is to write an essay reflecting on your field trip and your reading of A Civil Action. Your essay must include your reflections on both the field trip and A Civil Action. You need not address all of the questions above— they are intended merely to start your thinking. Your essay is due in class on Tuesday, March 23. Your response is limited to no more than one page, single-spaced, on 8.5"x11" paper, with one-inch margins on all four sides, and type size no smaller and no more compressed than the type on this page. Please put your exam number at the top of the first page. You will receive 10 points for your response if you hand in a good-faith effort that complies with all of the directions on this page and your exam number is correct. I encourage you to discuss this assignment with your classmates. Your written work, however, must be your own.
Appendix 9-2: Rubrics

*Torts Rubric*

*Given to students before they take the assessment.*

<table>
<thead>
<tr>
<th></th>
<th>Exemplary</th>
<th>Competent</th>
<th>Developing</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Law</strong> 25%</td>
<td>Accurately identifies all elements/factors and sub-issues.</td>
<td>Accurately identifies all elements – 1 factor or sub-issue missing.</td>
<td>Accurately identifies all elements – 2 factors or sub-issues missing.</td>
</tr>
<tr>
<td><strong>Facts – applying facts to the law 65%</strong></td>
<td>Thoroughly applies specific facts and makes reasonable inferences from facts to legal elements, factors and sub-issues.</td>
<td>Applies facts and reasonable inferences from facts to legal elements, factors and sub-issues – a few minor areas are not thorough.</td>
<td>Applies facts and reasonable inferences from facts to legal elements, factors and sub-issues – 2 or more areas are not thorough.</td>
</tr>
<tr>
<td><strong>Writing and format 10%</strong></td>
<td>Writing is clear, concise, and precise. Paragraphing and sentence structure coherent. Follows requested format. Uses headings.</td>
<td>Writing has minimal minor errors. Or may have minor organization or format errors.</td>
<td>Has a few minor errors or 1-2 major errors with formatting, organization or writing.</td>
</tr>
</tbody>
</table>
Rubric/Scoring Sheet

Completed and given to students as feedback after they complete the assignment.

Damien's Duty to Patrick — 20

Conclusion — Damien's definitely owes a duty to Patrick as either a business or public invitee. Exact status as invitee unknown without more facts.

Business relationship — Patrick could be a business invitee because he is a customer or potential customer of Damien's skating rink. Assumes that Damien's is a privately owned business.

Statute § 343 and § 343(a) refers to public places, with skating rinks being a kind of public place. Patrick's status would then be a public invitee. In addition, Damien's could be an enterprise that public officials lease to provide recreation.

Accurate facts, e.g. unknown if Patrick paid fee, if Damien's private

Standard of Care Damien's owed Patrick — as invitee — 10

Damien's had duty to exercise ordinary care to protect Patrick from

Risks that Damien's knew of if not open and obvious

Risks Damien's should have known of

Duty to use reasonable care to discover risks

Duty to warn Patrick of risks if not open and obvious

Damien's breach of care — 45

Conclusion

Statute has been violated by Damien's but not relevant so not proof of breach

May be other ways to prove breach — would need additional evidence

Relevance of statutory breach — ID statute and language — Montshire Criminal Code § 343(a) — prohibits children under 16 years to be unaccompanied by a parent or adult at public places — including skating rinks.

Damien's violated statute by allowing Patrick, age 15, into skating rink without adult supervision.

Apply 2 part test:

Is Patrick in the group of people meant to be protected by the statute?

Group identified in § 343(a) is children under 16

Yes, Patrick, a 15 year-old is in the group meant to be protected

Is Patrick's broken ankle's kind of harm the kind of harm that was meant to be prevented by § 343 and § 343(a)?

NO. § 343 and § 343(a) are focused on "protecting children's morals and good habits" and engaging in certain "public activities at late hours" because it of its potential harm to children's school work.

While the statute relates to harm to children as a result of being out late, Patrick has a broken ankle, which is unrelated to his school work, morals or good habits.

Other ways to prove breach
No evidence present that Damien’s breached its duty of care—would need to further investigate basis for Patrick’s claim of breach of care

Damien’s breach being the factual cause of Patrick’s injury — 10

Conclusion

Need additional evidence of breach to determine whether Patrick has a valid claim for causation.

Assuming some kind of breach — liquid on the floor or other dangerous condition — Patrick would have to prove that Damien’s factually caused Patrick’s broken ankle — Patrick would have to prove that “but for” the dangerous condition on Damien’s premises Patrick would not have broken his ankle, or that Damien’s breach otherwise contributed to Patrick breaking his ankle

Policy — 5

Can be woven into the analysis in different places

Writing and organization — 10

Organization overall — separates headings or uses signposts to convey different areas

Concise — very few extra words

Precise — accurate grammar, punctuation and word choice

Paragraph structure — coherent and organized

Format — follows all directions

Score: ________
### Remedies Peer Review Rubric

<table>
<thead>
<tr>
<th>Please focus on categories 1-3 first</th>
<th>Practice ready performance</th>
<th>Comments</th>
</tr>
</thead>
</table>
| 1. Identifies basic legal issues and ambiguities in legal issues – 25% | ☐ Identifies major kinds of remedies available  
☐ Identifies which remedies definitely available  
☐ Identifies which remedies *may* be available  
☐ Accurately uses terms recognized by legal sources |          |
| 2. Uses law and reasoning – 25%    | ☐ For major kinds of remedies available, identifies and analyzes tests, rules and authorities  
☐ Explains basics about designing or measuring remedies  
☐ Explains other considerations in designing remedies, such as identifies weaknesses in the analysis |          |
| 3. Applies facts from problem – 40% | ☐ Identifies and applies key facts  
☐ Draws reasonable inferences from facts  
☐ Names assumed facts |          |
| 4. Responsiveness to questions asked and organization – 10% | ☐ Responds to assigned task  
☐ Organizes writing so easy to follow  
☐ In beginning of memo, provides a coherent and accurate summary  
☐ Uses headings and subheadings to help the reader follow content  
☐ Virtually error free grammar and spelling |          |
## Client Letter Rubric

<table>
<thead>
<tr>
<th>Levels of Quality</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Exemplary</strong></td>
</tr>
<tr>
<td>Advanced work for first year law student in LS 1 at this time in the course – on a job, the work would need very little revision for a supervising attorney to use.</td>
</tr>
</tbody>
</table>

### SUMMARY PARAGRAPH

The purpose of the summary is to let the client know the most essential points of the analysis. This is what you might want the client to read as the client is waiting to meet with you.

- Clearly communicates most important legal analysis in layperson’s terms.
- Includes recommended course of action.
- Applies law to facts to show support for the recommended course of action.

- Analysis is generally clear; may contain portions where there is too much legalese or where the language is too formal.
- Includes somewhat clear recommended course of action.
- Somewhat applies law to facts to show support for the recommended course of action but may lack clear connections.

- Analysis is unclear because of legalese or language or writing mechanics and grammar make it too difficult to follow.
- Refers to course of action but client would be confused about what she is being counseled to do.
- Minimally applies law to client facts OR relies too much on law OR relies entirely on facts to summarize the explanation.

### FACTS

Facts should be stated specifically in letters to avoid confusion by the client.

Facts that are unknown, but critical to the case, are often identified.

- Clearly states dispositive facts in an organized way, notes absence of necessary facts (if applicable).
- States that opinion was formed based on facts in letter.
- Asks client to review closely and report any discrepancies.
- Clearly identifies additional facts that might be helpful or facts that need further development.

- Facts are identified but may include minimal irrelevant facts or omit a couple dispositive facts.
- States that opinion was formed based on facts in letter.
- Asks client to review facts.
- Some reference to developing facts additional facts.

- Facts are identified but include several irrelevant facts or omit several dispositive facts or overly general.
- Omits that opinion was formed based on facts in letter.
- Does not ask client to review facts closely and report any discrepancies.
- Little reference to developing facts additional facts.
## APPENDICES

<table>
<thead>
<tr>
<th></th>
<th>Exemplary</th>
<th>Competent</th>
<th>Developing</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LEGAL ANALYSIS (EXPLANATION)</strong></td>
<td>Identifies all relevant steps in legal analysis in a way that the client can easily understand.</td>
<td>Identifies the most relevant steps in legal analysis in a way that the client can understand.</td>
<td>Identifies some of the legal analysis but omits important points.</td>
</tr>
<tr>
<td>Client letters must include the relevant legal analysis necessary to answer the client’s question.</td>
<td>Clearly articulates applicable rule.</td>
<td>Articulates applicable rule somewhat clearly.</td>
<td>Rules and/or tests are unclear or inaccurate.</td>
</tr>
<tr>
<td></td>
<td>Client’s facts are woven into analysis so that client can clearly understand how lawyer made prediction.</td>
<td>Client’s facts are woven into analysis but may have one area where relationship between law and fact is unclear.</td>
<td>Client’s facts are woven into analysis but relationship between law and fact is unclear or client’s facts not woven into analysis.</td>
</tr>
<tr>
<td></td>
<td>Notes any uncertainty or unsettled aspects of the law, weaknesses, and resolves them.</td>
<td>Notes some uncertainty or unsettled aspects of the law, as well as weaknesses, but may not resolve them.</td>
<td>Lacks noting uncertainty or unsettled aspects of the law, as well as weaknesses or notes them but ineffectively resolves them.</td>
</tr>
<tr>
<td><strong>ORGANIZATION</strong></td>
<td>Large-scale organization is evident in clearly written, plain English, concise topic sentences.</td>
<td>Large-scale organization is somewhat evident in clearly written, plain English, concise topic sentences.</td>
<td>Large-scale organization is hard to follow, topic sentences mostly lacking.</td>
</tr>
<tr>
<td>Like all legal writing, client letters require organization around central points of analysis.</td>
<td>Organization within paragraphs is evident in clear, concise sentences logically ordered.</td>
<td>Organization within paragraphs is mostly evident but some sentences’ sequence may be difficult to follow.</td>
<td>Organization within paragraphs is confusing.</td>
</tr>
<tr>
<td></td>
<td>Headings are effective.</td>
<td>Headings somewhat effective.</td>
<td>Headings mostly ineffective.</td>
</tr>
<tr>
<td><strong>WRITING MECHANICS</strong></td>
<td>Uses correct grammar, punctuation, and spelling.</td>
<td>There are some errors to fix, but generally uses correct conventions.</td>
<td>Errors distract the reader and make letter difficult to read.</td>
</tr>
</tbody>
</table>
## Clinical Rubric — Performance Competencies

### Levels of Quality

<table>
<thead>
<tr>
<th>Exemplary – Practice Ready</th>
<th>Competent</th>
<th>Developing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Excellent work for a law student – on a job, this student could perform well with minimal supervision.</td>
<td>Proficient work for a law student on a job, the student would need some input from a supervising attorney before the student was ready to represent clients.</td>
<td>Work needs additional content or skills to be competent – on a job, the work would not be helpful and a supervising attorney would need to start over or fix mistakes.</td>
</tr>
<tr>
<td>Score 2 for each exemplary criterion met</td>
<td>Score 1 for each competent criterion met</td>
<td>Score 0 for each developing criterion met</td>
</tr>
</tbody>
</table>

### Professional Relationships (8 criteria)

<table>
<thead>
<tr>
<th>Clients</th>
<th>Adversaries</th>
<th>Staff</th>
<th>Classmates</th>
<th>Supervisor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Keeps clients advised of case developments</td>
<td>Usually keeps clients advised of case developments</td>
<td>Sometimes keeps clients advised of case developments</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Helps clients make well-informed decisions</td>
<td>Usually helps clients make well-informed decisions</td>
<td>Sometimes helps clients make well-informed decisions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Communicates effectively and respectfully with clients without using legalese</td>
<td>Mostly communicates effectively and respectfully with clients without using legalese</td>
<td>Sometimes communicates effectively and respectfully with clients without using legalese</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interacts effectively and respectfully with adversaries</td>
<td>Usually interacts effectively and respectfully with adversaries</td>
<td>Sometimes interacts effectively and respectfully with adversaries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interacts effectively and respectfully with clients, court and other staff</td>
<td>Usually interacts effectively and respectfully with clients, court and other staff</td>
<td>Sometimes interacts effectively and respectfully with clients, court and other staff</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interacts effectively and respectfully with classmates</td>
<td>Usually interacts effectively and respectfully with classmates</td>
<td>Sometimes interacts effectively and respectfully with classmates</td>
<td></td>
<td></td>
</tr>
<tr>
<td>On time and prepared for all meetings with supervisor</td>
<td>Almost always on time and prepared for all meetings with supervisor</td>
<td>Sometimes on time and prepared for all meetings with supervisor</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Open and honest with supervisor; keeps supervisor informed of all pertinent case developments</td>
<td>Open and honest with supervisor; keeps supervisor informed of all pertinent case developments</td>
<td>Not always open and honest with supervisor; does not keep supervisor informed of all pertinent case developments</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### PROBLEM SOLVING (6 criteria)

<table>
<thead>
<tr>
<th>Issue Spotting</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Generates alternative solutions and strategies</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thoroughly assesses alternative strategies</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Develops a detailed plan of action</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reliably implements a plan of action</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regularly seeks out and keeps the planning process open to new information and ideas</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### DEVELOPING PROFESSIONAL IDENTITY AND INDEPENDENT LEARNING (6 criteria)

<table>
<thead>
<tr>
<th>Taking initiative</th>
<th>Learning from experience</th>
<th>Contributing to others’ growth</th>
<th>Self-reflection and evaluation</th>
<th>Developing independence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Takes the initiative to be resourceful, raise issues, strategize</td>
<td>Takes responsibility for actions and consequences</td>
<td>Learns from feedback, critique, observations and experience</td>
<td>Reflects critically and honestly about own performance</td>
<td>Helps classmates improve their performance</td>
</tr>
<tr>
<td>Sometimes takes the initiative to be resourceful, raise issues, strategize</td>
<td>Usually takes responsibility for actions and consequences</td>
<td>Usually learns from feedback, critique, observations and experience</td>
<td>Usually reflects critically and honestly about own performance</td>
<td>Usually helps classmates improve their performance</td>
</tr>
<tr>
<td>Infrequently takes the initiative to be resourceful, raise issues, strategize</td>
<td>Sometimes takes responsibility for actions and consequences</td>
<td>Sometimes learns from feedback, critique, observations and experience</td>
<td>Sometimes reflects critically and honestly about own performance</td>
<td>Occasionally helps classmates improve their performance</td>
</tr>
<tr>
<td>Occasionally takes the initiative to be resourceful, raise issues, strategize</td>
<td>Sometimes learns from feedback, critique, observations and experience</td>
<td>Rarely experiments and tries new ways of doing things – willing to take risks</td>
<td>Occasionally helps classmates improve their performance</td>
<td>Rarely experiments and tries new ways of doing things – willing to take risks</td>
</tr>
<tr>
<td>ETHICAL PRACTICE (4 criteria)</td>
<td>ORGANIZING AND MANAGING LEGAL WORK (5 criteria)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------------------------------</td>
<td>-----------------------------------------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Issues</td>
<td>Rules</td>
<td>Communication</td>
<td>Performance</td>
<td>Case monitoring</td>
</tr>
<tr>
<td>□ Identifies and analyzes ethical issues</td>
<td>□ Usually identifies and analyzes ethical issues</td>
<td>□ Sometimes identifies and analyzes ethical issues</td>
<td>□ Tracks case developments and meets deadlines</td>
<td>□ Tracks case developments and meets deadlines but needs reminders</td>
</tr>
<tr>
<td>□ Observes client confidentiality</td>
<td>□ Observes client confidentiality</td>
<td>□ Usually observes client confidentiality</td>
<td>□ Follows ethical rules</td>
<td>□ Generally follows office procedures</td>
</tr>
<tr>
<td>□ Informs supervisor about ethical issues as they arise</td>
<td>□ Usually informs supervisor about ethical issues as they arise</td>
<td>□ Sometimes informs supervisor about ethical issues as they arise</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
# Professionalism Rubric

<table>
<thead>
<tr>
<th>Components</th>
<th>Developing</th>
<th>Proficient</th>
<th>Exemplary</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>On Time</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **10**                   | 0–3  
  - Late for significant number of class sessions  
  - Notice only sometimes if late or often late notice | 4–6  
  - Late for significant number of class sessions  
  - Timely notice whenever late | 7–10  
  - Late for a minimal number of class sessions  
  - Timely notice whenever late |
| **Attendance**           |                                                                           |                                                                          |                                                                         |
| **10**                   | 0–3  
  - Misses a significant number of classes OR  
  - Misses some classes and fails to provide notice or turn in assignments due | 4–6  
  - Misses some classes OR  
  - Sometimes fails to provide notice or turn in assignments due | 7–10  
  - Misses few classes and Always provides notice and turns in assignments due |
| **Class Prep**           |                                                                           |                                                                          |                                                                         |
| **20**                   | 0–6  
  - Unprepared for multiple class sessions | 7–13  
  - Almost always prepared for class | 14–20  
  - Always prepared for class |
| **Attitude**             |                                                                           |                                                                          |                                                                         |
| **20**                   | 0–6  
  - Has issues of respect for professor or peers, not open to feedback, or otherwise displays a bad attitude | 7–13  
  - Few issues of respect for professor or peers, of not being open to feedback, or of otherwise displaying a bad attitude | 14–20  
  - No issues of respect for professor or peers, of not being open to feedback, or of otherwise displaying a bad attitude |
| **Responsiveness in Class** | 0–3  
  - Infrequent contributions to class discussions | 4–6  
  - Sometimes contributes to class discussions | 7–10  
  - Frequently contributes to class discussions |
| **Responsiveness outside Class** | 0–3  
  - Only sometimes responds promptly to e-mails by professor  
  - Only sometimes addresses requests in e-mails from professor | 4–6  
  - Usually responds promptly to e-mails by professor  
  - Usually addresses requests in e-mails from professor | 7–10  
  - Responds promptly to e-mails from professor  
  - Almost always addresses requests in e-mails from professor |
| **Other (going above and beyond on assignments, in Class; Helps Colleagues and peers readily, etc.)** | 0–6  
  - Does required minimum | 7–13  
  - Exceeds expectations some of the time and otherwise acts professionally | 14–20  
  - Consistently finds ways to exceed expectations |
# Reflective Paper/Journal Rubric

<table>
<thead>
<tr>
<th>Clear topic and focus</th>
<th>First-Year Attorney Work</th>
<th>Effective Law Student Work</th>
<th>Undeveloped Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Writing articulates clearly the topic chosen (e.g., dilemma, questions, or puzzle) and reason for choosing it.</td>
<td>• Topic is well chosen, but the body of the writing does not clearly support or flow from the topic.</td>
<td>• Writer's focus is not apparent and topic is ill defined.</td>
<td></td>
</tr>
<tr>
<td>• Topic setup provides clear and appropriately detailed background information.</td>
<td>• Topic setup is sufficient but missing specifics grounding topic to context.</td>
<td>• Topic setup is cursory, with inadequate detail to provide context or explain its importance to the reader.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Multiple perspectives</th>
<th>First-Year Attorney Work</th>
<th>Effective Law Student Work</th>
<th>Undeveloped Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Writing addresses multiple perspectives, including writer's personal perspective.</td>
<td>• Writing addresses multiple perspectives, but fails to identify and examine the perspective of one or more important actors.</td>
<td>• Writing is descriptive and considers the experience largely from the writer's point of view.</td>
<td></td>
</tr>
<tr>
<td>• Each perspective is supported by appropriate, valid evidence (e.g., direct observation, information learned from others, factual background, and/or additional research, as appropriate).</td>
<td>• The perspectives are supported by some evidence, but may be superficial or rely on unexamined clichés.</td>
<td>• Where additional perspectives are addressed, the supporting evidence is cursory or cliché.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Personal engagement</th>
<th>First-Year Attorney Work</th>
<th>Effective Law Student Work</th>
<th>Undeveloped Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Writing shows the writer engaged in deep, analytical self-reflection</td>
<td>• Writing shows genuine examination of writer's experience and reaction but shows minimal evaluation of (or ability to evaluate) writer's own strengths and weaknesses on both intellectual/cognitive and emotional levels.</td>
<td>• Writing shows minimal introspection in relation to topic or to the perspective of others.</td>
<td></td>
</tr>
<tr>
<td>• Writing shows meaningful personal reaction or struggle on the intellectual-cognitive level and the emotional level.</td>
<td>• Writing shows personal evaluation of (or ability to evaluate) writer's own strengths and weaknesses on both intellectual/cognitive and emotional levels.</td>
<td>• Evaluation of writer's struggle or reaction is minimal or missing.</td>
<td></td>
</tr>
<tr>
<td>• Writing shows self-awareness and writer's assessment of his/her strengths and weaknesses and contemplates what he/she still needs to learn.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Lessons learned</th>
<th>First-Year Attorney Work</th>
<th>Effective Law Student Work</th>
<th>Undeveloped Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Writing explores insights gained and developments in writer's knowledge, values, or beliefs.</td>
<td>• Writing explores one or more lessons learned, but fails to address the writer's status before the experience/reflection, after the experience/reflection; and/or projection into the future.</td>
<td>• Writing is largely descriptive without identifying takeaways or learning that is personal to writer.</td>
<td></td>
</tr>
<tr>
<td>• Writing anticipates and projects future actions the writer will take toward personal change, or other relevant development.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>First-Year Attorney Work</td>
<td>Effective Law Student Work</td>
<td>Undeveloped Work</td>
</tr>
<tr>
<td>------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Overall quality and depth</strong></td>
<td>• Writing shows full and substantial treatment of the topic, with related analysis, reflection and student growth evident in the piece.</td>
<td>• Writing shows significant treatment of the topic, but the analysis, reflection and/or evidence of student growth is missing or superficial.</td>
<td>• Writing shows cursory treatment of the topic, with limited analysis, reflection, and/or demonstration of personal growth.</td>
</tr>
<tr>
<td><strong>Writing mechanics</strong></td>
<td>• Writing is personal, flows well, and paints a vivid picture.</td>
<td>• Writing is strong, but shows weaknesses in flow or structure (e.g., rambling, mechanical, cliché).</td>
<td>• Writing is poorly organized.</td>
</tr>
<tr>
<td></td>
<td>• Uses clear and concise sentences, appropriate word choice, effective paragraph structure using topic and transition statements.</td>
<td>• Sentence structure is competent, but needs editing for transition, concision, and/or word choice.</td>
<td>• Writing uses has multiple errors in grammar or usage.</td>
</tr>
<tr>
<td></td>
<td>• Negligible errors in grammar, usage, punctuation, or style.</td>
<td>• Mostly free of grammatical, spelling, punctuation, and other style errors.</td>
<td>• Requires extensive editing for concision, word choice; most paragraphs poorly structured.</td>
</tr>
<tr>
<td></td>
<td>• Reflects careful and thorough proofreading and line editing.</td>
<td></td>
<td>• Multiple distracting errors in grammar, punctuation, style, and/or spelling.</td>
</tr>
</tbody>
</table>

Adapted from rubrics by Jodi Balsam (Brooklyn), Susan Brooks (Drexel), and Meg Reuter (Indiana-Maurer).