

ILTL Summer 2013 Conference

Integrating Ethics and Skills: The STEPPS Program (1 hour)

Timothy Casey

*Brief Program Description*

The innovative STEPPS Program, a required second-year course in ethics, professionalism, and lawyering skills, integrates many of the principles from the literature on curricular development. These principles can be applied to enhance the learning environment at other institutions. Participants will engage in a series of active exercises designed not only to promote a discussion of curricular innovation, but also to demonstrate specific teaching techniques.

*Brief Biography*

Timothy Casey is Director of the STEPPS Program at California Western School of Law in San Diego. Before joining California Western, Professor Casey taught the Criminal Justice Clinic and International Human Rights at Case Western University. He began his teaching career as an Associate in Law at Columbia Law School, where he received the University's Presidential Teaching Award. Before entering academia, Professor Casey practiced law with the Legal Aid Society in New York City, where he represented clients at trial and on appeal, served on the hiring committee, and directed the practical training of new lawyers.

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**Overview of ILTL Conference Session**

- I. Defining Features of the STEPPS Program [10 minutes]
  - a. Integration of Practicing Attorneys
  - b. Use of Varied Assessments with Opportunities for Reflection
  - c. Inclusion of Career Satisfaction in the Legal Education Curriculum
  - d. Placement within a Sequential Curriculum
  - e. Challenges to Program Direction
  
- II. Interactive Exercise [25 minutes]
  - a. Role Play: *The Interview*
  - b. De-Brief and Reflection
  
- III. Review of Teaching Methods [10 minutes]
  - a. Lecture, Power-point, Cold-Call, Quick-Write, Warm-Call, Summary, Group Discussion, Role Play, Simulations, Video Review, Peer Review, Supervisory Review
  - b. What are the benefits and risks of each method?
  
- IV. Guided Discussion: The Epidemiology of Curricular Innovation [15 minutes]
  - a. Can we borrow from other disciplines, such as epidemiology, to find creative solutions to the problem of curricular reform?
  - b. If there is an epidemiology of ideas, how can we spread the message of curricular innovation and reform? What are the barriers - paradigmatic, structural or interpersonal – to institutional change? Are there general methods that will create successful solutions in different environments?

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### Overview of the STEPPS Program

The STEPPS Program represents a successful model for integrating the substantive law of professional responsibility with lawyering skills. The STEPPS Program is a required, second-year, two-trimester, six-credit course in ethics and applied practical skills. Students in the STEPPS Program attend two 75-minute meetings each week. The first meeting is organized as a large group discussion in a traditional classroom environment, and focuses on the substantive law of professional responsibility. In addition to the large discussion group, students meet once each week in a simulated law office comprised of 12 to 14 students and one supervising attorney.

The simulated law office places the student in the role of an attorney, allowing the student to apply the ethical rules in the context of representing clients in simulated cases. Experienced lawyers from the local community serve as supervising attorneys, and professional actors play the role of client. Students interview and counsel clients, negotiate agreements, and prepare a variety of written materials, including a research memorandum, a letter to a client, a motion, and a contract. Interactions between student and client are video-recorded to allow for self-reflection and evaluation by a supervising attorney. Each assignment includes a reflective component, where students are given the opportunity to self-evaluate their performance.

The STEPPS Program is designed as part of a sequential curriculum. The Program builds on the fundamental analytic and writing skills from the first-year curriculum, and prepares students for more complex learning environments offered in third-year externships and advanced ADR courses. The STEPPS Program focuses on the knowledge, skills, and values necessary for the development of practice-ready lawyers.

## **Knowledge**

*Substantive knowledge.* Students study the Model Rules of Professional Conduct, the California Rules of Professional Conduct, selected provisions of the California Business and Professions Code, selected Ethical Opinions, and various cases and opinions on ethical issues. In the simulated cases, clients present students with specific questions of substantive law related to professional responsibility.

## **Skills**

*Legal research and writing.* Students must prepare a legal memorandum of law.

*Factual analysis.* Students must evaluate the facts they obtain in the context of their case. Often the information is incomplete, unreliable, inadmissible or inconsistent. Students must develop strategies to analyze the factual information, separate relevant from irrelevant information, anticipate problems and pursue investigational strategies.

*Interviewing.* Students are introduced to basic communication techniques, such as active listening and the “funneling” method of questioning. Students learn to build rapport with the client, identify the goals of the client, gather information from the client, and formalize the relationship with the client.

*Counseling.* Students refine their communication techniques. They practice by continuing to build trust with the client, gathering additional and new information, helping the client prioritize goals and interests, developing options to meet the client’s goals, and deciding on a course of action.

*Negotiation.* Students learn the distinction between adversarial negotiation and problem-solving negotiation (distributive and integrative bargaining). Students review five different negotiating styles in the Thomas-Kilman Conflict Style Inventory (Compete, Collaborate, Compromise, Accommodate, Avoid). They identify their personal preferences, the preferences of the other parties in the negotiation, and the style best suited to achieve the client’s goals. They learn basic concepts and terminology of dispute resolution, including BATNA, reservation price, positions and interests, anchors, target points, concessions. They also examine the forces that can affect negotiations, such as different values for time and relationships, cross-cultural

differences, and emotional and psychological factors. They engage in a number of interactive negotiation exercises.

*Adversarial writing.* Students prepare a motion for summary judgment, including all necessary exhibits and supporting documents. They research and write a memorandum of points and authorities. They evaluate the factual information and evidence available and prepare a separate statement of undisputed facts. They prepare affidavits and supporting declarations in support of the motion, and they draft evidentiary stipulations necessary to introduce evidence to the court. They also argue their motion before a “motions court.”

*Project planning.* The motion assignment must be completed in stages over the course of several weeks. Students must develop a plan for completing the project with their own schedules.

*Transactional lawyering.* Students are assigned to represent parties in a transactional matter where there is no dispute.

*Drafting.* Students receive a term sheet and must draft a contract from the relevant terms.

*Evaluation and review.* Students give and receive evaluations. In several peer review exercises, they receive instruction on the ways to give and receive feedback.

## **Values**

*Reflective practice.* Reflective practice signifies the intentional evaluation of one’s actions in a professional context. Students must prepare self-evaluations on every exercise they perform in the course. Students are expected to move along a continuum by developing more awareness of factors that affect their lawyering performances. Students develop as reflective practitioners in four stages: first stage involves an analysis of their competence; the second stage requires them to identify alternative ways to accomplish the performance and the choices they made in their performances; the third stage requires students to identify their intrinsic preferences, biases, experiences or characteristics that affected their lawyering performances; the fourth stage requires students to identify extrinsic preferences, biases, experiences or characteristics that affected the lawyering performance.

*Preventive lawyering.* Through readings, discussion, and experience, students are introduced to the value of preventive lawyering. At an early stage in the course, they prepare bills for litigation expenses that far exceed the value of the controversy. In a later phase, they have the opportunity to draft an agreement to avoid litigation.

*Client-centered lawyering.* By interacting with a number of clients, students learn the value of focusing on the goals, interests, and concerns of the client. They see that lawyers often make incorrect assumptions, which prove counterproductive to the client's true interests.

*Collaboration.* Much of the work in the STEPPS program is intentionally collaborative. In contrast to most law school experiences, which focus on individual performance, the Program stresses the importance of teamwork and collaboration.

*Professionalism.* The pervasive theme of the Program centers on professionalism. Students see that the way they carry themselves and their ethical standards are equally important to substantive knowledge.

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### **Skills Modules**

Module 1: Career Satisfaction (Week 1)

Module 2: Legal Research & Writing (Weeks 2-4)

Module 3: Interviewing (Weeks 5-7)

Module 4: Counseling (Weeks 8-14)

Module 5: Career Satisfaction (Week 15)

Module 6: Advocacy (Weeks 1-6)

Module 6: Advanced Interviewing (Week 7)

Module 7: Negotiation (Weeks 8-12)

Module 8: Drafting (Weeks 13-14)

Module 9: Career Satisfaction (Week 15)

### **Assessments**

Career Goals Capsule

Research Memorandum  
Reflection: *Competence*

Client Interview  
Reflection: *Competence; Choice and Difference*

Client Letter  
Counseling Session  
Reflection: *Competence; Choice and Difference; Intrinsic Preferences*

Motion  
Reflection: *Competence; Choice and Difference; Intrinsic Preferences*

Transactional Interview  
Reflection: *Choice and Difference; Intrinsic Preferences; Extrinsic Preferences*

Negotiation  
Reflection: *Choice and Difference; Intrinsic Preferences; Extrinsic Preferences*

Draft Contract  
Reflection: *Competence; Choice and Difference; Intrinsic Preferences; Extrinsic Preferences*

Career Goals Capsule

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**Discussion Modules**

**Part I: The Lawyer-Client Relationship**

- The Duty of Competence
  - Competence
  - Diligence
  - Communication
- The Duty of Loyalty
  - Confidentiality
  - Conflicts of Interest
- Lawyer as Advisor

**Part II: Lawyer to Lawyer Relations**

- Regulation of the Profession
- The Limits of the Adversarial System
- The Duty of Candor
- Substance Abuse and Lawyer Assistance Programs

**Part III: The Lawyer and the Public**

- Prosecutorial Ethics
- Judicial Ethics
- Advertising
- Pro-Bono

**Part IV: Preventive Lawyering**

- Overview of Preventive Lawyering
- Principles of Negotiation
- Principles of Drafting

**Part V: Professional Responsibility in California**

- California Legal Ethics
- Law & Technology

**Part VI: Summary and Review**

**The STEPPS Program**  
**(Skills Training for Ethical and Preventive Practice and career Satisfaction)**  
California Western School of Law  
San Diego, CA



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