

Preparing Students for Non-Litigation Roles

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Fundamentals of Lawyering Program
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Agenda

- Introduction to “FL”
- Learning Objectives
- FL Non-Litigation Exercises
- Today’s Focus: Legislative Exercise
- Questions

Fundamentals of Lawyering ("FL")

- Everything a "traditional" legal writing, research, and analysis course teaches, PLUS:
 - Client-centered problem solving
 - Teaching critical lawyering skills in the context of client service and professional identity development
 - Developing skills necessary to exercise sound judgment

The litigation-heavy “LRW” curriculum



FL Learning Objectives

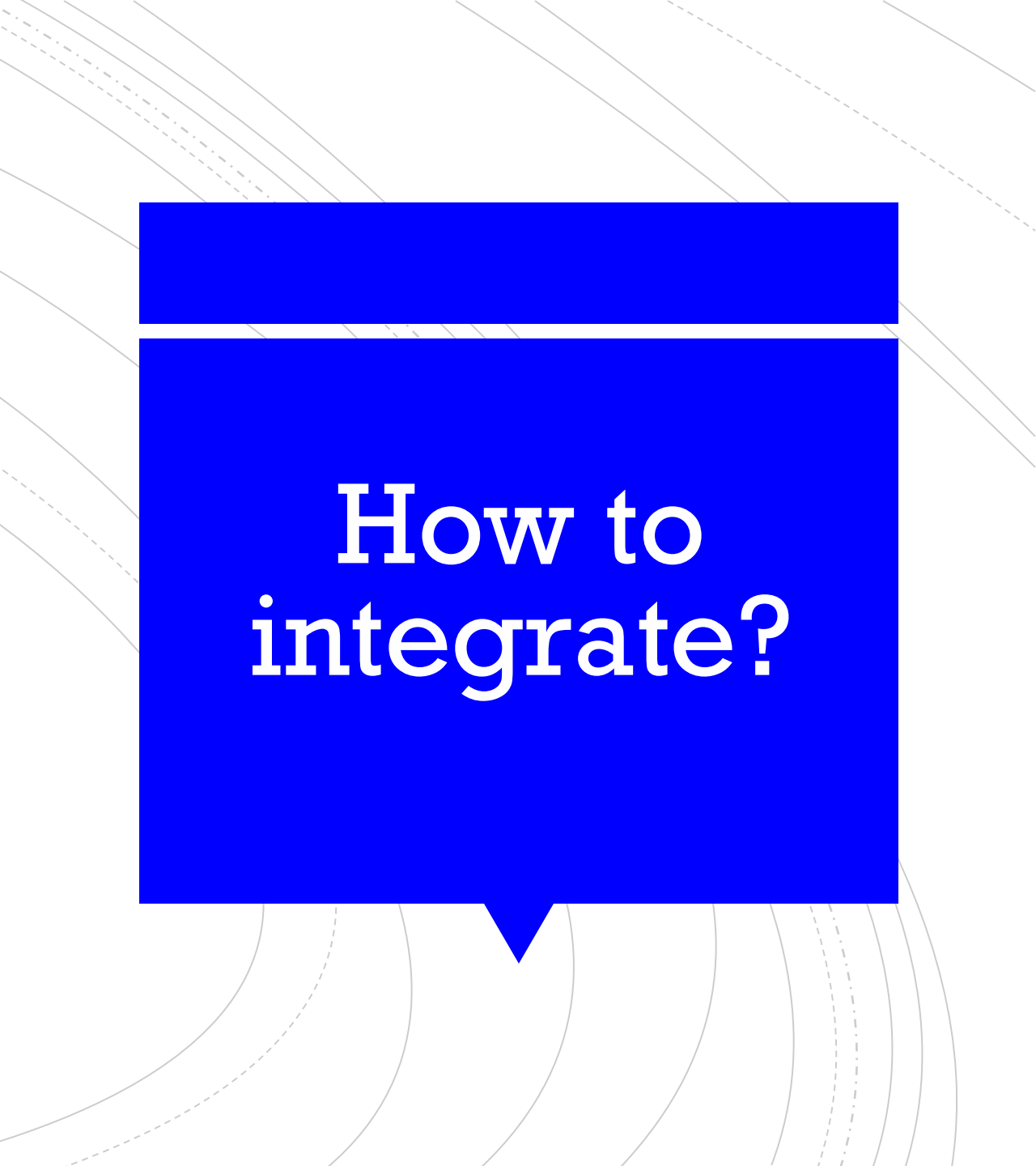
- Introduce skills beyond litigation-focused arena
- Broaden horizons re: types of legal practice
- Expose students to a variety of clients
- Reinforce transferability of foundational skills
- Allow different interests and skill sets to “shine”

This exercise asks you to step into a different lawyering role—that of a “legislative lawyer,”¹ who advocates for policy change. Legislative lawyers must use the same tools of persuasion we’ve used in class this semester and can occupy a variety of roles. For example:

- Many congressional committees employ lawyers who help draft legislation.
- Organizations may employ in-house or external counsel to respond to formal or informal inquiries from Congress or executive agencies.
- In-house or external counsel may be asked to prepare executives who are called to testify in congressional inquiries or before executive agencies.



**How to
integrate?**

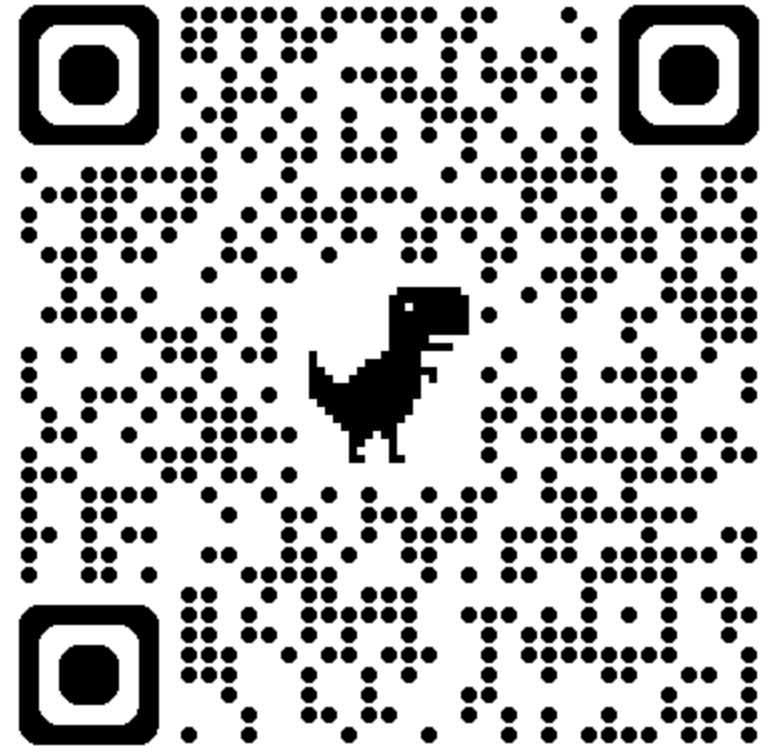


FL À La Carte Exercise Menu*

<https://tinyurl.com/GWLawFLAALS>

- Transactional
- Legislative
- Negotiation
- Regulatory

*If sharing beyond the classroom,
please do so with attribution



Transactional Exercise

- Fall client now in settlement negotiation posture
- Students review draft settlement agreement from opposing party containing notable substantive and formal errors
- Students prepare redline of revised contract
- Students draft a professional email to supervisor highlighting proposed changes

Transactional Exercise Takeaways

- Students interact—for the first time—with an actual contract
- Students gain appreciation for word choice and clarity
- Students learn to anticipate and avoid future disputes

- Students assigned to represent stakeholder organizations vis-a-vis proposed regulations.
- Students research and present organization's views in a short position paper
- Students – acting as regulators – probe that position and assess its persuasiveness.

Regulatory Exercise

Regulatory Exercise Process and Takeaways

- Requires students to take “both sides” in regulatory development, first providing written comments and then evaluating as government counsel the persuasive value of written comments provided by other teams. Like the other exercises, broadens student perspectives on the kinds of advocacy conducted by lawyers.
- Two versions of a regulatory exercise are in the Google Drive, one related to website requirements for use by visually-impaired persons and the other related to requirements for service dogs on airplanes.
- Typically, a portion of one class period is used to set up the exercise, students work outside of class in teams to complete their written comments and review written comments from other teams, then a full class period is used for a “regulatory advocacy workshop,” evaluating the effectiveness of comments reviewed.

Negotiation Exercise

- Students review presentencing report for Spring criminal client and/or receive instructions from their principal on important terms to achieve.
- Defense attorneys use fact-based advocacy to argue for sentence at low end of Sentencing Guidelines.
- Prosecutors counter by pushing for higher end.



Negotiation Exercise Takeaways

- Encourages students to hone negotiation skills
- Allows for human-centered, fact-based storytelling outside of briefing and oral argument
- Exposes students to working with opposing counsel

- Students assigned to represent stakeholder organizations vis-a-vis proposed legislation.
- Students research and present organization's views in a short position paper
- In a mock legislative hearing, students present organization's position and legislators probe that position

Legislative Exercise

Legislative exercise:

Response to proposed statutory amendment

- Prepare a response to proposed amendment to the federal bank robbery statute, 18 U.S.C. § 2113(a), to clarify the current ambiguity in the federal statute regarding the elements of attempted bank robbery.
- Some circuits require **actual force or violence** for attempted bank robbery while others require only **attempted force or violence**.
- Students receive a proposed amendment designed to clarify requirements for attempted bank robbery.
- Students represent different institutional clients in responding to the proposed amendment. They research their client, write a one page position paper, and present their position to the Senate Judiciary Committee.
- Other students play the Senate Judiciary Committee, asking questions about the institution's position during the presentation.

Live Exercise

Using your assigned institutional client, please brainstorm its position on **actual vs. attempted force or violence** for attempted bank robbery. Share your approach with a colleague.

Next, as a member of the Senate Judiciary Committee, what questions might you have about that organization's position? Share those questions with a colleague.

**Bureau of Alcohol, Tobacco, Firearms,
and Explosives**



**National Association of
Criminal Defense Attorneys**



National Assn. of Police Organizations



Council on Criminal Justice



Legislative Exercise Takeaways

- Introduces students to a different lawyering role
- Exposes students to organizational rather than individual client
- Allows students to both advocate for and push back against proposed law and policy change
- Invites students to navigate tension between personal vs. client values

- We're happy to talk—in person or online

GW Law Fundamentals of Lawyering Program

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<https://tinyurl.com/GWLawFLAALS>

Thank you!





Q & A