

Teaching creative problem solving and applied reasoning skills: a modular approach

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34 *Cal W L Rev* 2, 1998, pp 389-395

As society moves into the next millennium, legal education is going through a major transformation in how law is taught. Global economics and information technology have created new dynamics in business that have rendered traditional teaching methods, such as lectures and case discussions, outmoded or ineffective. These methods are often ineffective because they are passive and linear, and fail to teach students how to formulate practical solutions and alternatives to resolving disputes or effecting a client's interests. Such skills become critical in situations where there is no legal precedent, where litigation becomes impractical or undesirable, or where enforcement of judgments is difficult. A new paradigm, using a modular approach, actively integrates skills training such as creative problem solving and applied reasoning into substantive and interdisciplinary course study.

Creative problem solving is defined as a process by which people are empowered to devise win-win solutions to problems based upon communication, consensus, understanding and respect. The instructional approach to teaching creative problem solving skills is called the transactional case method, or modular approach to learning. A modular approach divides the course outline into discreet segments, known as modules. Each module contains a detailed fact pattern, a series of issues that must be researched and prioritised by the students and a task that must be performed. The task is for students to negotiate a win-win resolution to

a problem or persuade a panel on a given position. This approach to learning tends to be much more interactive and dynamic, requiring students to think, reason and figure out solutions that may not be based solely upon the law.

This approach is built on the premise that law is interdisciplinary and impacted by as many causes as there are solutions. Creative problem solving can be used to fashion a resolution in which all parties can be satisfied by building a consensus. This means focusing first on the mutual interests of the parties, and then providing incentives for each to compromise. Consensus-building, applied reasoning and problem solving are all necessary skills to achieve negotiated settlements. The challenge for the professor is how to integrate these skills into substantive course work.

The modular approach has proven most effective in large classes of up to 80 students, as well as in seminar classes with as few as 10 to 15 people. It can be used to demonstrate the interplay among multiple disciplines or principles of law. It begins with a hypothetical fact pattern covering no more than three to four subject areas. The facts are equally balanced in terms of the rights and responsibilities of the parties so that each party has some liability and leverage. Students are directed to attempt to reach a win-win solution and are evaluated based upon their ability to achieve their client's interests, identified as the bottom line.

The fact pattern is followed by a problem to be solved or task that must be completed. The problem or task assumes that students will engage in role playing. It should be general and designed to describe the nature of the conflict or what students are expected

to accomplish. The problem often includes several issues that must be identified and resolved. The basic issues should be provided in advance to students to give them a road map of the issues which will enable them to divide up the assignments among their team members. The substantive material for each issue should be discussed in parts or lessons, where relevant law, statutes, and/or law review articles are reviewed and then applied to questions raised in the fact pattern. This gives the students an opportunity to understand the law in the context of the facts, begin to develop arguments and assign appropriate weight to those arguments.

Once the substantive material is discussed as a class, the teams should be given an opportunity to break into their groups in class to begin developing their strategies. Grading or evaluation of students can be done in a variety of ways but should include different components, such as individual written assignments, group interaction, oral presentations, and the groups' success in resolving the problem or completing the task.

It is important to remember that creative problem solving is a dynamic process where the professor is the coach or facilitator. The professor's role is to establish the context in which the skills are to be taught. This can be done by identifying the goal of the exercise. Teaching creative problem solving skills that are integrated into substantive curricula is a necessity for law schools, if they are going to be competitive in legal education. The demands of the profession require that students be as proficient in legal skills as they are in the substantive law.