students understand the reasons why ethical rules require a particular response in a given situation. If a student has the understanding and the capacity to analyse the problem with reference to relevant values, then the student has the capacity to make an ethical decision. Whether he or she chooses to do so is another matter, but that is beyond the responsibility of the academy.

Experience and legal ethics teaching
J E Moliterno
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Legal ethics, or the law governing lawyers, is law. As such, teaching about legal ethics is in an important way like teaching about any other area of law. It was not always seen in this way. Once it was thought that legal ethics was more etiquette than law; more manners than enforceable rules.

Law, at least law as seen as inclusive of the social policies and moral principles embodied in the positive rules of law, is now central to what we teach about in a legal ethics course. None of the leading teaching materials treats the subject as anything but law. Legal ethics, or the law governing lawyers, is a body of enforceable understandings and mandates no different in that respect from the law of tort or contract. And in some respects, teaching it is just like teaching contracts or torts or evidence. That was far less the case as little as 25 or so years ago when teaching legal ethics was sometimes more preaching than policy discussion, more morals than mandates.

At the same time, teaching about the law governing lawyers is different from teaching about any other area of law, because it is experienced by the lawyer directly rather than vicariously. Unlike other areas, in the law governing lawyers, the lawyer is the client. This simple observation means a great deal to the pedagogy. Since the lawyer's relationships and experiences and acts are the subject matter governed by the law governing lawyers, and since our students will be those governed lawyers soon, special advantages may be found in teaching the law governing lawyers through experiential learning devices, such as clinics and simulations. In effect, lawyers' activities create the data on which the law governing lawyers acts. Students in experiential learning settings create data, too, and their experiences are the acts to which the law they are learning about applies.

Many once thought that legal ethics was next to impossible to teach well. This position was taken, however, at a time when the goals of the course were quite different. It was common to hear the question, 'If adult students have not learned right from wrong by the time we get them, how can we hope to teach it?' Legal educators do in fact have a substantial impact on their students' character development and 'goodness', but making students better people is no longer a goal of the legal ethics course. To the modest extent that it may be, it is a goal equally shared by the entire legal education enterprise and not held exclusively by the ethics teacher.

In fact, it turns out that the subject is among the easiest and most enjoyable to teach. With a modest amount of direction, students soon see that this course is about them, it is about their chosen profession, and it is the law that governs their own behaviour. In no other law subject is the lawyer the centre.

Using explicitly experiential learning devices (such as elaborate simulations, clinics and externships that are accompanied by seminar discussion) to teach legal ethics presents special advantages. The subject is the lawyer and her relationships. Placing students in role, allowing them first-hand experience with the experience of lawyering, gives them special insights into the law governing lawyers. The data on which this area of the law are based are generated by what lawyers do. Students, in the lawyer's role, sense the application of the law to their conduct and simply learn it more effectively.

In a way, even classroom teaching of the legal ethics course is experiential teaching. Students who see themselves in role as they read the cases and work through the hypotheticals and the problem materials, have a mental experience with the role of lawyer that is different from that experienced in other law courses.

Along with professional skills courses, the legal ethics course was long a second-class subject area in American legal education. Prior to the 1960s, many schools offered either no course or a one credit course and there were few serious scholars in the subject. Considered to be both academically light and practice and profession heavy, the subject was relegated to the edges of legal education. Along with the rise of clinical legal education during the 1960s and 70s, the professional responsibility course began its ascent to respectability and beyond.

Today the subject is covered at all US law schools and through multiple courses at many. The subject is taught by a wide range of creative teaching methods, supported by numerous, excellent materials. And a substantial group of first rank scholars devote primary energy to the subject.

Our students will learn from experience what it means to be a lawyer. We have a choice: either they can begin learning what it means to be a lawyer after admission; or they can begin doing so while they are with us, at a time when and in a place where that learning can be guided, can be structured and can be taught, rather than merely learned.

On tending to the ethics in legal ethics: two pedagogical experiments
T L Shaffer
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Ethics is about what is interesting in morals. Ethics is about what is important in morals. Ethics aims at resolution. Discernment comes up with answers. Ethics is communal. It depends on insight explained and on persuasion practised without coercion. And finally, ethics seeks to learn from consensus. The author has developed two techniques for teaching ethics that have worked well: the use of daily (or at least weekly) writing by students; and teaching in and from the clin-

ic, with stories told and 'dilemmas' described by students about their real clients.

The first device in teaching ethics is to suggest to students an array of topics for discussion and then ask them to write about one of the topics for class discussion. Virtually without exception, students' written work uses up all of the time available for discussion when using this method. Students give the lecturer their papers the morning of the class. That allows two or three hours for the lecturer to read them, write thoughts in the margins, and make an outline for class discussion. The papers are returned at the beginning of class. When the class is large, it can be divided into three or four writing groups.

There are at least three benefits to this writing device. First, it is ethics as well as morals. Ethics is thinking about morals and, beyond that, explaining one's thoughts to others in an effort to learn from and to persuade others. Second, it is often the prelude to a group exercise in communal discernment. Third, discussion of colleagues' papers tends to resolution or consensus more often than is the case with discussion of appellate-court literature, or bar-association ethics opinions, or professional lectures.

Clinical legal ethics is an enterprise in which law students deal with lawyers' moral issues in a community that is like a law firm, with the difference that the lawyers in the firm systematically set aside time to seek from one another understanding of the moral quality of their cases.

Almost all of the time at every meeting of a clinical ethics seminar is taken up with discussion of the cases the student-lawyers are working on – not only the 'ethical dilemmas' each student-lawyer sees, but what in the client's situation is compelling and what in the plan she and her client have for the case is puzzling or stressful or interesting in some other way.

This approach is as much about how to run a law office as it is about how to run a law-school course. The alternative models in law offices are not to talk at all, in the community of practitioners, about what members of the community are doing or to ordain an expert on ethics to whom 'ethical dilemmas' can be submitted for resolution.

There are four big differences between the traditional classroom scene and the clinical seminars. First, resolution is an imperative in the clinic. These are real cases. The student-lawyers have to proceed with them, often within hours of discussion. We cannot just take statements and move on to the next case. Second, this way of talking about morals tends to overcome obstacles to moral discourse in law school. One such obstacle is the trade unionism and moral evasion that is built into the professional rules.

The third difference between the clinical approach and the classroom approach is that the clinical approach tends to create a receptive atmosphere for discussion throughout the law office. The student lawyers continue to talk about the cases that have been discussed in the seminar. Finally, the fourth difference is that there is a tendency to toward deeper moral reflection.

On trying to teach judgment
D N Frenkel
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Teaching professional responsibility is difficult. It is the only nationally required subject for all US law students, but there is no mandate as to its format, duration, or teaching methodology. Most institutions offer a survey course that is elected by large numbers of students. Many, if not most instructors in such courses, aided or guided by the growing wealth of commercially-published course texts, approach the course as encompassing: (i) a large dose of teaching the 'law of lawyering' (ie. a combination of the legal profession's rules for regulating the conduct of its members, the burgeoning body of decisional law reflecting both traditional and emerging ways in which courts are asked to rule on the subject of lawyers' conduct, together with other statutory, regulatory law on the subject); (ii) certain instruction about the adversary system and the structure, history, composition and service delivery systems of the legal profession; and (iii) some discussion of dominant professional norms and their relationship to students' personal values. This prevailing approach has much to recommend it on a number of levels.

First, the subject matter itself warrants it. The field has seen an explosion of law and scholarship in the last two decades, coming into its own as a sophisticated and complex substantive area. As US legal education centres mainly on teaching the legal doctrine underlying societal regulation, it would be odd if the few (and, in some schools, only) courses devoted to the regulation of lawyers did not devote a fair bit of attention to the doctrine. For faculty who have not inhabited the world of law practice or its many settings, a law-based approach may be simplest to master in order to teach.

Given the growing importance of the subject matter, the guaranteed audience of students with a need to know, and an expanding choice of quality commercially-available teaching materials, the conditions would appear to be right for a successful course. Yet this is hardly the case. Over a quarter of a century after the introduction of this requirement, many, if not most find this a difficult, if not undesirable, course to teach. Institutions themselves contribute to the problem directly via curricular planning and resource allocation decisions. Some schools devote only enough resources to ensure that the courses satisfy this curricular requirement end up being large group instruction in discussion-deadening lecture halls.

Resistance on the part of the typical upper-level student-enrollee is legendary. There is resentment at the requirement, a factor not unrelated to undercutting institutional messages. Few feel much urgency in mastering this area, believing that, as subordinates in law practices, they will not have much say in, not to mention control over, ethical decision-making early on in their careers.

Focussing only on professional codes tends to produce a stultifying classroom. Unambiguous rules, however important, are hardly the stuff of scintillating academic inquiry. An ethics-as-law approach