

**Skills and Values Competency Requirement:  
Pathway #1 Certification of Competency for the JD Program**

**I. Skills Competency Requirement for Admission to the Bar**

Students who began their legal education after August 1, 2016 have an additional requirement in order to be admitted to the New York State Bar. The new requirement, provides that students demonstrate that they possess the skills and values necessary to provide effective and ethical representation. One of the ways that students can demonstrate competence is through law school certification. The criteria are set out below:

22 NYCRR 520.18 provides as follows:

(a) General. Every applicant for admission to practice, other than applicants for admission without examination pursuant to section 520.10 of this Part, or applicants who qualify for the bar examination under section 520.4 or 520.5 of this Part, shall demonstrate that the applicant possesses the skills and values necessary to provide effective, ethical and responsible legal services in this State. An applicant may satisfy this requirement by submitting proof of compliance with one of the following five subdivisions.

(1) Law school certification of competence in skills and professional values.

(i) An applicant may submit from an American Bar Association-approved law school a certification confirming that:

(a) the law school has developed a plan identifying and incorporating into its curriculum the skills and professional values that, in the school's judgment, are required for its graduates' basic competence and ethical participation in the legal profession, as required by American Bar Association Standards and Rules of Procedure for the Approval of Law Schools Standard 302(b), (c) and (d), and has made this plan publicly available on the law school's website; and

(b) the applicant has acquired sufficient competency in those skills and sufficient familiarity with those values.

(ii) For purposes of this subdivision, a school may certify that an applicant has attained the required skill level if the graduate received a grade that the school considers sufficient to demonstrate competence in courses the school has designated as teaching the skills and professional values needed for basic competence and ethical participation in the legal profession.

(iii) A law school may adopt such other means of assessing its students' achievement of the required skills for purposes of this subdivision, provided the school receives the prior approval of the Court of Appeals.

## **II. Learning Outcomes: Basic Skills and Values**

Albany Law School's learning outcomes describe the foundational lawyering competencies that each student will develop by graduation. The Law School's curriculum is designed to ensure that every student who graduates from Albany Law School will have achieved basic competence in the following skills and values at the time they graduate from the law school:

- Demonstrate foundational knowledge and understanding of substantive and procedural law.
- Demonstrate ability to effectively communicate in the legal context, in writing and orally.
- Demonstrate basic legal research, legal analysis, legal reasoning and problem-solving skills.
- Demonstrate the ability to exercise proper professional and ethical responsibilities to clients and to the legal system.
- Demonstrate knowledge and understanding of the Lawyer's professional responsibility to advance the mission of service to the underrepresented so that all individuals have equal access to the privileges of our justice system.
- Demonstrate an awareness and understanding of the knowledge, skills, and values necessary to be competent and effective lawyers in a multicultural world.

## **III. Our Plan for Incorporating and Assessing These Skills and Values**

The following describes how the skills and values that make up our learning outcomes are incorporated across our curriculum and how we can assess and certify that our students, upon graduation, are competent to ethically conduct themselves in the practice of law:

### **A. Demonstrate foundational knowledge and understanding of substantive and procedural law**

#### **First year Foundation:**

All students are required to take the following foundational law courses: Contracts (5 credits), Federal Civil Procedure (4 credits), Property (6 credits), Torts (4 credits), Criminal Law (3 credits), Constitutional Law (4 credits), and Introduction to Lawyering (6 credits). Students must receive a passing grade in each course. If a student does not receive a passing grade, the student must repeat the course until he or she receives a passing grade. Students who do not

receive at least a “C” average at the end of their first year are academically dismissed. Students who have successfully completed their first year of studies have demonstrated basic competence in these foundational courses

**Upper Division:**

In their second year, students are required to continue their study of Constitutional Law by taking an additional 2 credits focused on First Amendment rights. Additionally, students are required to take Evidence (4 credits) and Legal Profession or Professional Responsibility Seminar (3 credits). Because these courses are required, students must receive a passing grade or must retake the course until they achieve a passing grade in order to demonstrate foundational knowledge.

Recognizing several years ago that traditional legal education did not completely prepare students for practice in the modern world because of its focus on a common law curriculum, Albany Law School made three changes that reflect the need for new lawyers to understand the impact of globalization, the development of the regulatory state, and the need to place law practice in a meaningful social context. Upper division students are now required to take and receive a passing grade in at least one course from a menu of courses that fulfill an Administrative Law requirement. This is to ensure that every student has exposure to and an understanding of the substance and procedural aspects of our administrative law system.

Upper division students are also required to take and receive a passing grade for at least one international law course to ensure that they are exposed to the impact of globalization.

All upper division students are required to take and earn a passing grade in at least one clinical course through the Albany Law Clinic and Justice Center. Students must enroll and receive a passing grade in one of our in-house clinics or Field Placements in order to fulfill this requirement. Clinical courses reinforce substantive and procedural law in a real-world context to help students understand the law and its application to real clients.

**Foundations for Professional Success Program:**

In order to ensure that we are able to certify students as having basic competence, we recognize that students whose grade point average places them in the bottom 25% of their class at the end of the second semester need to strengthen their knowledge if they are to compete effectively and perform competently both in law school and as practicing attorneys. At the end of the second semester of law school, students whose grade point average places them in the bottom 25% of their class are required to take and pass Advanced Legal Analysis II, and are also required to take and receive a passing grade in five (5) additional courses from the list below in addition to all other graduation requirements:

- 1) Criminal Procedure: Investigation or Criminal Procedure: Adjudication
- 2) Business Organizations
- 3) Conflicts of Laws

- 4) Trusts & Estates
- 5) Family Law or Matrimonial Law or Family Law Practicum
- 6) Sales
- 7) Secured Transactions

**B. Demonstrate ability to effectively communicate in the legal context, in writing and orally**

**First Year Foundation:**

All students are required to take Introduction to Lawyering in their first year and that course forms the foundation for teaching students how to communicate effectively in the legal context both in writing and orally. Introduction to Lawyering challenges students to think like professionals from the first day of law school. Students are assigned to “firms” representing parties in a year-long simulated legal dispute and are introduced to the legal system, ethics, and the skills and values of the profession.

In the course of representing a client throughout two semesters, students begin fact development by interviewing clients, exploring the statutes and cases relevant to the client's situation, and learning analytical and writing skills by producing legal documents needed to represent the client.

The skills introduced through highly structured research and writing assignments in the first semester are honed in the second semester as students engage in fact development on a second issue through a discovery process that emphasizes the relationship between law and facts, conduct independent legal research, and write and re-write the relevant legal analysis first in a trial court memorandum and then in an appellate brief. Through this process, students receive a thorough grounding in statutory analysis, rule synthesis, and analytical legal writing. By participating in settlement negotiations and appellate arguments, students also develop their analytical skills through oral communication exercises that reinforce the written assignments.

Albany Law School has long recognized that by placing legal writing exercises in the context of legal problem solving and learning through experience, students are better prepared and practice ready. Students must receive a passing grade in two semesters of Introduction to Lawyering in order to demonstrate basic competency in the ability to communicate in the legal context

**Upper Division Continuation of Skill Development: Upper Level Writing Requirement**

As a requirement for graduation, and by the end of his or her penultimate semester of law school, a student must produce a substantial legal research paper and must receive a grade of B or higher. A student may satisfy this requirement in one of the following ways:

- 1) By successfully completing a legal research paper under the supervision of a full-time faculty member;
- 2) By producing a publishable work as a member of one of the Law School's eligible student-edited journals;
- 3) By successfully completing a course taught by a full-time faculty member and designated as requiring for its completion production of a paper that satisfies the

- writing requirement;
- 4) By producing a research paper in connection with any course taught by a full-time faculty member, if the faculty member determines that the paper is sufficient to satisfy the requirement.
  - 5) By producing a work product resulting from such substantial research and writing in a clinical course that the product is the equivalent of a legal research paper.
  - 6) By producing a research report resulting from such substantial research and writing as a Sandman Fellow that the report is the equivalent of a legal research paper.

The stated objectives of the upper class writing requirements are as follow:

- 1) To demonstrate the student's specialized knowledge of a particular area of law;
- 2) To develop critical thinking, writing, and analytical skills;
- 3) To extend and improve research skills;
- 4) To improve writing skills; and
- 5) To ensure basic competency in research and writing in a legal context

All faculty use the following grading criteria for the Upper Level Research Paper:

#### **A. Content**

- 1) well-defined approach to topic and important points covered
- 2) material chosen appropriately and analysed rather than reproduced
- 3) adequate support for arguments made
- 4) each point clearly related to the argument/direction of the paper
- 5) accurate use of research material
- 6) proper and complete citation to all sources

#### **B. Argument/Analysis**

- 1) thorough understanding of the issues
- 2) critical and original analysis of the material
- 3) suggestions for change where appropriate
- 4) interdisciplinary perspective where appropriate
- 5) arguments are logical and well-organized - ideas linked coherently
- 6) arguments support opposing points of view addressed
- 7) well-reasoned conclusions

#### **C. Research**

- 1) research covering primary and secondary materials
- 2) thorough coverage of potential sources
- 3) good organization of sources
- 4) use of theoretical material where appropriate

#### **D. Reflection**

- 1) evidence of close consideration of the question and the research materials drawn on
- 2) ability to synthesise all the research materials used
- 3) originality of arguments/approach/ideas/questions raised

#### **E. Writing Skills/Style**

- 1) appropriate use of structure, section headings, and paragraphs
- 2) clarity and conciseness of expression
- 3) use of appropriate terminology and correct grammar, syntax, and spelling
- 4) full and accurate footnotes

#### **F. Adherence to Deadlines:** Faculty will set deadlines for the following:

- 1) Topic Proposal: One-page description of the problem or case that will be the focus of your paper.
- 2) Proposed Plan for Research
- 3) Thesis Statement, Outline, and Revised Research Plan
- 4) First Draft (including citations to authority in footnotes or endnotes).
- 5) Second Draft
- 6) Subsequent Drafts as Required by Faculty Supervisor

#### **Upper Division Continuation of Skill Development: Clinical Courses**

As stated previously, every student is required to take at least one clinical course. Clinical courses include our in-house clinics (Health Law Clinic, Family Violence Clinic, Domestic Violence Prosecution Hybrid Clinic, Community Development Clinic, and Immigration Clinic – all 5 – 6 credits), one of our many Field Placements (4 credits), Summer in Government Placement Program (6 credits), Semester in Practice Program (12 credits), the Attorney General’s Litigation Bureau Apprenticeship (5 credits), and our Mediation Apprenticeship Program (4 credits).

Clinical courses intentionally expose students to real-world lawyering challenges by immersing them in the practice of law. Clinical courses use faculty supervision to guide the student along a path of self-discovery, development of professional values, and refinement of judgment and decision-making. All clinical courses provide opportunities for students to hone their writing skills and their oral advocacy skills in a variety of ways. All courses have a classroom component that ensures that students have an additional experience in drafting legal documents and oral communication. Students are assessed on these skills and must receive a passing grade in the course in order to graduate and be certified that they possess the skills and values necessary to provide effective and ethical representation.

## **C. Demonstrate basic legal research, legal analysis, legal reasoning and problem-solving skills**

### **First Year Foundation**

The year-long Introduction to Lawyering course, as described above, lays the foundation for students to demonstrate competency in basic legal research, legal analysis, legal reasoning and problem-solving. As stated above, these skills are individually assessed by faculty and students must receive a passing grade in the course which indicates basic competence at the first-year level.

### **Upper Division Continuation of Skill Development: Upper Level Writing Requirement**

In the upper division, competency in the skills of legal research, legal analysis, legal reasoning and problem-solving are enhanced and reinforced through the Upper Level Writing Requirement, also described above. The specific criteria for assessment of the Upper Level Writing Requirement includes assessment of the legal research, legal analysis, and legal reasoning demonstrated in the paper. All students must receive a B or better on their paper as a graduation requirement and to demonstrate competency in basic legal research. Legal analysis, legal reasoning, and problem-solving.

### **Upper Division Continuation of Skill Development: Clinical Courses**

Albany Law School Clinic and Justice Center is uniquely positioned to consistently deliver on each of these skills, irrespective of which course a student ultimately chooses. As stated above, every student is required to take and receive a passing grade in at least one clinical course in which they earn at least 4 academic credits. Students are allowed to take up to 30 clinical credits and are encouraged to take more than the minimum required. Clinical courses use faculty supervision to focus the student on refinement of their professional judgment, problem-solving, and decision-making.

Each of the clinical courses engages the students in self-evaluation and reflection on a wide variety of subjects including legal analysis and problem-solving. Students create goals including legal analysis and problem-solving at the beginning of each course and, with faculty guidance, regularly revisit their goals in light of their performance. In addition, each clinical course uses the tool of reflection to encourage students to establish a habit of lifelong learning, self-evaluation and continuous professional improvement. This is accomplished not only in the reflections and assessments assigned to students and assessed by faculty in each course, but also in the methodology employed by professors in providing feedback that is comprehensive and focused not only on the skills demonstrated by the student, but on uncovering the value-laden context in which those skills were brought to bear. Students are assessed and given regular feedback on legal reasoning, legal analysis, and problem-solving throughout the clinical course and must receive a passing grade in the clinical course as a graduation and certification requirement.

- D. Demonstrate the ability to exercise proper professional and ethical responsibilities to clients and to the legal system**
- E. Demonstrate knowledge and understanding of the Lawyer’s professional responsibility to advance the mission of service to the underrepresented so that all individuals have equal access to the privileges of our justice system.**
- F. Demonstrate an awareness and understanding of the knowledge, skills, and values necessary to be competent and effective lawyers in a multicultural world.**

#### **First Year Foundation:**

As described above, the first year students receive a rich and rigorous foundation for understanding professional values and ethical responsibilities through our Introduction to Lawyering course which challenges students to think like professionals from the first day of law school. Students are assigned to “firms” representing parties in a year-long simulated legal dispute and are introduced to the legal system, ethics, and the skills and values of the profession. Students continue representing their “clients” throughout the year during which faculty intentionally design ethical dilemmas associated with the mock problems. Students are assessed on these skills and must receive a passing grade in the course.

#### **Upper Division: Legal Profession or Professional Responsibility Seminar**

All students are required to take and receive a passing grade in one of two three-credit courses, Legal Profession or Professional Responsibility Seminar. Both courses are designed to give rigorous instruction regarding the Code of Professional Conduct and other laws and regulations pertaining to the professional obligations for the ethical representation of clients. These courses are problem-based so that students are constantly placed in the role of a lawyer for purposes of small group work and class discussion. Students must receive a passing grade in the course to graduate and be certified that they possess values necessary to provide effective and ethical representation.

#### **Upper Division: Clinical Courses**

As described above, all students are also required to take at least one semester where they participate in a clinic for a minimum of 4 credits. Clinical courses intentionally expose students to real-world lawyering challenges by immersing them in the practice of law. Clinical courses use faculty supervision to guide the student along a path of self-discovery, development of professional values and judgment.

Each of the clinical courses engages the students in self-evaluation and reflection on a wide variety of subjects including professional excellence. Students create goals at the beginning of each course and, with faculty guidance, regularly revisit their goals in light of their

performance. In addition, each clinical course uses the tool of reflection to encourage students to establish a habit of lifelong learning, self-evaluation and continuous professional improvement. This is accomplished not only in the reflections and assessments assigned to students in each course, but also in the methodology employed by professors in providing feedback that is comprehensive and focused not only on the skills demonstrated by the student, but on uncovering the value-laden context in which those skills were brought to bear. In both modeling best practices and allowing students to develop their own through simulation and real-world practice, clinical courses both establish benchmarks for excellence in the profession and provide students with the tools to create their own roadmap to pursue those benchmarks in their careers.

Each of the clinical courses also involves an element of public service, whether it be serving the underserved through direct representation or teaching multicultural awareness and the politics of difference in a supplementary seminar. The focus on access to justice is consistent and clear across all clinical programs as the cornerstone of our obligations to our students and to our community. In the rare instance when a student's field placement or practical experience does not lend itself naturally to an inquiry of equal access and privilege, faculty members supplement through reflection prompts or in-class assignments in deliberate and intentional ways to provide that context. Across the clinical courses, students are challenged to embrace professional habits that center on service to the underrepresented and access to justice.

All of the clinical courses maintain a focus on ethical decision-making, including acknowledging, identifying and combatting implicit bias. Other professional dilemmas are a regular topic of both seminar, practice and reflection, either naturally arising in the casework or intentionally prompted by the supervising faculty member. Issues of multicultural lawyering, diversity and inclusion are also among the professional competencies consistently addressed across the clinical curriculum. Finally, through situating individual cases and controversies within the student's broader career path and further within the legal profession as a whole, faculty who teach clinical courses consistently challenge students to examine their professional choices from a multitude of perspectives and through myriad frameworks.

Students are assessed and given regular feedback on these skills throughout the clinical course and must receive a passing grade in the clinical course as a graduation requirement and to certify that they can competently provide effective and ethical representation.

### **Upper Division: Skills Courses**

Students are required to take at least two courses that offer substantial skills instruction. Many students fulfill this graduation requirement through the clinical program, but some students additionally take one or more of the following courses. These courses are simulation courses that all place the students in the role of a lawyer and provide intentional opportunities for students to refine and improve their professional judgment and understanding of their obligation for ethical representation of their client. The following courses assess these skills and

a passing grade demonstrates that they have basic understanding and competency in these skills and values:

- |   |                                  |
|---|----------------------------------|
| 1) Alternative Dispute Resolution                 | 16) Mediation                    |
| 2) Advanced Legal Writing                         | 17) Negotiating for Lawyers      |
| 3) Appellate Practice                             | 18) New York Practice II Module  |
| 4) Applied Health Policy                          | 19) Overview of Trial Advocacy   |
| 5) Art & Entertainment Law                        | 20) Trial Practice I – Civil     |
| 6) Client Interviewing & Counseling               | 21) Trial Practice I – Criminal  |
| 7) Court of Appeals Intensive                     | 22) Trial Practice II – Civil    |
| 8) Drafting                                       | 23) Trial Practice II – Criminal |
| 9) Entrepreneurship, Law & Emerging<br>Technology |                                  |
| 10) Estate Planning II                            |                                  |
| 11) Fact Investigation                            |                                  |
| 12) Family Law Practicum                          |                                  |
| 13) Judicial Opinion Writing                      |                                  |
| 14) Law and Social Innovation                     |                                  |
| 15) Legal Issues in Medicine                      |                                  |

## **Conclusion**

In addition to the above, Albany Law School offers many other opportunities for students to develop and perfect the skills and values reflected in our learning outcomes. Participation in our moot court program, participation in the many pro bono opportunities available through our Pro Bono Program, and participation on one of three journals all provide additional experiences that will help students hone their abilities in each of the areas we have determined are necessary for the ethical and competent practice of law in New York. Even without this additional participation, however, the skills and values set out in our learning outcomes are incorporated across the required curriculum, and are intentionally assessed to ensure students who graduate from Albany Law School have demonstrated foundational knowledge and understanding of substantive and procedural law, can effectively communicate orally and in writing, have demonstrated basic competence in legal research, legal analysis, legal reasoning, and problem-solving, and are prepared to exercise proper professional judgement for the ethical and competent representation of clients.