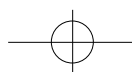
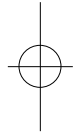
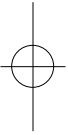
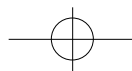
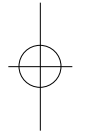
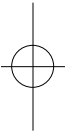
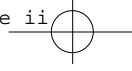


THE LAW PROFESSOR'S HANDBOOK





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A Practical Guide to Teaching Law

Madeleine Schachter

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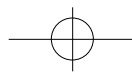
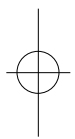
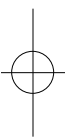
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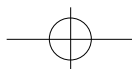
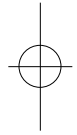
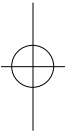


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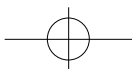
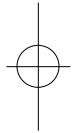
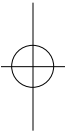
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THE LAW PROFESSOR'S HANDBOOK

INTRODUCTION

What makes a professor a *teacher*? To teach is to educate, to impart knowledge, and, most importantly, to inspire. The thesaurus lists several interesting and arguably provocative words under “teach,” including “advise,” “brain-wash,” “catechize,” “cram,” “demonstrate,” “direct,” “discipline,” “drill,” “lecture,” and “tutor.”¹ More apt descriptions to which you might aspire include “coach,” “communicate,” “explain,” “edify,” “interpret,” “imbue,” “nurture,” and, perhaps most significantly, “prepare.”²

“Good” teaching has been conceptualized as “a complex process that begins and ends with students. It takes into account who they are, what they already know, what interests they may already have, and what they will need to know.”³ Ultimately, your task transcends the mere transfer of the substantive knowledge you’ve acquired to your pupils. “In a sense, the real difference between being an expert in something and being an expert who teaches is showing your students how you got—and how they can get—the rabbit out of the hat.”⁴ The critical task is not to teach students to *know*, but rather to teach them to *think*, to *analyze*, to *conceptualize*. A teacher is an enabler, a catalyst for students’ self-discovery.

The Law Professor’s Handbook is designed to assist you as you transition from practitioner to professor. Simply because you’ve mastered a high level of substantive expertise, refined your advocacy and negotiation skills, and have extensive experience in analytical thinking, writing, and other scholarly pursuits, doesn’t necessarily mean that you’re prepared to educate others. Brian MacNamara of the John Jay College of Criminal Justice points out that “[d]octors are taught how to diagnose, lawyers are taught how to argue, and actors

1. *Roget’s Interactive Thesaurus* (Lexico Publishing Group, LLC 1st ed. 2003), at <<http://thesaurus.reference.com/search?q=teach>>.

2. *Id.*

3. Diane M. Enerson, Director, Center for Excellence in Learning and Teaching, *What is Good Teaching?* Penn State University (1997), at <<http://www.psu.edu/celt/PST/intro.html>>.

4. *Id.*

are taught how to perform.... [But t]he new law professor is expected to know how to teach either by divine guidance or by virtue of having spent many years on the other side of the lectern.”⁵ Another professor notes that “[t]here is no class that one takes to learn how to teach. Sure, one can gain some degree of comfort, even mastery, over the substance of a particular area of law outside of the classroom. But it is a considerable challenge to figure out how best to convey that information and understanding to one’s students. Succeeding at teaching is much more art than science....”⁶ One university teacher candidly confessed that “teaching was exactly like sex for me — something you weren’t supposed to talk about or focus on in any way but that you were supposed to be able to do properly when the time came.”⁷

If you’re not currently embarking on a teaching career but have been engaged in the profession for some time, this *Handbook* may assist you as you reflect on your teaching techniques. Technology increasingly is playing a pivotal role in education; how might you incorporate digital media into your course? Some have concluded that “[l]ess emphasis will be placed on lecturing and greater emphasis on facilitating the education process, for example, by providing learning assistance in time patterns and modes tailored to the needs of individual students.”⁸ What fresh approaches might you consider working into your lesson plans to involve all of the members of a large class? If you’ve been teaching the same courses semester after semester, how might you vary your lessons a bit in order to stimulate yourself as well as your students?

This book also is designed to assist those who are joining the adjunct faculty of a law school. Synonyms for “adjunct” include “accessory,” “addendum,” “appendage,” and “auxiliary;”⁹ by definition, an adjunct is something that attaches as a supplementary part. As an adjunct professor, one inevitably is on the periphery of the faculty. While the pedagogical expectations are compa-

5. Brian MacNamara, *Teaching Law Teaching*, Institute for Law School Teaching, The Law Teacher (Fall 2002), at <<http://law.gonzaga.edu/ilst/Newsletters/Fall02/macnama.htm>>.

6. Robert B. Porter, *A Seneca Indian in King Arthur’s Law School: Observations Along the Journey*, 7 Mich. J. Race & L. 529, 535 (2002), at <<http://students.law.umich.edu/mjrl/>>.

7. See Diane M. Enerson, R. Neill Johnson, Susannah Milner, Kathryn M. Plank, *The Penn State Teacher II: Learning to Teach, Teaching to Learn*, Penn State University (quoting Jane Tompkins), at <<http://www.psu.edu/celt/PST/intro.html>>.

8. James J. Duderstadt, Daniel E. Atkins, Douglas Van Houweling, “The Development of Institutional Strategies,” *Higher Education in the Digital Age: Technology Issues and Strategies for American Colleges and Universities* (The Oryx Press 2002).

9. *Roget’s Interactive Thesaurus* (Lexico Publishing Group LLC 1st ed. 2003), at <<http://thesaurus.reference.com/search?q=adjunct>>.

rable to those imposed on the full-time teaching staff, the capacity to integrate oneself into the school's environment and transition to the task of teaching can be far more challenging. Peer support is more remote and tenuous, an on-campus presence is less frequent, and communication with administrative personnel may be merely fortuitous or the result only of more concerted effort on the part of the adjunct.

How does this *Handbook* fit in with your role as a teacher? You might consider analogizing to the task of preparing and serving a meal. The chef has already read a number of cookbooks, he's eaten at a range of restaurants and sampled several types of cuisine, and he's browsed markets and stores selling cooking equipment. He'll begin by carefully planning the meal, taking into account the utensils he'll need and the ingredients he must purchase. He'll analyze the timing so that the vegetables finish cooking before the dessert is to be served. And he'll deliberate about the guest list, the seating configuration, and ways to stimulate an interesting and lively dialogue.

In the context of teaching a law school course, you'll likewise already have acquired significant substantive expertise; you'll have read applicable statutes, caselaw, and commentary and you'll have interacted with others who practice and write in your field. Now you'll need to develop a syllabus, select a text or other materials, and possibly integrate visual or electronic media into your presentation. You'll orchestrate the timing so that the course is broken down into the appropriate number of class sessions and the pacing of each class suitably comports with the overall time-frame you've been allotted. And you'll reflect about the use of seating charts, how best to interact with and involve your students, and ways to stimulate an informative and dynamic discussion.

This *Handbook* is the *amuse bouche*. It's the morsel that a fellow (albeit part-time) chef has laid before you to entice you to prepare for the meal. It's not, to borrow a related metaphor, the meat and potatoes. It doesn't offer substantive course outlines or PowerPoint bullet points for your lectures. The *Handbook* is the prelude. It prepares you, whets your appetite, and contextualizes your teaching experience.

The *Handbook* offers information about the application process and factors to take into account in choosing amongst offers of faculty appointment. There's information about designing a course, crafting a syllabus, and choosing textual materials. If you've decided to create course materials, such as a tutorial or a Web-based book, what intellectual property laws should you consider? Before the semester even begins, it's important to reflect on the course's requirements and your grading standards so that you've established a fair and impartial system and can timely apprise students of the criteria. Might collaborative teaching approaches be appropriate for your course? Do you want

to incorporate in-class lecture enhancements or perhaps utilize asynchronous or synchronous electronic methods? In addition to the Socratic method, what other pedagogical techniques might you use to stimulate student participation and manage class discussion?

If you have discretion as to the methods by which you'll evaluate students, should you use absolute or norm-referenced grading standards? How might you handle a suspected case of plagiarism? As you assume the role of a professor, how might you react sensitively to a student who is academically challenged, inattentive, experiencing personal difficulties, or seeking career advice? Where can you locate resources to help you along the way?¹⁰

In an effort to facilitate review of matters of particular interest, headings, a table of contents, and a detailed index have been included in the *Handbook*. Cross-references also have been incorporated to enable additional textual review. For instance, if you're teaching a required course and the school has mandated use of a particular evaluative technique, such as a final exam, you may decide to skip the discussion about options for course requirements. If you're in a position to select the components of class grades, however, perhaps it will help to refer to the *Handbook* for the formula for standard deviation or to review approaches for appraisal of active, but inadequately trenchant, comments from a pupil.

One of the most challenging aspects of working on this book was crafting a title. I felt quite presumptuous denoting this work a "guide" for law professors. There simply is no correct or proper way to teach; nor should there be. The diversity of teaching styles is part of what enhances education, broadens perspectives, and reminds us that there is not necessarily a clear, definitive answer to every problem and an exclusive means to acquire it.

Nor does the task of teaching law import a simple, methodological approach readily transferable from one inculcator to another. Even were educational endeavors susceptible to precise and orderly formulation, conformity would be defeated by the variations in courses' substantive material and the divergent emphases on legal methods and analytical and advocacy skills in dif-

10. References to sources in footnotes and lists of selected resources are included in the book for further investigation, but of course it would be futile even to aspire to comprehensively list all available useful sources. As this *Handbook* goes to press in late 2003, the number of informative books, web-sites, articles, and other tools continues to proliferate exponentially. Resources are not endorsed and of course no adverse inference should be drawn from omission of reference to any resource. Citational information has been included for further research purposes, but note that as to electronic resources in particular, the sponsorship, operation, and authorship of web-sites may change and content may be added, deleted, or modified.

ferent courses. Even when the same course is offered at the same academic institution, individual professors' approaches are not consistent. There are different teaching methods, emphases on disparate nuances of the material, and use of various techniques for stimulating thoughtful reflection by students and provoking class discussion. Significantly, too, professors span a range of disparate ideological, educational, professional, cultural, and social backgrounds. It is to the students' good fortune that they are exposed to such diversity. One must endeavor to impart one's own knowledge and share one's skill in a way that inspires and excites others to do so in their own way. The welcome diversity of students and its synergistic effect on the overall dynamics of a composite class would thwart any aspiration of uniform guidance. In sum, the heterogeneity is to be encouraged, rather than repressed.

As well, the policies and regulations of individual law schools vary. This *Handbook* offers general guidelines, likely distorted by the limited experiences of the author at law school (at New York University) and as an adjunct professor (at Fordham University School of Law).¹¹ It's therefore important that you become familiar with your school's procedures.

This *Handbook* is designed merely to offer some thoughts about teaching law students, with occasional illustrations of techniques I've used in a Law of Internet Speech course or an Informational and Decisional Privacy in the Internet Era course. The *Handbook* basically is comprised of commonsensical notions and selected resources about ways to prepare for and conduct class, approaches to teaching, and methods for the fair evaluation of students. It's more or less what would occur to you if you had the time to observe a few classes taught by your colleagues, browse some helpful web-sites, and network with other faculty.

11. The author is an in-house attorney at Time Warner Book Group, which is part of Time Warner Inc., and an Adjunct Professor at Fordham University School of Law. The materials included in this book are intended to provoke thought, present divergent viewpoints, and offer pedagogical options. To the extent views are expressed or inferred, nothing herein should be construed as necessarily expressing the views of anyone other than the author or as constituting legal advice.

