

Integrating Doctrine and Diversity

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Beyond the First Year

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Contents

Acknowledgments	ix
Foreword · <i>Erwin Chemerinsky</i>	xi
Introduction · <i>Nicole P. Dyszlewski</i>	xiii

Part I

Looking Across the Curriculum

Using Feminist Judgments in Upper-Level Law Courses: Teaching Justice and Equality Across the Curriculum · <i>Kathryn M. Stanchi & Bridget J. Crawford (with Olympia Duhart, Elena Marty-Nelson, Ann C. McGinley & Eloisa C. Rodriguez-Dod)</i>	3
Teaching Indian Law in the Twenty-First Century · <i>Matthew L.M. Fletcher</i>	17
A Lesson Plan for Teaching Gender-Inclusive Language · <i>Amanda Elyse</i>	27
Using Prose to Create Legal Pros · <i>Brandon Stump</i>	37
Mitigating Stereotype Threat in Upper Division Academic Support and Bar Preparation Courses · <i>Kiyana Kiel</i>	47
White Letter Law · <i>Varro J. Clarke</i>	59
Cultural Competence, Humility, Empathy, and Active Learning as Critical Features of Teaching Diversity, Equity, Belonging, and Inclusion in the Classroom · <i>Jocelyn Kennedy</i>	73

Part II
**Dedicated Courses on Race, Injustice,
 and Professional Identity**

- Race and the Foundations of American Law: Creating a New Three-Credit Class at Roger Williams University School of Law** · *Nicole P. Dyszlewski, Diana Hassel & Nadiyah J. Humber* 83
- Incorporating Critical Perspectives in Law and Professional Identity into the 1L Curriculum at Boston College Law School** · *Reena Parikh & Cheryl Bratt* 95
- Race and the Equal Protection of the Laws Program (REPL)** · *Dermot Groome* 109
- The Power of the Narrative: Building Empathy, Allyship, and Belonging Within (or Despite) an Exclusionary Profession** · *Tanya Johnson* 121

Part III
Professional Responsibility

- Rethinking Professional Responsibility (PR) Materials: Insights from a New-to-PR Teacher** · *Nicole P. Dyszlewski* 133
- Exploring Two Sides of the DEI Coin in Professional Responsibility: Access to Justice and Access to the Profession** · *Brooks Holland* 141
- Beyond Fear: Bringing Mental Health into the Professional Responsibility Classroom While Empowering Students** · *Sarah J. Schendel* 151
- Diversity, Equity, and Inclusion Resources to Foster a More Inclusive Professional Identity: A Select Annotated Bibliography** · *Jessica Almeida & Alisha Hennen* 161

Part IV
**Integrating Doctrine and Diversity in the Second
 and Third Year Curriculum**

SECTION 1 · ADMINISTRATIVE LAW

- Teaching the Americans with Disabilities Act's Constitutionality without Othering People with Disabilities** · *Katherine A. Macfarlane* 171

Administrative Law Through a Social Justice Lens · <i>Natalie M. Chin</i>	181
Dismantling Discriminatory Zoning: <i>City of Edmonds v. Oxford House, Inc.</i> — A Case Study on Defeating City-Imposed Family Composition Mandates · <i>D.O. Malagrino</i>	193
SECTION 2 · BUSINESS, COMMERCIAL, AND LABOR	
De-Neutralizing Business, or Teaching Business Organizations for Inclusive Engagement · <i>Lua Kamál Yuille</i>	205
Business Law and Racism · <i>Robert R. Statchen</i>	217
Doctrine and Diversity in the Labor Law Syllabus and Classroom · <i>Kerri Lynn Stone</i>	231
Equity and Inclusion at the Intersection of Law, Money and Technology · <i>Rohan Grey & Julia Ricciardi</i>	241
Identifying Bias, Inequity, and Discrimination in Insurance Law (with Some Thoughts on Doing the Same in a Business Associations Course) · <i>Deborah L. Johnson</i>	253
Doctrine and Diversity in the Employment Law Syllabus and Classroom · <i>Kerri Lynn Stone</i>	265
SECTION 3 · REMEDIES	
Widening the Lens of Consciousness: Strategies to Broaden Students’ Agency in Considering Remedies as a Vehicle for Systemic Change · <i>Patricia Winograd</i>	277
SECTION 4 · CRIMINAL PROCEDURE	
Using Images and Videos in Criminal Procedure · <i>Tung Yin</i>	289
SECTION 5 · EVIDENCE	
Teaching Antiracism in Evidence Law · <i>Jasmine B. Gonzales Rose</i>	301
Trial by Fire: Lessons Learned from Teaching Race and Evidence in a Hostile Environment · <i>Montré D. Carodine</i>	309
Making Evidence Meaningful: Diversity and Realism in Action · <i>Deborah Ahrens</i>	321

Creating a Space of Possibility in the Evidence Law Classroom · <i>Pavel Wonsowicz</i>	329
Evidentiary Support · <i>Malikah Hall Retteen</i>	339
SECTION 6 · FAMILY LAW	
Teaching Family Law Through the Lens of Minoritized Identities · <i>Jeffrey A. Dodge</i>	359
Teaching Reproductive Justice Lawyering in Family Law: Moving Toward a Race-Conscious Curriculum · <i>Brittany L. Raposa</i>	371
Family Law Bibliography · <i>Margaret (Meg) Butler</i>	381
SECTION 7 · INDIGENOUS AND INTERNATIONAL LAW	
Decolonizing the Legal Academy (Is the Future) · <i>Nazune Menka</i>	397
Native American and Indigenous Law: A Selected, Annotated Bibliography of Sources for Promoting and Maintaining Native American Law as Part of the Core Curriculum in Law School · <i>Rebecca Chapman</i>	409
Engaging with Equity in International Law—Personal Reflections · <i>J. Nilmini Silva-Send</i>	421
SECTION 8 · WRITING, RESEARCH, AND SIMULATIONS	
Reconstructing Advanced Legal Research · <i>Kristin C. McCarthy</i>	437
The Unstandardized Client: Collaborating with an Actor on Lessons About Diversity, Equity, and Inclusion · <i>Carol M. Suzuki</i>	453
Incorporating Federal Indian and Tribal Law into Litigation-Drafting Curricula · <i>Gail Stephenson & Michael D.O. Rusco</i>	463
Grappling with DEI Issues Through an Environmental Negotiation Case Study · <i>Robin L. Juni</i>	473
Index	483

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Foreword

*Erwin Chemerinsky**

Law schools were tragically late in recognizing the importance of diversity. Now, thankfully, there is an increasing realization that diversity is central to our mission. In part, this is about ensuring that we have diverse student bodies and faculties. And we must be constantly vigilant that our instruction is inclusive, making all students feel they belong, and preparing all to practice law in a diverse society and world.

At the same time, it is important that in all of our courses we recognize the ways in which racism, sexism, homophobia, antisemitism, and other pernicious biases have infected the law. No longer can we pretend that the law is neutral. Quite the contrary, it always has reflected a myriad of choices that favor the privileged and the powerful. We must systematically explore this in our classes in order for our students to understand the law.

Important insights come from bodies of scholarship that did not exist when I went to law school or became a law professor. There is much to learn and much for us to teach from the insights of critical race theory, feminist jurisprudence, and other critical perspectives on the law.

But how to go about doing this? *Integrating Doctrine and Diversity: Beyond the First Year* is a wonderful place to start. It is a sequel to an earlier book that focused on first year subjects. Both books have a practical focus, exploring how teachers can effectively teach a diverse student body and teach about the countless ways in which matters of identity affect the law and the practice of law.

The book is a collection of essays, almost all from experienced teachers discussing how to approach matters of diversity in upper-level law school subjects. The book is organized so that it can be read from front-to-back or one can focus on teaching a par-

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ticular topic. Although the essays are by different authors, they fit beautifully together. Bibliographies for additional readings are particularly useful.

Part I is a series of essays about topics that cut across particular fields of academic study. They focus on issues common throughout the curriculum, such as teaching the use of gender-neutral language and teaching cultural competency. It also includes how to incorporate insights from feminist jurisprudence and Indian law, as well chapters on more specific subjects such as legal writing and academic skills.

The remainder of the book focuses on specific subjects within the curriculum. There are several chapters about teaching race and the law courses, and several chapters on teaching professional responsibility. Part IV of the book focuses on many specific subjects: administrative law, business and labor law, remedies, criminal procedure, evidence, family law, indigenous law and international law, and research, writing, and simulations. Virtually every major upper-level subject is considered, some with multiple chapters offering differing perspectives on particular areas of the law.

But all the chapters share much in common. All are written by individuals, almost all professors, who are deeply committed to improving our students' legal education. All are sharing their personal experiences. All offer concrete, practical suggestions on how we can do a better job. Both experienced teachers and those early in their academic careers have much to learn from this excellent collection of essays.

Introduction

Nicole P. Dyszlewski*

*The classroom remains the most radical space of possibility in the academy.*¹

*The first law of Library Science, like the first law of any other science, embodies an elemental truth. In fact, it is so self-evident that one may be inclined to say that it is trivial. But, that is an invariable characteristic of all first laws. . . . The first law of Library Science is: BOOKS ARE FOR USE.*²

This book, like the one that came before it, is *for use*. It is not intended to be theoretical.

This book is intended to be used by law teachers, wherever they may fall within the legal education hierarchy, to move American legal education in a direction where diverse perspectives are fully integrated into every law school classroom. The essays in the book are intended to be read, considered, annotated, discussed, bookmarked, and re-read. The teaching innovations included here, large and small, are intended to be adopted, changed, engaged with, tossed aside, reconsidered, and reworked. We hope this book gets dog-eared pages, cracked bindings, and stained with coffee. This book is *for use*.

When we created *Integrating Doctrine and Diversity: Inclusion and Equity in the Law School Classroom*, we had no idea if anyone would use it. We were, and continue to be thrilled, that someone (many someones, in fact) did use it. Beyond just reading the book, teachers and law schools are using the book to teach in a way that more accurately reflects American history and jurisprudence and the diverse interests, backgrounds, and needs of law students. Truthfully, this has been exciting and astonishing. But more

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1. BELL HOOKS, *TEACHING TO TRANSGRESS: EDUCATION AS THE PRACTICE OF FREEDOM* 12 (1994).
2. S.R. RANGANATHAN, *THE FIVE LAWS OF LIBRARY SCIENCE* 1 (1931).

than the spirit of fellowship, it has been affirming that the need for practical teaching advice on these topics and information for law professors, by law professors, is real. And so it is with this deeper awareness we began work on the second book.

This volume brings the editorial team back together with some of the same amazing contributors, as well as some fantastic new faculty, around the same general theme: diversity skills and social justice content should be integrated within all law school classes. Which classes, and how that is accomplished, is the major difference between the first volume and this one. The first volume focused on law school classes typically found in the 1L curriculum. This volume focuses on classes taught beyond the first year.³

Like volume one, this book takes an expansive view of what “diversity” means in legal education and the facets of identity to which it can refer. As editors, we choose “diversity” as an umbrella term to include a variety of issues that may touch diversity but are also distinct, such as equity, equality, inclusion, belonging, racial injustice, gender discrimination, and other forms of social inequality. We also intend diversity to be defined broadly to include race, ethnicity, religion, spirituality, national origin, citizenship, age, domicile, gender identity, ability, gender expression, sexual orientation, status, culture, difference, and the many places where those descriptors intersect.

The organization of this book is key to its use. As in volume one, this book contains a must-read first chapter about cross-curricular issues. This part of the book includes essays that are widely applicable to law school faculty and not tied to a specific topical area. Part II of the book contains essays from law teachers at schools that have implemented classes on race, injustice, professional identity, and the law. Part III of the book includes essays on professional responsibility classes. Part IV contains essays organized by topics commonly taught in the second and third year of law school (i.e., all of the evidence essays are found together in one chapter). This book also contains annotated bibliographies for those hoping to go beyond the scope of each contributor’s essay. While we would love readers to enjoy the book in its entirety, it is organized to allow readers to skip ahead to the subjects they find most relevant to their teaching.

We wish to give our profound thanks to the contributing authors who share their wisdom in these pages. The authors come from a variety of institutions across the country and have diverse backgrounds, diverse perspectives, and diverse approaches. We solicited and selected authors to maximize diversity of identity, style, institutional affiliation, and experience. Like in volume one, we have sought to create something that is approachable, accessible, and not pedantic. Our focus is, and has always been, on presenting tools and relevant examples to law professors willing to do, or at least consider, this work. This book is not about convincing the unwilling or indoctrinating those who do not value diversity and social justice in the doctrinal law school curriculum. *It is* about celebrating the creativity and possibility in those who do or want to try.

3. If you are someone who reads footnotes and you have gotten this far you may be excited to hear that we hope there is a future volume in the series about clinical education.

Since the first volume was published, we have been very gratified by the interest from law faculties nationwide, recognizing the urgency of this work. Gratitude goes to the co-sponsors of the speaker series that accompanies this work: RWU Law, CUNY Law, Jurist, GW Law, and Berkeley Law.⁴ This work is messy, and at times it is far more dynamic than a static written essay can convey. Authors, editors, and friends of our book series have gotten together to present a series of webinars on topics related to the work of integrating doctrine and diversity. Those sessions are free, recorded, and available on YouTube. Again, the engaged conversations on these topics could not happen without speakers being willing to share of themselves and institutions being willing to support our work. Thank you to all who have sponsored, spoken, attended, or shared our sessions. This work comes alive in these webinars in an engaging and authentic way that complements the essays in these volumes.

Finally, I personally want to express my gratitude to my co-editors. We started this work together in 2018 and we have continued it into 2023. We have seen job changes, status changes, institution changes, home moves, sicknesses, losses, and a pandemic. But throughout it all we have continued to laugh and edit and support each other. While I do tire of the reminders to update the spreadsheets, I couldn't imagine a more supportive group of women to work alongside (virtually speaking). May our readers enjoy volume two, and may the future bless us with more ways to advance the conversation.

4. See Roger Williams School of Law, *Integrating Doctrine & Diversity*, <https://law.rwu.edu/student-experience/diversity-and-outreach/integrating-doctrine-diversity>.

