


The University of New Mexico

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MEMORANDUM

TO: LAW FACULTY
FROM: LEO M. ROMERO, DEAN 
DATE: December 3, 1996
SUBJECT: FACULTY MEETING

**Faculty Meeting Agenda
Monday, December 9, 1996
Dean's Conference Room
4:00 p.m.**

1. Approval of Minutes of November 18, 1996, Faculty Meeting
2. Dean's Report
3. IPL Report - Paul Nathanson
4. Curriculum Committee Report - Barbara Bergman
5. Writing Program Proposal (Attached) - Curriculum Committee
6. AALS Dues Vote at AALS Annual Meeting - Associate Dean Peter A. Winograd
7. Dean Search Committee Report
8. New Business

LMR:mb
Attachment

December 9, 1996

Faculty Meeting Minutes
School of Law
Dean's Conference Room, 4:00 p.m.

PRESENT: Anspach, Bergman, Blumenfeld, Browde, Burr, Desiderio, Fort, Fritz, Gill, Gonzales, Hart, Hall, Kelly, Martinez, Mathewson, Montoya, Nathanson, Norwood, Parnall, Rapaport, Roberts, Romero, Scales, Utton, Valencia-Weber, Winograd, Zuni

Student Representatives: Jeff Albright

Others: Paul Biderman

ABSENT: Creel, DuMars, Ellis, Hermann, Kovnat, MacPherson, Moore, Occhialino, Subin, Taylor

The meeting was called to order by Dean Leo Romero.

A motion was made by Professor Liz Rapaport and seconded by Professor Margaret Montoya to approve the minutes of the November 18, 1996, faculty meeting as distributed. When voted on, the motion carried unanimously.

Dean's Report:

Dean Romero welcomed Donovan Roberts, newly hired clinical fellow and UNM Law School graduate.

Dean Romero reminded the faculty of the upcoming Hatton W. Sumners Foundation lecture/symposia series: Professor Barbara Bergman will coordinate a symposium on Children's Advocacy January 9-11, 1997; Professor Chuck DuMars will coordinate a Water Law symposium on February 22-23, 1997; and the last in the series will be a symposium on Taxation in Indian Country coordinated by Professor Scott Taylor on April 12, 1997.

Professors Em Hall and Bob Weber have compiled materials for the Legal Oral History of New Mexico Project of the UNM School of Law entitled Recuerdos.

Professor Chuck DuMars' article, "Changing Interpretations of New Mexico's Constitutional Provisions Allocating Water Resources: Integrating Private Property Rights and Public Values," was published in the Summer 1996 issue of the New Mexico Law Review.

Annamarie Delovato (2L) was elected Region VII President of the Hispanic National Bar Association Law Student Division.

Dean Romero announced that there will be a 1997 Joint Western and Southwestern/Southeastern Law Professors of Color Legal Scholarship Conference March 7-9, 1997, in Albuquerque. Professor Sherri Burr is on the planning Committee.

Professor Suede Kelly delivered a lecture entitled "It's Electric Rates, Stupid: The Municipalization Option" at the Special Institute on The Electric Industry on November 19.

Professor Bob Desiderio's tax study committee has completed its report, and it has been published and is available as a public document.

Professors Denise Fort and Mary Custy have had an article published in the New Mexico Bar Journal entitled, "Researching Environmental Legislation."

Professor Christine Zuni has organized a Native American Rights Section program for the AALS Annual Meeting in January to discuss the UN Draft Declaration on the Rights of Indigenous Peoples.

Dean Romero emphasized the need for faculty to contribute to the Law School annual campaign fund.

IPL Report:

Paul Nathanson, Director of IPL, reported on the financial problems IPL is currently having. Because there is not enough work to support the staff, some IPL staff members have been looking for other jobs. He asked the Law School to consider IPL staff for any teaching assignments or projects.

Paul Biderman, Director of the Judicial Education Center, reported on this Center and its mission of training New Mexico judges from the Supreme Court to Magistrate and Municipal Courts. He reported that the Judicial Education Center is in good financial shape and that it is developing long distance programs for judges throughout New Mexico.

Curriculum Committee Report:

Professor Barbara Bergman reported on the work of the Curriculum Committee this semester. The Committee expects to have a multi-year curriculum ready for distribution to the faculty before the Christmas break with the hope that it can be adopted in early January.

Curriculum Committee Proposal:

Professor Bergman presented the attached three-part proposal for action at this meeting. She reported that the Curriculum Committee needed to know whether the faculty would change the writing program as proposed or retain the current program before the Committee could complete the curriculum plan. She also reported that the three parts of the proposal were severable.

After discussion of Part III of the proposal, the proposed change in the writing thesis requirement, Professor Hart moved to table Part III of the proposal. Professor Norwood seconded the motion to table, and it passed unanimously on a voice vote.

The discussion then focused on Part I of the proposal which would staff the LRRW and Advocacy courses with the Writing Director and two writing instructors and reduce the Advocacy course from four to three credit hours. After discussion about the financial resources to effect this change and about the merits of this proposal, the faculty voted eleven (11) to eight (8) to approve Part I of the proposal of the Curriculum Committee.

A short discussion on Part II of the proposal followed before the faculty agreed to leave Part II until another faculty meeting.

The meeting was adjourned at 6:00 p.m.

LMR:mb
Attachment

REPORT OF THE CURRICULUM COMMITTEE

The Curriculum Committee reviewed the Law School's experience with the mandatory grading curve for the 1996-97 academic year in response to concerns raised by several faculty members and students. The Committee obtained information from students, faculty and the Registrar.

Committee Recommendation. The Curriculum Committee by a majority vote recommends that the mandatory grading curve be abolished.

Student Concerns. The student representatives to the Curriculum and Student Affairs Committees held a student meeting on November 19 to get input on the grading curve and other issues. They reported as follows:

1. 3rd year students are indifferent to the curve at this point but if it is to be abolished, they prefer that such action be effective for the Spring 1998 semester;
2. 1st and 2nd year students generally do not understand the curve and would like an open meeting with students to explain it;
3. A few vocal 1st and 2nd year students expressed reservations about the fairness of a mandatory curve; and
4. Several upper class students indicated that they selected courses based upon which students were enrolled. If the class contained several students at the top of the class, they would drop the course.

Faculty Response. The Committee submitted a questionnaire to the faculty in November. We received 18 responses. The faculty is evenly divided on the continuation of the curve. 8 favored the continuation of the curve, perhaps with modifications, 8 favored the abolition of the curve and 1 mildly opposed the curve, and 1 was not sure.

Those who favored abolition appeared to be opposed to any curve. Several of those who favored continuation of a curve suggested modifications to the current policy. Those suggestions were as follows:

1. Allow for exceptions in extraordinary circumstances when justified in writing and approved by the Dean;
2. Rather than a class average GPA, provide for a grade distribution with maximum percentages for each grade;
3. Provide an exception for nonlaw students;
4. Exclude seminar or small courses where there is a significant writing requirement; and
5. Provide for a stiffer curve in large classes.

Registrar's Report. Most faculty members have complied with the grading curve. In a few instances, faculty members turned in grades that exceeded the mandatory average and were required to lower grades. Some faculty members have complained that the existing curve is too lenient and they have had to raise grades in order to meet the curve. However, they did so before

turning the grades in. No faculty member has been asked to raise grades after turning them in. A few faculty members have given the entire class the mandatory average.

Curriculum Committee. The Committee represents the range of views on the grading curve. Some members strongly favor the continuation of the curve. Others favor a curve but not the present one. Some members strongly oppose any curve. The Committee vote, however, was influenced by a recognition that the present curve was a solution imposed on the entire faculty for a perceived problem involving a few faculty members. The Committee recognized that the large required courses have utilized a de facto grading curve. Faculty members teaching those courses have agreed informally on some uniform grading range. The present policy removes the discretion of such faculty members to set that range. The Committee further recognized that seminar courses and the Clinic tended to have higher grades than large exam classes; the current policy continues that practice.

The Committee makes no recommendation as to when any change in the current policy, if adopted, should become effective.

LEGAL COMMUNICATION SKILLS

(Note on name "legal communication skills" - Even traditional legal writing courses are much more than just "writing"; they involve interpreting the communications of others (case briefing, analysis, etc.) as well as communicating to many types of audiences both orally and in writing).

Orientation: case briefing
 court systems
 sources of the law
 course of a typical lawsuit

1st semester (Predictive legal writing):

Topics covered:

- reading/understanding/briefing cases
- synthesizing cases
- statutory interpretation
- legal analysis
- outlining
- ongoing research (not "show and tell" or "treasure hunt")
- parts of objective memorandum
- drafting memorandum
- revision of memorandum
- citations
- incorporating research into memo
- writing style and effective use of English language

Assignments:

- several short in-class/overnight exercises
- case brief
- outline
- research logs (at least 3: secondary sources; state and federal cases and statutes and updating research; legislative history, regulations, loose leaf services, etc.)
- closed memo discussion
- closed memo (including rewrite of discussion)
- citation exercise
- research memo
- research memo rewrite
- client advice letter

2nd semester (Persuasive writing):

Topics covered:

- computer research
- introduction to advocacy
- persuasive writing to avoid litigation
- more complex legal analysis and research
- elements of trial brief
- writing trial brief
- revising trial brief
- elements of appellate brief
- writing and revising appellate brief
- writing style and persuasive use of English language
- oral argument

Assignments:

- several short in-class/overnight exercises
- computer research log
- letter to adversary
- closed trial brief argument section
- closed trial brief (including rewrite of argument section)
- Research and write appellate brief
 - detailed outline of argument
 - full appellate brief
- oral argument (trial and appellate levels)

Second year, fall or spring semester (legal drafting):

Students could take a general drafting course or drafting in a specific subject area (eg. Real Estate Drafting, UCC Drafting, Family Law Drafting, Legislative Drafting, etc.).

Topics covered:

- Drafting as distinguished from legal writing
- Audience and purpose
- Writing to achieve flexibility but avoid ambiguity
- Defining terms
- Appropriate use of forms
- Drafting as preventive law (eg. contracts and agreements, legislation, wills)
- Drafting in litigation practice (eg. complaints and answers, motions, discovery documents)

Specific assignments would vary with the substantive focus of the course.

Second or third year:

Scholarly research paper.

Throughout:

Writing across the curriculum
[Zinsser: "writing is thinking is learning" - writing, thinking and learning are the same process. Students learn more when they research a topic in depth and then write on it.]

The writing director:

- in charge of first year "communication skills" curriculum
- teach one first year writing section
- oversee/coordinate/train/direct other first year writing faculty
- design special remedial programs for identified students.
- assist upper class students with writing problems
- assist in teaching/planning second year legal drafting courses