Introduction for Faculty Colleagues

Context for the Assignment
Legal Method & Communication is a required, two-semester course that all first-year law students take. The subject matter of the course includes legal research, learning how to read legal authorities (e.g., cases & statutes), understanding the structure and operation of legal rules, the organizational conventions used in legal discourse, various forms of legal and factual analysis and argument, and of course, writing in the legal profession. These skills are taught in the context of a variety of hypothetical cases. In one year, for example, my students worked on a case involving a North Carolina statute and the doctrine of attractive nuisance, a case involving an employment contract in New Hampshire, and a case involving the admission of evidence in a Utah murder trial.

When a law student or lawyer is presented with a new case, he or she must first review the facts of the case and determine what the governing law is. Beginning students are often challenged by the need to align the facts of the case with the elements of the legal rule to which a fact is legally relevant. They tend to see the case and the law holistically; they react to the problem instinctively and individually. As a consequence, they have trouble analyzing an issue thoroughly and objectively; their understanding of an issue is often superficial and conclusory.

Purpose of the Assignment
This assignment is designed to force students to think more objectively and precisely about the legal and factual components of a problem and to thereby gain a deeper understanding of the relationship between facts and law. This deeper understanding, in turn, will help students learn to analyze and write about a problem objectively and thoroughly. This is a skill that students must learn early and practice often, so the assignment could be used each time a student is given a new hypothetical case to work on.

Special Features of the Assignment
The assignment has two characteristics that serve specific purposes. First, it is a group project. This is an approach I use often because group work of various kinds encourages preparation, helps students overcome the belief that there is a single “right” answer, and allows me to model the kind of collaborative work that students will likely do in practice. Second, it is a hands-on project. Students tend to think of writing as a solitary activity, and as an activity that is done in marathon sessions towards the end of a project. Hands-on “pre-writing” exercises like this one help
students learn how to use different kinds of writing (e.g. charts, notes, graphs, etc.) as learning tools. Hands-on projects help students learn techniques that they can use to gather and process legal information in order to prepare a final work product that is thoughtful, accurate, and complete.

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**The Assignment I Distribute to Students**

**Legal Method and Communication I**

**Identifying Relevant & Non-Relevant Facts**

**Introduction to the Assignment**

Last week your supervisor asked you to prepare an objective memorandum to help him decide whether the State should file a petition to have Daniel McCully involuntarily committed. You have now had one week to review the McCully file and conduct some preliminary research on the legal standard for involuntary commitment. This is a good time to objectively assess your knowledge of the law and the facts so you can decide how to proceed with the process of writing an objective memorandum of law that meets your supervisor’s needs.

This is one of the interim projects designed to help you work through the process of researching and writing an office memo on *In re McCully*, which is due Week 10.

This is an ungraded small-group assignment. We will do the assignment in class next week.

**What I Want You to Learn:** This assignment is designed to help you improve your ability to (1) identify relevant and non-relevant facts, and (2) align relevant facts with the appropriate element(s) of the governing law.

**Materials Needed for this Assignment**

- The memo assignment and case file,
- Your completed preliminary research assignment,
- Hard copies of the governing statute and the cases you found when doing the research assignment, and
- Copies of the rule depiction that you prepared as part of the preliminary research assignment. Bring enough copies for each member of your small group, including yourself.
**Process**
You will be given approximately 30 minutes to work through the following steps with your small group. Note that we will reconvene as a class at two points in the process.

**Steps to Take**
1. Distribute copies of your rule depiction to all members of your group. Without talking to one another, review each rule depiction and make note of the similarities and differences between them.

2. Compare your impressions of the rule depictions created by the members of your group. Discuss the similarities and differences and reach consensus on a correct depiction of the rule. Remember to include:
   a. The elements of the rule,
   b. The links between the elements – *i.e.*, is the rule conjunctive, disjunctive, a factors test, or a mix or types?
   c. The consequence if the elements of the rule are established. Don’t forget to indicate whether the consequence is mandatory or discretionary.
   d. Any exceptions to the rule.

3. Using the large pad provided, create a graphic depiction of the rule. Some examples of graphic depictions include a flowchart, concept map, “if . . . then” statement, or chart (see examples from class). You may not simply state the rule in sentence form.

   **Reconvene as a class.**
   **Confirm our joint understanding of the governing rule.**

4. Working with your small group, take turns selecting a fact from the case file. Explain why you think the fact is legally relevant to a particular element of the rule, and write the fact in the appropriate place on your rule depiction. Continue until you have categorized all of the relevant facts.

5. Follow your professor’s instructions and take a few minutes to review each group’s work and fill out the feedback form. All groups will fill out one feedback form for each of the other groups in the class.

   **Reconvene as a class to de brief exercise.**
# Project Feedback Form

To: Group _____________________  
From: Group _____________________

## Rule Depiction

<table>
<thead>
<tr>
<th>Rule Component</th>
<th>Incorrect</th>
<th>Unclear</th>
<th>Correct</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elements</td>
<td>One or more elements are missing or incomplete.</td>
<td>Elements are correct, but they do not quote the key statutory language.</td>
<td>Elements are correct, and are stated using the language of the statute.</td>
</tr>
<tr>
<td>Sub-elements</td>
<td>Depiction does not identify all sub-elements.</td>
<td>Sub-elements are correctly identified, but language of the statute is not used.</td>
<td>Sub-elements are correct and are stated using the language of the statute.</td>
</tr>
<tr>
<td>Links</td>
<td>One or more links between elements and/or sub-elements are missing or incorrect.</td>
<td>One or more links between elements and/or sub-elements are implied rather than expressly stated.</td>
<td>All links between elements and sub-elements are correctly and expressly stated.</td>
</tr>
<tr>
<td>Consequence</td>
<td>Consequence is missing or incorrect.</td>
<td>Consequence is confusing or unclear.</td>
<td>Consequence is clearly stated.</td>
</tr>
</tbody>
</table>

## Legally Relevant Facts

<table>
<thead>
<tr>
<th>Element</th>
<th>Incomplete: List the facts that were omitted</th>
<th>Complete</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Suicide</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Element</strong></td>
<td><strong>Incomplete: List the facts that were omitted</strong></td>
<td><strong>Complete</strong></td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>(b) Kill or injure another</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) Deterioration of physical health</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) Deterioration of mental health</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>