



GENERAL ELECTIVES

Fall Semester

	Credit-Hours
*Business Organizations	4
*Evidence	4
*Torts	4
Administrative Law	3
Corporate Tax	3
Domestic Relations	3
Environmental Law	3
Interviewing & Counseling	3
Land Use & Planning	3
Poverty Law	3
Securities Regulation	3
Real Estate Development & Financing	3
Delivery of Legal Service Seminar	2
Legal Accounting	2

Spring Semester

*Commercial Transactions	4
Federal Courts	4
Federal Income Taxation	4
Transnational Law	4
Antitrust	3
Debtor's & Creditor's Rights	3
Estate & Gift Tax	3
Labor Law	3
*Wills & Trusts	3
Sex Discrimination	3
Ocean Law Seminar	2

*Subject currently included on the Hawaii Bar Examination.

Business Organizations

Guben

An introductory course examining the business organization in the legal process. Basic legal concepts relating to business organizations will be studied. The course will begin with an historical analysis of the legal and social impact of American business enterprise. One focus of the course will be on the policy development supporting the laws regulating corporate action as they have emerged in the nineteenth and twentieth centuries. Among the topics to be discussed are the role, function and legal impact of the entrepreneur, the decline of the entrepreneur and the rise of the manager, theories of managerial decision-

making, and the control of corporate activity by public regulatory bodies, stockholders, and statutory enactments. The final section of the course will include a series of case studies on the legal, social, and economic problems of contemporary business organizations.

The course will integrate data from the social and behavioral sciences with legal materials in order to provide a comprehensive analysis of the modern business organization.

Evidence

Bowman

A comprehensive examination of problems of proof and the rules of evidence in an epistemological context. Initial focus is on the trial of a lawsuit, the functions of judge, counsel and jury, the burden of proof and the professional responsibility of the trial lawyer. Special attention is given to the concept of relevance, the law of hearsay, problems of testimonial proof, and the theory and operation of privileges. The course seeks to question the efficacy of evidence rules as a means of enabling triers of fact to reconstruct past events, and at the same time to provide a good working knowledge of evidence law. Problem solving exercises will include comparative examination and evaluation of the Federal Rules of Evidence, the Uniform Rules of Evidence, and Hawaii evidence law. Problems of scientific evidence will be explored. Although offered as an elective, the evidence course is strongly recommended for every student who intends to practice law, bearing in mind that no lawyering task can be effectively discharged without some appreciation of the litigation contingency.

Torts

Miller

An examination of the issues involved in determining whether, under what circumstances, and to what extent the law should require compensation for harms intentionally or unintentionally caused. Traditional areas of tort law will be studied, as will emerging concepts and their policies. To the extent feasible, the social, economic and political implications of various tort law approaches and their alternatives will be explored.

Administrative Law

R. Hood

The course treats the procedure and remedies for resolving controversies between citizens and the exercise of administrative power by government officials, state and federal. The institutions through which such power is exercised are examined and attention is given to methods of delimiting the areas of law and discretion in a variety of administrative contexts. The doctrine of exhaustion of administrative remedies is closely examined, as is the Hawaii Administrative Procedure Act.

Corporate Tax

Spradlin

The course will examine tax aspects of the formation, operation, reorganization, and liquidation of corporations. Attention will be given to corporate distributions and adjustments under subchapter C of the Internal Revenue Code as well as to tax problems that arise between shareholders and their closely-held corporation.

Domestic Relations

Campbell

A study of the legal forms of—and responses to—the formation, maintenance and dissolution of the family. Topics will include marriage, annulment, divorce, alimony, separation agreements, child custody and adoption. Attention will also be given to proceedings to determine parentage.

Environmental Law

Gresser

The course will introduce students to the basic policy questions and problems for the practitioner in environmental law. After a basic review of the federal structure, with particular reference to the National Environmental Policy Act, the course will focus on the environmental problems of Hawaii. State legislation already proposed or enacted will be reviewed and recommendations for further action made. The course will benefit this year from the participation of Professor Koichiro Fujikura, a leading environmental law expert from Doshisha University, Kyoto, Japan, who will discuss Japan's treatment of environmental problems similar to those under discussion.

Interviewing and Counseling

Czapanskiy

The course seeks to develop skills useful in client contact situations, including methods of encouraging the client to tell the lawyer all the facts he or she knows, how to tell when a client is lying and some methods for handling the problem, how to open options for clients and how to guide a client through the process of making a choice among the available courses of action. The course will also examine the process of communicating with other actors in the legal system and contrast methods of communication required in these differing contexts. Emphasis will be placed upon the ability of the lawyer to understand his or her own personality as it is perceived by others and there will be a focus upon the identification and development of those strengths in each student's personality which will assist him or her in working both with clients and with other people in the legal system. Students will be expected to participate in simulated exercises which will be videotaped and critiqued by the class. They will also be expected to keep a journal of their reflections on the coursework and related experiences and to do theoretical readings on interviewing and counseling. Because the purpose of the course is to sensitize students to their own personalities relative to their various roles in the legal system, the grade will be based on class participation and the thoughtful work reflected in the journal. There will be no final examination.

Land Use and Planning

Eads

The course will include a survey of basic approaches to public sector land use controls and, to a lesser extent, zoning as such. Some attention will be devoted to the unique aspects of Hawaii land law as these affect planning. Areas of planning law not directly related to land—such as housing, urban renewal, revenue sharing, new communities, regional planning coordination mechanisms, etc.—also will be touched upon. A substantial part of the course will be devoted to analyzing the private sector's role in land planning, including an examination of possible methods for arriving at more effective linkages and coordination. Infrastructural planning, subdivision-PUD planning, and major resort development will be stressed as three key linkages between public and private land development planning. The need for explicit processes designed to assure land conservation, environmental preservation and community accountability will be noted wherever appropriate.

Students will have a choice of preparing a paper or taking a final examination.

Poverty Law

Corey Park

A survey of the legal problems encountered by poor people and the tools utilized by poverty lawyers to overcome these problems. The first portion of the course will examine the legal and social issues involved in poor peoples' relations with the state, such as in the area of welfare and income maintenance, and health services, as well as their relations in the private sector, such as in consumer transactions, landlord-tenant relations and employment. The remainder of the course will examine some of the common problems confronting poverty attorneys in the representation of the poor. This will include the developing and obtaining of remedies to overcome problems of the poor, bringing together issues of jurisdiction and procedure in the context of poverty law.

Securities Regulation

Kerr

A study of the securities laws, state and federal, and the forms of enterprise they govern. The primary emphasis is on regulation of the issuance and sale of securities, and on the disclosure requirements generated by the registration, reporting, proxy and fraud provisions. Modes of real estate investment which fall within securities laws are also examined. Other topics include insider trading and the various exemptions from registration, including private placements.

Real Estate Development and Finance

J. Conahan

The course will include an examination and analysis of various federal and state laws the attorney will have to understand and apply in the practice of real estate development and financing law. (Emphasis will be placed on the condominium, securities, subdivision, consumer protection and mortgage areas.) The course will stress both practice and theory and students will be expected both to study and draft leases, condominium documents, sales

contracts and mortgages. The increasingly important role of the attorney in the ever-expanding complexities of the development process will be examined and the expanded liabilities and ethical obligations imposed on the attorney by his role will be discussed and analyzed in depth.

Delivery of Legal Services

Doo

An analytical overview of the function, delivery, and future of legal services in American society, with heavy emphasis on the Hawaii context. Topics include: 1) the identification of groups which are presently not being served by the delivery system and the factors which influenced service; 2) the economics of operating a law firm and its effects on the delivery of services—the efficiency and costs of solo to large firm practice, fee schedules, and the effect of new technology; 3) the majority of class sessions cover the development and problems of new modes of delivering legal services—use of legal paraprofessionals, the “systems” approach, specialization—law clinics, and prepaid legal services. Special attention will be focused on the status of implementation of each of the above in Hawaii, noting recent court cases and legislative action.

Legal Accounting

Brilliant

The course examines accounting concepts and methods which are of special interest to the lawyer. Topics include valuation of assets, treatment of long-term indebtedness and contingent liability, methods of depreciation and auditors liability.

Commercial Transactions

Lau

A study of the law of negotiable instrument, sales and secured transactions under the Uniform Commercial Code. Attention will be given to the seller's responsibility for quality, risk of loss and attendant remedies of the buyer. Priorities among creditors will also be examined.

Federal Courts and the Federal System

Selinger

A detailed study of the organization, staffing, and jurisdiction of federal trial and appellate courts, including their interaction with state courts. Topics include constitutional and statutory bases and requirements for federal question and diversity jurisdiction, review of state court decisions, application of state civil law in diversity cases, appellate procedures, and conflicts of law (situations in which the laws of two or more governments appear to be applicable to the same set of facts).

Federal Income Taxation

McCord

An introduction to some of the more important problems created by the federal tax on the income of individuals, corporations, partnerships, and fiduciaries. The tax consequences of a variety of common transactions will be explored—e.g., home ownership, charitable contributions, medical payments, and divorce. Special tax problems of wage earners, investors, and business persons will be examined. Considerable attention throughout will be given to the usefulness of the income tax as a means of encouraging or discouraging particular activities, and to the questions raised by rate progression. Students will be expected to develop proficiency in the use of the Internal Revenue Code and Treasury Regulations.

Transnational Legal Process

Gresser

An introduction to a number of transnational legal problems—the treatment of foreign investment in the United States (with emphasis on Japanese investment in Hawaii), the application of international law in domestic courts, the transnational reach of national legal systems, the role of transnational litigation, and the present law of the sea controversy. A major concern throughout is transnational decision-making process, with particular emphasis on the role of governments (especially the United States and Japan), multinational corporations, other non-governmental organizations, and individuals. A major purpose of the course is to begin preparing students to function effectively when confronted with disputes and decision-making involving persons of different nationalities.

Antitrust Law

The course will examine the various modes of regulating and influencing business competition. The economic practices, competitive implications and legality of various forms of business enterprise will be studied. The design and application of the Sherman and Clayton Acts will be emphasized. Attention will be given to both planning and litigation strategies and past and present antitrust disputes will be analyzed from both a legal and economic perspective.

Pitluck**Debtor's and Creditor's Rights**

Study of the remedies and protections available to the individual debtor or creditor including enforcement of judgment execution, attachment and garnishment. Collective remedies, including general assignments, compositions and bankruptcy proceedings will also be studied.

Staff**Estate and Gift Taxation**

A study of various tax problems encountered in the distribution of wealth by inter vivos and testamentary disposition, including an examination of federal estate and gift taxes, the Hawaii inheritance tax, problems in the assignment of income, and federal income taxes upon estates and trusts.

McCord**Labor Law**

The course focuses on the regulation of union-management relations under state and federal law. Topics covered will include: historical development of labor law; problems relating to union organization, recognition and the duty to bargain collectively; the legality of strikes, picketing and boycotts; employer interference with concerted activities; and the relations between unions and their members.

Takahashi**Wills and Trusts**

The course deals primarily with the disposition of family wealth. Topics will include: the making of wills; the creation, enforcement, administration and termination of trusts; interstate succession, including probate. Attention will be focused on Hawaii practice and procedure.

Larsen**Sex Discrimination and the Law: Causes and Remedies**

This course will focus on the status of women in the United States and on the legal revolution of the past decade which is changing that status. Emphasis will be on Constitutional law, employment discrimination, the law governing family relationships, and the criminal law as an example of society's attitude toward women.

Babcock**Ocean Law Seminar**

This year the seminar examines the role and impact of developing marine technology on ocean law and institutions. Floating cities, aquaculture, oil and manganese nodule exploitation, and submarine warfare will all be examined. The seminar will focus special attention on the implication of technological developments in these areas for East Asia and the Pacific, and will seek to develop an outline for needed institutional and legal responses. The course which is part of the Law School's developing Ocean and East Asian Law Programs will be under the direction of Dr. Choon Ho Park, world renowned expert on the law of the sea, from Harvard University, and will benefit from the participation of Professor Jerome A. Cohen, Director of East Asian legal studies, Harvard University, Dr. John Craven, Dean of Marine Programs, University of Hawaii, Mr. Dick Frank, public interest lawyer, Center for Law and Social Policy, Washington, D.C. and Professor Julian Gresser, University of Hawaii School of Law.

C.H. Park

Seminar open to interested graduate students.

Third-Year Curriculum

The purpose of the third-year curriculum is to provide:

1. intensive first-hand experience in complex client problem-solving, with emphasis on methodology and skills, so as to prepare students insofar as possible for the difficult and unforeseeable lawyering problems they will face in a rapidly changing, interdependent world;
2. opportunities for advanced-level study of problem or doctrinal areas of interest to students; and
3. supervised transition from academic to non-academic work settings.

Before the beginning of his/her third year, each student will ordinarily select one of several Clinical Workshops and Seminars offered in the *spring* semester. During the *fall* semester, every student who has elected a Clinical Workshop or Seminar will be given an opportunity to enroll in related courses which are prerequisites or recommended for it. Residual credit-hours in each semester may be utilized for courses from among the General Electives listed above, on the basis of student preference.

In addition, third-year students may apply to have academic credit awarded for Special Projects: externships, directed research or independent research.

Third-Year Workshops, Seminars, and Projects

An important underlying premise of the third-year program is that heavy concentration in one subject-matter area not only can provide knowledge and skills that are transferable to other areas but also is necessary for the development of advanced lawyering competence. Another premise is that students should be able to begin functioning effectively as lawyers immediately upon graduation—or following a short period of apprenticeship—and thereafter to grow in competence with little supervision. To this end, third-year students are encouraged to accept more responsibility and exercise more initiative and discretion than in their second year. Clinical work involving client representation or counselling, however, is closely supervised by qualified practitioners—usually faculty.

Workshops are designed to provide intensive first-hand experience in complex client problem-solving—experience which obligates the student to perform a wide range of lawyering tasks in depth and at a high level of competence, in an actual or realistically simulated lawyering situation. Each Workshop is supervised by a member of the faculty, assisted in some instances by other faculty members and/or qualified persons from outside the Law School. The workshops are weighted six credit hours. The Trial Practice Seminar will meet once a week and is weighted two credit hours.

A few students may be permitted to serve a one-semester “externship” with a law firm, government agency, or research organization. Others may undertake directed or independent research.

Criminal Justice Workshop

Czapanskiy with Bowman

This clinical workshop endeavors to provide advanced training in criminal trial advocacy, criminal law and procedure, trial evidence, and professional responsibility aspects of the practice of criminal law and to “bridge the gap” between the classroom and the practice of criminal law by prosecution and defense counsel.

The academic component of the clinic will consist of seminars, meeting for two or four hours per week, and examining in depth various aspects of the criminal justice system and the criminal trial practice. Students will be placed in simulated trial settings, and will perform the functions of prosecution and defense counsel in client and witness interviews, motions practice, and trial situations including direct and cross-examination of witnesses, opening statement and final summation to the jury. Student performance will be videotaped and critiqued.

The clinic fieldwork component will include some or all of the following programs:

1. *Student misdemeanor practice.* Student practice rules will permit the limited practice of law by qualified third-year students in the state and federal trial courts in Hawaii under appropriate supervision. The clinic thus becomes directly involved in the delivery of legal services to indigent accused.
2. *Student prosecution.* Efforts will be made to place students in the state and federal prosecutors' offices to prosecute misdemeanor cases under supervision.
3. *Prison legal assistance program.* The Hawaii Bar Association is developing a prison program which could involve prison legal assistance by third-year law students. Such assistance may take the form of prisoner counselling, representation of prisoners before the parole board and the prison disciplinary boards, and assistance to private attorneys representing prisoners on a volunteer basis.
4. *Externships in the public defender and prosecutor offices.* Students could be assigned to attorneys engaged in the trial of felony cases.

The course in evidence is a prerequisite. The interviewing and counselling course is highly recommended.

Civil Law Workshop

Corey Park

This clinical course is designed to provide students with some of the basic skills involved in civil litigation by representing people who would otherwise go unrepresented. While the program will mainly involve a poverty practice, probably in conjunction with the Legal Aid Society, the skills involved transcend the poverty area and are basic to a general civil practice.

A portion of the workshop will place students in an area of the law, such as landlord-tenant relations, welfare or mental health, that has a high turnover of clients. This will allow students to have frequent client contact and to represent these clients in court and administrative hearings. A second portion of the workshop will have students working on law reform or impact litigation. This will give students a greater opportunity to assist in ongoing discovery processes, research and memo writing, and trials. Finally, there will be an academic component consisting of weekly meetings to discuss the cases being handled and the problems, strategies and theoretical principles which they have in common. The course in poverty law is a prerequisite. The evidence and the interviewing and counselling courses are highly recommended.

Environmental and Land Use Law Workshop

Gresser

The purpose of this workshop is to provide the student with a varied clinical experience in environmental law. Although the focus of the course will be on domestic environmental and land use problems, transnational cases of an environmental concern to Hawaii will also be considered. Under the workshop instructor's direction, students will assist local lawyers in current environmental and land use litigation, prepare draft legislation for interested State legislators, and seek to develop with local businessmen environmental and energy conservation measures which are also economically profitable.

Commercial Practice Workshop

Staff

Intended for the student who plans to enter a commercial or corporate law practice, this workshop will present a series of business law problems of substantial complexity which will expose students to various aspects of interviewing, factual investigation, legal research and analysis, drafting, business planning, client counselling, negotiations, and the like. The emphasis will be on the experience of office practice, but continuing attention will be given to the impact of potential litigation upon business planning. The course in business organizations is a prerequisite. Recommended courses include corporate tax, securities regulations and legal accounting.

Trial Practice Seminar

Staff

Members of the faculty will join with members of the trial bar to examine, in a problem setting, sequential stages of pre-trial and trial practice. Topics will include investigation, pleadings, motions, discovery, voir dire examination, opening statements, direct and cross examination, closing argument, selected evidentiary problems, post-trial motions and appellate practice. The course in evidence is a prerequisite.

Special Projects

Staff

Third year students may apply to have academic credit awarded in either semester for an externship, or in either or both semesters for directed research or independent research. Such proposals will ordinarily be limited to six credit-hours per semester. They may be for less or—in rare instances—more. Approval will be given if the faculty determines that the proposal is sufficiently specific, that it is likely to be completed according to its terms, and that it offers significant academic benefit which is proportionate to the credit sought.

Among the factors which will influence the faculty in approving or disapproving written proposals for third-year academic work which is not contained in the regular curriculum are:

1. The number, nature and complexity of the lawyering tasks to be performed;
2. The mode and degree of supervision to be provided;
3. The qualifications of the person(s) proposed to supervise the applicant's work;
4. Indications of the supervisor's(s') commitment to supervise the applicant's work and to provide feedback;
5. The validity and strength of the justification put forth by the applicant for undertaking the project instead of a clinical workshop;
6. Indications of the manner in which the applicant's work will be supervised and critiqued;
7. Agreement to submit significant samples of applicant's work to the law faculty for appraisal;
8. Degree of detail included in the outline of the proposal and the inclusion of a preliminary bibliography, if applicable; and
9. Other indications that the proposal is a serious one likely to enhance relevant skills and capabilities of the applicant.