

## Corrections, Security, Law & Law Enforcement Services Pathway Review 2021-2022 Public Comment & Response

### 44300/Practical Law

#### **PUBLIC COMMENT:**

Practical Law is listed as a "Technical Level" class, but it is only a semester class (.5) and the proposed revisions to the class make it impossible for students to do more than simply recall information, which would be more appropriate for an "Introductory Level" class. The point of CTE classes is to give students some immersion in a particular field of study to help them be career ready in a concentrated field of study. However, with a total of 9 benchmarks/competencies for the students to meet in approximately a semester, it will be impossible to push students to go beyond an introductory level of competency in each of the topics of study. When one takes into account "welcome to class"/social-emotional learning days, in-service days, assemblies and finals that interrupt a school's semester schedules, each unit of study would average less than 2 weeks of approximately 45 minutes of instruction/learning. To introduce students to each of the 9 competencies in such a short period of time only allows students to remain at the lowest levels of Bloom's Taxonomy. The students would be able to only exercise tasks of simply recalling, remembering, or summarizing information rather than applying, analyzing, and evaluating the legal information presented. If the goal is ultimately for students to demonstrate a higher level of learning, we need to return to the current competencies for this class. If the goal is ultimately for students to learn and to be future ready, we need to return to the current competencies for this class.

Furthermore, with the addition of SRGs to our district, it will be that much more taxing for students to display true understanding of the material to meet the skills at more than a simple introductory or foundational level (if we are lucky). As a teacher at a Law Magnet we push our students to go beyond just basic understanding of key terms to a deeper analysis and understanding of the topics discussed. We strive to improve our students communication and critical thinking skills, which are essential in the legal world. Additionally, we have scaffolded the subject matter throughout our freshmen through senior years of high school for our students to not only get exposure to the various legal topics but knowledge about the various public service careers as well as the different types of law, such as criminal, civil, and constitutional law. Students who have taken my Practical Law class in the past as an elective have stated they appreciated the knowledge they have acquired from this class, because it is helpful regardless of what future career field they might enter. Moreover, it would be quite difficult to follow sound educational practices and expect our students to have a high level of success since our students who take this class are sophomores in high school, not college-age students.

These problems are compounded by a decision to omit the Foundations in Law class without input from anyone that teaches that class. These decisions will hurt students at all levels of the Law Pathway.

#### KSDE RESPONSE:

This course had very little change from the previous version and course remained at the same .5 credit. The benchmarks and competencies were cut/pasted from the previous format and slightly rearranged. Below are the changes that occurred:

- Benchmark 1.0 – Addition of 1.10 and 1.11.
- Benchmark 2.0 – NEW
- Benchmark 3.0 – Addition of 3.6
- Benchmark 4.0 – Addition of 4.1
- Benchmark 5.0 – Addition of 5.5
- Benchmark 6.0 – Addition of 6.3 and 6.5
- Benchmark 7.0 – Addition of 7.4-7.7
- Benchmark 8.0 – No additions
- Benchmark 9.0 – No additions

Based on minimal changes made to benchmarks/competencies, this course should be acceptable to move forward on the proposed/draft changes.

#### 44310/Legal Proceedings (Previously: Youth Court)

##### PUBLIC COMMENT:

A group of USD 259 Instructors teach the class that will soon be called Legal Proceedings (44310). We worked together over the summer to update proficiency scales for this course. They both have years of experience teaching this class, and I have years of experience as a litigation attorney. I submitted the Pathway Review Google Form yesterday, and today the three of us discussed ways to improve the benchmarks. Below is what the three of us propose - none of these changes should be controversial:

1.1: The verb is "Discuss" but the verb in 1.2, 1.3 and 1.4 is "Understand." Because 1.1 – 1.4 are intended to parallel each other for mediation, arbitration, youth court, and litigation, the verb really should be the same for all four – students will learn the same thing for all four, but about the four alternative ways to resolve legal disputes. We suggest using “describe” as the verb for 1.1, 1.2, 1.3, and 1.4.

1.4 : 1.4 – “restorative justice” is a typo. 1.4 is all about litigation while 1.3 is all about restorative justice (youth court). So 1.4 should end with “litigation” – not “restorative justice.”

1.5: There isn't much difference between the "burden of proof" and the "standard of proof" - they are almost always lumped together in one sentence. For example, "The plaintiff has the

burden to prove beyond a reasonable doubt that . . . " We suggest replacing this with "Compare and contrast the burden of proof in civil cases and criminal cases." This will help students understand that the burden of proof is higher in criminal cases than it is in civil cases.

Benchmark 3: Replace each mention of "litigation" with "trial." This benchmark was intended to expand the Youth Court trials to include both those trial and the more traditional trials (aka "Mock Trial").

Benchmark 4: This should this be moved to the last benchmark because it doesn't fit chronologically where it is now. It interrupts the flow of the legal proceedings.

4.1 and 4.2: Can we combine these two into something like: "Describe the roles of attorneys and legal assistants in litigation."

4.3: Can we broaden this to: "Explain the role of judges, clerks, court reporters, bailiffs, and other courtroom personnel." Students need to know about all the roles – not just the role of judges.

4.4: ""integrity, ethical leadership, and effective management" is very broad - extending way beyond the legal proceedings. We suggest replacing it with: "Explain the distinction between zealous advocacy and the attorneys' role as an officer of the court, including the benefits of cooperation with opposing counsel." Cooperation and the ethical duties as an officer of the court are critical to efficient operation of the judicial system, and are little understood by the general public. "

Benchmark 5: This is out of chronological order and should be moved ahead of current benchmark 3 - since pretrial happens before trial.

5.1: Replace "Analyze factors relevant to a client's claim or defense" with "Describe the duties of prosecutors (in criminal cases) and plaintiff's attorneys (in civil cases) to analyze relevant facts and law before filing a lawsuit." The point is that private attorneys have a duty to avoid filing frivolous civil claims, and prosecutors have a duty to avoid filing criminal charges if they don't believe that they can prove, beyond a reasonable doubt, that the defendant committed a crime.

5.2: We suggest deleting this. The "types of available civil remedies" are not part of pre-trial proceedings". Instead, damages in civil trials and sentencing in criminal trials is already covered in 1.4 – those are "key steps in the litigation process."

5.3: This should cover both the procedure that happens before civil trials (Fed.R.Civ.P. in civil cases) AND criminal trials (Fed.R.Crim.P). We suggest: "Describe the procedures for initiating claims in civil and criminal cases, and the process for responding to those claims."

5.4: This can be combined with 5.3 - see suggested language above.

5.5: We suggest deleting this - the distinction between pleading and motions is fairly esoteric, and our proposed language in 5.3 would cover both responsive pleadings (answers) and motions (motions to dismiss).

5.6: We suggest breaking this into two parts - one for civil and one for criminal, since the two are so very different.

5.7: This should not be limited to the civil litigation process. We can just simply add "and criminal."

Benchmark 6: We suggest deleting this. The topics here are already covered by 1.4, 3.3, and 4.3.

7.2 and 7.3: We suggest switching the order of these two, to match the chronological order - the appeal comes before enforcement. Also, 7.3 should not be limited to the civil litigation process. We can just simply add "and criminal."

#### KSDE RESPONSE:

These course edits/suggestions were made by one of the teachers on the Review Committee in partnership with two additional district teachers. **All of the suggestions are reasonable and would be easy edits to finalize this course.** Ultimately, the Legal Proceedings course is an updated and more detailed version of Youth Court. If Youth Court moves to the Government & Public Administration Pathway, the Legal Proceedings course could be assigned a new course code. My concern would be that this particular course is being taught by the same teacher for both pathways and having two separate courses could be problematic.

#### #####/Paralegal Studies (Previously: 44305/Foundations in Law)

#### PUBLIC COMMENT:

1. The primary issue is that this course will replace Foundations in Law. It is true that the prior benchmarks/competencies for Foundations in Law did not appear rigorous, did not clearly tie to any career, and did not explain why the learnings from that course would help all citizens. But that was a problem with the how the benchmarks/competencies were written - not with how the class was/is taught. In practice, what is taught in Foundations would lay a very helpful "foundation" for anyone interested in pursuing a legal career - either as an attorney or as a legal assistant. It also lays a solid foundation for any citizen, not just those that pursue a career in law.

2. Before killing Foundations in Law, PLEASE consider this draft of Benchmarks that attempts to include both the substantive law that is essential to a strong legal "foundation" and the more practical benchmarks from the proposed "Paralegal Studies" course - expanded to include both legal assistants and attorneys. Here is the link: *(removed link - details copied/pasted below)*

3. The benchmarks for Paralegal Studies include very helpful material that would benefit our future legal assistants, attorneys, and well-functioning citizens, several of which were NOT covered by the current Foundations in Law curriculum. Thank you to whoever created them - they offer a great opportunity to improve the Foundations in Law class.

4. I teach in a law magnet. The students that I teach actively chose to attend a law magnet so they could learn about law. Many of the students indicate that they intend to attend law school and they want to learn anything and everything that will help them achieve that goal. Learning about the "development of the legal profession" won't help them reach that goal, and it also will not help any of the students become better-informed citizens. The same is true with benchmarks like "Explain legal billing schemes and billable hours." And "Explain the organization of a law library." Very few attorneys or legal assistants have stepped foot in a "law library" in the last twenty years or so - legal research has long been done on line.

5. Please don't interpret this as criticism of whoever drafted the benchmarks for "Paralegal Studies": The "Business/Industry Representatives" are not from the business or industry - one is in fire and the other two are in law enforcement; the "Postsecondary Representatives" are in police science and criminal justice; and none of the "Secondary Representatives and Educators" teach this course. I am sure that these are all very capable and well-meaning people, but none of them have the expertise to build benchmarks for this course. IF requested, I am confident that I could find willing and able industry representatives from law firms and postsecondary representatives from law schools. I must have missed the announcement - otherwise, as an attorney with over 30 years' experience I would have volunteered to participate - although there have been suggestions that there is some limit to the number of teachers from 259 that are allowed to participate in the process.

6. Before preparing the draft benchmarks, I surveyed the attorneys and legal assistants from a few law firms, and attempted to cover their input in the draft benchmark. These aspects of their input was unanimous:

- \* Law firms will train legal assistants on specific practices in the firm -things like billing practices, billable hours, client and witness interviews,
- \* A broad foundation in the substantive law areas that legal assistants are likely to encounter is more beneficial than firm-specific items that are better left to on-the-job training.
- \* The ability to analyze cases or statutes, synthesize the facts and legal principles from those opinions, and effectively communicate that analysis both in and out of the legal community is essential to legal assistants and attorneys alike. Hence the emphasis on the Case Method in the draft benchmarks.

7. The draft benchmarks can offer an excellent entree into more connection between our schools and the legal community. Interest was very high with attorneys and legal assistants to help us reach our benchmarks.

8. Please let me know if there are any questions, or if I can help in any way with this process - I would be happy to help!

## **PROPOSED REWRITE TO COMBINE PARALEGAL STUDIES BENCHMARKS/COMPETENCIES INTO 44305/FOUNDATIONS IN LAW (1 credit)**

### Benchmark 1.0: The Constitutional Foundations for Our Laws

- 1.1 Describe the three primary sources for our laws.
- 1.2 Explain the role, importance, pros and cons of precedent and stare decisis for case law, and when courts decline to follow precedent.
- 1.3 Explain the role that the U.S. Constitution plays in limiting the powers of the executive, legislative, and judicial branches.
- 1.4 Explain why the U.S. Constitution does not regulate the conduct of individuals.
- 1.5 Explain the two ways that the 14th Amendment expanded the reach of the U.S. Constitution.
- 1.6 Describe the process for amending the U.S. Constitution.
- 1.7 Identify the provisions of the U.S. Constitution that create the three branches of the federal government.
- 1.8 Describe the process in the U.S. Constitution for creating and amending U.S. Statutes and explain how that process has changed with recent changes made by Congress.
- 1.9 Describe how federal agencies use regulations to execute U.S. Statutes, and the limits imposed by the U.S. Constitution on the power of those agencies.
- 1.10 Describe the process in the U.S. Constitution for nominating and confirming justices to the federal courts and explain how that process has changed with recent changes made by Congress.
- 1.11 Compare and contrast the roles of the three branches of the U.S. government and explain the limits on the power of those branches.
- 1.12 Apply the Case Method to analyze court opinions, compose Case Briefs that synthesize the facts and legal principles from those opinions, and effectively communicate that analysis both in and out of the legal community.
- 1.13 For the elements of law learned under this benchmark, apply those elements to specific fact patterns, differentiating between relevant and irrelevant facts, using appropriate legal terminology, and building well-reasoned legal arguments.

### Benchmark 2.0: Identify, analyze, and explain relevant research sources.

- 2.1 Locate and assess relevant research sources, including primary sources, using information technology tools.

2.2 Differentiate between credible and unreliable sources for information about legal issues.

2.3 Locate and analyze current developments in the law, including recent decisions from the U.S. Supreme Court and the Kansas Supreme Court.

2.4 Differentiate between relevant and irrelevant facts, and between credible and unreliable sources for information about legal issues.

2.5 Demonstrate appropriate legal citations for the research sources.

2.6 Apply the Case Method to analyze research sources, compose Case Briefs that synthesize the facts and legal principles from those sources, and effectively communicate that analysis both in and out of the legal community.

### Benchmark 3.0: Foundational Understanding of Tort Law.

3.1 Differentiate and distinguish tort duties from duties imposed by: moral obligations, contract obligations, and criminal laws.

3.2 Differentiate between intentional torts, negligence, and strict liability.

3.3 Identify the elements of negligence (duty, breach, causation and damages), and apply those elements to specific fact patterns.

3.4 Identify the elements of various intentional torts (including assault, battery, trespass, and defamation), and apply those elements to specific fact patterns.

3.5 Identify the elements of products' liability ("strict liability"), and apply those elements to specific fact patterns.

3.6 Identify defenses to tort claims and apply those defenses to specific fact patterns.

3.7 Identify recoverable damages for tort claims and apply those damages to specific fact patterns.

3.8 Apply the Case Method to analyze tort cases, compose Case Briefs that synthesize the facts and legal principles from those cases, and effectively communicate that analysis both in and out of the legal community.

### Benchmark 4.0 Foundational Understanding of Family Law.

4.1 Identify the major areas of family law.

4.2 Describe the requirements and legal impact of marriage and cohabitation.

4.3 Describe the requirements and legal impact of pre-marital and post-marital agreements.

4.4 Describe the legal consequences of domestic violence.

4.5 Describe the requirements and legal impact of divorce, annulment, and legal separation.

4.6 Describe the requirements and legal impact of child custody and child support.

4.7 Describe the legal impact of child abuse and child neglect.

4.8 Apply the Case Method to analyze family law cases, compose Case Briefs that synthesize the facts and legal principles from those cases, and effectively communicate that analysis both in and out of the legal community.

Benchmark 5.0: Foundational Understanding of Wills, Trusts, and Estates.

- 5.1 Identify the major areas of Estate Law.
- 5.2 Describe the processes and property distribution for intestate succession.
- 5.3 Describe the requirements for a valid will, and the process and principles used to interpret wills.
- 5.4 Describe the requirements for a valid trust, and the process and principles used to interpret wills.
- 5.5 Describe the process for administering estates.
- 5.6 Apply the Case Method to analyze family law cases, compose Case Briefs that synthesize the facts and legal principles from those cases, and effectively communicate that analysis both in and out of the legal community.

Benchmark 6.0: Career Development.

- 6.1 Describe the admission requirements and selection process for law school.
- 6.2 Describe the American Bar Association process for accrediting law schools.
- 6.3 Describe the job placement process used by law schools.  
Explain the difference between academic and informal on-the-job training for legal assistants.
- 6.4 Describe the American Bar Association process for accrediting academic training for legal assistants.
- 6.5 Describe the job placement process used by schools that offer academic training for legal assistants.
- 6.6 Describe various job search strategies for attorneys and legal assistants.
- 6.7 Compare and contrast educational requirements for legal assistants and attorneys.
- 6.8 Compare and contrast educational requirements and benefits for legal assistants and attorneys.
- 6.9 Compare and contrast employment opportunities for legal assistants and attorneys.
- 6.10 Identify situations where legal assistants or attorneys may interact with tort law, and explain how their foundational knowledge of tort law may benefit them.
- 6.11 Identify situations where legal assistants or attorneys may interact with family law, and explain how their foundational knowledge of family law may benefit them.
- 6.12 Identify situations where legal assistants or attorneys may interact with wills, trusts, or estates, and explain how their foundational knowledge of wills, trusts, or estates may benefit them.

Benchmark 7.0: The Legal Workplace.

- 7.1 Identify workplaces for legal assistants and attorneys, including government jobs, private law firms, and NGOs.
- 7.2 Identify common fields of legal specialization.
- 7.3 Identify common law office management issues, including client-billing arrangements, ownership structure, and employee-compensation structures.



7.4 Identify technology that is commonly used in the legal workplace.

Benchmark 8.0: Legal Ethics and Regulation of the Legal Profession.

8.1 Explain the licensing and certification process for attorneys and legal assistants.

8.2 Identify the major ethical issues for legal assistants and attorneys, including confidentiality, conflict of interest, and unauthorized practice of law.

8.3 Explain the process for disciplining attorneys, including the entities involved, and the potential disciplinary actions.

8.4 Explain the role of professional organizations in regulating and improving the legal profession.

Benchmark 9.0: Application to real world scenarios.

9.1 Identify situations where citizens may interact with tort law, and explain how a foundational knowledge of tort law may benefit them.

9.2 Identify situations where citizens may interact with family law, and explain how a foundational knowledge of family law may benefit them.

9.3 Identify situations where citizens may interact with wills, trusts, or estates, and explain how a foundational knowledge of wills, trusts, or estates may benefit them.

I have been an attorney for over thirty years, and have a good grasp of the law. But I have only been a teacher for three years, so don't have a good grasp of the processes for creating or changing benchmarks. I volunteered to help with "proficiency scales" last summer for Foundations in Law and Legal Proceedings (fka "Youth Court"). Apparently I missed an invitation to be part of this benchmark drafting process - likely because I am such a newbie to all this. I strongly believe that Foundations in Law would better serve our students than the proposed "Paralegal Studies." I surveyed a few law firms and they confirmed my belief. I also believe that there are parts of the benchmarks for the proposed "Paralegal Studies" that would work well to improve the Foundations class. I tried to incorporate them in this combined benchmark document. I am not here just to complain - I am happy to help in whatever way I can! I am also sorry for saying "I" so many times!

#### KSDE RESPONSE:

The suggestions in the rewrite of the 44305/Foundations in Law course are acceptable. Removing the proposed NEW/Paralegal Studies for the updated/rigorous version of 44305/Foundations in Law would actually better serve the Pre-Law Strand as an Application Level course. The above proposed rewrite would be more inclusive by making the course appropriate for those interested in paralegal studies as well as students interested in pursuing a law degree. During the review process, the committee didn't have much to go on with the previous version of the Foundations in Law course and were lacking adequate representation. An application level course was needed for the Pre-Law Strand and the committee filled the need with what was available at the time (i.e. NEW/Paralegal Studies course).