

*One-Pagers, Testimony, and Rulemaking
Comments, Oh My! Teaching Public
Policy Drafting Techniques in a Law
School Setting*

LISA A. RICH
TEXAS A&M UNIVERSITY SCHOOL OF LAW

DECEMBER 3, 2016

DRAFTING FOR PUBLIC POLICY

A recurrent problem for all who are interested in implementing policy, the reform of legal education must become ever more urgent in a revolutionary world of cumulative crises and increasing violence.

Harold D. Lasswell & Myres S. McDougal, *Legal Education & Public Policy: Professional Training in the Public Interest*,
52 Yale L.J. 203, 203 (1943).

DRAFTING FOR PUBLIC POLICY

A disproportionate number of America's political leaders have always come from the legal profession. If lawyers are especially well equipped to play a leading role in politics, it is because of their training and experience promote the deliberative virtues of the lawyer-statesperson ideal that is paramount to effective policymaking.

Anthony T. Kronman, *The Lost Lawyer*, 3-4 (Belknap Press 1993).

DRAFTING FOR PUBLIC POLICY

BACKGROUND

- The course is designed to —
 - introduce students to “non-traditional” models of writing and communication that they may encounter during their careers, particularly if they are involved in policy work
 - develop further students’ analytical skills and recognition that analytics (and good writing, research, and communication) are essential in all aspects of a lawyer’s career
 - provide avenues for students to further develop professional identity and explore cultural context
 - prepare students for the Residency Externship Program in Public Policy

DRAFTING FOR PUBLIC POLICY

COURSE STRUCTURE

- Based on a 14-week semester
- Uses a non-legal text book (Catherine F. Smith, *Writing Public Policy*) to —
 - engage students in analytic (close) reading outside of the typical legal “case” book
 - encourage students to reflect on communication techniques, particularly in teams made up of lawyers and non-lawyers
 - view public policy work and the lawyer’s role in it from outside the law school perspective
- Requires students to complete 6 written assignments during the semester
- Brings in policy expert guests

DRAFTING FOR PUBLIC POLICY

READING ASSIGNMENTS

- Thematic questions frame the reading and the discussion (in theory)
- For example, the first class asks students to consider —
 - What is public policy?
 - What are the dynamics of the policymaking process?
 - What skills and strategies are needed for successful policymaking?
 - What is “public interest” and how does it relate to public policy?

DRAFTING FOR PUBLIC POLICY

THE ULTIMATE QUESTION

- Students learn that, aside from the more reflective thematic questions that introduce each new reading assignment, the one question that should always be asked when considering whether to make (or break) public policy is —

Why now?

DRAFTING FOR PUBLIC POLICY

WRITTEN ASSIGNMENTS

- Covers “non-traditional” writing assignments in a survey format:
 - Briefing Memoranda
 - Position Papers
 - Hearing Testimony
 - “One-pagers”
 - Comments on Regulations

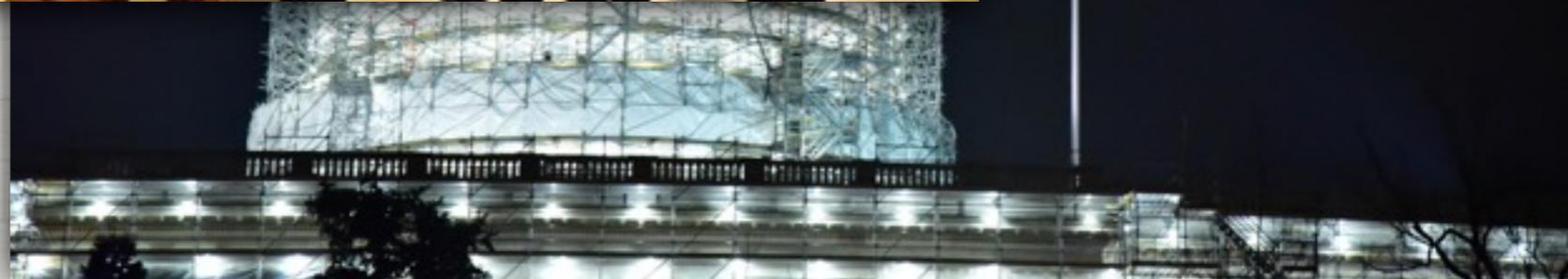
*Students also are required to engage in a note-taking/observation exercise

DRAFTING FOR PUBLIC POLICY

OBSERVATIONS

- At the conclusion of the course, students generally seem to —
 - pay greater attention to detail in their work-product
 - have more appreciation for the policy making process and the “front end” of legislative and regulatory action
 - have a better understanding of statutory and regulatory interpretation because they know more about the front end
 - have learned to more closely analyze the words they use in materials
 - think more strategically about the way they approach, consider, and communicate about an issue

Residency Externship Program in Public Policy



DRAFTING FOR PUBLIC POLICY

RESIDENCY EXTERNSHIP PROGRAM IN PUBLIC POLICY

- Began in 2016
- Designed as a capstone experience for 3L students (although 2Ls may participate by invitation)
- Places students either in Washington, D.C. or Austin, Texas (6 students per city)
- Encourages students to explore policy placements beyond the traditional
- Requires students to take the Drafting for Public Policy course as well as Administrative Law or similar regulatory course (a number of our seminars are based on regulatory policy)
- Engages students in a substantive seminar during the semester for which they write a substantive research paper related to their placement
- Requires significant reflection assignments geared toward consideration of public policy leaders, Aggie Core Values, professional identity, cultural context, ethical and substantive issues public policy lawyers encounter routinely

QUESTIONS?