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FLATTENING THE LEARNING CURVE FOR INTERNATIONAL J.D. STUDENTS¹

SYLVIA LETT*

ABSTRACT

Non-U.S. lawyers entering U.S. law schools in accelerated J.D. degree programs (known as the “AJD” – Advanced Juris Doctor Program at Arizona Law) face particular challenges adapting to 1L legal research, analysis, and communication classes. First, English is not the typical lingua franca for AJD students, many of whom come from civil law countries and are faced with the challenge of learning legal writing methods for an American common-law legal system. Second, AJD students earn a U.S. J.D. degree in only two years because these accelerated programs give one year of “credit” for their non-U.S. law degrees. As a consequence, many of these students do not have enough time to master the strong legal research and writing skills that are foundational to academic and bar success. Some of the AJDs floundered in Arizona Law’s fast-paced, mandatory year-long writing course.

To respond to this problem, Arizona Law created the Introduction to Lawyering Skills (“ILS”) course. ILS was designed to provide a successful, scaffolded “on-ramp” to ensure greater academic success for the AJDs who most need an additional year of legal writing, analysis, and communication course work.

This article recounts why we saw the need for ILS, how we created the learning objectives and curriculum, how students were selected for enrollment, and how we addressed expected (and unexpected) challenges along the way. Finally, it argues that a specialized course for certain AJD students not only helps better prepare them to meet the academic rigors of their other law classes and the bar exam, but it also has the side benefit of better connecting the students to a law school’s community and culture.

1. This paper is an outgrowth of a joint presentation with Prof. Susie Salmon, “Softening the Learning Curve: Supplemental Legal Writing Support for EAL Students in U.S. J.D. Programs,” at the Global Legal Skills XIV Conference on December 19, 2019.

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INTRODUCTION

In 2010, the University of Arizona's James E. Rogers College of Law (Arizona Law) launched a new program, a two-year J.D. for foreign-trained lawyers formally called the "J.D. for non-U.S. Lawyers" (informally known as the AJD program).² In launching this program, Arizona Law was at the forefront of a movement by a small number of U.S. law schools to permit non-U.S. lawyers to earn a juris doctor degree in just two years rather than the typical three years.³

The AJD program has proved popular and since its inception, over 216 non-U.S. lawyers have graduated with their J.D. degrees. In 2019, before the COVID-19 pandemic hit, twenty-nine out of Arizona Law's 150 first-year (1L) law students were AJD students.⁴ The average age of an AJD student is thirty-three, and the majority of Arizona Law's AJD students are from China, South Korea, Mexico, and India.

This article describes the idea behind and creation of Introduction to Lawyering Skills (ILS), a course designed and created by Prof. Susie Salmon and me to help AJDs who could benefit from an additional year of legal writing, analysis, and communication work.⁵ This additional year of training gives selected AJD students more time to develop the crucial skills needed to succeed in the AJD program and graduate with a J.D. degree in just two years. This article explains why we saw the need for the ILS course, how we created the learning objectives and curriculum for the course, how students are selected for enrollment, and how we addressed expected (and unexpected) challenges along the way.

In addition, this article discusses the unforeseen benefits of the ILS course, not just to its students, but to Arizona Law's community as a whole. We have found that the ILS participants emerge better prepared academically to meet the rigors of their other law classes. They also seem to be better connected to the law school's community and culture, which has fostered increased cross-cultural competency and understanding.

2. This Juris Doctor program is purportedly the first of its kind in the nation. *J.D. for Non-US Lawyers*, UNIV. ARIZ. JAMES E. ROGERS COLL. L., <http://www.law.arizona.edu/academics/degrees/jd-non-us-lawyers> [<https://perma.cc/CQ8H-MYKX>].

3. David E. Van Zandt, *Globalization Strategies for Legal Education*, 36 U. TOL. L. REV. 213, 218 (2004).

4. At the time of writing, approximately 14 AJD students are expected for Arizona Law's Fall 2023 incoming J.D. first-year class, of approximately 135 students.

5. Prof. Susie Salmon is the Director of Legal Writing, Clinical Professor of Law, & Distinguished Public Service Scholar at Arizona Law. *Susan Salmon*, UNIV. ARIZ. JAMES E. ROGERS COLL. L., <https://law.arizona.edu/person/susan-salmon> [<https://perma.cc/Q44W-VDX4>].

I. BRIEF HISTORY OF THE GROWTH OF INTERNATIONAL STUDENTS AT U.S. LAW SCHOOLS

Since the end of World War II, increased globalization and market and regulatory forces have incentivized U.S. law schools to offer various degree programs for international students, including: (1) the LL.M. degree (either designed for international students or for U.S.-trained lawyers to which international students are admitted),⁶ (2) S.J.D. and J.S.D. degree programs, (3) J.D. programs, and (4) intensive pre-law training programs.⁷ These programs are prime revenue generators for many U.S. law schools because international students typically pay *full-freight*.⁸

A common criticism of these programs is that they have “evolved without real assessment of the students’ needs and the best way to meet those needs.”⁹ Furthermore, while the number of foreign-educated lawyers seeking legal education in the United States has continued to increase, it remains difficult for them to qualify and pass state bar examinations to gain admission to practice law in the U.S.¹⁰ Most commonly, state bars require foreign-educated lawyers to successfully complete coursework at an ABA-approved law school within their state before sitting for a bar exam.¹¹

U.S. law degrees are sought by non-U.S. law students for a variety of different reasons. For some, U.S. credentials mean a leg up in their home country’s legal and academic job markets.¹² For others, obtaining a U.S. law degree opens the possibility of practicing in the U.S. after successfully passing a bar examination,¹³ since, in reality, it is much easier to find a job as a holder of a J.D. from an American law school, than a foreign-educated lawyer holding

6. Frank Sullivan, Jr., *International LL.M. Students: A Great Resource for U.S. Law Reviews*, 22 IND. INT’L & COMP. L. REV. 219, 220 (2012) (reviewing GEORGE E. EDWARDS, LL.M. ROADMAP: AN INTERNATIONAL STUDENT’S GUIDE TO U.S. LAW SCHOOL PROGRAMS (2011)).

7. Julie M. Spanbauer, *Lost in Translation in the Law School Classroom: Assessing Required Coursework in LL.M. Programs for International Students*, 35 INT’L J. LEGAL INFO. 396, 397 (2007).

8. Carole Silver, *Internationalizing U.S. Legal Education: A Report on the Education of Transnational Lawyers*, 14 CARDOZO J. INT’L & COMP. L. 143, 155 (2006) (describing these programs as “a significant source of revenue”).

9. Spanbauer, *supra* note 7, at 399-400.

10. Carole Silver & Mayer Freed, *Translating the U.S. LL.M. Experience: The Need for a Comprehensive Examination*, 101 NW. U. L. REV. COLLOQUY 23, 26 (2006), https://northwestern-colloquy.typepad.com/main/2006/11/translating_the.html [<https://perma.cc/YA97-9Q3K>].

11. Jeffrey A. Van Detta, *Transnational Legal Services in Globalized Economies: American Leadership, Not Mere Compliance with GATS, Through Qualifying LL.M. Degree Programs for Foreign-Educated Lawyers Seeking State Bar Admissions*, 13 J. INT’L BUS. & L. 1, 50-51 (2014).

12. GEORGE E. EDWARDS, LL.M. ROADMAP: AN INTERNATIONAL STUDENT’S GUIDE TO U.S. LAW PROGRAMS 10-16 (2011).

13. *Id.* at 10-11.

an American LL.M. degree.¹⁴ And of course, there are additional benefits to these students like improvement in English and better intercultural professional competency skills.¹⁵

II. ARIZONA LAW'S J.D. NON-U.S. LAWYERS PROGRAM

Under Dean Marc Miller's visionary leadership, Arizona Law has trailblazed many "firsts" to increase access to law school for prospective U.S. and international applicants.¹⁶ Part of the push for global access to Arizona Law is the AJD program, which gives up to one year of credit to non-U.S. lawyers for their foreign law degrees.¹⁷ The only difference between Arizona Law's AJD

14. Van Detta, *supra* note 11, at 124.

15. Carole Silver, *The Variable Value of U.S. Legal Education in the Global Legal Services Market*, 24 GEO. J. LEGAL ETHICS 1, 29-32 (2011).

16. Arizona Law has many "firsts" when it comes to creating innovative new pathways to law school and in creating global law partnerships. For example, Arizona Law has asked the ABA to be the first law school in the country to offer an ABA-accredited J.D. in a foreign country by opening a branch campus at the University of Technology Sydney (Australia) to allow students to earn a dual J.D. degree that will allow them to be licensed in both countries. Paul L. Caron, *Arizona Seeks ABA Approval to be the First Law School to Offer a J.D. in a Foreign Country*, TAXPROF BLOG (Aug. 30, 2022), https://taxprof.typepad.com/taxprof_blog/2022/08/arizona-seeks-aba-approval-to-be-the-first-law-school-to-offer-a-jd-in-a-foreign-country.html [<https://perma.cc/VW6K-FWVK>]. Most recently, a new law school admissions test developed by Arizona Law called "J.D.-Next" has been cleared by the ABA to be used as a law school admissions test. See Karen Sloan, *New Law School Admissions Test Developed by Univ. of Arizona Gets ABA Approval*, REUTERS (June 8, 2023, 2:14 PM), <https://www.reuters.com/legal/legalindustry/new-law-school-admissions-test-developed-by-univ-arizona-gets-aba-approval-2023-06-08/> [<https://perma.cc/Z62Y-76GR>]. Similarly, in 2016, Arizona Law became the first U.S. law school to allow the Graduate Record Examination ("GRE") as an alternative test to the LSAT to show aptitude for law school for admissions. See Debra Cassens Weiss, *This Law School Will Accept the GRE From Applicants; Will Others Follow?*, A.B.A. J. (Feb. 24, 2016, 6:15 AM), <http://www.abajournal.com/news/article/this-law-school-will-accept-the-gre-from-applicants-will-others-follow/> [<https://perma.cc/HQ2V>]. Finally, back in 2014, Arizona Law was the first U.S. law school to offer an undergraduate degree in law. Karen Sloan, *Law Schools Are Offering Undergrad Degrees in Emerging Legal Education Trend*, REUTERS ONLINE (June 22, 2022, 2:43 PM), <https://www.reuters.com/legal/legalindustry/law-schools-are-offering-undergrad-degrees-emerging-legal-education-trend-2022-06-22/> [<https://perma.cc/QDY7-W743>].

17. *Your J.D. in Two Years*, UNIV. ARIZ. JAMES E. ROGERS COLL. L., <https://law.arizona.edu/academics/degrees/jd-non-us-lawyers/your-jd-two-years> [<https://perma.cc/T5M7-LJVB>]. Other law schools also have similar two-year J.D. programs for foreign-educated lawyers. See, e.g., *Accelerated Juris Doctor Program for Foreign-Trained Lawyers*, EMORY UNIV. SCH. L., <https://law.emory.edu/admission/juris-doctor/how-to-apply/accelerated-jd.html> [<https://perma.cc/W67S-H9YW>]; *Advanced Standing Two-Year Juris Doctor for Internationally Trained Lawyers*, SUNY BUFF. L. SCH., <https://www.law.buffalo.edu/academics/two-year-jd.html> [<https://perma.cc/9Y43-6DFA>]; *Advanced Standing J.D. Program*, UNIV. IOWA COLL. L., <https://law.uiowa.edu/admissions/apply-iowa-law/pathways-jd-program/advanced-standing-program> [<https://perma.cc/FD6Z-PXK3>]; *Two-Year J.D. for International Lawyers*, NW. SCH. L., <https://www.law.northwestern.edu/academics/degree-programs/jds/jd2/> [<https://perma.cc/4V4H-4SY2>]; *Two-Year Juris*

program and the traditional three-year J.D. program is that students admitted through the advanced admissions program may receive up to twenty-nine transfer credits for their non-U.S. legal studies and/or their U.S. LLM credits. This allows AJD students to complete coursework for the J.D. degree in two years instead of three.¹⁸

Students admitted through the AJD program are “fully integrated with the incoming J.D. class and must fulfill all the same requirements to earn the J.D. degree as those on the traditional three-year path, including taking all the courses in the standard first-year curriculum¹⁹ and the same upper-level course requirements.”²⁰ Baked into the first-year curricula are the foundational building blocks of “the courses that are tested most thoroughly on the bar exam.”²¹ Then, in the second (last year) of study, AJD students take coursework in their areas of interest from a range of upper-level J.D. courses, just like their J.D. counterparts. The tradeoff, however, is that the AJD students have only their 2L year to take electives and participate in experiential learning like journals, clinics, internships, and externships.

Although the two-year track gives students the option of graduating in a shortened time frame, some AJD students opt to extend their time in the J.D. program because they desire additional legal training to prepare them for the bar exam and/or for their prospective careers as U.S. lawyers. This is necessary in part because of the uniqueness of the U.S. legal education system. Unlike most countries, where becoming a lawyer begins in undergraduate coursework and includes an apprenticeship requirement, a U.S. juris doctor degree is acquired

Doctor (J.D.) for International Lawyers, U. RICHMOND SCH. L., https://law.richmond.edu/admissions/apply_twoyearjd/index.html [<https://perma.cc/7ZSC-NK4Q>].

18. See *J.D. for Non-US Lawyers*, *supra* note 2.

19. For 1Ls, the mandatory fall classes are Civil Procedure, Torts, Contracts, and Legal Writing and Research. In the spring, 1Ls take Property, Criminal Procedure, Constitutional Law, Legal Writing and Research, and a “limited choice elective.” During the summer after the 1L year, students may participate in an externship worth one credit. *Your J.D. in Two Years*, *supra* note 17.

20. During the 2L year, in addition to writing a “Substantial Paper,” students must take Evidence, Legal Profession, and a “skills course” like clinics, externships, a judicial clerking program, or other courses like mediation, trial advocacy, and patent practice, among others. International students attending Arizona Law on an F1 visa must take a credit-bearing “curricular practical training” class to obtain work authorization for their summer positions. In addition, if an AJD student plans to take a bar exam to become a licensed attorney in a U.S. jurisdiction, they must take a summer “Pre-Bar Professional Skills Course” unless they meet bar preparation expectations in the preceding set after consultation with an academic success advisor. *Id.*

21. Access to the bar exam is one of the strongest selling points of the AJD degree over the LL.M. degree for non-U.S. lawyers wishing to practice law in the United States. Typically, an LL.M. degree allows only limited access to the bar exams of a select number of states. See Emily Cataneo, *Two Year Programs for Foreign Lawyers*, PRITZWALKS EDUC.’S LL.M. GUIDE (Jan. 11, 2016), <https://llm-guide.com/articles/two-year-jd-programs-for-foreign-lawyers> [<https://perma.cc/5UL6-BQHN>].

through three years of study after an undergraduate degree, and there is no apprenticeship requirement.²²

Because AJD students are seen as transfer students, they are not required to submit LSAT scores as a requirement for admission.²³ However, the proverbial elephant in the room is the impact that AJDs' bar passage rates may have on a law school's ranking and reputation. Bar passage rates are integral to a law school's accreditation process.²⁴

In other words, unlike other foreign-lawyer programs like the LL.M.,²⁵ AJD students' bar passage rates count both toward rankings in the U.S. News & World Report Magazine²⁶ and for compliance with ABA accreditation standards. Thus, AJD bar passage statistics are tracked in a way that other non-U.S. lawyers pursuing an advanced legal degree (such as LL.M.-degree seekers) are not.

22. Rosa Kim, *Globalizing the Law Curriculum for Twenty-First Century Lawyering*, 67 J. LEGAL EDUC. 905, 915-16 (2018).

23. "LSAT" is an abbreviation for The Law School Admission Test (LSAT), an admissions test administered by the Law School Admissions Council that helps law schools determine suitable student candidates by "assessing critical reading, analytical reasoning, logical reasoning, and persuasive writing skills—key skills needed for success in law school. The LSAT is the only standardized test accepted by all ABA-accredited law schools in the United States." *About the Law School Admissions Council (LSAC)*, LSAC, <https://www.lsac.org/about> [<https://perma.cc/F4XM-9Y9R>]. Specifically, "Arizona Law does not require an LSAT for those applying through the advanced admissions program for non-U.S. lawyers. Because you enter law school with up to 29 units of advanced standing credit from your non-U.S. training, you are considered a transfer student and an LSAT score is not required. In more than 20 years of experience with non-U.S. students, we have concluded that the LSAT is not a very accurate measure of the ability of students for whom English is not a primary language to succeed in law school or as lawyers. We believe that a better measure of the potential of a non-U.S. lawyer's ability to succeed in law school is the nature of their educational and professional experiences, including their law school grades and practice background." *Admissions Overview*, UNIV. ARIZ. JAMES E. ROGERS COLL. L., <https://law.arizona.edu/academics/degrees/jd-non-us-lawyers/admissions-overview> [<https://perma.cc/5F2B-6JE6>].

24. All ABA-accredited schools must comply with the standards promulgated by the American Bar Association's Council of the Section on Legal Education and Admission to the Bar. AM. BAR ASS'N, 2023-2024 ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 27, 33 (2023).

25. The ABA does not accredit LL.M. programs, nor do the U.S. News rankings include LL.M. programs. See Sullivan, *supra* note 6, at 224.

26. Arguably, though, the impact of a U.S. News ranking to a school may come to mean less and less as more schools *opt out* of participation in the rankings by refusing to provide data to the magazine. Paul L. Caron, *62 Law Schools Boycotted the U.S. News Law School Rankings*, TAXPROF BLOG (May 11, 2023), https://taxprof.typepad.com/taxprof_blog/2023/05/62-law-schools-boycotted-the-us-news-law-school-rankings.html [<https://perma.cc/A4B7-AVCQ>].

III. CREATION OF THE INTRODUCTION TO LAWYERING SKILLS COURSE

A. *The Mandatory 1L Legal Writing Course*

Because the AJD program includes the mandatory first-year curriculum, AJD students receive more extensive legal research and writing training than in a typical one-year LL.M. program, which requires only one semester of legal writing. Arizona Law's mandatory first-year legal writing course is "Legal Research, Analysis, and Communication." In that course, 1L law students learn the process of critical reading and how to analyze law from a variety of sources. They also learn rule synthesis, the legal writing paradigm CREAC to organize legal writing,²⁷ and how to communicate orally in mock oral argument exercises. The class is fast-paced, with many experiential components that utilize team-based learning.²⁸ In-class, team-based exercises are used to assess students' comprehension of readings assigned outside of class. There are also numerous individual or team-based, in-class application writing exercises, designed to put into practice the learning objectives from assigned readings. At the end of the semester, there is even an end-of-the-year Escape Room competition, where 1L legal writing teams compete for bragging rights and prizes to see who is the fastest to escape by correctly finding and answering clues based on legal writing fundamentals learned throughout the semester.²⁹

B. *AJD Students' Struggles*

When the AJD program first began in 2010, there were very few AJD students, so they were sprinkled throughout the 1L legal writing class sections.³⁰ The 1L legal writing professors noticed that many of the AJD students had a hard time keeping up with the course's fast pace and did not seem to be as engaged with the coursework or their classmates as the non-AJD students. At

27. "CREAC" is an abbreviation of conclusion, rule, rule explanation, rule application, conclusion—the legal writing paradigm we teach students to employ to structure their legal arguments. CHRISTINE COUGHLIN ET AL., *A LAWYER WRITES* 82 (3d ed. 2018).

28. For information on team-based learning, see Melissa H. Weresh, *Assessment, Collaboration, and Empowerment: Team-Based Learning*, 68 J. LEGAL EDUC. 303, 303-04 (2019).

29. Joy Herr-Cardillo, *Escape the Ordinary: How to Close Out Your Semester with a Challenging 'Escape Room' Competition*, 33 THE SECOND DRAFT 1, 34 (2020).

30. For the past ten years, there have been five legal writing professors who teach the mandatory 1L legal writing class. Each professor, with the assistance of three writing fellows (teaching assistants), instructs a class of anywhere from 25-32 students, meeting twice a week during the fall semester and once a week during the spring semester. The classes switch professors at the start of the spring semester. The "switch" is to mimic real life, where junior lawyers often write for many different legal readers. Law librarians teach legal research skills during some of the classes.

the end of the course, most of the AJD students were near or at the bottom of the class academically.³¹

Specifically, the AJDs struggled with synthesizing rules from multiple cases.³² They also struggled with how to write predictive and persuasive legal analysis based in common law reasoning, probably because many of the AJDs were lawyers educated in civil law countries.³³ The students also had a hard time grasping the reader-centric style favored in U.S. legal writing³⁴ and showed hesitance to participate in the interactive, fast-moving classroom environment.³⁵ These challenges led to what we perceived as a disconnect between the AJD students and the rest of Arizona Law's community.³⁶

C. *Initial Remedy—an "AJD-Only" Class*

To remedy these issues, we tried placing the AJD students into their own segregated class. Our hope was that a smaller, separate legal writing class would give the AJDs the benefit of more individualized attention. Although in hindsight the decision seems odd, at the time, we thought that the AJD students

31. In addition to help available to legal writing students in the classroom by the professor and writing fellows, Arizona Law has additional academic support at its Writing Center, which offers workshops geared to help global students and the mandatory 1L "Prepare to Practice ("P2P") class. This class teaches different skills to become practice-ready, such as drafting cover letters and resumes, learning time management techniques, and practicing English through mock job interviews.

32. "Most international LL.M. students 'come from code-based civil law countries, where the sources of law are less numerous and varied than in the U.S. common law system.' The U.S. legal system, which includes both federal and state jurisdictions and relies on the theories of precedent and *stare decisis*, is bound to frustrate students who, in many instances, are able to complete legal research in their home countries by looking up a civil code on an official government web site. This frustration often results in less than optimal development of the requisite legal information literacy by the international graduate law student." Catherine Lemmer, *A View From the Flip Side: Using the "Inverted Classroom" to Enhance the Legal Information Literacy of the International LL.M. Student*, 105 LAW LIBR. J. 461, 463 (2013).

33. Helena Whalen-Bridge, *The Reluctant Comparativist: Teaching Common Law Reasoning to Civil Law Students*, 58 J. LEGAL EDUC. 364, 364 (2008) (observing that "civil law students have considerable difficulty grasping the structure of common law reasoning, in part because common law rules are a different sort of rule compared to the type of civil law rule the student is familiar with").

34. ANNE ENQUIST & LAUREL CURRY OATES, *JUST WRITING, GRAMMAR, PUNCTUATION, AND STYLE FOR THE LEGAL WRITER* 285-86 (2009).

35. See James R. Adams, *Reframing the Socratic Method*, 64 J. LEGAL EDUC. 562, 563 (2015).

36. The lack of cultural competence flowed both ways—from AJD students who appeared quiet and isolated because of their unfamiliarity with U.S. cultural norms inside and outside of the classroom, and from the American law students, many of whom seemed oblivious to the knowledge, abilities, and experiences of the AJD students, who were already lawyers. Furthermore, foreign-educated law students commonly struggle with informal English and cultural references in the classroom, classroom conventions, and the pace of spoken English in the classroom. Spanbauer, *supra* note 7, at 420.

might be more comfortable speaking and engaging in the process of learning U.S. legal writing in a classroom environment populated only by non-U.S. lawyers.

We tried the experiment for about two years. The upside to the AJD-only cohort was that during that time, the AJDs appeared to be a tight-knit, cohesive group, who provided one another with an important social support network. The downside, of course, was that they became an insular island, with little to no real contact or connection with the rest of the law school.³⁷

Separating the AJDs into their own class was a disservice to them and the law school for three important reasons. First, the AJD-only class suffered from reputational issues because there was an unstated assumption that it was easier because it had a smaller class size. Second, the best students from the AJD class were being awarded the same CALI³⁸ awards for excellence as the 1L legal writing class, and people complained that they might not have won them had the classes still been integrated. Third, the segregation failed to take into account those AJD students for whom English was a primary language.

With those concerns in mind, we re-integrated the AJD students into the regular 1L legal writing class. While a few AJD students did well in the 1L legal writing course, many continued to struggle despite multiple avenues for additional help and instruction.³⁹

IV. THE FIX—THE CREATION OF A “INTRODUCTION TO LAWYERING SKILLS” COURSE

To remedy the problem, we proposed a brand-new legal writing course, “Introduction to Lawyering Skills in the United States Legal System” (ILS), designed to specifically address the needs of AJD students with English-language skills at an earlier stage of development than what is needed for the traditional 1L legal writing class. Our proposal to the faculty discussed our hopes that the new ILS course would assist those students to participate more

37. Research shows the opposite, that “. . . [i]f law schools want students to learn in a more internationally diverse environment, they must affirmatively structure the law school experience to encourage that interaction.” LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, 2011 ANNUAL SURVEY RESULTS: NAVIGATING LAW SCHOOL: PATHS IN LEGAL EDUCATION 15 (2011).

38. The Center for Computer-Assisted Legal Instruction (“CALI”) provides participating schools (Arizona Law is one) to recognize the highest scoring students in each law class with the “CALI Excellence for the Future Award®.” *CALI Excellence for the Future Award*, THE CTR. FOR COMPUT.-ASSISTED LEGAL INSTRUCTION, <http://www.cali.org/content/cali-excellence-future-awards> [https://perma.cc/VZ4J-S6TN].

39. Writing fellows are always available to help struggling students, both inside and outside of the legal writing classrooms. In addition, Arizona Law has a Legal Writing Center, where students can meet with senior writing fellows for extra tutoring and assistance on legal writing projects. *Arizona Law Writing Center*, UNIV. ARIZ. JAMES E. ROGERS COLL. L. LEGAL WRITING, <https://arizonalawwritingcenter.arizona.edu> [https://perma.cc/U6VK-3FMJ].

successfully in the regular 1L legal writing curriculum, to engage more fruitfully in their other law classes, and ultimately to pass a bar exam. The course was approved, and we got to work.

A. Creating the ILS Curriculum and Grading System

Over the summer of 2019, we carefully developed the course curriculum with animating principles that focused on developing critical reading skills of both legal and non-legal matters, and many short writing assignments that provided opportunities for both feedback and focused self-reflection so students could develop their own best practices for better legal reading, writing, and analysis.

To accomplish these goals, we took many of the learning outcomes of the 1L legal writing class's curriculum and broke them into much smaller pieces that would be taught more incrementally and repeatedly over the course of the full year.

ILS's design has layering and repetition to ensure mastery of core legal writing and analysis concepts. The first two-thirds of the class introduces critical reading skills, sources of law, hierarchy of authority, rule-based reasoning, the CREAC legal writing paradigm, and predictive writing. The last one-third of the class addresses persuasive writing in the form of turning a predictive memo into a persuasive motion that students argue in an oral argument exercise.⁴⁰

By intention, there is no textbook for the class; instead, short readings from a variety of resources (legal and non-legal) are posted to the law school's online

40. The following units are covered in ILS:

Unit 1: Intro to Legal Writing and the U.S. Legal System

Unit 2: Intro to Critical Reading

Unit 3: Case Briefing and Synthesizing a Rule from a Case

Unit 4: Rule-Based Reasoning

Unit 5: CREAC

Unit 6: Hierarchy of Authority

Unit 7: Synthesizing a Rule from Multiple Sources

Unit 8: Drafting a Discussion (Rule Explanation)

Unit 9: Drafting a Discussion (Rule Application)

Unit 10: Legal Argument (Putting It All Together)

Unit 11: Introduction to Oral Argument

Unit 12: Receiving Feedback

Unit 13: Revising and Rewriting

Unit 14: Individual Checklist Creation and Conferences

learning platform.⁴¹ ILS students first receive instruction on how to read critically, and then are assigned short readings with guided questions and follow-up in-class discussions to ensure comprehension.

In addition to short critical reading exercises, the ILS class also includes frequent short writing assignments with opportunities for revision to give students practice writing and strengthening analytical skills in the context of predictive legal writing. In conjunction, frequent reflection papers and periodic self-assessments are provided to reinforce mastering a process of reading, understanding, and communicating common-law legal analysis while providing additional opportunities to practice written communication in English.

Although we initially created discussion-board post assignments to explicitly discuss the skills transfer from the concepts learned by ILS students to the broader context of their legal studies, those assignments were rejected as “make work.” Instead, students requested more in-class discussions to practice their English speaking skills.

Additionally, we consciously attempted to fill the holes in knowledge that we noticed many non-U.S. lawyers have—ones American law professors often take for granted that their students know—like basic knowledge of the structure of American legal systems and culture.⁴² So, we also layered into the curriculum enhanced materials on the U.S. legal system, common-law reasoning, critical-reading skills, Legal English tutorials, and fun cultural competency exercises.

To refresh students’ English grammar skills, the ILS curriculum includes Core Grammar for Lawyers, an online interactive grammar program, as an outside of class requirement.⁴³ Students are required to score over 70% on each module to progress through the program. Finally, legal research and legal

41. Not requiring a textbook allows for flexibility in assigned readings and saves AJD students money because they will be required to purchase the required 1L legal writing textbooks the following year.

42. Since its inception, the course’s goals have remained constant, but the curriculum has changed to reflect feedback from students, writing fellows, and the instructor. The Fall 2023 ILS course description states: “[t]his course is designed to provide a systematic and detailed introduction to common-law reasoning and effective communication in the United States legal system. Frequent short writing assignments with opportunities for revision allow students to rehearse and refine writing and analytical skills in the context of predictive legal writing. Weekly reflection papers and periodic self-assessments reinforce the focus on mastering a process of reading, understanding, and communicating common-law legal analysis while providing additional opportunities to practice written communication in English. And periodic discussion-board posts facilitate integrating the skills and concepts students learn in this course into the broader context of their international legal education.” *Law 603C-001: Introduction to Lawyering Skills in the United States Legal System*, *supra* note 40.

43. “Core Grammar for Lawyers SM (CGL) is an online, self-directed learning tool designed to help law students, pre-law students, paralegal professionals, and practicing attorneys acquire the grammar and punctuation skills that are prerequisites to successful legal writing.” *Welcome, CORE GRAMMAR FOR LAWYERS* (2023), <https://coregrammarforlawyers.com/> [<https://perma.cc/9KKY-MGSB>].

writing citation concepts are slowly introduced to ILS students in a scaffolded method throughout the course. The open-source Indigo Book is the citation manual used to introduce proper legal citation.⁴⁴

Grading for the ILS course is markedly different from the 1L legal writing class, which has far fewer assessments. The ILS class has many different assessments so that students have multiple opportunities to learn from their mistakes, yet still achieve a good grade.⁴⁵ The final grade is based on the following scores:

Professionalism	10%
Core Grammar for Lawyers	5%
Citation exercises	5%
Legal research worksheets	10%
Self-assessments and reaction/reflection papers	10%
Revised case brief #1	5%
CREAC paper	10%
Rule section of Discussion	5%
First draft of Discussion	10%
Final draft of Discussion	30%

B. *The Small Size and Large Staff*

The ILS class size is intentionally small, capped at a maximum of twelve students. The small class size ensures individualized attention and makes feedback for the numerous writing assignments feasible. It also fosters intimacy and trust, so students overcome embarrassment of language comprehension challenges. The small class engenders a warm atmosphere that helps students to quickly learn American law classroom conventions.⁴⁶

Like other legal writing courses, ILS has developed a “homeroom” feel in comparison to other required law classes, like Torts or Property, that are typically taught in large class sizes. This feeling could be due not only to the small size of the class, but also due to the nature of legal writing itself, which is

44. The Indigo Book is a free on-line “open and compatible implementation of a uniform system of citation.” CARL MALAMUD, *THE INDIGO BOOK: AN OPEN AND COMPATIBLE IMPLEMENTATION OF A UNIFORM SYSTEM OF CITATION* (2016), <https://law.resource.org/pub/us/code/blue/IndigoBook.html>.

45. The fall semester of ILS is graded pass/fail, while the spring semester’s work is a letter graded.

46. Deborah Burand, *Crossing Borders to Create Value: Integrating International LL.M.’s Into a Transactional Clinic*, 19 LEWIS & CLARK L. REV. 441, 457 (2015).

intensely collaborative, and involves a process of feedback, self-reflection, and editing. This in turn creates a more empathetic, nurturing learning environment than other law classes.

Another important element of ILS's nurturing environment is the high ratio of writing fellows to students,⁴⁷ which facilitates transfer of important knowledge about how to succeed in law school.

In class, writing fellows present cultural tutorials on topics such as American idioms, slang, body language and gestures, and Legal English terminology.⁴⁸ In the past, ILS writing fellows have also presented on how-to topics like how to prepare for class, how to create outlines, and how to prepare for final exams.

An added benefit is that the writing fellows get to know each ILS student on a personal level. That's when the true superpower of the writing fellows is revealed – through their actions and communications, they translate American culture and serve as guides to the ins and outs of law school. Writing fellows informally guide students on which classes to take (and which to avoid), and help to fill in the blanks about the things that the ILS students don't know that they don't know (but need to know) about being a law student in the U.S.

The ILS course is taught by Professors of Practice (adjunct law faculty), with help and support from the legal writing department. In the hiring process, we give preference to instructors who have had previous experience teaching English as an additional language students.⁴⁹

C. The Sorting Hat: Selecting Students for the ILS Course

To populate the ILS course, we try to obtain as much information as possible regarding incoming AJD students' English-language skills, including whether an AJD student has already successfully completed an advanced degree

47. There are three writing fellows assigned to assist the professor. Becoming a writing fellow is a competitive process at Arizona Law, and prospective applicants must submit an application that includes a cover letter, resume, and writing sample. Prospective writing fellows are then interviewed. Most of the ILS writing fellows expressed a specific interest in assisting the ILS class; they typically have had some previous experience working with English-language learners. Arizona Law writing fellows are unpaid, and instead earn academic credit in the form of a letter grade for their work. *Writing Fellows*, UNIV. ARIZ. JAMES E. ROGERS COLL. L., <https://law.arizona.edu/academics/programs/legal-writing/writing-fellows> [https://perma.cc/Y6VV-57KG].

48. Some foreign-trained lawyers have proficient English skills but struggle in U.S. law school programs because they lack understanding of "legal English." Reportedly, students have claimed that "the knowledge of English tested by TOEFL (Test of English as a Foreign Language), a test used by many international LL.M. programs, bore little relevance to [their] ability to understand and work with 'legal English.'" Sullivan, *supra* note 6, at 229.

49. For example, one ILS instructor is a former Arizona Law alumnus currently working in an appellate unit of a state agency. This Professor of Practice had previous specialized experience teaching English abroad to students for whom English was not their first language.

programs in an English-language country.⁵⁰ Students are selected for the ILS course based on a combination of global program administration's recommendations, AJD application materials and ongoing communications,⁵¹ and assessments at the mandatory global law student orientation that occurs right before the general J.D. orientation.

Over the years, we have refined and shortened the selection process. Originally, we held a mandatory, two-day boot camp for all incoming global students (including AJD students) that included an assessment phase. During the COVID-19 pandemic, however, when the issuance of international student visas became more tenuous and last-minute, we shortened the orientation to just a few hours.

Currently, the orientation starts with a brief lecture on the U.S.'s common law legal system and reader-centric legal writing norms, which are very different from that which the students may be accustomed, particularly if they were educated in civil law countries.⁵² Next, after an explanation of the two different options for AJD writing classes (1L legal writing or ILS),⁵³ the AJD students take several assessments to determine the class best suited to their current abilities.⁵⁴ The assessment consists of three parts: (1) a language questionnaire,⁵⁵

50. For example, we have had AJD students who already obtained their LL.M. degrees from a different U.S. law school and then decided to pursue a J.D. degree. *How to Apply – J.D. for Non-U.S. Lawyers*, UNIV. ARIZ. JAMES E. ROGERS COLL. L., <https://law.arizona.edu/academics/degrees/jd-non-us-lawyers/how-apply> [<https://perma.cc/JH9M-8XEH>].

51. Taken into consideration are the students' scores on the Test of English as a Foreign Language (TOEFL) or its equivalent, but we were mindful of research that shows that proficiency shown on a TOEFL (or equivalent test) does not translate into academic success, because it fails to account for cultural differences, including fundamental differences in legal systems and legal education. *Id.*

52. Most international law students "come from code-based civil law countries, where the sources of law are less numerous and varied than in the U.S. common law system." Lemmer, *supra* note 32, at 463 (citing Elizabeth L. Inglehart, *Teaching U.S. Legal Research Skills to International LL.M. Students: What and How*, 15 PERSP.: TEACHING LEGAL RES. & WRITING 180, 180 (2007)).

53. In the explanation, it is stressed that both legal writing classes were created with the following learning outcomes in mind:

- 1) How to read critically and manage large amounts of reading, brief a case, and participate in class;
- 2) How a common law system differs from civil law systems;
- 3) How to conduct legal research; and
- 4) How to synthesize legal sources into legal rules; and apply this knowledge to case facts in clear, concise legal writing.

54. The other global students also take the assessment because it helps the professors teaching the LL.M. legal writing class learn more about the LL.M. students' English-language skills. The first year of the assessment, three non-AJD global law students (admitted to the regular J.D. degree program) ended up being placed in the ILS class and it was a decision that benefitted them.

55. The language questionnaire asks questions about how long English and other languages have been studied, and how comfortable a student is in reading, writing, listening, and speaking

(2) a writing diagnostic,⁵⁶ and (3) the creation of a video in which AJD students must briefly introduce themselves, talk about their goals and a few fun facts about themselves, such as their favorite hobbies.⁵⁷ All of the assessments are completed with laptops, and the information is uploaded to confidential folders on Arizona Law's learning platform for easy review.

Once the students have uploaded the completed assessment assignments, their submissions are reviewed separately by Prof. Salmon and me. We then convene to discuss our thoughts on the best class placement for each AJD student. So far, year after year, we have been pleasantly surprised to find that we have selected virtually all the same students for the ILS class. After our selection process, we notify the registrar, who, in turn, notifies the students of their enrollment in one of the two classes.⁵⁸

When ILS began, we worried that some AJD students would purposefully "tank" their assessments to try to get into what they might perceive as an easier class, to earn an easy A. That fear, however, has been allayed since we have never seen a large disparity between the assessments and the quality of the first writing assignments.

D. Reflections on the Success of ILS

Informal metrics have thus far shown that the ILS class is a success. Anecdotal reports from legal writing faculty have noted that the ILS students are

English. To dig a little deeper into English usage, the questionnaire asks questions like, "What language do you watch media in?"

56. Students are given two hours to write an answer to a fictitious writing prompt that asks whether a fictitious immigration lawyer behaved appropriately when he wore a wire to record a client who the government suspected was a terrorist. The writing diagnostic asks students to consider and evaluate arguments on both sides and then explain what they would do in the situation, without knowledge of the governing law. It specifically informs students that their diagnostic is reviewed to see how they communicate their thoughts through organization and writing mechanics, including style, spelling, grammar, and punctuation.

57. We had included an informal reading speed test as part of the assessment, but we stopped using it after only one year. Although we explained that the reading speed assessment would not be used for placement purposes, but instead to provide students with a baseline reading speed to help them determine whether they might need additional help to practice reading efficiently and effectively, students found it to be extremely stressful. To learn more about the exercise and instruction, see RUTH ANN MCKINNEY, *READING LIKE A LAWYER (TIME-SAVING STRATEGIES FOR READING LAW LIKE AN EXPERT)* 291-93 (2012).

One positive, however, came from that failed experiment. After the first reading speed assessment, students concerned with their reading speed asked me for tips on how to read faster. Because this is a common issue for English Language learners, Arizona Law's Writing Center held a seminar to provide basic tips on how to increase reading speed without losing comprehension about the idea.

58. To avoid scheduling conflicts, the ILS course runs on Fridays when no 1L classes meet. *Fall 2023 – First Year Courses*, UNIV. ARIZ. JAMES E. ROGERS COLL. L., <https://ofcourse.com/schedule/arizonalaw/viewer/527129/filter/1L> [<https://perma.cc/QZQ7-AT8Z>].

prepared for the rigors of the 1L legal writing class, they take the next year and many have performed well academically. Student evaluations of the course have been uniformly positive. Several students specifically commented in the course evaluations that they were glad that they were put in ILS instead of the standard 1L legal writing class because they felt better prepared for the next year's work. ILS students have also reported that ILS helped them with their other law classes.⁵⁹

Additionally, ILS has helped the students' cultural needs.⁶⁰ ILS gives AJD students time to understand and navigate the hidden curriculum of law school, "the socialization process where students pick up messages through the experience of being in school and interacting with faculty and peers, not just from things that they are formally taught."⁶¹ In fact, the only negative comments about ILS have been complaints over the workload, which seems to be a universal law student complaint!

CONCLUSION

In the years that ILS has been offered,⁶² it has been gratifying to see its success. ILS students have reported that the class has helped them feel more comfortable at the law school and more prepared for their other law classes. Their increasing comfort with legal writing and common law reasoning may bode well for their chances of success if they plan to sit for a bar exam and then practice law in the United States.

In closing, the ILS class is but one example of how U.S. law schools can meet the needs of international law students as the U.S. legal community moves toward greater globalization.⁶³ International law students like the non-U.S.

59. The additional year spent thinking, writing, and communicating in English has undoubtedly helped the ILS-AJD students prepare to sit for a bar examination. This extra year of legal writing instruction will only become more valuable when the NextGen bar exam, with its new emphasis on legal writing, debuts in July 2026. As the creator of the NextGen bar exam, the National Conference of Bar Examiners explains, "the exam will reflect many of the key changes that law schools are making today, building on the successes of clinical legal education programs, alternative dispute resolution programs, and legal writing and analysis programs." *About the NextGen Bar Exam*, NEXTGEN BAR EXAM NAT'L CONF. OF BAR EXAM'RS., <https://nextgenbarexam.ncbex.org/> [<https://perma.cc/5K6X-XUX7>].

60. The term "cultural needs" is lifted verbatim from an article written on creating a flipped classroom course to teach legal writing to international LL.M. students. *See* Lemmer, *supra* note 32, at 467.

61. *Id.* at 468, citing John M. Lande, *Reforming Legal Education to Prepare Law Students Optimally for Real-World Practice*, 2013 J. DISP. RESOL. (Forthcoming 2013).

62. Happily, in 2022-23, ILS was not offered because the assessments showed that all the AJD students' English-language skills were proficient enough for them to take the 1L legal writing course.

63. *See generally* Carole A. Silver, *Globalization and the Monopoly of ABA-Approved Law Schools: Missed Opportunities or Dodged Bullets?*, 82 FORDHAM L. REV. 2869, 2871-72 (2014).

lawyers in Arizona Law's AJD program must be given adequate tools to compete and collaborate effectively with their fellow students. These brave, talented, and capable students deserve no less.

