

**KENYA SCHOOL OF LAW**

**LEGAL WRITING AND DRAFTING (ATP 103)**

**COURSE OUTLINE**

**Instructors' contacts.**

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**Instruction hours:** As per timetable

**Firm meetings:** As per timetable

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**COURSE DESCRIPTION**

The main objective of this course is to get the student equipped to undertake the writing tasks demanded of advocates. Specifically the course should help you develop the following skills:

- Analysis and conceptualisation of legal issues.
- Organisation of strategies.
- Structuring of legal arguments.
- Use of core writing techniques.
- Strategic choice of language.
- Mastery of persuasive writing techniques.
- Efficient writing skills.

In order to give you as much writing practice as possible, significant practicals and archival research will be required. Researching the applicable law is essential in any legal writing and drafting work.

**COURSE METHOD**

Instruction will be in two methods. The Socratic method of teaching will be used to introduce concepts in each topic covered. Thereafter the experiential method of learning (learning by doing) will be utilised to build on the skill set necessary for effective legal writing and drafting.

After every lecture, exercises will be given and they must be discussed and finalised at firm meetings or such other time as the firms may create for that purpose. All firms must be ready to present their work for discussion the following week. Any member of the firm may be picked on

by the instructor to make the presentation on behalf of the group. This means that attendance at preparatory meetings is compulsory.

### **CLASS ATTENDANCE**

Attendance and participation at lectures and firm meetings is required. Participation consists of more than mere attendance. Actual participation occurs when you:

- Show you have prepared by reading and thinking about assigned material.
- Show you understand or are trying to understand the course concepts and principles.
- Ask questions and build on other students' contributions.
- Exhibit willingness to experiment with new skills.

You are particularly encouraged to participate as fully as possible in class and during your firm meetings. Ask questions where any issue is not clear. Do not let any opportunity to ask a question or contribute to a discussion pass by. This way you not only understand concepts but also build upon your oral communication (advocacy) skills.

### **COURSE ASSESSMENT**

The course will be assessed in terms of the Council of Legal Education regulations. This is:

- a. Project work (Term 1): 20%.**
- b. Oral examination (Term 2): 20%.**
- c. Written examination (Term 3): 60%.**

To pass the course one must score an average of 50% on the three levels of assessment.

### **RECOMMENDED TEXTS**

- Bryan Garner, *Legal Writing in Plain English* (2001)
- Robin S. Wellford, *Legal Reasoning, writing and persuasive argument.*(2001)
- Carolyn Maughan & Julian Webb, *Lawyering Skills and the Legal Process* (2005).
- De Klerk, *Clinical Law in South Africa* (2006).
- Edward Daigneault, *Drafting International Agreements in Legal English* (2005).
- Richard Neumann, *Legal Reasoning and Legal Writing* (2005).
- Anne Enquist & Laurel Oates, *Just Writing: Grammar, Punctuation and Style for the Legal Writer* (2005)
- Richard Wydick *Plain English for Lawyers* (2011).
- Anne Enquist & Laurel Oates *Legal Writing Handbook* (1993).

<b>TERM 1: LEGAL WRITING</b>
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#### **Weeks 1-3**

#### **Introduction to Legal writing**

- Qualities of good writing

- Qualities of good legal writing
- Plain English
- Plain English v. Legalese
- Principles of Clear Writing
- Gender-neutral language
- Bias-free language

#### **Week 4: Effective writing**

- The psychology of writing
- Outlines and writing plans
- Drafting the document
- Revising
- Editing
- Proofreading

#### **Week 5: Effective paragraphs**

- The function of a paragraph
- Paragraph patterns
- Unity and coherence in paragraphs
- Paragraph length
- Topic and concluding sentences
- Paragraph blocks

#### **Week 6: Connections between sentences**

- Generic transitions
- Orienting transitions
- Substantive transitions

#### **Week 7; Effective sentences**

- Active and passive voice
- Concrete subjects
- Action verbs
- Distance between subjects and verbs
- Subject length
- Emphasis

#### **Week 8: Effective words**

- Diction and precision
- Conciseness

#### **Week 9: Case Briefs and Case analysis**

## **TERM 2: DRAFTING**

### **Week 1: Introduction and definition of Legal Drafting**

- Introduction
- Definition of legal drafting
- Stages of drafting a legal document
- Clarity and accuracy in legal drafting

### **Week 2: Drafting letters and Reports**

- Format
- Body of letter
- Letters to client
- Letters to opponent
- Report writing (Types of reports, format of report)

### **Weeks 3-4: Opinion writing**

- Preparing to write an opinion
- The writing process
- Points of content
- Style

### **Weeks 5-9: Drafting legal documents/Transactional Drafting**

- Specific Contract Drafting skills
- Powers of attorney
- Affidavits/statutory declarations
- Deed polls

### **Weeks 10, 11 & 12: ORAL EXAMINATIONS**

## **TERM 3: LEGISLATIVE DRAFTING**

### **WEEK 1**

- **Introduction to legislative drafting**
- **The legislative process**
- **Qualities of a good draftsman**
- **Sources and materials for drafting of legislation**
- **Challenges of legislative drafting in Kenya**

**Weeks 2-3**

- **Role of a drafter**
- **Key Reference Legislations**
- **Drafting and Policy Process**
- **Drafting instructions**
- **Designing a legislative solution**
- **Internet Research and Legislative Drafting**

**WEEKS 4-5**

- **Structure of a Bill**  
**Preliminary provisions**  
**Substantive provisions**  
**Final provisions**

**WEEKS 6-8**

- **The Legislative Sentence (words and expressions: syntax)**
- **Time in legislation**
- **Amending legislation**

**WEEKS 9-10**

- **Penal provisions**
- **Delegated legislation**

**WEEK 11**

**Drafting sessions in groups/Firms**