

Performance Problems: Developing and Assessing Contextual Understanding

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- I. A Performance Problem - The Pieces
 - A. The File
 - B. The Library
 - C. The Assignment of a Task (The Call)

- II. A Performance Problem - The Concepts
 - A. Activities of a Lawyer
 - B. The Factual World of Lawyering Activity
 - C. Sources of Law in Context
 - D. Institutional/Social Settings of Lawyering
 - F. The Significance of Doing a Task
 - F. Integrating Law and Facts
 - G. Types of Understanding Involved in Lawyering

- III. Opportunities Provided by Performance Problems
 - A. Range of Skills
 - B. Breadth of Understanding (Analytic/Contextual/Strategic/Relational)
 - C. Depth of Understanding
 - D. Pedagogical Processes for Developing Understanding

- IV. Development of Performance Problems - From Assessment to Teaching and Back to Assessment
 - A. Why they developed
 - B. How they developed
 - C. Current uses
 - D. Consequences of uses
 - E. Potential uses

- V. Creating a Performance Problem for Teaching and/or Assessment
 - A. Identifying purposes: long term and short term
 - B. Imagining a scenario - setting, characters, legal problem, institutional context (legal and non-legal), lawyer activity
 - C. Creating the scenario (the file)
 - D. Identifying and creating legal materials (the library)
 - E. Formulating the assignment (the call)
 - F. Dynamic process - interconnections of file, library and call
 - G. Thinking about assessment
 - H. Need for Training

VI. Resources - Existing problems used in bar exams

- A. California gives a performance test and has problems that have been given available free online. The website for the California Bar is at www.calbar.ca.gov. Follow links to the bar exam, examinations, examination results, performance test and selected answers.
- B. The National Conference of Bar Examiners produces the multistate performance test that is given by many jurisdictions. The website for the national conference is www.ncbex.org. Follow links to multistate tests and multistate performance test. Summaries of all items that have been given and test items from 1997 and 1998 (including point sheets) are available free on the website. Items from other years can be ordered for a fee.