

## **Integrating Diversity into Legal Research Instruction in the COVID Era: Tips and Techniques for Classroom Management**

### Presenters

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### **Introduction**

As our time is limited on Monday, we would like attendees to review some material beforehand in anticipation of a short breakout session during our program.

After a brief introduction, we will be moving into breakout rooms, with each room facilitated by a panelist in the program. Each breakout room will have one of the scenarios listed below. Please take the time to review each scenario and be open to discussion within your breakout room. We would ask all participants to respect the space we share by understanding we will be discussing sensitive topics.

We will need a **Notetaker** for each room. This is someone who will take notes as to what comments are raised during the breakout discussion and who will send them to the panelists after the conference. The comments from each group will be collected and disseminated after the conference to all attendees. Notes do not have to be extensive, nor should they attribute the comments to any specific individual. Instead, notetakers should try to collect the thoughts and comments of the group.

## Scenario 1

You have asked your legal research class to work in groups to complete an in-class exercise on researching state statutes. One of those groups has decided to focus on state statutes of California. In the course of their research, they identify a California statute that has recently been amended to include hair texture and protective hairstyles as “traits historically associated with race” for the purpose of preventing race-based discrimination.<sup>1</sup> As you move around the classroom, you hear one of the students in that group, who is White, say, “So if you’re Black, all you have to do is get dreadlocks and then they can never fire you? Must be nice!”

You notice that a couple of students in that group are laughing at the comment, but the other students in the group look extremely uncomfortable. You also notice that a student in a different group, who is African-American, has heard the comment and appears very upset. It does not appear that any other students have heard the comment.

What are your immediate concerns?

How do you respond to the situation?

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<sup>1</sup> CAL. GOV’T CODE § 12926(w) (West 2020).

## **Session Notes**

These notes capture some of what the attendees said in the room and have been taken from the notetaker's submission.

Comments:

- We owe it to our students to talk about diversity. They'll have diverse clients, and we owe it to them to get them digging into that messiness and how to deal with it.
- We don't have to be experts! We know more about issues that intersect with our own identity.
- Initial reactions might be to freeze—concern—wanting to protect the student who is harmed.
- Intervening with the student who made the comment—do you realize how your comment will be interpreted? Point out that it could be harmful. And ask the student to unpack why they think this is the case—asking a series of questions to challenge the student and get explicit—leads the student to either back off or engage with the roots of the problem. Challenge them to support their opinion.
- Do you act immediately, or do you wait? Students can be very self-regulating, so it might be worthwhile to wait and see if a student says something.
- Like the questioning model. This is where it is essential to set ground rules about how the class speaks to one another. Bring it back to the social contract that you've established in the classroom. How the comment disrespects other students in the classroom.
- Would the situation be different if everyone heard the comment?
- Is it appropriate to rely on the students to correct each other? Might not want to delegate that to them if it is our classroom.
- It's important to act immediately—not let the students think we could approve of the comment. In terms of power dynamics, I don't want to wait for a student or put that on a student.
- When would you talk to your supervisor? Would bring it up if I recognized a pattern or wanted to talk about how I handled it. Might not bring it up if I thought the conversation afterwards went well.
- Dr. Kendi recommends being verbally active in standing up for people. Want to handle right away and be incredibly direct—let everyone in the room know.

- Everyone loves the questioning approach. Would you take the student out of the room and have a private conversation? Are you dealing with ignorance or something more perverse? Might want to give the dean of students a heads up to create a record—don't want to be the only one dealing with it.
- To clarify—might not want to defer to students but—see if students take the opportunity to hold each other accountable, as long as the instructor is the one managing the space.
- Would want to loop in the dean of students and your director so that everyone sees it coming if the student responds by going to administration.

## Scenario 2

For the past two weeks, you have used race-based hypotheticals as your in-class assignments. The first hypothetical dealt with a Hispanic man on trial for murder after being identified by a White, middle-aged woman in a photo lineup (challenging cross-racial identification). The second hypothetical involved an African American woman who was denied an executive position in a Fortune 500 company after refusing to cut her dreadlocks (hair discrimination case). Based on your observations, you thought both classes went well. As you were preparing to pack-up for the week, you received an email from one of your students.

Dear Prof.,

First, I want to start by saying that I love your legal research class, and I am glad you are my instructor. I'm not sure if this is appropriate to ask, but I'll ask anyway. Will we have to talk about race every week in our class? I am very uncomfortable discussing the topic of race with my classmates, and I feel unqualified to make a legal argument for or against "my client" when race is involved. I am afraid that I may say the wrong thing or take the wrong position. I don't ever want my classmates to think I'm a racist.

Lastly, I must mention that I have not talked with any of my classmates about this, so I am only speaking on my behalf.

Best,  
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What are your immediate concerns?

How do you respond to the situation?

## **Session Notes**

These notes capture some of what the attendees said in the room and have been taken from the notetaker's submission.

Comments:

- White southern lady, I feel uncomfortable talking about diversity with students. But we owe it to our students to talk with them about it, because the world is diverse. We owe it to them to give them a start to dig into this messiness and give them a chance to start thinking about it.
- You do not have to be an expert, and you may only know about the issues faced by our own identity groups. That's OK.
- Example – young white gay man suspended from school from taking off his nail polish. Because I am not young, white, gay, male, that doesn't mean it can't be a hypo that I can talk about.
- Immediate concerns when reading this scenario?
  - No concerns – but it is uncomfortable. People don't know my identity by looking at me or learning my name. Response = no one is requiring you to be qualified, it's about doing the research and identifying the bias. Better to feel uncomfortable in class than with a client. These are practical life skills that you need to learn to deal with a client so that you do not risk losing them.
  - When you point out feeling unqualified – the point of a research class is to move toward feeling qualified! The process of scrutinizing is an important goal of a research class.
- Does it change how we respond if it is a white middle age nontraditional student? (No)
- Problem always goes back to the assumptions that are made, in either direction.
- Concern = student is brave enough to send email, probably others are having these thoughts. How to address? Individually through email or meeting? Address the entire class? If the latter, how do I do that without singling out anyone who might cause a lot of pushback (example given was a more conservative student).
  - That is a big part of the discussion. It depends on the situation and what you've gathered from the interactions in class. COVID adds a layer of complexity toward taking the temperature of the class, so to speak.
- I would worry getting this email that I had not explained ahead of time well enough what my pedagogical goals are in having assignments like this.

- Does it matter if this came from a white man?
  - Possibly, might try to relate it to his experience when responding and also asking him to be more mindful of others' experiences.
  - Once I do respond, what happens if that discussion goes a bit awry – operates in bad faith, or in good faith but says the wrong thing? How do I manage the classroom after that? How can I make sure that I am not seen to be endorsing this point of view?
- Would this question make you change or consider changing your curriculum? (Lots of shaking heads.) Chat – I'd want to make sure I wasn't JUST hitting race. But in-person response – considering race, but also other factors to take into consideration. These are conversations we should generally have about all kinds of diversity. That might incorporate white men into the conversation.
- Concern with email – somebody might be signaling that we should have a between white-people conversation