

English

美国法律英语

—— 在法律语境中使用语言

American Legal English

Using Language in Legal Contexts



(教师用书)

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美国法律英语

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American Legal English: Using Language in Legal Contexts provides a basic introduction to the U.S. legal system for nonnative speakers of English. The text provides vital instruction to both law students and legal practitioners by combining elements of law and language to enhance nonnative speakers' ability to communicate with their legal counterparts in English.

Reading, writing, listening, and speaking activities are included in each chapter of American Legal English. Many of the activities are collaborative, engaging students' interest and involving them in the learning process. In addition, realia, in the form of cases and statutes, is included so that students become comfortable with legal English and its sometimes difficult syntax.

Attorney and nonattorney ESP instructors alike will find American Legal English integral to their creation of an effective learning environment in law and language courses.

For advanced ESL/EFL students.

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Introduction

Though this book is designed for use both by instructors with legal training and those with little or no legal training, we feel there are some additional concerns that might need to be addressed. Instructors with legal training but little or no English language teaching may experience some initial difficulties with classroom management issues and some of the generally accepted English language teaching techniques, while instructors with English language teaching backgrounds may experience a bit of initial difficulty when dealing with the legal aspect of the text. Therefore, we have attempted to address what we feel might be the most important issues in the following notes.

Notes to Instructors with No Language Training

One important difference between English as a Second Language/English as a Foreign Language (ESL/EFL) instruction and other types of legal instruction is that you will often be functioning as a facilitator rather than as a lecturer. In a classroom filled with students who are learning and refining their own English, one-hour lectures are probably not the most effective method. Remember, students are acquiring the language of law at the same time that they are acquiring knowledge of the basic legal concepts of American law. In order to have an effective classroom, you, as instructor, will be called on to strike a balance between the foci of the course. This means that not only must you take care to present the language aspect of the course in a manner that the students are familiar with, but you also must employ that same manner to impart the legal knowledge.

Teaching in an ESL/EFL classroom is like everything else—there are certain basic concepts that, if incorporated in your classroom, will simplify your task as instructor. These concepts, based on English language teaching theory, are encoded in activities such as warm-ups, brainstorming, group work, and nonverbal activities.

- Warm-ups are ways to get the students thinking about the topic of discussion for the day. In the *American Legal English* textbook, you'll find a section called "Discovering Connections" at the beginning of every chapter. This section is designed to help the students reflect on the legal topic as it exists in their own systems. Once they have done that, it is easier for them to make the transition to reflecting on the American legal system. Think of warm-ups as mental stretching

exercises. They are also similar or identical to schema activators or preframing exercises. In business presentations you have no doubt been taught to start with an opener to attract the attention of your audience; a warm-up achieves the same purpose in the language classroom.

- **Brainstorming** is used in the ESL/EFL classroom to help students understand important points about a topic without putting them under the pressure of answering questions individually.

To start a brainstorming activity, first write the topic you wish to discuss in the center of the blackboard. Ask a student to go to the board and act as the "scribe." Ask the other students to give you as many related terms, ideas, or concepts as possible. You may have them raise their hands to speak or simply shout out the items as they think of them. Your role is that of a dispatcher, not an evaluator. No matter what the students say, your job is just to help the scribe get the statements on the board. Later, you and the class will do exercises, such as categorizing the information for argument development, that focus on the appropriate aspects of the larger topic.

- **Group work** is another technique that can be used in a number of effective ways. As mentioned before, the teacher in an ESL/EFL classroom often functions as a facilitator. To accomplish facilitation effectively, it is necessary to shift the focus of the classroom from you to your students, and in order to do that, you must leave the front of the room.

By dividing the class into groups of fewer than six students, you will be able to circulate among the groups, addressing questions and clarifying any confusion the students may have about the material. Working in groups lowers the students' stress levels. Once you have left the front of the room, you will find that the students ask more questions of you than you can answer individually. Individual interaction between you and the students helps them not only to master the material but to view you as someone who is there to help them instead of as an authority figure.

Group work is also an effective means of helping weaker students by placing them in groups with stronger students. Besides the obvious advantage to weak students, the use of groups allows strong students to share their understanding of the material, which in turn empowers them, since by teaching they are actually reviewing and therefore relearning as they assist the others.

There are many techniques for putting students into groups. One of the most common is counting off. To determine the number of groups you need, divide the number of students in the room by the size of the group you want. For example, if there are thirty students and you wish groups of three, you will have ten groups. Now begin the count off. Ask a student to say aloud "one" and then the next

“two,” and so on. When a student reaches ten, the next student begins again with “one.” After the count off is finished, direct the students to move into groups with the other students who have the same number.

This method is designed so that the students get to know others in the class rather than always working with their friends, which is likely to occur if they are allowed to choose their own partners. Getting to know their fellow students is one way to ease the stress that some students feel when speaking in front of the class.

- For **pair work**, you can pass out an equal number of red and green cards and say, “Work with someone with the same color card.” For greater variety in forming pairs, pass out multicolored cards and have the students work with someone who has the same color card. Although you may end up with one group of three, that is not a problem.

- There are also nonverbal activities to use. Often legal English classes are quite large. To assist in **active participation**, you can use colored pieces of paper (such as telephone pads or index cards) to help you make sure that everyone is “with the program.” At the beginning of the semester, give each student two cards, one red and one green, that they should bring with them every lesson. During the class, you or others can ask questions that require “voting” or answering with the cards. For example, if a student answers one of the opinion questions, you can say, “Green if you agree with X; and red if you disagree.” Or, “Green if you think the defendant’s demurrer will be granted; red if not.” Then all the students must raise the colored card that matches their stance. From the answers shown by the students, you will be able to choose who will have to defend each side of the topic.

This type of activity, requiring movement from the students, is ideal for students who learn using the kinesthetic or tactile learning styles to process information. We all have different learning styles, and one of the teacher’s responsibilities in the classroom is to try to appeal to as many learning styles as possible so that every student has a chance to learn.

- In addition to the techniques discussed above, you might also want to give some extra thought to **how you arrange your classroom**. Whenever doing group work, you should encourage them to informally arrange their desks or tables in a circle. Arranging the desks or tables in group circles of six or less physically reinforces the idea that you, as instructor, are only one part of the classroom—not the main part.

- Another thing to consider is **how to handle questions**. Since the goal of the course is twofold—teaching English in a legal context and presenting a simplified introduction to legal basics—questions cannot be handled in quite the same way as they might in a law class, where it is the content that is highlighted.

In the language learning environment questions are encouraged because they are attempts to communicate in the target language, and they are also opportunities to reinforce both English and content knowledge.

However, the Socratic method used in many law schools will not always work in other cultures (see Chap. Two, Level IV: high-context/low-context cultures) because students feel singled out for attention and there is too great an opportunity for failure in societies that value consensus, not competition.

We know from cognitive science that students learn best when they feel they are in a safe environment. The instructor must try to lower the stress level in a class so that students can trust the instructor and the other students not to “enjoy” their mistakes, which will be plentiful as they try new structures and functions.

If your class is very large and/or the students are shy, you may wish to create a Q-board near the door. The Q-board is just anything to which notes can be attached (either with thumbtacks or with sticky notes). Leave a pad of sticky notes and a pen near the Q-board and tell students to write and leave any questions they might have. You make a point of gathering the questions written on the Q-board at the beginning of every class and, while the students are doing some form of group work, go over the questions to decide which you can work into the review portion of the lesson and which will need to be addressed as stand-alone items. Never ask who wrote a specific question. It is the anonymity that allows this technique to work and lowers the affective filter by eliminating stress.

Hopefully, these suggestions will prove of assistance to you as you teach your legal English course. There is no way to combine all English language teaching methodology into a few short paragraphs, but with these few notes you will be better equipped to deal with some of the issues in an ESL/EFL classroom.

Notes to Instructors with No Legal Training

Though you may feel daunted by the task ahead of you, remember that you already know how to teach the English aspect of this course, and you will apply many of the same techniques regardless of the content of the course. However, there are some important things to keep in mind.

- American statutes are written in very general terms for a number of different reasons. Case law is the interpretation of those statutes, and case law changes in response to the concerns of the society. This is why attorneys must constantly check to see if new cases have changed the laws they are using in any way that might help or hurt their current case. This aspect of the American legal system allows a great deal of leeway in the discussion of the cases we've provided, and it is through that discussion that English is practiced and, hopefully, mastered.

- Use the Internet! We cannot stress strongly enough how much amazing and fairly simple legal information is available for free on the Internet. There are video clips, legal dictionaries, statutes, explanations, sound recordings of famous lawyers and judges, and even parts of complete courses from American law schools! Sample sites include

www.lawcrawler.com

www.ilrg.com

www.law.cornell.com

www.yahoo.com/law

court.it-services.nwu.edu/oyez/ (oral arguments for some U.S. Supreme Court cases)

www.courtstv.com (video clips, games, and audio recordings)

www.nolo.com/sharktalk/sharktalk.html (legal vocabulary game)

- This course is not intended as a conclusive summary of American law but merely as a brief introduction. Since it is an introduction, it stresses basic skills that all lawyers must master: reading closely and critically, writing clearly, and arguing clearly and concisely. All of those skills you will probably have taught before; legal English is merely a refinement of certain aspects of those skills.
- Many of the exercises and activities in the book call for student expertise and opinion. Students bring a huge body of knowledge of their own legal systems and legal experiences into the classroom. You have access to that knowledge and can make use of it through group work, activities, and classroom discussion. In this Instructor's Manual, we have simply put "student opinion" or "student resource" when the students must provide the correct or appropriate material.
- Finally, remember that you are functioning as a facilitator in the classroom and, as such, can guide the students through the book to a greater and more thorough understanding of the language skills that they need in order to handle the content of the course effectively. Enjoy the challenge and enjoy the chance to learn a bit about the law. Remember, we are all learners in the classroom.

Notes on Using the Exercises and Flash Reviews

We have included many types of exercises and reviews. Some are quite simple and others are very complicated.

- As you look through the exercises and prepare for class, don't hesitate to skip any that seem inappropriate for your students or for you. It is not essential to do all of them. We would suggest that you alternate between group work, individual work, oral work, and written work.