



**SOUTH DAKOTA BOARD OF REGENTS**  
**ACADEMIC AFFAIRS FORMS**  
**Substantive Program Modification Form**

|                               |                      |
|-------------------------------|----------------------|
| <b>UNIVERSITY:</b>            | <b>USD</b>           |
| <b>CURRENT PROGRAM TITLE:</b> | <b>Law, J.D.</b>     |
| <b>CIP CODE:</b>              | <b>22.0101</b>       |
| <b>UNIVERSITY DEPARTMENT:</b> | <b>Law</b>           |
| <b>UNIVERSITY DIVISION:</b>   | <b>School of Law</b> |

**University Approval**

*To the Board of Regents and the Executive Director: I certify that I have read this proposal, that I believe it to be accurate, and that it has been evaluated and approved as provided by university policy.*

Elizabeth M. Freeburg

5/8/18

Vice President of Academic Affairs or  
 President of the University

Date

**1. This modification addresses a change in:**

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Total credits required within the discipline | <input type="checkbox"/> Total credits of supportive course work |
| <input checked="" type="checkbox"/> Total credits of elective course work        | <input type="checkbox"/> Total credits required for program      |
| <input type="checkbox"/> Program name  | <input type="checkbox"/> Existing specialization                 |
| <input type="checkbox"/> CIP Code  | <input checked="" type="checkbox"/> Other (explain below):       |

In addition to adding one new graduation requirement, we wish to alter the menus of courses from which students may select when satisfying our graduation requirements.

We also wish to modify slightly the current 3+3 program that exists between the College of Arts and Sciences and the Law School by expanding it and allowing it to encompass the remaining undergraduate programs at USD.

**2. Effective date of change: 8/1/2018**

**3. Program Degree Level (place an "X" in the appropriate box):**

Associate  Bachelor's  Master's  Doctoral

**4. Category (place an "X" in the appropriate box):**

Certificate  Specialization  Minor  Major

**5. If a name change is proposed, the change will occur (place an "X" in the appropriate box):**

- On the effective date for all students
- On the effective date for students new to the program (enrolled students will graduate from existing program)

**Proposed new name:** N/A

**6. Primary Aspects of the Modification (add lines or adjust cell size as needed):**

Existing Curriculum

Proposed Curriculum (Highlight Changes)

| Current Program Name: Law, J.D.  |     |   |           | Proposed Program Name: No Change   |     |                                       |           |
|--|-----|---|-----------|--|-----|---------------------------------------|-----------|
| Pre  | Num | Title                                   | Cr Hrs    | Pre  | Num | Title                                 | Cr Hrs    |
| <b>First Year Curriculum</b>   |     |   |           | <b>First Year Curriculum</b>   |     |                                       |           |
| LAW  | 706 | Civil Procedure I                       | 3         | LAW  | 706 | Civil Procedure I                     | 3         |
| LAW  | 756 | Civil Procedure II                      | 3         | LAW  | 756 | Civil Procedure II                    | 3         |
| LAW  | 702 | Contracts I                             | 2         | LAW  | 702 | Contracts I                           | 2         |
| LAW  | 752 | Contracts II                            | 3         | LAW  | 752 | Contracts II                          | 3         |
| LAW  | 704 | Criminal Law                            | 3         | LAW  | 704 | Criminal Law                          | 3         |
| LAW  | 754 | Criminal Procedure                      | 3         | LAW  | 754 | Criminal Procedure                    | 3         |
| LAW  | 703 | Property                                | 4         | LAW  | 703 | Property                              | 4         |
| LAW  | 707 | Fundamental Legal Skills I              | 3         | LAW  | 707 | Fundamental Legal Skills I            | 3         |
| LAW  | 757 | Fundamental Legal Skills II             | 2         | LAW  | 757 | Fundamental Legal Skills II           | 2         |
| LAW  | 701 | Torts                                   | 4         | LAW  | 701 | Torts                                 | 4         |
| LAW  | 708 | Legal Research Foundations              | 1         | LAW  | 708 | Legal Research Foundations            | 1         |
| LAW  | 709 | Foundations of Law                      | 1         | LAW  | 709 | Foundations of Law                    | 1         |
| <b>Subtotal:</b>   |     |   | <b>32</b> |  |     |                                       |           |
| <b>Second and Third Year Curriculum</b>  |     |   |           | <b>Second and Third Year Curriculum</b>  |     |                                       |           |
| LAW  | 810 | Constitutional Law I                    | 4         | LAW  | 810 | Constitutional Law                    | 4         |
| LAW  | 823 | Evidence                                | 3         | LAW  | 823 | Evidence                              | 3         |
| LAW  | 857 | Professional Responsibility             | 3         | LAW  | 857 | Professional Responsibility           | 3         |
| <i>Select one code course from the list below (min. 3 cr hrs)</i>  |     |   |           | <i>Select one code course from the list below (min. 3 cr. hrs)</i>   |     |                                       |           |
| LAW  | 824 | Federal Income Tax                      | 3         | LAW  | 824 | Federal Income Tax                    | 3         |
| LAW  | 832 | Secured Transactions                    | 3         | LAW  | 832 | Secured Transactions                  | 3         |
| LAW  | 833 | Sales and Leases                        | 3         | LAW  | 833 | Sales and Leases                      | 3         |
| LAW  | 878 | Environmental Law                       | 3         | LAW  | 878 | Environmental Law                     | 3         |
|  |     |   |           | LAW  | 854 | Debtor-Creditor Rights                | 3         |
| <b>Select 6 credit hours from the following courses which will meet the experiential learning requirement+</b>   |     |   |           | <b>Select 6 credit hours from the following courses which will meet the experiential learning requirement+</b>   |     |                                       |           |
| LAW  | 815 | Discovery Practice: Select Issues       | 3         | LAW  | 815 | Discovery Practice: Select Issues     | 3         |
| LAW  | 827 | Legislation                             | 3         | <b>Delete</b>  |     |                                       |           |
| LAW  | 850 | Mediation                               | 3         | <b>Delete</b>  |     |                                       |           |
| LAW  | 855 | Trial Techniques                        | 3         | LAW  | 855 | Trial Techniques                      | 3         |
| LAW  | 882 | Negotiation and Settlement              | 3         | LAW  | 882 | Negotiation and Settlement            | 3         |
| LAW  | 869 | SD Drafting and Legal Practice          | 3         | LAW  | 869 | Law Practice Drafting                 | 3         |
| LAW  | 821 | Topics: Low Income Taxpayer Clinic I++  | 3         | LAW  | 821 | Low Income Taxpayer Clinic            | 3         |
| LAW  | 822 | Topics: Low Income Taxpayer Clinic II++ | 3         | LAW  | 822 | Low Income Taxpayer Clinic II         | 3         |
| LAW  | 844 | Externship+++                           | 1-6       | LAW  | 844 | Externship                            | 1-6       |
|  |     |   |           | LAW  | 859 | Antitrust Law and Consumer Protection | 3         |
|  |     |   |           | LAW  | 813 | Tax Practice and Skills Practicum*    | 2         |
|  |     |   |           | <b>Third Year Curriculum</b>   |     |                                       |           |
|  |     |   |           | LAW  | 835 | Critical Legal Skills*                | 2-3       |
| Electives in one of the following course tracks: Business Law, Civil Litigation, Commercial Law, Constitutional Law, Criminal Law & Procedure, Employment Law, Environmental Law, Estate Planning, Indian Law, Real Estate Law, or Tax Law   |     |   | 39^       | Electives in one of the following course tracks: Business Law, Civil Litigation, Commercial Law, Constitutional Law, Criminal Law & Procedure, Employment Law, Environmental Law, Estate Planning, Indian Law, Real Estate Law, or Tax Law   |     |                                       | 36-37     |
| <b>Note:</b> Students must fulfill the Law School's Upper-Level Writing Requirement either through successful completion of a designated writing course or under faculty supervision in the production of a significant written product, e.g., appellate brief, law review article, research paper, etc. |     |   |           | <b>Note:</b> Students must fulfill the Law School's Upper-Level Writing Requirement either through successful completion of a designated writing course or under faculty supervision in the production of a significant written product, e.g., appellate brief, law review article, research paper, etc. |     |                                       |           |
| <b>Total number of hours required for degree</b>   |     |   | <b>90</b> | <b>Total number of hours required for degree</b>   |     |                                       | <b>90</b> |

## 7. Explanation of the Changes:

**We wish to make two categories of changes: (1) Overall programmatic changes; and (2) Modifications to the 3+3 program**

### **Overall programmatic changes**

First, the Law School seeks removal of LAW 827 and LAW 850 as courses which will satisfy the experiential learning requirement. LAW 827 and LAW 850 are both simulation courses taught by adjuncts rather than full-time faculty, so culling those courses from the list of classes which can satisfy the graduation requirement is a sensible choice. The ABA accreditation standards impose a number of requirements on courses before they can be used to satisfy the experiential learning requirement, and the Law School would prefer at this time to lodge responsibility for compliance in the hands of full-time faculty members.

The Law School wishes to add LAW 813\* and LAW 859 to the menu of courses from which students may select that will satisfy the experiential learning requirement. LAW 813 is a live-client course. At present, our only live-client courses are LAW 821/822 (the year-long Low Income Tax Clinic) and LAW 844 (the Externship program). Live-client opportunities are excellent forms of practical training, and adding LAW 813 to the list of courses that will satisfy the graduation requirement will further incentivize students to seek out that experience. LAW 859 is a simulation course, but it will be taught by a full-time faculty member who will devote the proper attention to ensuring compliance with the ABA accreditation standards governing experiential learning courses.

The Law faculty has also approved the addition of LAW 854, Debtor-Creditor Rights, to the menu of courses from which students may select in order to satisfy their code requirement. This course pays special attention to the United States Bankruptcy Code and requires students to examine key provisions, interpret them, and apply them. It is an appropriate addition to the list of courses which will satisfy the graduation requirement.

Finally, the Law School would like to add LAW 835\* as a graduation requirement. The Critical Legal Skills course will strengthen students' analytical abilities as they prepare to study for and take the bar examination. The new requirement will result in no more than a 3-credit elective reduction.

\*N.B. We are simultaneously seeking new course approval for LAW 813 and LAW 835 on parallel tracks.

### **Modifications to the 3+3 Program**

Per the recommendation of the Task Force, the Law School would like to expand student opportunities to participate in the accelerated option provided by the 3+3 program, along two dimensions: (1) we would like to expand the program as a general proposition (at present, with an eye toward including undergraduate students from the Beacom School of Business, and with an eye toward other USD programs in the future), and (2) we would like to modify the current structure of the program by discarding the requirement that participants take and satisfactorily complete a class taught by Law School faculty. As noted when we first adopted the program, this is not only a cost-effective way for students to earn both an undergraduate degree and a JD in six, instead of seven years, but also, it helps the Law School remain competitive: quite a few law schools, including our regional competitors, offer 3+3 programs.

The 3+3 program, as *previously* approved, is structured as follows. Students must:

- Be enrolled in USD's College of Arts and Sciences;
- Submit an intent form for the 3+3 program by the add/drop deadline of the third semester of college;
- Earn 90 undergraduate credits by the end of the junior year;

- Meet all major, distribution and testing requirements by the end of the junior year;
- Have a minimum 3.25 cumulative GPA by the end of the junior year;
- Earn a 152 on the LSAT, which must be taken no later than December of the final undergraduate year;
- Enroll in the 3+3 Specialized Course taught by the Law School and earn the minimum equivalent of a 75, or a C, during the junior year;
- Complete all standard admissions requirements for the School of Law, including submission of the [application](#) and all application materials through the [Credential Assembly Service](#), no later than April 1 of the year in which the student plans to enroll in the law school;
- Obtain a letter of recommendation from the chair of the department, attesting not only to the student's intellectual strengths, but also his or her maturity, work ethic and overall readiness for graduate school (in additions to the two letters of recommendation required by the law school admissions process);

Students must also obtain a final degree audit from the Office of the Registrar attesting to the fact that they have successfully achieved all minimum requirements (90 credits, including satisfaction of the major, distribution and testing requirements) prior to enrolling. Participants in 3+3 transfer back to the undergraduate program the law credits they have earned after the completion of the first year of law school. Upon the transfer and ultimate acquisition of 120 credits, the undergraduate degree will issue. Those same 1L credits will also count toward the satisfaction of the JD.

The Law School is now proposing to **eliminate** the following past requirements: "Be enrolled in USD's College of Arts and Sciences," and "Enroll in the 3+3 Specialized Course taught by the Law School and earn the minimum equivalent of a 75, or a C, during the junior year." The remaining requirements would stay in place; in particular, we do not wish to end our existing relationship with the College of Arts of Sciences. Rather, we seek the ability to expand any potential relationship with the remaining undergraduate colleges at USD. There are two reasons for this. First, even though we are focusing on the Business School at present, creating a framework into which both they and the remaining programs can fit – subject to the approval of those schools, the Law School, and the USD Office of Academic Affairs – would allow us the necessary flexibility to move forward with expanding 3+3 in the future. Eliminating the College of Arts and Sciences restriction will allow us to achieve this goal. Second, there is no added benefit in requiring students to take the Law School course. Students who have otherwise met the academic criteria we established are presumptively ready to come to graduate school, and successful completion of the course does not further illuminate our ability to make that determination. Moreover, undergraduate students who participate in 3+3 must carefully structure their plan of study in order to complete the necessary requirements by the end of the junior year. Achieving this goal is sufficiently difficult that adding a Law School course which does not meaningfully help us evaluate their abilities is primarily a burden for the students. Removing this requirement will operate to their benefit.