

**One School's Approach to Curriculum Design:
Achieving Consensus on the Essential Knowledge, Skills and Values
In a Program of Legal Education**

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I. INTRODUCTION

Faculty determination of the goals of a law school's program of legal education forms the core of faculty governance in American legal education. For a law school accredited by the American Bar Association, the dean and faculty formulate the school's educational program, including its curriculum.¹ Achieving faculty consensus on the goals of the program of legal education is important, but is insufficient as an ending point. Articulating the knowledge, skills and values a student should have by the time of graduation from law school allows the faculty to make informed decisions as it designs and revises the school's curriculum to achieve the identified goals. Reaching consensus requires using a process that engages a wide cross section of faculty members and other constituencies, and results in a statement of educational goals with sufficient specificity that it can be used to assess the current curriculum and determine what changes are required.

Every law school accredited by the American Bar Association ("ABA") has a mission statement. One does not need to research each school to determine this; the fact that the school is ABA-accredited means it has a mission statement, as that is a requirement for accreditation.² Schools receive guidance on what achieving its mission must include, as an ABA-accredited school must "maintain an educational program that prepares its students for admission to the bar, and effective and responsible participation in the legal profession."³ Standard 302, which sets out in a very general way what a school's curriculum must include,⁴ provides further guidance. Within these parameters, the law school faculty has significant flexibility to determine how it will meet the accreditation standards while working to achieve the goals established by the school's mission statement.

II. REACHING A BROAD-BASED CONSENSUS

Mission statements are often written at a very high level of generalization. By way of example, the mission statement adopted by the faculty of the University of Arkansas at Little Rock William H. Bowen School of Law ("Bowen School of Law") states:

The mission of the University of Arkansas at Little Rock William H. Bowen School of Law is to be a diverse community of faculty and students; to provide access to a full and part-time skills-intensive program of high quality legal education; to equip students with knowledge,

¹ ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, 2010-2011 STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS Standard 205(b) (2010) [hereinafter ABA STANDARDS].

² ABA STANDARDS, *supra* note 1, Standard 202.

³ ABA STANDARDS, *supra* note 1, Standard 301(a).

⁴ Standard 302 requires instruction in substantive law, legal analysis and reasoning, legal research, problem solving, oral communication, writing, professional skills necessary for participation in the legal professions, and professional responsibility. Standard 302 further requires that the program of legal education include substantial opportunities for live-client or other real-life practice experiences, participation in pro bono activities, and small group work. ABA STANDARDS, *supra* note 1, Standard 302.

skills and values; and to assist in solving challenging social and legal problems through scholarship and public service.⁵

The Bowen faculty quickly reached consensus on the law school's mission statement; deciding exactly what the mission statement meant in terms of the curriculum did not occur so quickly. But inclusion of "equip[ing] students with knowledge, skills and values" in the mission statement provided an obvious starting point, and the necessary focus for a review of the curriculum in light of the mission statement.

Charged by the school's dean to develop a draft set of core competencies and report on the same to the faculty, the Bowen School of Law Curriculum Committee undertook development of a statement of the knowledge, skills and values that graduates of the Bowen School of Law should possess. Committee members decided at the outset that involvement of all constituencies – faculty, administration, librarians, students, and members of the bench and bar – would lead to the best statement of core competencies, as well as increase the probability of the entire faculty reaching a consensus on what the program of legal education should achieve. Fortunately, the structure of the Curriculum Committee itself included all but one of the identified constituencies. The committee membership included doctrinal faculty, clinical faculty, library faculty, two students, and an associate dean.

Committee members read *Educating Lawyers*⁶ and discussed how its conclusions and the school's mission of equipping students with knowledge, skills and values suggested a basis for a thorough review of the school's program of legal education. Fortunately, the committee did not need to reinvent the wheel. Early in its discussions, the committee recognized the value of the statements of fundamental lawyering skills and fundamental values of the profession identified in Chapter Five of the Report of the Task Force on Law Schools and the Profession.⁷ Moreover, the substantial body of work that looks at legal education, its goals, and adopting a curriculum that achieves identified goals, provided additional ideas for consideration.⁸ Building on the work of the Task Force on Law Schools and the Profession, committee members offered ideas from many different sources. Concurrently with the early work of the committee, the school's dean arranged a meeting for committee members with the members of the Dean's Advisory Council (a group comprised of practicing lawyers and judges). In that meeting, the committee listened during an open forum discussion by members of the Council on what knowledge, skills and values a graduate of the Bowen School of Law should possess.

Once the committee completed its review of the basic materials, the chair of the committee prepared an initial draft of a knowledge, skills and values statement, incorporating all of the ideas generated in committee discussions and in the open forum conducted by the Dean's Advisory Council. The committee thoroughly discussed that initial draft, making preliminary decisions on what to omit, what to revise, and what to edit. Members of the committee volunteered to rewrite specific portions, which the chair then used to prepare a second draft statement. Through a series of meetings over a period of several months, and a continuing email exchange of comments, ideas,

⁵ Copy on file with the author.

⁶ William M. Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond & Lee S. Shulman, *Educating Lawyers*, (Jossey-Bass 2007).

⁷ American Bar Association Section of Legal Education & Admissions to the Bar, *Legal Education and Professional Development – An Educational Continuum, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap* 138-141 (ABA 1992).

⁸ See generally e.g. Gordon T. Butler, *The Law School Mission Statement: A Survival Guide for the Twenty-first Century*, 50 J. Leg. Educ. 240 (2000); Bryant G. Garth & Joanne Martin, *Law Schools and the Construction of Competence*, 43 J. Leg. Educ. 469 (1993); Judith Welch Wegner, *The Curriculum: Patterns and Possibilities*, 51 J. Leg. Educ. 431 (2001).

and suggested revisions, the committee refined the draft statement. Once the Committee agreed that all basic components of the statement were in place, agreeing on the final wording for the statement began.

Not surprisingly, this process revealed that committee members in fact had differing ideas about what each conceptual element of the draft statement actually meant. Agreeing to the exact phrasing of each part of the statement, combined with reaching agreement on the format of the statement, resulted in nuanced changes to the draft. This was a time-consuming process, but all members of the committee agreed on the importance of the committee unanimously approving the statement prior to presenting it to the full faculty of the school. Some drafting and revision occurred in meetings of the committee; some occurred through a continuing exchange of emails among committee members. After almost a year of intensive work, the committee forwarded its unanimously adopted UALR William H. Bowen School of Law Statement of Educational Goals Concerning Knowledge, Skills, and Values⁹ to the faculty for review and, hopefully, adoption by the entire faculty. The faculty unanimously approved the proposed statement.

III. NEXT STEPS

Faculty adoption of the statement completed phase one of the project. The committee is now using that statement to map the identified knowledge, skills and values onto the school's existing curriculum. As part of that effort, the committee will determine which elements of the adopted statement are currently met on a satisfactory level; which elements are touched upon but not in sufficient depth; and which elements are missing. At that point, the final step in this process will be possible – determining how the curriculum of the Bowen School of Law needs to be revised and strengthened so that the program of legal education indeed achieves the mission of the school.

IV. REFLECTIONS ON PROCESS

Faculty approval occurred in November 2010. Since that time, the author of this paper, who chaired the Curriculum Committee, has reflected on the successful results of the committee's work, and tried to determine what led to the development of a statement on which there was not only broad consensus, but actually unanimous agreement, within the faculty. cursory research into successful strategic planning and achieving consensus revealed a substantial body of work outlining how to achieve consensus in a period of change or strategic planning, including how to take advantage of various points of view, as well as how the process can work with participants representing different constituencies.¹⁰ The groups represented on the Curriculum Committee were determined by the faculty some years ago; based on the literature reviewed, the composition of the committee and the procedures and process used to draft the statement could serve as a case study on how to effectively incorporate ideas from differing perspectives into a statement which all can and will embrace. Even though law school governance, which has shared responsibility between the collective faculty and the dean, does not parallel a typical management structure in an American business, the means to achieve consensus in matters important to the enterprise – whether the enterprise is educating future lawyers or operating a profitable business – are similar.

⁹ The faculty-approved Statement of Educational Goals Concerning Knowledge, Skills, and Values is set out in Appendix A to this paper.

¹⁰ See generally e.g. Robert S. Dooley & Gerald E. Fryxell, *Attaining Decision Quality and Commitment from Dissent: The Moderating Effects of Loyalty and Competence in Strategic Decision-Making Teams*, 42 Acad. Mgt. J. 389 (1999); Livia Markóczy, *Consensus Formation During Strategic Change*, 22 Strat. Mgt. J. 1013 (2001); Steven W. Floyd & Bill Wooldridge, *Managing Strategic Consensus: The Foundation of Effective Implementation*, Vol. 6, No. 4 Acad. Mgt. Exec. 27 (1992).

A charge provided from the top (for example, a law school dean) to a body (a faculty committee inclusive of the constituencies within the school) free to determine how to achieve the charge, in an atmosphere that respects and encourages the free expression of ideas by people with a common goal, provides a path to success. Having the work guided by the organization's mission statement – to provide the best possible program of legal education to the students of the UALR William H. Bowen School of Law – assures its relevance.

Appendix A

UALR William H. Bowen School of Law Statement of Educational Goals Concerning Knowledge, Skills, and Values

A. KNOWLEDGE. Every graduate should have knowledge and understanding of the following at a level sufficient to practice ethically as a lawyer and to pass the bar examination in any United States jurisdiction:

1. The organization, hierarchy and relationships of legal systems;
2. The sources of primary law and the ways they relate to one another;
3. The nature of legal rules and institutions;
4. The fundamental sources and tools of legal research;
5. The principles of the fundamental areas of American substantive law, including civil procedure, constitutional law, contracts, criminal law and procedure, evidence, property, and torts;
6. The nature, sources, and content of ethical standards applicable to lawyers and the practice of law in the United States; and
7. Sound principles of law office management.

B. SKILLS. Every graduate should have the following skills:

1. To engage in effective problem solving by:
 - a. working cooperatively as part of a team;
 - b. identifying and diagnosing problems;
 - c. generating alternative solutions and strategies;
 - d. developing and implementing plans of action; and
 - e. keeping the planning process open to new information and ideas.
2. To comprehend legal texts and apply the legal principles extracted from the texts to new factual circumstances – the two fundamental components of legal reasoning – at a high level of proficiency by:

- a. comprehending a legal text, such as a case, a statute, an administrative rule, a secondary source, or a contract (for example, graduates should be capable of extracting the governing legal rules from a single judicial decision);
 - b. comprehending a series of legal texts and synthesizing them into a coherent legal narrative, including the ability both to harmonize apparently conflicting authorities and to recognize genuinely conflicting authorities (for example, graduates should be capable of extracting the governing legal rules from a series of judicial decisions on a particular topic); and
 - c. applying governing legal principles to factual situations, including the abilities to spot issues, to formulate issues, to develop potential legal solutions, and to assess their validity (for example, graduates should be capable of reviewing a client's factual narrative, spotting legal issues raised by the narrative, and developing legal solutions to address the situation, such as causes of action and legally operative acts).
- 3. To conduct effective and efficient legal research by developing a research strategy, identifying potentially relevant sources of law, locating legal texts that provide the governing legal principles for a factual situation, and understanding the role that legal reasoning plays in legal research.
 - 4. To write an objective memorandum predicting the resolution of one or more legal issues.
 - 5. To write a substantial brief advocating a position for a client.
 - 6. To draft a legally effective document other than in the litigation context (for example, a contract or a will).
 - 7. To conduct factual investigation by:
 - a. determining its need;
 - b. planning and implementing an investigative strategy;
 - c. interviewing clients and other persons to obtain information necessary to the fact-gathering process;
 - d. memorializing and organizing information in an accessible form;
 - e. deciding whether and when to conclude the fact-gathering process; and
 - f. evaluating the information that has been gathered.
 - 8. To communicate effectively orally and in writing by:
 - a. presenting material in a clear, concise, well-organized, and professional manner that is appropriate to the audience and circumstances; and

- b. using effective listening techniques.
- 9. To counsel clients about decisions or courses of action by:
 - a. establishing an appropriate relationship within the nature and bounds of the lawyer's role;
 - b. identifying the needs, goals, and objectives of a client in a given context;
 - c. developing potential strategies to implement the identified needs, goals, and objectives;
and
 - d. assessing with the client potential strategies to meet the identified needs, goals, and objectives.
- 10. To implement a client's decision by preparing for and conducting:
 - a. negotiations;
 - b. litigation at the trial and appellate levels; and
 - c. advocacy in administrative, executive, or other dispute resolution forums.
- 11. To practice effectively by:
 - a. formulating goals and principles for effective practice management;
 - b. developing systems and procedures to ensure the efficient allocation of time, effort, and resources, and the timely performance and completion of work; and
 - c. facilitating effective working relationships.
- 12. To represent a client consistently with ethical standards by:
 - a. recognizing potential ethical issues; and
 - b. resolving actual issues in accordance with the applicable rules governing professional conduct.

C. VALUES. Every graduate should understand and exemplify the following values:

- 1. As a member of a profession dedicated to the service of clients, a commitment to professionalism and to the rules of professional responsibility, including:
 - a. attaining and maintaining a level of competence in the lawyer's own field(s) of practice;
 - b. representing clients in a competent manner;

- c. increasing the lawyer's knowledge of the law and improving the lawyer's practice skills; and
- d. other aspects of professionalism, including honesty, integrity, reliability, respect for others, diligence and hard work, maturity, and judgment.

2. As a member of a profession that bears special responsibilities for the quality of justice, a commitment to:

- a. promoting justice, fairness, and morality in the lawyer's practice in harmony with the lawyer's ethical duties to clients;
- b. contributing to the profession's fulfillment of its responsibility to ensure that adequate legal services are provided to those who cannot afford to pay for them;
- c. contributing to the profession's fulfillment of its responsibility to enhance the capacity of law and legal institutions to do justice; and
- d. showing respect for all people.

3. As a member of a self-governing profession, a commitment to:

- a. participating in activities designed to improve the profession;
- b. assisting in the training and preparation of new lawyers; and
- c. striving to rid the profession of prejudice based on race, religion, national or ethnic origin, gender, sexual orientation, disability, age, or socio-economic status, and to rectify the effects of those prejudices.

4. As a member of a learned profession, a commitment to:

- a. selecting and maintaining employment that will allow the lawyer to develop as a professional and to pursue the lawyer's professional and personal goals; and
- b. living a balanced life.