

Developing a Model for Curriculum Assessment

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Abstract:

A number of factors in recent years have caused U.S. law schools to take on the task of reforming their curricula. These factors include (1) the publication of two recent influential books on legal education, *Educating Lawyers*^{*} and *Best Practices for Legal Education*⁺, (2) the effect of economic distress on the job market traditionally open to law graduates, (3) the expanding international practice of law, (4) the push for additional assessments of the skills acquired by law graduates, and (5) the increasing costs of legal education. Any effort to consider these factors in the determination of the appropriate curriculum content, should lead each law school approaching such an endeavor to determine what information it needs to make an informed decision and how to gather the information. The gathering of information can involve both internal and external sources. The information gathered should assist each school in determining the actions that are available or required for its curriculum reform or validation. In this paper, I suggest a process that can be used by schools facing the challenge of curriculum reform.

Law schools around the world are developing, reviewing, reforming, and revising their curriculums.¹ In recent years, many of the efforts to reform U.S. law curriculums have been driven by reports that have been critical of the standard methods used to train new lawyers. Much of the discussion has been centered on the need to implement more experiential education techniques in the curriculum. Legal education in the U.S. and other countries has been viewed by many as serving a purpose broader than training new lawyers. Many law graduates assume roles as leaders in government, business owners, academics, or practitioners in alternative methods of dispute resolution such as mediation or arbitration. They may either never or only briefly engage in the practice of law. Therefore, a law school curriculum should reflect the specific career goals of its graduates as well as the external forces that may affect those goals.

^{*} WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (2007).

⁺ ROY STUCKEY ET AL., *BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP* (2007).

¹ See, e.g., Shiwen Zhou, "The Reform Strategy of Legal Education in China", 22 *Global Business & Development Law Journal* 6, 2009 available at http://www.mcgeorge.edu/Documents/centers/global/usaidd_08_Zhou%20Master.pdf; María Concepción Molina, "Teaching Law in Spain under the Bologna Process. Challenges of innovation rooted in a particular educational tradition", 5 *European Journal Of Legal Education* 4, March 2009; Andreas Bücker and William A. Woodruff, *The Bologna Process and German Legal Education: Developing Professional Competence through Clinical Experiences*, 9 *German Law Journal* 575, 2008; Anatoly Kapustin, "The Bologna Process: Practical Steps for Russian Law Schools", 35 *International Journal of Legal Information* 244, Summer 2007; S. Kift "Curriculum Renewal in Law to Meet the Needs of Global Practice: Embedding and Assessing Skills Acquisition" invited paper presented at Association of American Law Schools (AALS) Conference on Educating Lawyers for Translational Challenges May, 2004 Oahu, Hawaii, USA available at <http://www.aals.org/international2004/Papers/KIFT.pdf>; S. Kift, *Harnessing Assessment and Feedback to Assure Quality Outcomes for Graduate Capability Development: A Legal Education Case Study*, December 2002 available at <http://www.aare.edu.au/02pap/kif02151.htm>; Reform of the Law Faculty Curriculum of the University of Sarajevo available at <http://www.iecob.net/main/research-projects/74-reform-of-the-law-faculty-curriculum>

I. Internal Assessment

A. The Mission Statement

The establishment of a curriculum must take the varying purposes of legal education into consideration along with the goals that a particular law school is trying to achieve. These goals are often expressed in a law school's published mission statement. U.S. law schools are required by the legal education accrediting agency,² to "develop a written self-study, which shall include a mission statement."³ This requirement suggests that every U.S. law school has a mission statement and that the statement is published and readily available. Some commentators have suggested that not all law schools have published their mission statements and perhaps do not even have one.⁴ Even if the law faculty has already identified some aspects of the curriculum that are in need of change, consideration of the existing mission statement or the development of one if it does not exist is a good place to start the process of curriculum review. This process can occur either as a regular part of the law school's strategic planning process or at the beginning of the curriculum review. This process will assist each school in clearly defining its goals and objectives and assessing both the internal and external situations that affect the ability to achieve the mission. It may also lead to a consideration of the possibility that adjustments should be made to the stated mission.

Some missions are stated in very broad term, such as "Our mission is to give our students the best possible learning experience,"⁵ or in more specific detail defining both the educational and scholarly/research missions of the law school.⁶ A religiously affiliated law school often reflects this in their mission with a statement like "as a Catholic law school, is dedicated to integrating faith and reason in the search for truth through a focus on morality and social justice,"⁷ and may have a more complex statement.⁸ A school that is considered to be highly ranked may reflect a different focus in its mission than other schools.⁹ For example, Harvard Law School states its mission simply as "To educate leaders who contribute to the advancement of justice and the well being of society."¹⁰ State law schools may also express a different focus in their missions than expressed by private law schools. The University of Nebraska College of Law includes in its mission the statements that, (1) "The College of Law at the University of Nebraska-Lincoln pursues the tripartite mission of a land grant University -- teaching, research, and service" and (2)" The College also has an obligation to serve the

² The Council and the Accreditation Committee of the American Bar Association (ABA), Section of Legal Education and Admissions to the Bar are recognized by the United States Department of Education (DOE) as the accrediting agency for programs that lead to the J.D. degree. See Title 34, Chapter VI, §602 of the Code of Federal Regulations.

³ 2010-2011 ABA Standards for Approval of Law Schools Standard 202, Self Study, available at <http://www.abanet.org/legaled/standards/2009-2010%20StandardswebContent/Chapter2.pdf>

⁴ See, e.g., Jerome Organ, "Missing Missions: Further Reflections On Institutional Pluralism (Or Its Absence)", 60 J. Legal Educ. 157(2010) (Journal of Legal Education August, 2010) (discussing how in preparation for an article comparing various law school missions of the various types of law schools was unable to find published missions for all law schools) and Gordon T. Butler, The Law School Mission Statement: A Survival Guide for the Twenty-First Century, 50 J. Legal Educ. 240, 242 (2000) (maintaining that not every law school complies with the requirement to have a mission statement and that most who do seldom revisit the statements between accreditation visits).

⁵ See Newcastle Law School Ranked Third in UK by the Sunday Times, published October 5, 2010, (statement of Head of Newcastle Law School Professor Chris Rodgers) available at <http://www.ncl.ac.uk/nuls/about/news/item/newcastle-law-school-ranked-third-in-uk-by-the-sunday-times>

⁶ See, e.g., Mission of the Law School, The University of Chicago Law School, available at <http://www.law.uchicago.edu/school/mission>.

⁷ University of St. Thomas, Our Mission, available at <http://www.stthomas.edu/law/about/mission/default.html>

⁸ See, e.g., Trinity Law School Mission Statement, Trinity Law School Website, available at <http://www.tiu.edu/law/about/mission>

⁹ Gordon T. Butler, The Law School Mission Statement: A Survival Guide for the Twenty-First Century, 50 J. Legal Educ. 240, 242 (2000)

¹⁰ Harvard Law School's Mission/Values, Harvard Law School Website, available at <http://www.law.harvard.edu/about/administration/hr/careers/mission.html>.

citizens of Nebraska by assisting the legal profession and improving the administration of justice.”¹¹ The law school’s curriculum should reflect its mission.

B. Curriculum Examination

Once a law school has a clearly defined mission, it should engage in a process of self-evaluation. This process can be guided either by the dean of the law school or by an individual such as an associate or vice-dean or by a faculty committee charged with the responsibility.

This stage includes both a phase of data collection and one of reflection. The data collection should consist of a review of existing courses offered, content of courses and assessment methods used in the courses. Careful attention should be paid to issues such as required versus elective courses and the frequency of course offerings. For example, if a law school offers specialized programs of study the data may reveal existing barriers that make it difficult for students to complete the requirements for their program.

The self-reflective process should be ongoing through the curriculum review, but in this stage faculty and students can consider the existing data to share opinions on issues such as what courses should be added or even deleted from the course offerings and if the proper or most efficient sequencing of courses exists.

Surveys or interviews of faculty and students can be used in the self-reflective process. The best methods for obtaining data will depend upon each law school’s individual environment. Data that has been collected through national surveys may be of assistance in this process. Student satisfaction surveys such as the National Student Survey (NSS) in the UK¹² and the Law School Survey of Student Engagement (LSSSE) in the US¹³ provide some examples. The LSSSE compiles data on a national as well as an individual school basis.

Since many schools are going through this process, it may be possible to obtain copies of existing curriculum review reports and surveys that can be adapted for your law school.¹⁴

II. External Influences

The external factors in the US include (1) the publication of two recent influential books on legal education, *Educating Lawyers*¹⁵ and *Best Practices for Legal Education*,¹⁶ (2) the effect of economic distress on the job market traditionally open to law graduates, (3) the expanding international practice of law, (4) the push for additional assessments of the skills acquired by law graduates, and (5) the increasing costs of legal education.

The consumers of the product produced by law schools are varied and widespread. Judges lawyers who have historically been viewed as being at the top of this list as employers of the law graduates are beginning to question the curriculums and missions of some law schools. Their opinions are driven in part by the external factors listed above but also by their personal observations. They have questioned the relevance of the

¹¹ The University of Nebraska College of Law By-Laws (2011) (on file with the author).

¹² See National Student Satisfaction Survey (NSSS) at <http://www.thestudentsurvey.com/>

¹³ 2010 Annual Survey Results, Student Engagement in Law School: In Class and Beyond, Law School Survey of Student Engagement available at http://lssse.iub.edu/pdf/2010/2010_LSSSE_Annual_Survey_Results.pdf

¹⁴ One example of such a report is that issued by the University of Kansas Law School (on file with the author)

¹⁵ William M. Sullivan et al., *Educating Lawyers: Preparation For The Profession Of Law* (2007).

¹⁶ Roy Stuckey et al., *Best Practices For Legal Education: A Vision And A Road Map* (2007).

research being done by law professors¹⁷ and the lack of practical training being taught to law students.¹⁸ Job placement and bar examination statistics as well as the success with student recruitment will be helpful at this stage. All of these factors should be considered in connection with a curriculum review.

Law schools are responding both to these factors and the effect of the ever increasing use of technology to address the factors. The consideration of external influences should include a collection of data from other law schools. This data should reflect curricular changes in law schools that are considered your law school's competitors or peers (even aspirational peers). Where possible the motivation for the curricular changes should be identified.

III. Formulation and Implementation of Change

A. Formulation

Proposals for change are often met with resistance.¹⁹ Resistance often occurs because those responsible for its implementation, here the faculty, do not understand or agree that a particular strategy for change should be adopted. If the curriculum review process has successfully accomplished the first steps of looking inward and then looking to external factors, the faculty should be receptive to change. Under this plan, the careful assessment of the curriculum of the law school and how it is influenced by external factors accompanied by communication with the faculty should motivate the adoption of a strategy for change in the curriculum, not just for the sake of change, but for the success of the law school. The proponents of change should be prepared for the possibility that a consensus will be reached that no change is necessary.

Formulation of the strategy for change will evolve with the sharing of information collected and the discussion of this information in faculty meetings or online discussions. The system for sharing the information should assure that it is readily available at all stages of the process. One way to accomplish this is through the establishment of a repository for the information such as a Blackboard course site.

The formulation stage may require a reassessment of the stated mission of the law school, or at least careful reflection as to whether suggested changes are consistent with the school's mission.

B. Implementation

The implementation of curriculum reform must be monitored and adjustments made as needed. It may be necessary to make incremental changes rather than across-the-board reform.

¹⁷ See, e.g., Harry T. Edwards, *Renewing Our Commitment to the Highest Ideals of the Legal Profession*, 84 N.C. L. Rev. 1421, 1423 (2006); Harry T. Edwards, *Reflections (on Law Review, Legal Education, Law Practice and My Alma Mater)*, 100 Mich. L. Rev. 1999, 2001 (2002)

¹⁸ See, e.g., Brent E. Newton, *Preaching What They Don't Practice: Why Law Faculties' Preoccupation With Impractical Scholarship And Devaluation Of Practical Competencies Obstruct Reform In The Legal Academy*, 62 S.C. L. Rev. 105 (South Carolina Law Review) Autumn 2010; Harry T. Edwards, *Reflections (on Law Review, Legal Education, Law Practice and My Alma Mater)*, 100 Mich. L. Rev. 1999, 2001 (2002)

¹⁹ See generally Katherine Mangan, "As They Ponder Reforms, Law Deans Find Schools 'Remarkably Resistant to Change'", *The Chronicle of Higher Education*, February 27, 2011 available at <http://chronicle.com/article/As-They-Ponder-Reforms-Law/126536/> (reporting on conference held to discuss the need for curriculum reform in US law schools).

The timing, resource allocation, and benchmarks for success should be defined before implementation begins. A process for evaluation, regular review and control should also be established with the view that necessary changes may have to be introduced.