

DEVELOPING A SKILLS AND PROFESSIONALISM CURRICULUM—PROCESS AND PRODUCT

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IT is graduation day. Our students are in caps and gowns. They have big smiles. Their family and friends are in the audience, sharing the momentous day. One by one, we call the students' names. They cross the stage and receive the symbols of completing their legal education—a handshake from the dean, a hood, a diploma.

Faculty members sit on or near the stage. We too wear caps, gowns, and hoods. Our impressions of our students race by as each has an individual moment as the center of attention. We have fond memories of many students. Others we don't remember. For a few, we are surprised to see they made it.

It is also a day for us to assess the effectiveness of our legal education program. How many of our students are well prepared to enter the legal profession on graduation day? Or, to make the assessment more personal, which students would we be comfortable asking to handle a legal matter for a member of our family?

Many observers of legal education, from inside the academy and from the world of law practice, conclude that traditional legal education does not adequately prepare graduates for the profession. Many faculty members would hesitate to entrust an important legal matter for our families to our students on graduation day.

Effective lawyers have an impressive array of legal knowledge, analytical thinking abilities, and professional skills, attributes, and values. Traditional legal education excels at helping students learn some of what effective lawyers need, including substantive law, analytical thinking, and legal research. Conversely, legal education has been less successful in teaching students the other skills, attributes, and values that effective legal professionals command.

How can law schools revise their educational programs to more effectively prepare graduates for the practice of law? This article offers a model for responding to that challenge developed by Gonzaga University School of Law. Section I summarizes the forces pushing curricular reform in legal education generally and at Gonzaga specifically. Section II describes the process Gonzaga employed to comprehensively review its required curriculum. Section III

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presents Gonzaga's revised required curriculum as one response to the challenge to prepare students to enter the profession upon graduation. Finally, Section IV makes recommendations for other law schools engaged in curricular reform efforts to enhance the quality of modern legal education.

I. FORCES FOR CURRICULAR REFORM

Major studies of legal education by the bench, bar, and legal educators over the last thirty years have created momentum for curricular reform. The Cramton Report (1979),¹ the MacCrate Report (1992),² the Best Practice Report (2007),³ and the Carnegie Report (2007)⁴ evaluated the effectiveness of legal education and recommended changes to better prepare graduates for professional practice. In 2005, Gonzaga's dean and faculty initiated a strategic planning process including a comprehensive review of Gonzaga's curriculum to assess its strengths and weaknesses in educating students to enter the legal profession.

A. *Studies Recommending Reform of Legal Education*

The Cramton, MacCrate, Best Practices, and Carnegie Reports span more than a quarter century and total many hundreds of pages. Read together, those reports contain consistent themes to inform curriculum reform in legal education. The themes include: (1) a central goal of legal education to more fully prepare students for professional practice; (2) the professional knowledge, skills, and values exhibited by competent lawyers; (3) the strengths and weaknesses of traditional legal education; and (4) the attributes of effective curricula.⁵

1. *Preparing Students for Practice—A Core Goal of Legal Education*

An underlying concern about lawyer competence voiced by judges, lawyers, legal educators, and the public gave rise to the Cramton, MacCrate, Best Practices, and Carnegie Reports.⁶ The reports endorse the trend to make

1. SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR, AM. BAR ASS'N, REPORT AND RECOMMENDATIONS OF THE TASK FORCE ON LAWYER COMPETENCY: THE ROLE OF LAW SCHOOLS vii (1979) [hereinafter "CRAMTON REPORT"] (the chair of the task force was Dean Roger Cramton).

2. SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR, AM. BAR ASS'N, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM: REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP v (1992) [hereinafter "MACCRATE REPORT"] (the chair of the task force was Robert MacCrate).

3. ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD Map (2007) [hereinafter "BEST PRACTICES REPORT"].

4. WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007) [hereinafter "CARNEGIE REPORT"].

5. CRAMTON REPORT, *supra* note 1, at 1; MACCRATE REPORT, *supra* note 2, at 3; BEST PRACTICES REPORT, *supra* note 3, at 1; CARNEGIE REPORT, *supra* note 4, at 12-14.

6. *See* CRAMTON REPORT, *supra* note 1, at 8-10; MACCRATE REPORT, *supra* note 2, at 3-5; BEST PRACTICES REPORT, *supra* note 3, at 11-17; CARNEGIE REPORT, *supra* note 4, at 87-89.

preparation for practice a core goal of legal education.⁷ For example, the Best Practices Report urges law schools to commit to “preparing ... students to practice law effectively and responsibly in the contexts they are likely to encounter as new lawyers.”⁸ Likewise, the American Bar Association’s accreditation standards require law schools to “maintain an educational program that prepares its students for admission to the bar, and effective and responsible participation in the legal profession.”⁹

2. *Effective Professionals—Knowledge, Skills, and Values*

All four reports identify professional knowledge, skills, and values as essential components for the preparation of effective lawyers.¹⁰ The Carnegie Report phrases these components in terms of three apprenticeships: (1) cognitive, which focuses on academic knowledge of the profession, research, analytical thinking, and reasoning; (2) practice, including the set of skills shared by competent, practicing lawyers; and (3) identity or professionalism, encompassing the purposes, values, roles, and responsibilities of the profession.¹¹

Although the reports agree that knowledge of fundamental substantive law principles is an essential ingredient of lawyer competence,¹² they do not identify those fundamental principles. The Best Practices Report notes that, in England, seven subjects provide the foundational knowledge: criminal law, equity and trusts, European Union law, contracts, torts, property, and public law.¹³ Further, the Best Practices Report references a 2005 survey of Arizona lawyers that identifies seven areas of legal knowledge that lawyers rated as essential or very important for success of an associate at the end of a year of practice in a small, general practice firm: civil procedure (87% rated as essential or very important), professional responsibility (82%), contracts (80%), evidence (74%), remedies

7. See CRAMTON REPORT, *supra* note 1, at 9 (“[I]mprovements in the professional training offered by law schools can constitute an important part of any comprehensive program for improving future lawyer competence.”); MACCRATE REPORT, *supra* note 2, at 330 (“Education in lawyering skills and professional values is central to the mission of law schools....”); CARNEGIE REPORT, *supra* note 4, at 88 (“[E]ducation for practice is moving closer to the center of attention in the legal academy—a positive development and a trend to be encouraged.”). The reports recognize that the obligation to prepare effective lawyers is shared by legal educators, licensing authorities, and the practicing bar. See CRAMTON REPORT, *supra* note 1, at 4-6; MACCRATE REPORT, *supra* note 2, at 330-38; BEST PRACTICES REPORT, *supra* note 3, at 11-15; CARNEGIE REPORT, *supra* note 4, at 87-89.

8. BEST PRACTICES REPORT, *supra* note 3, at 39.

9. SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR, AM. BAR ASS’N, STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS, Standard 301(a) (2009-2010).

10. See CRAMTON REPORT, *supra* note 1, at 9-10; MACCRATE REPORT, *supra* note 2, at 124-25; BEST PRACTICES REPORT, *supra* note 3, at 65-66; CARNEGIE REPORT, *supra* note 4, at 12-14.

11. CARNEGIE REPORT, *supra* note 4, at 28.

12. See CRAMTON REPORT, *supra* note 1, at 10; MACCRATE REPORT, *supra* note 2, at 124-25; BEST PRACTICES REPORT, *supra* note 3, at 74-76; CARNEGIE REPORT, *supra* note 4, at 13, 28.

13. BEST PRACTICES REPORT, *supra* note 3, at 74.

(68%), torts (67%), and property (62%).¹⁴ Noting that the law and the legal profession are constantly changing, the Cramton Report views courses that provide a theoretical or conceptual base as vital, including “comparative law, jurisprudence, and legal history.”¹⁵

Identification of fundamental lawyering skills is a central feature of the MacCrate Report, including problem solving, legal analysis, legal research, fact investigation, oral and written communication, counseling, negotiation, litigation process, alternative dispute resolution procedures, “[o]rganization and [m]anagement of [l]egal [w]ork,” and “[r]ecognizing and [r]esolving [e]thical [d]ilemmas.”¹⁶ The importance of these skills in successful law practice was confirmed by surveys of lawyers in Illinois,¹⁷ Minnesota,¹⁸ and Arizona.¹⁹

The MacCrate Report also sets out four fundamental values of the profession: (1) providing competent representation; (2) “[s]triving to [p]romote [j]ustice, [f]airness, and [m]orality”; (3) “[s]triving to [i]mprove the [p]rofession”; and (4) “[p]rofessional [s]elf-[d]evelopment.”²⁰ The Best Practices Report phrases this component of effective lawyering as “professionalism,” which includes attitudes and attributes of professionals. In addition to the MacCrate Report’s fundamental values, the Best Practices Report defines professionalism to include honesty, integrity, civility, ethics, reliability, judgment, diligence, and respect for the rule of law, court, lawyers, clients, witnesses, and unrepresented parties.²¹ Surveys of lawyers in Montana²² and Arizona²³ confirmed the central role of these values, attitudes, and attributes in successful law practice.

14. *Id.* at 75. No other subject was rated by more than 50% of the Arizona lawyers as essential or very important. The 2005 survey of Arizona lawyers is described in detail in Stephen Gerst and Gerald Hess, *Professional Skills and Values in Legal Education: The GPS Model*, 43 VAL. U. L. REV. 513 (2009).

15. CRAMTON REPORT, *supra* note 1, at 10.

16. MACCRATE REPORT, *supra* note 2, at 138-40. The MacCrate Report contains detailed analyses of these fundamental skills. *Id.* at 141-207.

17. *See generally* Bryant G. Garth & Joanne Martin, *Law Schools and the Construction of Competence*, 43 J. LEGAL EDUC. 469 (1993) (survey of Chicago lawyers in the early 1990s).

18. *See generally* John Sonsteng & David Camarotto, *Minnesota Lawyers Evaluate Law Schools, Training and Job Satisfaction*, 26 WM. MITCHELL L. REV. 327 (2000) (discussing surveys of lawyers from across Minnesota in the late 1990s).

19. *See* BEST PRACTICES REPORT, *supra* note 3, at 75 (discussing a survey of Arizona lawyers in 2005 conducted by Stephen Gerst and Gerry Hess).

20. MACCRATE REPORT, *supra* note 2, at 140-41. The MacCrate Report contains detailed analysis of these fundamental values. *Id.* at 207-21.

21. BEST PRACTICES REPORT, *supra* note 3, at 80.

22. *See generally* John O. Mudd & John W. LaTrielle, *Professional Competence: A Study of New Lawyers*, 49 MONT. L. REV. 11 (1988) (survey of Montana lawyers in the 1980s).

23. *See* Gerst & Hess, *supra* note 14, at 523-26 (survey of Arizona lawyers in 2005). *See also* BEST PRACTICES REPORT, *supra* note 3, at 75.

3. *Traditional Legal Education—Strengths and Weaknesses*

The Cramton and Carnegie Reports highlight the significant strengths of traditional legal education. The Cramton Report notes that most law graduates have a sound foundation for competent practice in the areas of legal analysis, research and writing, as well as a substantial body of legal knowledge.²⁴ The Carnegie Report extols the virtues of legal education's "signature pedagogy," the "case-dialog method," in teaching analytical skills and legal doctrine.²⁵ "Within months of their arrival in law school, students demonstrate new capacities for understanding the legal processes, for seeing both sides of legal arguments, for sifting through facts and precedents ..., for using precise language, and for understanding the applications and conflicts of legal rules."²⁶

The Cramton and Carnegie Reports note two weaknesses of traditional legal education—insufficient attention to teaching legal skills and professionalism. The Cramton Report states that law schools should improve their efforts in "developing some of the fundamental skills underemphasized by traditional legal education" and "shaping attitudes, values, and work habits critical to the individual's ability to translate knowledge and relevant skills into adequate professional performance."²⁷ Likewise, the Carnegie Report emphasizes two limitations of traditional legal education: "[o]ne limitation is ... [that] legal education typically pays relatively little attention to direct training in professional practice The second limitation is law schools' failure to complement the focus on skill in legal analysis with effective support for developing the ethical and social dimensions of the profession."²⁸

The Best Practices and Carnegie Reports devote entire chapters to a third weakness of traditional legal education—assessment of student learning.²⁹ Student performance in many law school courses is evaluated in a single essay exam at the end of the course, which is graded on a curve.³⁰ This one-shot, do-or-die assessment method has received harsh criticism that it lacks validity,

24. CRAMTON REPORT, *supra* note 1, at 11.

25. CARNEGIE REPORT, *supra* note 4, at 186.

26. *Id.*

27. CRAMTON REPORT, *supra* note 1, at 14.

28. CARNEGIE REPORT, *supra* note 4, at 188. The Best Practices Report finds similar problems in its blunt assessment of traditional legal education:

The unfortunate reality is that law schools are simply not committed to making their best efforts to prepare all of their students to enter the practice settings that await them In order to improve the preparation of law students for practice, law schools should expand their educational goals, improve the competence and professionalism of their graduates, and attend to the well-being of their students.

BEST PRACTICES REPORT, *supra* note 3, at 18.

29. BEST PRACTICES REPORT, *supra* note 3, at 235-63; CARNEGIE REPORT, *supra* note 4, at 162-84.

30. *See* BEST PRACTICES REPORT, *supra* note 3, at 236-37; CARNEGIE REPORT, *supra* note 4, at 162-63.

reliability, and fairness.³¹ The Best Practices and Carnegie Reports urge legal education to improve its assessment practices.³² Specific recommendations include:

- Conduct formative assessment throughout the course. Formative assessment provides students opportunities to perform and receive feedback. Its primary purpose is to enhance student learning throughout the course. Examples of formative feedback include practice exams, quizzes, drafts of papers or documents, computer exercises, and critiques of performances such as oral arguments or negotiations.³³
- Use multiple methods of summative assessment. Summative assessment evaluates and measures student learning for purposes of grading. Assessment methods include exams, papers, drafting, performances, journals, participation, and portfolios.³⁴
- Use criteria-referenced, rather than norm-referenced, assessment. Norm-referenced assessment measures how students perform relative to one another. Criteria-referenced assessment measures how well students achieve the objectives of the course.³⁵
- Use assessment to “[i]nform [s]tudents of [t]heir [l]evel of [p]rofessional [d]evelopment.” Development of skills and professionalism takes place in stages. Effective assessment tools identify the stages of development and inform students of their progress.³⁶

4. *Effective Curricula—Coherent, Progressive, Integrated, and Pervasive*

The Best Practices and Carnegie Reports make four recommendations for curricular reform to more fully prepare graduates for practice. First, a law school should strive for a coherent educational program by articulating its mission, identifying learning outcomes (knowledge, skills, and values) that derive from

31. See BEST PRACTICES REPORT, *supra* note 3, at 236-39; CARNEGIE REPORT, *supra* note 4, at 164-67. Validity means that an assessment tool measures what it purports to measure. Reliability means the assessment tool yields consistent, accurate results. See BEST PRACTICES REPORT, *supra* note 3, at 239-45.

32. See BEST PRACTICES REPORT, *supra* note 3, at 239-45; CARNEGIE REPORT, *supra* note 4, at 188-89.

33. See BEST PRACTICES REPORT, *supra* note 3, at 255-59; CARNEGIE REPORT, *supra* note 4, at 171, 189.

34. See BEST PRACTICES REPORT, *supra* note 3, at 253-55, 259-63.

35. See *id.* at 243-45; CARNEGIE REPORT, *supra* note 4, at 170-71.

36. See BEST PRACTICES REPORT, *supra* note 3, at 245-53. For example, an assessment rubric could measure student performance of a client interview based detailed criteria, such as (a) listens to what the client is saying, (b) probes appropriately for the unspoken, (c) identifies and addresses the client’s concerns, etc. The rubric could contain a scale to assess student development on each criterion; for example, (1) developing proficiency, (2) competent performance, and (3) exemplary—practice-ready.

the mission, and designing courses that lead to student mastery of the outcomes.³⁷ Second, the law school's curriculum should be organized to develop critical knowledge, skills, and values progressively via learning experiences that are increasingly sophisticated throughout the three years of law school.³⁸ Third, three elements should be integrated throughout the law school curriculum:

1. The teaching of legal doctrine and analysis, which provides the basis for professional growth[;]
2. Introduction to the several facets of practice included under the rubric of lawyering, leading to acting with responsibility for clients[; and]
3. A theoretical and practical emphasis on the inculcation of the identity, values, and dispositions consonant with the fundamental purposes of the legal profession.³⁹

Fourth, law schools should teach professionalism pervasively throughout the curriculum and via role-modeling by administrators, faculty, and staff.⁴⁰

B. Strategic Planning at Gonzaga

While the legal academy was debating its role in the preparation of graduates, Gonzaga University School of Law was engaged in strategic planning that would ultimately culminate in the adoption of a new curriculum. The strategic planning effort at Gonzaga began in September of 2005 when the law faculty undertook the task of revising the school's Mission Statement. The old statement was seven paragraphs long and had been developed by a faculty committee in 1996. Over time, that Mission Statement lost relevance for the school and its operations to the point that it ceased to serve as a touchstone for law school decisions and actions. In the fall of 2005, the law school's dean worked with the Dean's Advisory Committee⁴¹ to draft a new Mission Statement for the institution. Through consultation with the larger faculty, this eventually led to a new Mission Statement, along with a Vision Statement⁴² and a

37. *Id.* at 93.

38. *Id.* at 96 (citing CRAMTON REPORT).

39. CARNEGIE REPORT, *supra* note 4, at 194.

40. BEST PRACTICES REPORT, *supra* note 3, at 100-04.

41. This committee advises the dean on matters affecting the law school during the period between regularly scheduled meetings of the law faculty, and it oversees and administers the law faculty's bi-annual evaluation of the dean's performance. The committee is composed of five faculty members elected by the law faculty and it selects its own chair.

42. Gonzaga's Vision Statement provides:

To instill in our graduates the ethical values, substantive knowledge, and practical skills they need to become effective advocates and compassionate counselors. As a humanistic institution, we recognize the essential role of human creativity, intelligence, and initiative in the construction of society and culture. As a Jesuit institution, we are committed to educating the whole person to serve the public good, to engaging in a dialogue with all cultures and religious or ethical traditions, and to pursuing justice. As a Catholic institution, we believe laws and legal institutions are subject to a moral order that transcends human whim and

Welcome.⁴³ The seven-paragraph, full-page Mission Statement of the past was reduced to a single statement: *To provide an excellent legal education informed by our humanistic, Jesuit, and Catholic traditions and values.*⁴⁴ The faculty saw this promise as affirming that its core function is the education of its students, and highlighting the unique and invaluable humanistic, Jesuit, and Catholic character of the institution. This Mission Statement served as a fundamental guide for the entire strategic planning process that followed.

Shortly after the adoption of the new Mission Statement, the associate deans of academic and student affairs, and the directors of admissions, alumni relations, clinical legal education, career services, development, and the law library were asked to conduct internal and external reviews of their activities. By the middle of December 2005, each had produced a report that identified internal strengths and weaknesses, surveyed what competitors were doing in their respective areas, and listed the top five priorities for their department for the next five years. These reports provided valuable information and insight to everyone who became involved in the strategic planning effort.

In January 2006, five strategic planning committees were organized under the headings of Law Program, J.D. Curriculum, Faculty, Students, and Alumni Relations. While the titles of four of the five committees clearly delineated their focus, the Law Program Committee was formed to deal with issues that went beyond the jurisdiction of the other committees. Each committee was chaired by a faculty member, with an alumnus as vice-chair. Each committee included faculty, student, staff, and alumni members.

The five committees were asked to “make no little plans” and to focus on those areas where existing strengths and exceptional opportunities presented the law school with the chance to excel. In light of the fact that the institution operates in an environment of limited resources, the committees were tasked to make choices about investing those resources in ways that would create a unique and valuable identity for the school. The members were advised to avoid drafting a “wish list” that had something for everyone, because these could not be realized. Each wish would end up only partially funded, which would mean that none would be adequately funded. Instead, the committee members were challenged to dedicate themselves to using the strategic planning process to give the school a road map for keeping its promise to provide an excellent legal education.

The committees were tasked to come up with a ranked list of no more than six strategic initiatives in their subject areas by the end of June 2006. The reports were to be short and concise, with the focus on the law school’s strategic

caprice. As a law school, we are committed to a healthy and respectful environment of free intellectual inquiry and exchange, and the protection of freedom of thought.

Gonzaga University School of Law: About Us, <http://www.law.gonzaga.edu/About-Gonzaga-Law/default.asp> (emphasis omitted) (last visited Jan. 11, 2010).

43. Gonzaga’s Welcome provides: “[We are] committed to building a vibrant, diverse community that welcomes all regardless of religion, race, color, national origin, heritage, gender, age, sexual orientation, marital or veteran status, or disability.” *Id.*

44. *Id.* (emphasis added).

initiatives, not the tactical efforts that would be necessary to achieve those goals. The committees were told that the reports could either recommend specific actions or recommend criteria by which future actions could be judged.

Working internally and in consultation with the dean, each committee submitted a list of strategic possibilities⁴⁵ that followed a set format by a prearranged deadline in early March.⁴⁶ These lists were then shared with the full faculty and with the law school's Board of Advisors⁴⁷ at its semi-annual meeting at the end of March.

After reflecting upon the feedback from these two groups, other informal conversations, and their own continuing internal deliberations, each committee then prepared a draft of its ranked strategic initiatives⁴⁸ by a mid-April deadline, again using a standardized format.⁴⁹ These drafts were then shared with the faculty and staff for comment, and each draft was vetted by the entire faculty in a meeting prior to the end of the spring semester.

The committees submitted their final list of ranked strategic initiatives to the dean by the end of June. These reports were then compiled into a draft of the law school's proposed strategic plan that was distributed to the faculty early in the 2006 fall semester.⁵⁰

Two of the main issues facing the Law Program Committee throughout the strategic planning process were the question of the optimal enrollment for the law school⁵¹ and whether the school should bring back its part-time evening division.⁵² In the middle of the fall 2006 semester, it became apparent that no

45. These were defined as activities that would fit our mission, enable us to provide greater value to our key constituencies, and improve the uniqueness of the law school's position considering such factors as the market condition of the school, its geographic location, and its demographics.

46. Each listed initiative had to be accompanied by a explanatory rationale and explicit statements as to how the initiative would fit with the law school's mission and help the school enhance diversity. The committees were also tasked to provide some commentary on the potential cost of the initiative.

47. The Board of Advisors is comprised of alumni and friends of the law school, along with faculty and students. The group provides advice to the dean of the School of Law and provides oversight to the Gonzaga University School of Law Alumni Association.

48. Each surviving initiative was required to be ranked based upon consideration of how the initiative would meet the needs of key constituencies; serve the schools mission, vision, and welcome statements; take into account the geographic, demographic, and economic situation of the school; and enable the law school to attract, retain, and support a diverse student body and faculty. Additionally, the rankings were required to assess the cost of each proposed initiative.

49. The format called for the committees to comment on the rationale for the initiative, its potential cost, and how the school's performance on that initiative would be assessed if adopted.

50. The original goals had been to have the law faculty adopt the strategic plan during that fall semester. This was delayed, however, due largely to an inability to reach a consensus on the question of the size of the student population.

51. In the ten years preceding this strategic planning effort, the law school had enrolled as many as 230 and as few as 150 first-year students.

52. The law school was established in 1912. See Gonzaga: Library & Technology-About, <http://www.law.gonzaga.edu/Library-and-Technology/About/History.asp> (last visited Jan. 11, 2010). For its first fifty-eight years of existence, the school operated exclusively as an evening

consensus was forming around these questions, so the dean appointed an ad hoc committee to tackle these issues. While that committee worked, the full faculty continued to vet, refine, and vote on the remaining strategic initiatives that had been put on the table.

The ad hoc committee reported back on its recommendations in February 2007⁵³ and the faculty adopted the final strategic plan in May 2007. The final plan called for the law school to execute fifteen initiatives,⁵⁴ including an extensive curriculum review and reform effort. This undertaking was then characterized as the second phase of our strategic planning process and was expected to take eighteen to twenty-four months. The curriculum review process took only twelve months and led to the adoption of a new, required curriculum for the Gonzaga University School of Law.

II. GONZAGA'S 2007-2008 CURRICULUM REVIEW PROCESS

Gonzaga's curriculum review in 2007-2008 was driven by the national forces for change in legal education and by Gonzaga's strategic planning process. Four features of Gonzaga's curriculum review process played significant roles in the adoption of Gonzaga's revised required curriculum: (1) Gonzaga's comprehensive curriculum reform efforts in the early 1990s; (2) the membership and leadership of the 2007-2008 curriculum review committee; (3) the background research the committee conducted before making proposals for revising Gonzaga's required curriculum; and (4) full faculty involvement in shaping curriculum revision proposals.

A. *Context—Gonzaga's Curriculum Reform in the 1990s*

Inspired in part by the MacCrate Report, Gonzaga engaged in a two-year, comprehensive curriculum review and development process in the early 1990s. A centerpiece of that effort was faculty consensus on a list of essential skills, values, and content that each graduate should develop or encounter in the three years of law school. The faculty agreed on forty-four essential skills, which included case and statutory analysis, legal research, and lawyering skills such as fact investigation, interviewing, counseling, negotiation, drafting, and pretrial and trial advocacy. They agreed on twelve essential values, which included self-motivation, responsibility, internalized standards for high-quality work, critical reflection, respect, cooperation with students, faculty, lawyers, and judges, and a

program. The school started a day program in 1970 and remained a dual division school until 1990, when the evening program was discontinued. *Id.*

53. The recommendation, which was adopted by the faculty, was to reduce the school's first-year enrollment target from 210 to 175, starting with the fall 2008 first-year class.

54. In addition to a new enrollment strategy and curriculum reform, the plan adopted other initiatives including the creation of a new center for commercial law, a new Indian law program focused on economic development, rationalization of law faculty employment categories, and the launch of a new law school alumni association.

commitment to service, justice, and the elimination of bias. Finally, the list contained 225 items of essential content.

The faculty allocated each essential skill, value, and item of content to one or more required courses.⁵⁵ The required curriculum included Business Associations, Civil Procedure I & II, Constitutional Law I & II, Contracts I & II, Creditors' Rights, Criminal Law, Criminal Procedure, Dispute Resolution, Evidence, Family Law, Foundation of Legal Thought, Legal Research and Writing I-IV, Professional Responsibility, Property I & II, Public Law, Torts I & II, and an upper-level writing requirement. Faculty members teaching a required course were to integrate the essential skills, content, and values allocated to the course. Faculty members with special expertise in essential skills and content agreed to collaborate with other faculty members to help them achieve the integration.

Gonzaga's integrated required curriculum took effect in 1995. Over the subsequent decade, Gonzaga's curriculum changed substantially for several reasons. Some faculty members found it difficult to integrate content, skills, and values into their required courses. New faculty members were often unaware of the content, skills, and values allocated to their required courses. Students and faculty expressed significant dissatisfaction with some required courses, including Business Associations, Dispute Resolution, Foundations of Legal Thought, and Public Law. Many faculty members and students believed that the extensive required curriculum left too little room for students to shape their legal education through elective courses. Consequently, by 2007, Gonzaga's required curriculum was pared down to Civil Procedure I & II, Constitutional Law I & II, Contracts I & II, Criminal Law, Criminal Procedure, Evidence, Legal Research & Writing I-IV, Professional Responsibility, Property I & II, and Torts I & II.

B. Curriculum Review Committee

In response to the faculty's consensus to engage in curriculum review and reform in Gonzaga's strategic planning process, the dean formed a curriculum review committee in May 2007. The committee included faculty, administrators, and staff. The committee members included two senior doctrinal faculty members, two junior doctrinal faculty members, a clinical faculty member, a legal research and writing faculty member, a librarian, and the dean. The committee chair was a senior faculty member who chaired the committee during the curriculum reform effort in the 1990s and had a history of cooperative relationships with the faculty, staff, and administrators.

Early in its work, the committee agreed on a set of principles for its internal process. Committee members agreed to proceed with an attitude of respect and

55. Each required "doctrinal" course was allocated a list of essential skills and content. For example, skills allocated to Contracts included case analysis, statutory analysis, problem-solving, and negotiation. Essential content in Contracts included objective and subjective tests, offer, acceptance, consideration, reliance, breach, and interpretation of contracts. Each essential value was allocated to three required courses—Foundations of Legal Thought, Professional Responsibility, and Dispute Resolution.

challenge—to respect each other’s point of view, but not to be hesitant to challenge ideas, decisions, and directions when appropriate. Members also agreed to share the workload evenly; for example, the duty to keep notes of committee meetings rotated among the members and each committee member participated in the research and interviews the committee conducted.⁵⁶ The chair’s primary role was to facilitate committee and faculty engagement in the curriculum review process rather than to be an advocate for any particular change in the curriculum.

C. Research on Curricular Innovation, Law Practice, and Gonzaga’s Students

The committee began its research by reading and discussing three books about legal education: *A Survey of Law School Curricula*,⁵⁷ the Carnegie Report, and the Best Practices Report. Those discussions led to committee consensus on several fundamental views about law school curricula in general and Gonzaga’s existing curriculum in particular. First, Gonzaga’s existing curriculum was consistent with curricula in mainstream legal education. Second, effective education of lawyers should address three areas: knowledge, skills, and professionalism. Third, most law schools, including Gonzaga, excel in teaching legal doctrine and analysis, but do not devote enough attention to practice skills and professionalism.

The committee then conducted research to identify the types of knowledge, skill, and professionalism that contribute to success for practicing lawyers. The committee considered lists of legal content, skills, and values in the MacCrate Report,⁵⁸ *Outcomes Assessment for Law Schools*,⁵⁹ and published surveys of practicing lawyers.⁶⁰ The dean and committee chair conducted a focus group with judges and lawyers who are Gonzaga alumni to solicit their views on the characteristics of effective legal professionals.⁶¹ Finally, the committee asked each Gonzaga law faculty member to articulate the content, skills, and values that

56. The dean functioned as an active committee member but not as a leader of the curriculum review process. For example, the dean produced the minutes for the committee’s first meeting, gathered input from alumni, brought information to the committee about curriculum reform at other law schools, and shared with the committee internal studies and reports about Gonzaga graduate’s bar exam performance and first jobs. At committee meetings, the dean expressed his views like other committee members but never dominated the conversation.

57. SECTION OF LEGAL EDUCATION AND ADMISSION TO THE BAR, AM. BAR ASS’N, *A SURVEY OF LAW SCHOOL CURRICULA* (2004) (reporting the results of a comprehensive survey of law school curricula conducted in 2003).

58. *See supra* notes 16, 20 and accompanying text.

59. GREGORY S. MUNRO, *OUTCOMES ASSESSMENT FOR LAW SCHOOLS* 89-95 (2000).

60. *See supra* notes 14, 17-19, 21-23 and accompanying text (discussing surveys of lawyers in Arizona, Illinois, Minnesota, and Montana).

61. The focus group addressed four questions: (1) What attributes, attitudes, characteristics, and values most contribute to success as a lawyer? (2) What analytical, research, communication, transactional, advocacy, and dispute resolution skills most contribute to success as a lawyer? (3) What substantive, procedural, and non-legal knowledge most contribute to success as a lawyer? (4) What would you like to see law school graduates bring to law practice that they do not already possess from their law school experience and training?

were critical for Gonzaga students to encounter in law school.⁶² Gonzaga alumni and faculty generally agreed with the lists of important knowledge, skills, and values found in the MacCrate Report, Best Practices Report, and published surveys of practicing lawyers.⁶³

The third area of committee research concerned the experience of Gonzaga students during law school, their success on the bar exam, and the types of practices they enter upon graduation. The committee reviewed the results of the 2006 and 2007 Law School Survey of Student Engagement to better understand the student experience at Gonzaga. To gather more focused student input on the current and future curriculum, the committee administered on-line surveys for all current students. To better understand the factors that influence bar exam performance, the committee reviewed scholarship about bar exam performance⁶⁴ and extensive reports regarding Gonzaga students' bar success. From that review, the committee concluded that the courses students take during law school are a minor factor in bar passage, while law school grade point average is a major factor. Finally, the committee reviewed five years of data concerning first jobs for Gonzaga students following graduation, finding that most graduates obtain jobs in small law firms and government practice, including judicial clerkships and prosecutor and public defender positions.

During the research phase, each committee member drafted a vision statement for the revised curriculum. As the committee discussed those statements and the results of its research, it reached a consensus on a set of preliminary ideas that should shape the development of any specific proposal for curriculum reform. First year would remain focused on doctrine, analytical skills, research and writing; include an elective from a limited menu (e.g., Jurisprudence, Catholic Social Teaching, another broad theoretical study); introduce professional skills and professionalism; provide one or more small section experiences; include collaborative work; have semester-long courses rather than year-long courses, and require no more than five courses per semester. Second year would increase students' immersion in skills practice and include more writing and research, including transactional writing. Third year would require a live client experience via a clinic or externship and more writing and research, including a rigorous writing requirement.

62. See *infra* Part II.D. (discussing the instrument the committee used to conduct faculty interviews).

63. The alumni focus group identified two interesting characteristics of successful practicing lawyers that do not appear in the MacCrate Report, Best Practices Report, or published surveys of lawyers: (1) a broad liberal arts background, and (2) humility and a willingness to learn.

64. See, e.g., Douglass K. Rush & Hisako Matsuo, *Does Law School Curriculum Affect Bar Examination Passage? An Empirical Analysis of Factors Related to Bar Examination Passage During the Years 2001 Through 2006 at a Midwestern Law School*, 57 J. LEGAL EDUC. 224 (2007); Keith A. Kaufman et al., *Passing the Bar Exam, Psychological, Educational, and Demographic Predictors of Success*, 57 J. LEGAL EDUC. 205 (2007); Lorenzo A. Trujillo, *The Relationship Between Law School and the Bar Exam: A Look at Assessment and Student Success*, 78 U. COL. L. REV. 69 (2007); Linda Jellum & Emmeline Paulette Reeves, *Cool Data on a Hot Issue: Empirical Evidence that a Law School Bar Support Program Enhances Bar Performance*, 5 NEV. L.J. 646 (2005).

D. Full Faculty Involvement in Shaping the Revised Curriculum

At the end of the fall 2007 semester, the committee communicated with the faculty via memo and at a faculty meeting regarding its preliminary ideas for development of a specific curriculum proposal and the process it would employ to fully involve the faculty. The committee's process included individual interviews with each faculty member, drafts of proposals with detailed explanations of the committee's rationale, formal discussions at faculty meetings, and informal discussions with faculty members.

An important step for the committee before it began drafting specific curriculum proposals was to interview each faculty member individually. Each faculty member was asked nine questions:

1. What reactions do you have to the curriculum committee's preliminary ideas?
2. The committee is analyzing the curriculum in the areas of knowledge, skills, and professionalism. Are there other categories you would add?
3. In your opinion, what are the most important pieces of knowledge for students to get from their law school experience? What is the best way for students to gain substantive knowledge?
4. In your opinion, what are the most important skills for students to learn in their law school experience? What is the best way to give students opportunities to practice skills?
5. In your opinion, what are the most important things for students to learn about professionalism during their law school experience? What is the best way for students to learn professionalism?
6. What courses should be required?
7. What concerns do you have about curriculum reform?
8. What would have to happen for curriculum reform to work at GU?
9. Please rate the level of your support for the curriculum review process.

When the committee analyzed the faculty's responses it found a number of common areas of agreement and concern. In general, the faculty agreed with the committee's preliminary ideas, although there were mixed feelings about a first-year elective, the upper-level writing requirement, and a required clinical/externship experience in the third year. Most faculty members endorsed the current list of required courses. As to process, the faculty felt strongly that it needed to be inclusive and transparent. The faculty believed that curriculum reform would succeed only if there was widespread faculty involvement in the process and overwhelming consensus on the result.

Based on the feedback from the first round of faculty interviews, the committee produced a first draft of a new required curriculum along with a twelve-page memo explaining its rationale. The memo began with the committee's view on the goals for a revised curriculum:

- Further Gonzaga's mission;
- Prepare graduates to enter the profession as competent lawyers, with the requisite basic knowledge, skills, and professionalism;
- Prepare graduates to pass the bar exam;
- Be grounded in sound education theory and practices;
- Be informed by data about current law practice;
- Build on Gonzaga's existing strengths;
- Allow some flexibility for students to shape their education to meet their goals; and
- Inspire, energize, and challenge students.

Due to faculty feedback during the first round of interviews, the committee's proposed curriculum did not include a first-year elective or an upper-level writing requirement. The proposal included first-year courses in Civil Procedure, Contracts, Criminal Law, Legal Research & Writing I and II, Professional Responsibility, Property, Torts, a Litigation Skills & Professionalism Lab, and a Transactional Skills & Professionalism Lab. Required second-year courses included Legal Research & Writing III and IV, Constitutional Law (two courses from a menu), Statutory Analysis (one course from a menu), and a Skills & Professionalism course (from a menu). Third year required six credits of clinical or externship experience.

The committee distributed the memo to the faculty in early March 2008, encouraged the faculty to discuss the proposal informally in person and via email, and promised a second round of faculty interviews in late March. The second round of faculty interviews focused on the specifics of the committee's March proposal. As a result of the feedback received in the interviews, the committee revised its proposal substantially. Some of the revisions were adding Evidence as a required course, making Constitutional Law (Governmental Structure) and Constitutional Law (Civil Liberties) required courses, changing Criminal Procedure from a required course to an elective, and recognizing that additional courses may satisfy the statutory analysis and perspective requirements. In early April, the committee sent a memo with its revised curriculum proposal and its rationale to the faculty.

At a special faculty meeting in mid-April, the faculty discussed the revised proposal and took a number of straw polls on aspects of the proposed curriculum. As a result of that meeting, the committee produced a second revised curriculum proposal. The second revision changed Professional Responsibility from a first-year course to an upper-level course, added a new first-year course in Perspectives on the Law, and removed the Statutory Analysis and Skills/Professionalism courses from the upper-level requirements. At the end of April, the committee sent the faculty a memo with the second revised curriculum proposal and the committee's rationale.

At a faculty meeting in May, the faculty discussed and voted on the second revised curriculum proposal. The faculty voted course-by-course with a series of secret ballots. The faculty voted overwhelmingly to adopt the committee's proposal in all but one respect. The faculty decided to reduce the third-year clinical/externship requirement from six to three credits.

III. GONZAGA'S REVISED REQUIRED CURRICULUM 2009

The changes to the curriculum that Gonzaga's faculty adopted in May of 2008 touched on each year of the law school's legal education program. The first-year curriculum, often the hardest part of any law school program to change, was revised in ways that changed decades of practice at the school. The second-year curriculum both lost and gained required credits, while the third year was left largely untouched, except for the requirement that all students would have to earn three credits in the law school's clinic or through its externship program. In all these instances the revisions were adopted to serve the goals of improving our students' acquisition of the substantive knowledge and legal skills they will need to be competent advocates, and to inculcate them with the professional values that will make them ethical advisors for their clients.

Nowhere did the law faculty's efforts at curriculum reform have a greater impact than the changes to the first-year program. While the number of required credit hours for this part of the program remained the same,⁶⁵ the distribution of those credits was modified dramatically from the old to the new curriculum, starting with the doctrinal courses in the first year.

The former law school curriculum had six separate doctrinal courses in the first-year program totaling twenty-six credit hours and four credit hours of Legal Research & Writing ("LRW"). The six doctrinal courses included Civil Procedure, Contracts, Property, Torts, Constitutional Law I, and Criminal Law. The first four courses in this list were five credits each spread over the fall and spring semesters,⁶⁶ while the last two were three credits each and taught in a single semester.⁶⁷ The LRW credits were split between two courses of two credits each, one taught in the fall semester and the other in the spring semester (see Table 1 below).

Under the revised curriculum adopted by the law faculty in May 2008, the first-year program will include six separate doctrinal courses totaling twenty-two credit hours, four credits hours of LRW, and four credit hours split evenly between two new Skills & Professionalism Labs. The six doctrinal courses will include Civil Procedure, Contracts, Property, Torts, Criminal Law, and the new Perspectives on the Law course. The first four courses have converted from year-long, five-credit courses to single-semester, four-credit courses (see Table 2 below). The main impetus behind this change was the need to free up credit

65. The full-time load for the first year program remained at thirty credits. Gonzaga University School of Law: Academics: Curriculum-Required Courses, http://www.law.gonzaga.edu/Academic-Program/curriculum/future_curriculum.asp (last visited Jan. 11, 2010).

66. Civil Procedure and Torts were three credits in the fall and two credits in the spring. Contracts and Property were two credits in the fall and three credits in the spring. *See id.*

67. Criminal Law was taught in the fall and Constitution Law I in the spring. *See generally* Gonzaga University School of Law: Academics—Course Descriptions & Frequency, www.law.gonzaga.edu/Academic-Program/curriculum/Course-Descriptions/default.asp (last visited Jan. 20, 2010).

hours to create new offerings in the first-year program.⁶⁸ The new three-credit Perspectives course has been added to the fall semester, and the three-credit Criminal Law course has been moved from its traditional place in the fall semester to the spring.⁶⁹ The Perspectives in the Law course will expose first-year students during their first semester to many of the prevailing theories of jurisprudence that inform the law and are used to evaluate legal rules and their impact on social justice.⁷⁰ The two LRW classes in the first year will remain largely undisturbed with the change from the old to new curriculum. The first year of the research and writing program focuses on three skills: (1) developing familiarity with research materials including the development of an individualized research process; (2) learning to use basic analytical skills to synthesize and apply legal rules; and (3) drafting accurate, complete, and concise research reports.

The most significant change in the first-year program will be the addition of two new Skills & Professionalism Labs. These labs will be bundled with two doctrinal courses each semester and will focus on skill sets that are needed in two broad areas of practice. In addition, the labs emphasize the professional values and habits that provide a foundation for the ethical practice of law.

During the fall semester of the first year, Gonzaga students will take a two-credit Skills & Professionalism Lab that will use the rules of Civil Procedure and the substantive law of Torts to teach the students the skills they need to be litigators.⁷¹ During the spring semester, the students will take a two-credit Skills

68. There was also the added benefit of reducing the number of required courses in each of the first year semesters from six to five classes.

69. The Constitutional Law I course was moved from the spring semester of the first year to the fall semester of the second year.

70. Perspectives on the Law course description:

This course will examine themes in legal philosophy in the context of an introduction to three general areas of law: nuisance, privacy, and an application of the values analysis in social justice. In each of the three areas, students will be introduced to a rich descriptive problem and asked to work through the problem using diverse approaches from substantive law and readings in jurisprudence. Students would be asked to compare and contrast the variety of conceptions of the nature of law, including (but not limited to) classical jurisprudential thinking, Catholic approaches to social justice, and modern 'critical' approaches. The emphasis will be on the interaction between legal process and the ethical, historical and political contexts in which legal rules arise. The goals of the course are that students will (1) become familiar with competing claims about the nature of law and how it exercises binding force, and (2) reflect on the ways in which incorporation of jurisprudential ideals in the practice of law will lead to a more satisfying professional career.

Gonzaga University School of Law: Curriculum: Course Descriptions-Perspectives on the Law http://www.law.gonzaga.edu/Academic-Program/curriculum/Course-Descriptions/persectives_on_the_law.asp (last visited Jan. 11, 2010).

71. Litigation Skills and Professionalism Lab course description:

This course involves a case study approach to the development of litigation skills and professionalism values. The case study will follow the life of a tort case, taking students through a series of skills exercises and professionalism problems. The course will acquaint students with litigation skills in such areas as pre-filing case investigation, client and witness interviews, discovery planning and execution, pretrial motions, and settlement negotiations

& Professionalism Lab that will use the substantive law of Contracts and Property to teach the students the skills they need to be transactional lawyers.⁷² Each of these labs will be small sections of no more than thirty students and will be taught by a full-time or adjunct faculty member. The labs will work from a common curriculum that has been developed in direct coordination with the content that is covered in their associated doctrinal courses. In this way, the labs can both affirm and supplement the subject matter that is covered in those courses.

TABLE 1

Former First Year Curriculum			
Fall		Spring	
Civil Procedure	3	Civil Procedure	2
Contracts	2	Contracts	3
Property	2	Property	3
Torts	3	Torts	2
Criminal Law	3	Constitutional Law I	3
Legal Research & Writing I	2	Legal Research & Writing II	2

through the use of role-playing, simulation and case assignments. In the process, the students will learn the elements of the applicable law of civil procedure, torts, and damages. The course will confront students with issues of professional responsibility and professional identity.

Gonzaga University School of Law: Curriculum: Course Description–Litigation Skills & Professionalism Lab, http://www.law.gonzaga.edu/Academic-Program/curriculum/Course-Descriptions/litigation_skills_and_professionalism_lab.asp (last visited Jan. 11, 2010).

72. Transactional Skills and Professionalism Lab course description:

This course focuses on the skills needed by lawyers involved in transactional practice. Those skills include ascertaining the parties' true desires through interviews and negotiation, creatively structuring deals and drafting terms to achieve those desires, and imagining all the events that might later interfere with the transaction documents. The course will take students through the early development of a commercial transaction, negotiating its terms and structure, and ultimately the drafting of the transaction documents. In that process, students will be confronted with issues of ethics and professional responsibility. They will also learn the distinctions between representations, warranties, covenants, conditions, and the other types of contract terms and practice how to spot and avoid ambiguity.

Gonzaga University School of Law: Curriculum: Course Descriptions–Transactional Skills & Professionalism Lab, http://www.law.gonzaga.edu/Academic-Program/curriculum/Course-Descriptions/transactional_skills_and_professionalism_lab.asp (last visited Jan. 11, 2010).

TABLE 2

New First Year Curriculum			
Fall		Spring	
Civil Procedure	4	Contracts	4
Torts	4	Property	4
Perspectives on the Law	3	Criminal Law	3
Legal Research & Writing I	2	Legal Research & Writing II	2
Litigation Skills & Professionalism Lab	2	Transactional Skills & Professionalism Lab	2

The second-year curriculum has experienced four changes. First, all but three of the remaining required credits in the curriculum will be arranged into a lock-step sequence in this year of the program.⁷³ Second, Constitutional Law I, which used to be part of the first-year curriculum, has been moved into the fall of the second year. Third, Criminal Procedure has been dropped from the required list of courses. Fourth, LRW III and IV have each been expanded from one credit to two credits, and will undergo wholesale revision of their course content (see Tables 3 and 4 below).

The most significant change in the second-year curriculum is the expansion and revision of the two LRW classes. In keeping with the theme of the first-year curriculum revisions of breaking down silos within the academic program, LRW III and IV will be reconstituted so that these courses build upon not only what the students learned in their first two LRW classes (which has always been the practice), but also upon what the students will have covered in their two Skills & Professionalism Labs. Building on the first-year, fall-semester Litigation Skills & Professionalism Lab, LRW III will focus on the research and writing skills that lawyers need for a litigation practice.⁷⁴ For example, students will draft motions and memoranda in support of pre-trial motions, as well as produce an appellate brief. In the spring semester of the second year, LRW IV will follow the Transactional Skills & Professionalism Lab through assignments that require students to produce a variety of transactional documents (e.g., letters of intent,

73. The required classes in the second year will be Constitutional Law I and II, Evidence, and Professional Responsibility. See Gonzaga University School of Law: Academics: Curriculum—Required Courses, http://www.law.gonzaga.edu/Academic-Program/curriculum/future_curriculum.asp (last visited Jan. 10, 2010). Constitutional Law I and II will be sequenced in the fall and spring semesters, respectively. See Gonzaga University School of Law: Academics—Course Descriptions & Frequency, *supra* note 67. Evidence and Professional Responsibility can be offered in either or both semesters. *Id.*

74. Course Description for Legal Research and Writing III: “This fall-semester course focuses on litigation-oriented persuasive writing, including both pre-trial and appellate briefs. Students work on a series of increasingly complex research and writing projects to increase their skills while learning persuasive organization and the use of persuasive rhetoric in support of a hypothetical client’s position.” Gonzaga University School of Law: Curriculum: Required Courses—Legal Research and Writing III & IV, http://www.law.gonzaga.edu/Academic-Program/curriculum/Course-Descriptions/legal_research_and_writing--III_and_IV.asp (last visited Jan. 10, 2010).

contracts, wills or trusts, etc.).⁷⁵ LRW IV will help the students understand a client's position regarding a transaction, work out the desired or negotiated outcome that should be sought, and use precise language within a document to achieve the optimal result.

The only change in the third year of Gonzaga's curriculum will be the requirement that all students earn at least three credits in either the school's clinic or in the externship program. The law school offers in-house clinics in which students represent clients in matters involving family law, elder law, Indian and tribal law, consumer law, business law, civil rights law, environmental law, and other public interest issues. The externship program places students with governmental agencies and non-profit organizations, including the district attorney, public defender, judges, and public interest groups. Students in the clinical and externship programs have opportunities to learn professional skills, to develop professional identity, and to integrate theory and practice by engaging in all aspects of adversarial and alternative dispute resolution, including fact investigation, drafting of legal documents, case planning, discovery, motion practice, negotiation, mediation, and trial and appellate advocacy. The impetus behind this change is to ensure that each student graduates with some experience of having to apply their classroom knowledge and simulated skill set in an actual law practice setting.

TABLE 3

Former Upper Level Required Curriculum	
Constitutional Law I	3
Constitutional Law II	3
Legal Research and Writing III	1
Legal Research and Writing (IV)	1
Professional Responsibility	3
Evidence	3
Criminal Procedure	3

75. Legal Research and Writing IV course description:

This spring-semester course focuses on transactional drafting in a variety of contexts. Students work on a series of assignments that require the production of particular transactional documents. Students will learn to understand a client's position regarding a transaction, the desired or negotiated outcome, and the use of precise language within a document to achieve the proper outcome.

Id.

TABLE 4

New Upper Level Required Curriculum	
Second Year Required Courses	
Constitutional Law (Governmental Structure)	3
Constitutional Law (Civil Liberties)	3
Legal Research and Writing III (Litigation)	2
Legal Research and Writing (IV) (Transactional)	2
Professional Responsibility	3
Evidence	3
Third Year Required Courses	
Clinic or Externship	3

In summary, Gonzaga's new curriculum addresses the themes for curriculum reform that emerge from the Cramton, MacCrate, Best Practices, and Carnegie Reports. First, an explicit goal of the new curriculum is to better prepare students for the types of practice they will enter upon graduation.⁷⁶ Second, the new curriculum introduces students to the essential knowledge, skills, and values that effective lawyers command.⁷⁷ Of the forty-nine required credits, thirty-one credits address knowledge and analytical skills and eighteen credits focus on professional skills and values (see Table 5 below). Thus, the new curriculum preserves the strength of traditional legal education⁷⁸ by allocating nearly two-thirds of its required credits to legal doctrine, theory, and analytical thinking. The curriculum addresses one of legal education's weaknesses by allocating over one-third of its required credits to lawyering skills and professionalism.⁷⁹ Further, seven of the required courses will feature formative assessment during the course, and students' grades will be based on more than a single exam at the end of the course.⁸⁰

76. See *supra* notes 5-8 and accompanying text.

77. See *supra* notes 9-23 and accompanying text.

78. See BEST PRACTICES REPORT, *supra* note 3, at 75 (discussing generally law school accreditation requirements). See also CRAMTON REPORT, *supra* note 1, at 11; CARNEGIE REPORT, *supra* note 4, at 186.

79. See CARNEGIE REPORT, *supra* note 4, at 186. See also CRAMTON REPORT, *supra* note 1, at 14.

80. See generally BEST PRACTICES REPORT, *supra* note 3, at 235-63 (discussing assessment in law school and the different methods of assessment). See also CARNEGIE REPORT, *supra* note 4, at 162-84 (discussing assessment in law school and the different methods of assessment). Legal Research and Writing I-IV, Litigation Skills and Professionalism Lab, Transactional Skills and Professionalism Lab, and Clinic or Externship will feature significant formative feedback throughout the course and will be graded based on a variety of summative assessments, including

Finally, the new curriculum is coherent, progressive, integrated, and pervasive:⁸¹ it arises out of Gonzaga's strategic planning and revised mission statement;⁸² it builds skills and professionalism in required courses in all three years of law school; it integrates knowledge, skills, and professionalism in the first-year labs and the third-year clinic or externship; and it teaches professionalism pervasively in required courses in each year (the first-year labs, second-year Professional Responsibility course, and third-year clinic or externship).

TABLE 5

Comparison of Former and New Required Courses		
	Former Courses and Credits	New Courses and Credits
Substantive Knowledge and Analytical Skills	Civil Procedure (5) Contracts (5) Criminal Law (3) Property (5) Torts (5) Constitutional Law I-II (6) Evidence (3) Criminal Procedure (3)	Civil Procedure (4) Contracts (4) Criminal Law (3) Property (4) Torts (4) Constitutional Law I-II (6) Evidence (3) Perspectives on the Law(3)
Legal Research and Writing	LR&W I-IV (6)	LR&W I-IV (8)
Skills and Professionalism	Professional Responsibility (3)	Professional Responsibility (3) Skills & Professionalism Labs (4) Clinic or Externship (3)
Total Required Credits	44	49

exams, papers, drafting assignments, and performances. *See supra* notes 29-35 and accompanying text.

81. BEST PRACTICES REPORT, *supra* note 3, at 95. *See also* CARNEGIE REPORT, *supra* note 4, at 194-97 (discussing the integration of legal education).

82. *See supra* notes 41-54 and accompanying text.

IV. IMPLICATIONS FOR THE CURRICULUM REFORM PROCESS IN LEGAL EDUCATION

Every law school has its own culture. The complex relationships and interactions among deans, faculty, staff, students, and alumni develop over time. Likewise, each law school's curriculum develops its unique ways that reflect the school's history, mission, and personnel. Courses that are sacred cows at some schools are electives at others. So at some level, each law school must find its own curriculum reform path. Nevertheless, Gonzaga's curriculum review and revision experience offers guidance for other law schools working on their curriculum. In particular, Gonzaga's experience offers insights about the roles that the law school dean, curriculum committee, faculty, students, and alumni can play in an effective curriculum reform process.

A. Dean's Leadership Role—Strategic Planning and Curriculum Reform

The challenge for the dean in leading a successful curriculum review effort is twofold. First, the dean must create a space in which that review can take place. Second, the dean must ensure that the effort moves to completion within a reasonable amount of time.

The first step in creating the right space for conducting curriculum review is appointing the members to the curriculum review committee. This group should be large enough to contain representatives from the various parts of the academic program, but not so numerous that it becomes ponderous in its workings. Additionally, it has to be led by an experienced and respected member of the faculty who is adept at gaining consensus on contentious issues. The dean cannot be the chair of the curriculum review committee or be seen to be controlling the outcome, as the entire effort is likely to fail if it comes to be viewed as "the dean's project." The dean must make sure that ownership for the review is established and remains at all times where it belongs—with the faculty.

The second characteristic of the space that the dean should create is to ensure that the review is well-informed regarding what is happening broadly in legal education and the law profession, and within the school's own program. This effort entails gathering timely studies and surveys that are available externally, making sure that mechanisms are created for students and alums to provide input into the process, and investing the time and resources necessary to study the internal program. While experience and intuition will be important touchstones for the review, the dean has the responsibility of providing a foundation for the effort that is built on relevant and reliable data.

The last two characteristics of the space that is needed for a successful curriculum review effort involve the climate in which the review will take place. The first of these requires the dean to be a cheerleader for an institutional point of view—that is, the dean must constantly speak to the need for the new curriculum to deliver on the institution's mission promise. The effort is not about serving the interest of any individual; rather, it is about making sure that the school can give its students the type of education that it holds itself out as providing. The second challenge for the dean regarding the climate is to create an environment

in which vigorous but civil debate can take place. There will be strong disagreements over the direction of the new curriculum and these disagreements must be aired and debated. It is the dean's responsibility, however, to insist that the debate remains civil so that the entire process doesn't devolve into anger and recrimination.

The second major task for the dean in curriculum review is to establish and maintain a schedule that allows the project to come to fruition in a reasonable amount of time. Whether the review takes place within the context of a strategic planning effort or as its own individual task, the dean has to shepherd the process along. There is a great tendency in the academy for big tasks that require big decisions to drag out, sometimes to the point of exhausting the enthusiasm that kick-started the effort in the first place. The dean must make sure this doesn't happen. The dean needs to work closely with the committee chair in establishing deadlines for completing various stages of the review and then needs to manage the ensuing faculty debates in a way that moves them to decision points. There will always be faculty members who want to continue to talk about the issues, but there comes a time when all that can be said has been said and it is time to vote. The dean needs to recognize when that time is and bring things to a conclusion.

B. Curriculum Committee's Role—Research, Proposals, Facilitation

The curriculum committee's major roles include performing background research to inform the curriculum review effort, drafting proposals, and facilitating active involvement of other faculty members, students, and alumni. The committee's background research can begin with the Carnegie and Best Practices Reports, both of which make extensive assessment of legal education and offer suggestions for improvement. It is unlikely that most faculty members, students, and alumni will read those reports, so the committee should summarize their major findings and recommendations. Then, the committee can turn its attention to assessing the strengths and weaknesses of the school's current curriculum. The committee can solicit opinions from colleagues, students, and alumni regarding the curriculum's strong and weak points and can gather data about bar passage and career paths of graduates. Finally, the committee can survey the curricular changes other law schools have implemented in response to the challenges facing legal education.⁸³ The committee should communicate the results of its background research to the faculty on a regular basis.

Based on the fruits of its background research, the committee will be positioned to make proposals for curricular change. The proposal process may

83. See, e.g., Jill Schachner Chanen, *Re-engineering the J.D.: Schools Across the Country Are Teaching Less About the Law and More About Lawyering*, 93 A.B.A. J., July 2007, at 42 (briefly summarizing curricular innovations at Harvard, Vanderbilt, Detroit Mercy, Northwestern, Stanford, and Penn); Gerst & Hess, *supra* note 14 (describing the development and delivery of the General Practice Skills course at Phoenix Law School); Institute for Law Teaching and Learning, *Chart of Legal Education Reform*, Institute for Law Teaching and Learning, <http://lawteaching.org/publications/LLTchartoflegaleducationreform200905.pdf> (last visited Jan. 11, 2010) (summarizing curricular developments and identifying contact persons for over 50 law schools).

include several phases. The first phase may be a set of principles or goals that will guide the development of subsequent specific proposals. For example, a law school may decide that its curriculum should reflect the law school's mission, be based on sound educational principles, equip students with a solid foundation in legal knowledge, skills, and professionalism, prepare students to pass the bar exam, and prepare graduates to succeed in the types of practices they are most likely to enter. It is important for the faculty to reach consensus on the goals of the curriculum during this phase. The second phase may be a proposed curriculum, including what courses are required, the credits allocated to each course, and the length of each course (e.g., quarter, semester, year). As a result of feedback from faculty and others, it is quite likely that the third phase will be one or more revised proposals.

Throughout the curriculum reform process it is critical that the committee facilitate active involvement of the rest of the faculty and, to a lesser extent, alumni and students. Significant curricular innovation is unlikely to be adopted by a faculty that did not actively engage in the reform process. Moreover, if a new curriculum is adopted, its implementation will be most likely to succeed if the faculty strongly supports the changes. The next two sections explore ways to engage faculty, students, and alumni in the curriculum review and revision process.

C. Students and Alumni Roles—Information and Feedback

Students can provide the committee and faculty with several types of information and feedback. Students can explain what role, if any, the school's curriculum played in their decision to enroll. They can convey their experience with the law school's current curriculum and can offer their perspectives on its strengths and weaknesses. The committee can gather student feedback via the Law School Survey of Student Engagement,⁸⁴ surveys the committee develops, or focus groups.

Alumni can help the committee and faculty in two key areas. First, alumni can articulate the knowledge, skills, and values critical to success in modern law practice. Second, alumni can assess the strengths and weaknesses of the law school's curriculum based on their exposure as students, their experience as professionals, and their role in hiring and supervising recent graduates. The committee can gather feedback from alumni via surveys or focus groups.

D. Faculty Role—Active Engagement, Feedback, and Resolution

A high priority for the committee should be to engage as many faculty members as possible throughout the curriculum reform process. Transparency

84. The Law School Survey of Student Engagement (LSSSE) is sponsored by the Association of American Law Schools, Carnegie Foundation for the Advancement of Teaching, Indiana Center for Survey Research, and Indiana University School of Education. <http://lssse.iub.edu/html/sponsors.cfm> <http://lssse.iub.edu/html/sponsors.cfm>. Information about LSSSE is available at <http://lssse.iub.edu/index.cfm>.

and communication should be hallmarks of the committee's process. As the committee conducts background research, drafts principles to guide the development of the curriculum, and crafts proposals, the committee should regularly communicate its decisions and rationale to the faculty via memos and at faculty meetings. The committee should solicit faculty input at each stage in the process. For example, the committee can draw on the wisdom and experience of faculty members in assessing the current curriculum and generating ideas for reform. Further, the committee should encourage discussion among faculty members throughout the process. Meaningful discussion can happen at meetings, via email, and in offices and hallways.

Faculty feedback to the committee should be an integral part of the curriculum reform process. Faculty feedback is especially important at two stages: (1) the development of overarching principles and goals of the school's curriculum; and (2) the drafting of curriculum proposals. Faculty members can provide feedback at meetings, via straw polls, through surveys, via email, and in conversations with committee members. An especially effective way to gather faculty feedback is for committee members to interview each faculty member individually. These interviews ensure that the committee hears the opinions of every faculty member, rather than just those who talk most often at meetings. In addition, some faculty members are much more candid during private interviews.

Ultimately, the faculty will decide what, if any, changes it should adopt in the law school's curriculum. At this final stage in the process, key attributes are respect and consensus. If the committee has been revising its proposals to reflect faculty feedback along the way, consensus will be more likely. Nevertheless, many faculty members will have strong opinions about significant curricular change when the time comes for the final discussion and vote, so it is important that those discussions be respectful. After all, the commitment and cooperation of faculty members will be primary factors in the success or failure of the law school's curriculum.

V. CONCLUSION

Gonzaga University School of Law has begun to implement its new curriculum. The new labs were designed by full-time and adjunct faculty, who created a uniform set of goals and materials for the courses. The content for the new Perspectives course has been created and a team of full-time faculty members have coordinated how the course will be taught in sections that are smaller than the school's traditional doctrinal courses. The legal research and writing faculty are fine-tuning the expanded Legal Research & Writing III and IV courses while the clinical faculty are preparing for the required clinic/externship experience.

Undoubtedly, parts of the new curriculum will not work as well as anticipated. Some adjustment and fine-tuning is going to have to take place in order for the law school's reformed curriculum to accomplish the goals that framed the effort in the first place—i.e., improving our students' acquisition of the substantive knowledge, legal skills, and professional values they will need to be competent, ethical lawyers. This inevitability, however, does not create

anxiety. A law school curriculum must be dynamic if it is going to serve the interests of students who are entering an ever-changing legal marketplace. This is a challenge that is not unique to Gonzaga; rather, it is one that we all must meet if we are to achieve the success that we envision for our institutions.