TEACHING CULTURAL COMPETENCY AND OTHER PROFESSIONAL SKILLS

SUMMER CONFERENCE

Little Rock, AR

July 7 – 8, 2017

INSTITUTE FOR LAW TEACHING AND LEARNING

GONZAGA UNIVERSITY SCHOOL OF LAW

WASHBURN UNIVERSITY SCHOOL OF LAW

UA LITTLE ROCK WILLIAM H. BOWEN SCHOOL OF LAW

SUMMER CONFERENCE 2017

TEACHING CULTURAL COMPETENCY AND OTHER PROFESSIONAL SKILLS SUGGESTED BY ABA STANDARD 302

SCHEDULE AT A GLANCE

THURSDAY, JULY 6, 2017
WELCOME RECEPTION: 5:00—7:00 p.m.
Samantha's Tap Room & Wood Grill, 322 Main Street, Little Rock, AR 72201, http://samstap.com/

FRIDAY, JULY 7, 2017
REGISTRATION AND BREAKFAST: 8:00—8:30 a.m.
Student Lounge, Second Floor

OPENING AND WELCOME: 8:30—9:00 a.m.
Room 305

WORKSHOP 1: 9:00—10:00 a.m.

Session A—Room 307	**Session B—Room 305**
Teaching Cultural Competence to Law Students: A Necessary Skill in an Increasingly Multi-Cultural World Janet Heppard, University of Houston Law Center; Tasha Willis, University of Houston Law Center; and Thelma Harmon, Thurgood Marshall School of Law, Texas Southern University	*Bringing Marginalized Populations into the Classroom* Catherine Wasson, Thomas Noble, and Patricia Perkins, Elon University School of Law

BREAK: 10:00-10:30 a.m.

WORKSHOP 2: 10:30—11:30 a.m.

Session A—Room 307	**Session B—Room 305**
A Blueprint For Cultural Competency in the Classroom Danné L. Johnson, Oklahoma City University School of Law	*Building Student Capacity for Self-Evaluation* Lauren Onkeles-Klein and Robert Dinerstein, American University, Washington College of Law

LUNCH: 11:30 a.m.—12:30 p.m.
Student Lounge, Second Floor

WORKSHOP 3: 12:30—1:30 p.m.

Session A—Room 307	Session B—Room 321
Using the Workshop Format to Introduce 1L Students to Professional Skills and Values Sandra Simpson, Gonzaga University School of Law	*How to Grow Future Lawyers in the Image of ABA Standard 302: Plant Seeds of Strong Learning Outcomes in a Collaborative Cross-Curriculum Garden, and Sprinkle with a Healthy Dose of Ethics, Skills, Cultural Competency, Collaborative Exercises, and Self-Evaluative Techniques* Tracey Brame, Tonya Krause-Phelan, and Victoria Vuletich, Western Michigan University—Thomas M. Cooley Law School

BREAK: 1:30—2:00 p.m.

WORKSHOP 4: 2:00—3:00 p.m.

Session A—Room 307	Session B—Room 321
Transaction Planning—Creating a Roadmap for Transactional Clinics Joseph Pileri, Georgetown University Law Center, and Lauren Rogal, Vanderbilt University Law School	*Establishing Learning Outcomes, Cultural Competency, and the Underprepared Law Student as "Other"* Deborah Zalesne and David Nadvorney, CUNY School of Law

BREAK: 3:00—3:30 p.m.

WORKSHOP 5: 3:30—4:30 p.m.

Session A—Room 307	Session B—Room 321
BUILDING ON BEST PRACTICES: A Resource and Advocacy Tool to Keep Our Teaching, Our Law Schools, and Legal Education on the Right Track with Teaching Professional Skills Carolyn Wilkes Kaas, Quinnipiac University School of Law, and Melanie DeRousse, University of Kansas School of Law	*"It's All a Bit Hippy Isn't It?": The Importance of Teaching Self-Evaluation and Reflection in Law School* Andrew Henderson, University of Canberra (Australia)

SATURDAY, JULY 8, 2017
BREAKFAST: 8:30—9:00 a.m.
Student Lounge, Second Floor

WORKSHOP 6: 9:00—10:00 a.m.

Session A—Room 307	**Session B—Room 321**
Teaching Cultural Competence as a Reflective Instructor Andrij Kowalsky, Wilfrid Laurier University	*Helping Millenials Develop Self-Reflection* Benjamin Madison, Regent University School of Law

BREAK: 10:00—10:30 a.m.

WORKSHOP 7: 10:30—11 :30 a.m.

Session A—Room 307	**Session B—Room 321**
Students Learning Lawyering Skills: Immerse Them Christine Church, Western Michigan University—Thomas M. Cooley Law School	*Teaching Students to Receive Feedback* Miranda Johnson, Loyola University Chicago School of Law

LUNCH: 11:30 a.m.—12:30 p.m.
Student Lounge, Second Floor

WORKSHOP 8: 12:30—1:30 p.m.

Session A—Room 307	**Session B—Room 321**
The Role of Leadership in Law School Education (More Than Just an "Other" Skill) Leah Witcher Jackson Teague, Baylor University School of Law	*Developing Critical Legal Reading and Analytical Skills Through the Use of Charts and Diagrams* Constance Fain, Texas Southern University Thurgood Marshall School of Law

CLOSING: 1:30—2:00 p.m.
Room 305

ADJOURN

SUMMER CONFERENCE 2017

TEACHING CULTURAL COMPETENCY AND OTHER PROFESSIONAL SKILLS SUGGESTED BY ABA STANDARD 302

THURSDAY, JULY 6, 2017
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ALL OF THE FOLLOWING CONFERENCE EVENTS WILL TAKE PLACE AT THE UA LITTLE ROCK WILLIAM H. BOWEN SCHOOL OF LAW

FRIDAY, JULY 7, 2017
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Student Lounge, Second Floor

OPENING AND WELCOME: 8:30—9:00 a.m.
Room 305
Dean John M.A. DiPippa, UA Little Rock William H. Bowen School of Law
ILTL Co-Directors Emily Grant, Sandra Simpson, and Kelly Terry

WORKSHOP 1: 9:00—10:00 a.m.

Session A **Room 307**	*Teaching Cultural Competence to Law Students: A Necessary Skill in an Increasingly Multi-Cultural World* Janet Heppard, University of Houston Law Center; Tasha Willis, University of Houston Law Center; and Thelma Harmon, Thurgood Marshall School of Law, Texas Southern University Legal educators have a responsibility and an obligation to educate culturally sensitive attorneys for the practice of law. Using a combination of simulation, case studies, and direct instruction, participants will experience the challenges of functioning in a different culture, will gain ideas for assessing their students' level of cultural sensitivity, will explore different scenarios in which enhanced cultural competence will improve client experiences and outcomes, and will learn different ways to integrate cultural learning into the law school experience. These skills will benefit our law students by giving them enhanced proficiencies to better navigate the current legal environment.
Session B **Room 321**	*Bringing Marginalized Populations into the Classroom* Catherine Wasson, Thomas Noble, and Patricia Perkins, Elon University School of Law Cultural awareness and professionalism are best taught by putting students in the role of

	lawyer. By "casting" members of marginalized populations in first-year writing assignments, the panelists ask students to confront their own biases and wrestle with the tensions between state authority and individual rights as they represent a client. In this interactive session, panelists will first describe assignments that they designed not only to teach skills and doctrine, but also to raise issues of professional identity and cultural awareness. They will then facilitate a workshop during which attendees will develop ideas for their own in-class simulations involving marginalized populations.

BREAK: 10:00-10:30 a.m.

WORKSHOP 2: 10:30—11:30 a.m.

Session A **Room 307**	*A Blueprint For Cultural Competency in the Classroom* Danné L. Johnson, Oklahoma City University School of Law This session will discuss legal educational and professional imperatives as they relate to cultural competency. Heterogeneous organizations have proven more impactful and more productive overall, however assembling or linking with or into diverse thought faculty, students, staff, and advisors is often difficult. The session will outline the benefits of heterogeneous collaboration while helping attendees consider the value of cultural competency to the profession and question how faculty can respond.
Session B **Room 321**	*Building Student Capacity for Self-Evaluation* Laura Onkeles-Klein and Robert Dinerstein, American University, Washington College of Law While self-evaluation can strengthen and build cognitive skills, identifying how and where to build opportunities for self-evaluation into a classroom dynamic is difficult. This workshop will focus on two questions - why develop student-centered self-evaluation approaches and how to implement them. Legal professionals require an internal compass on performance evaluation to determine when external expectations are insufficient, inaccurate, or, in extreme situations, unethical. In this session, we will explore the theories behind self-evaluation, discuss how these theories affect legal skill growth, and dissect the good, bad, and ugly of our own experiences with student self-assessment.

LUNCH: 11:30 a.m.—12:30 p.m.
Student Lounge, Second Floor

WORKSHOP 3: 12:30—1:30 p.m.

Session A **Room 307**	*Using the Workshop Format to Introduce 1L Students to Professional Skills and Values* Sandra Simpson, Gonzaga University School of Law

	The ABA has recognized that teaching professionalism and emotional intelligence in law schools is an important goal. The faculty, staff, alumni, and employers of students at Gonzaga University School of law recognized these types of skills are essential to having a rewarding career in the law. To that end, the faculty and staff built a committee that created a mandatory 1L professional-values workshop series which focused on helping students build a professional identity. The workshops covered subjects such as implicit bias, time management, and getting and giving feedback. At this Institute workshop participants will gain an understanding of how to build a similar program at their school, focusing on skills such as recruiting speakers using their alumni base, reading books to help them prepare to run the workshops, examining studies to familiarize themselves on the various subjects of the workshops, and learning the details needed to put on a successful workshop series at their home institution. From subjects of the workshops to the type of food to serve, participants will experience a hands-on planning workshop designed to help them create their own program.
Session B **Room 321**	*How to Grow Future Lawyers in the Image of ABA Standard 302: Plant Seeds of Strong Learning Outcomes in a Collaborative Cross-Curriculum Garden, and Sprinkle with a Healthy Dose of Ethics, Skills, Cultural Competency, Collaborative Exercises, and Self-Evaluative Techniques* Tracey Brame, Tonya Krause-Phelan, and Victoria Vuletich, Western Michigan University—Thomas M. Cooley Law School The presenters teach various criminal, evidence, professional responsibility, race and cultural competency-based classes, and a public defenders clinic. By collaborating, co-teaching, and overlapping instructional tools, these professors are creating an innovative approach to learning outcomes and performance indicators that targets substantive legal knowledge; research and writing; critical thinking; professional judgment, values, and duties; resolving professional dilemmas; and legal advocacy skills. During this session, the presenters will demonstrate how collaborative, cumulative exercises and themes can be created by tweaking and building upon existing curriculum maps, learning objectives, and performance indicators. Attendees will participate in one of the presenters' cumulative exercises.

BREAK: 1:30—2:00 p.m.

WORKSHOP 4: 2:00—3:00 p.m.

Session A **Room 307**	*Transaction Planning—Creating a Roadmap for Transactional Clinics* Joseph Pileri, Georgetown University Law Center, and Lauren Rogal, Vanderbilt University Law School This workshop will introduce a method of teaching cultural competence in transactional lawyering, particularly the challenging process of creating a transaction plan. In creating

	a transaction plan, students utilize cross-cultural lawyering skills to identify client goals and priorities, develop legal strategies, sequence events and deliverables, set internal and external deadlines, and engage in an iterative process of evaluating project progress and seeking client input. The workshop will include (a) a description of our teaching method; (b) a simulation of the in-class exercise; and (c) a discussion about how to troubleshoot classroom challenges.
Session B **Room 321**	*Establishing Learning Outcomes, Cultural Competency, and the Underprepared Law Student as "Other"* Deborah Zalesne and David Nadvorney, CUNY School of Law We believe a student's academic intelligence is about more than simply cognitive skills; it's akin to culture, including not only cognitive, but also affective and social skills, all of which contribute to a student's level of success. Our workshop posits that for many faculty, seriously underprepared law students occupy a role as "other" just as students from vastly different cultures do. The workshop will emphasize the responsibility of the teacher to understand and bridge the gap that exists between students' level of preparation and the goals of the course. In doing so, we will highlight the failure of traditional law school pedagogy to reach the underprepared student, and suggest a framework and materials for teaching the cognitive component of academic intelligence.

BREAK: 3:00—3:30 p.m.

WORKSHOP 5: 3:30—4:30 p.m.

Session A **Room 307**	*BUILDING ON BEST PRACTICES: A Resource and Advocacy Tool to Keep Our Teaching, Our Law Schools, and Legal Education on the Right Track with Teaching Professional Skills* Carolyn Wilkes Kaas, Quinnipiac University School of Law, and Melanie DeRousse, University of Kansas School of Law BUILDING ON BEST PRACTICES: TRANSFORMING LEGAL EDUCATION IN A CHANGING WORLD sought to define emerging excellence in legal education, not focus on regulatory compliance. However, it now serves as a guide for law schools seeking to meet Standard 302 "skills" requirements. In particular, Chapter 6, "Teaching the Newly Essential Knowledge, Skills and Values in a Changing World," addresses many of the "Other Professional Skills" identified in Standard 302. It contains suggested learning outcomes and assessment methods, and other data related to the need for reform. How can this book be a resource for implementation of Standard 302, whether for an individual course or the overall curriculum?
Session B **Room 321**	*"It's All a Bit Hippy Isn't It?": The Importance of Teaching Self-Evaluation and Reflection in Law School* Andrew Henderson, University of Canberra (Australia)

	This workshop will model a seminar lesson plan and two activities for introducing law students to the fundamentals of self-evaluation through reflective thinking and practice. Self-evaluation through reflection is a skill identified in both the ABA's Standard 302(d) and in Threshold Learning Outcomes (TLOs) 2 and 6 for law students in Australia. Commentary on the TLOs has emphasised the development of self-evaluation and reflection as methods of addressing the disproportionately high rates of substance abuse and depression among lawyers and law students. This workshop will put the importance of self-evaluation in the wider context of supporting students' mental health and wellbeing.

SATURDAY, JULY 8, 2017

BREAKFAST: 8:30—9:00 a.m.
Student Lounge, Second Floor

WORKSHOP 6: 9:00—10:00 a.m.

Session A **Room 307**	*Teaching Cultural Competence as a Reflective Instructor* Andrij Kowalsky, Wilfrid Laurier University ABA Standard 302 (d) requires instructors to teach cultural competence. Intercultural Teaching Competence (ITC) involves teaching to linguistically and culturally pluralistic students. This workshop intends to raise awareness of diversity by addressing ITC principles of: (1) developing an awareness of one's own cultural and disciplinary identities and positionality in the classroom; (2) modelling and encouraging perspective-taking in the classroom; and, (3) modelling and encouraging non-judgmental approaches to exploring cultural, social or other difference. After this session, participants should appreciate the relationship between intercultural teaching competence in law and classroom practice.
Session B **Room 321**	*Helping Millenials Develop Self-Reflection* Benjamin Madison, Regent University School of Law This presentation focuses on self-reflection as a professional skill. More specifically, we will address the difficulty millennials face here. We will ask participants to compare their own brief self-assessment with the typical results for millennials. Seeing the results, we can launch a highly interactive discussion on teaching methods to help millennials appreciate that knowing one's limitations is as important as owning one's strengths. We can also ask the audience to consider how reflection—over time—can lead to clarity of values, to ethical boundaries, and even to recognition of areas in which one has a passion that her legal training can fulfill.

BREAK: 10:00—10:30 a.m.

WORKSHOP 7: 10:30-11:30 a.m.

Session A **Room 307**	*Students Learning Lawyering Skills: Immerse Them* Christine Church, Western Michigan University—Thomas M. Cooley Law School Students learn cultural competency, conflict resolution, collaboration, and self-evaluation best when they apply these concepts in simulated client representation. This workshop demonstrates a summer immersion program that integrates interviewing, counseling, negotiation, pretrial work and trial work in a Summer Skills Academy. JD Program Outcomes for skills and ethics can be assessed in the skills academy. Participants will receive fact patterns, rubrics, and syllabi to develop your own skills academy. Administration loves this model -- students can work during the week and get additional credits on weekends during the summer.
Session B **Room 321**	*Teaching Students to Receive Feedback* Miranda Johnson, Loyola University Chicago School of Law The ability of law students and attorneys to solicit and respond to feedback from supervisors, colleagues and others can enhance the development of self-evaluation skills and other professional skills. This workshop will present a lesson plan used in a practicum seminar that has the dual purpose of teaching students (i) how to receive feedback better and (ii) how to improve their articulated learning goals. Participants will then engage in an interactive exercise aimed at applying this concept to their respective courses.

LUNCH: 11:30 a.m. —12:30 p.m.
Student Lounge, Second Floor

WORKSHOP 8: 12:30—1:30 p.m.

Session A **Room 307**	*The Role of Leadership in Law School Education (More Than Just an "Other" Skill)* Leah Witcher Jackson Teague, Baylor University School of Law Since lawyers play critical leadership roles in both the public and private sector, law schools should be more intentional in preparing students for these important roles. This session begins with discussing why leadership development is important to the development of students' professional identity and their future leadership roles in society. How leadership programming can help meet Standard 302(d) also will be discussed. Syllabi from leadership development courses at two law schools will be shared and discussed. Participants will engage in an experiential learning exercise to demonstrate how leadership development programming can benefit law students, law schools and our broader communities.
Session B **Room 321**	*Developing Critical Legal Reading and Analytical Skills Through the Use of Charts and Diagrams*

	Constance Fain, Texas Southern University Thurgood Marshall School of Law The primary emphasis of this workshop will be on the creation and use of charts to enable students to diagram cases and course topics for the purpose of enhancing their critical reading and analytical skills for success in law school. The workshop will entail the use of an exercise involving a sample case to illustrate the development of the preceding skills. The session will be interactive by engaging the audience in the performance of the following tasks: small group collaboration and diagramming of a case using the chart as a guide; discussion of the chart information; and an overall assessment of the exercise.

CLOSING: 1:30—2:00 p.m.
Room 305
ILTL Co-Directors Emily Grant, Sandra Simpson, and Kelly Terry

ADJOURN

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The Institute for Law Teaching and Learning would like to thank everyone who was a part of our summer conference, including the following sponsors:

CAROLINA ACADEMIC PRESS

Summer 2017 Conference

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CONFERENCE EVALUATION

We value your feedback and are always looking for ways to improve our conferences.

Please take a moment to complete the conference evaluation at this link:

http://ualr.edu/law/iltl-summer-2017-conference/iltl-evaluation/

We will also send this link to you via e-mail.

Thank you for attending our Summer 2017 Conference!

TEACHING CULTURAL COMPETENCY AND OTHER PROFESSIONAL SKILLS

PRESENTERS' WRITTEN MATERIALS
FOR
INDIVIDUAL WORKSHOPS

INSTITUTE FOR LAW TEACHING AND LEARNING
GONZAGA UNIVERSITY SCHOOL OF LAW
WASHBURN UNIVERSITY SCHOOL OF LAW
UA LITTLE ROCK WILLIAM H. BOWEN SCHOOL OF LAW

Teaching Cultural Competency and Other Professional Skills

Workshop
1B

Bringing Marginalized Populations into the Classroom

Catherine Wasson, Elon University School of Law

Thomas Noble, Elon University School of Law

Patricia Perkins, Elon University School of Law

ELON LAW

Bringing Marginalized Populations into the Classroom

Institute for Law Teaching and Learning Summer 2017 Conference
Teaching Cultural Competency and Other Professional Skills Suggested by ABA Standard 302
July 7-8, 2017 – University of Arkansas at Little Rock William H. Bowen School of Law

Most students begin to learn what it feels like to ***be*** a lawyer in the 1L legal writing classroom. In their first weeks of law school students may be asked to evaluate the merits of a potential lawsuit, and by the end of the year they are advocating for a client in briefs and oral arguments. By "casting" members of marginalized populations in first-year writing assignments, we can provide students with their first lessons in professionalism and cultural awareness. Problems featuring marginalized groups can force students to confront their own biases and wrestle with the tensions between state authority and individual rights. In the process, students begin to learn something about what they want to do – and how they want to be – as lawyers.

If you would like to explore any of the problems discussed by the members of this panel, please feel free to contact us:

Prof. Thomas Noble	tnoble@elon.edu	(Egyptian immigrants)
Prof. Patricia Perkins	pperkins@elon.edu	(Prison inmates)
Prof. Catherine Wasson	cwasson@elon.edu	(Person with mental illness)

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Teaching Cultural Competency and Other Professional Skills

Workshop
3B

How to Grow Future Lawyers in the Image of ABA Standard 302: Plant Seeds of Strong Learning Outcomes in a Collaborative Cross-Curriculum Garden, and Sprinkle with a Healthy Dose of Ethics, Skills, Cultural Competency, Collaborative Exercises, and Self-Evaluative Techniques

Tracey Brame, Western Michigan University—Thomas M. Cooley Law School

Tonya Krause-Phelan, Western Michigan University—Thomas M. Cooley Law School

Victoria Vuletich, Western Michigan University—Thomas M. Cooley Law School

HOW TO GROW FUTURE LAWYERS IN THE IMAGE OF ABA STANDARD 302:

Plant Seeds of Learning Outcomes in a Collaborative Cross-Curriculum Garden,

Enrich with Problem-based Learning,

Water with Practice-Ready Skills, and

Tend with Assessments and Reflection

Presented by:

Tracey Brame, Assistant Dean and Professor
Tonya Krause-Phelan, Auxiliary Dean and Professor
Victoria Vuletich, Professor; Guest Lecturer, Hertford College, Oxford University

Western Michigan University—Thomas M. Cooley Law School
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616.301.6800

INTRODUCTION

The skills required to be an effective, ethical, and responsible lawyer in today's rapidly evolving legal profession are many and demanding. Therefore, it is unsurprising that the ABA promulgated Standard 302 to ensure law schools provide students with a rigorous educational program to prepare them to be effective, ethical, and responsible practitioners.

Although ABA Standard 302 sets for the overarching core values, objectives, and outcomes law must establish, the core responsibility will fall to the professors to implement specific targeted outcomes within their individual courses. Of course, those learning outcomes will depend on the subject matter and type of course being taught. But, when faculty collaborate, creativity abounds. As a result, faculty members can launch endless possibilities for bringing the spirit of ABA Standard 302 to life.

In our case, that is exactly what happened. We teach various criminal, evidence, professional responsibility, race and cultural competency-based classes, national trial and moot court team classes, an access to justice clinic, and a public defenders clinic. By collaborating, co-teaching, and overlapping instructional assessments and exercises, we created an innovative approach to learning outcomes, assessments, and reflection that target substantive legal knowledge; research and writing; critical thinking; professional judgment, values, and duties; resolving professional dilemmas; a breadth of legal advocacy skills, and a profound sense of justice. During this workshop, we will share our collaborative process and provide attendees with examples of our overlapping instructional assessments, exercises, and reflective pieces.

The goal of this workshop is to demonstrate methods and techniques participants can use to determine meaningful learning outcomes, as required by ABA Standard 302, and suggestions to implement those goals through effective course design, and creative, targeted, and rigorous problem-based learning exercises (classroom instruction).

IMPLEMENTATION OF ABA 302: A MANDADTE

For years, there has been both a public and an institutional perception that a significant gap exists between legal education and what students really need to learn to practice law.[1] Starting in 1992, a series of studies, reports, and recommendations challenged law schools and legal educators to reform legal education.[2] A common admonition in all these reports and studies was that law schools needed to improve the quality of legal education so that graduates would be better prepared for the practice of law.[3]

Since these reports and recommendations were published, the ABA explored and developed rules and standards to ensure law schools provide quality legal education.[4] In that regard, on August 12, 2014, the ABA adopted Standard 302 which states:

> A law school shall establish learning outcomes that shall, at a minimum, include competency in the following: (a) Knowledge and understanding of substantive and procedural law; (b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context; (c) Exercise of proper professional

[1] *See generally, Twenty Years After the MacCrate Report: A Review of the Current State of the Legal Education Continuum and the Challenges Facing the Academy, Bar and Judiciary, ABA Syllabus, Vol. 44 NO 4 (2012-2013).* ***https://www.americanbar.org/publications/syllabus_home/volume_44_2012-2013/summer-2013/report-of-the-committee-on-the-professional-educational-continuu.html*** *(last visited June 6, 2017).*

[2] The MacCrate Report set forth the fundamental lawyering skills and professionalism factors embodied by practicing lawyers. The Report focused on the need for legal education to provide law students with skills based instruction that would ready students for the practice of law. *Legal Education and* Standard 301. OBJECTIVES OF PROGRAM OF LEGAL EDUCATION. (a) A law school shall maintain a rigorous program of legal education that prepares its students, upon graduation, for admission to the bar and for effective, ethical, and responsible participation as members of the legal profession. (b) A law school shall establish and publish learning outcomes designed to achieve these objectives. *Professional Development-An Educational Continuum: Report of the Task Force on Law Schools and the Profession: Narrowing the Gap. (1992) (Commonly referred to as the MacCrate Report).* Stuckey's Report offered proposed solutions to legal education. The report focused on three main principles for reforming legal education. First, law schools need to make a conscious effort to teach students to be prepared to practice law. Second, law school must set forth clearly stated educational goals. And third, law schools must regularly self-assess whether they are adequately preparing their students to practice law. *Best Practice for Legal Education: A Vision and a Roadmap, Roy Stuckey and others (2007).* The Carnegie Report offered a series of recommendations to improve legal education. The overarching theme was that law schools should teach across the curriculum and design programs to weave together disparate kinds of knowledge and skill. *Educating Lawyers: Preparation for the Practice of Law, Sullivan, Colby, Wegner, Bond, Schulman, Carnegie Foundation for the Advancement of Teaching (2007).*

[3] *Id.*

[4] *See generally,* Standard 302: Learning Outcomes: A law school shall establish learning outcomes that shall, at a minimum, include competency in the following: (a) Knowledge and understanding of substantive and procedural law; (b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context; (c) Exercise of proper professional and ethical responsibilities to clients and the legal system; and (d) Other professional skills needed for competent and ethical participation as a member of the legal profession.

and ethical responsibilities to clients and the legal system; and (d) Other professional skills needed for competent and ethical participation as a member of the legal profession.[5]

Standard 302 sets forth the categorical learning, knowledge, and skills outcomes for which law schools are obligated to establish and implement. In addition to the outcomes described in Standard 302, the ABA granted law schools the ability to identify and implement additional learning outcomes and goals. [6]

When reviewing the reports and recommendations for improving legal education that preceded the adoption of ABA Standard 302, it is fair to conclude that the requirements set forth in Standard 302 do not present new or revolutionary concepts. What is new, however, is the requirement that law schools must establish and publish outcomes that focus on student competency in critical professional and legal skills. The overarching goal of the objectives laws schools must establish is to ensure their graduates are prepared to pass the bar exam and that they are prepared to be effective, ethical, and responsible members of the bar. Since its adoption, most law schools have engaged in significant discussions regarding how to meaningfully and effectively implement the goals and benchmarks set forth in ABA Standard 302.

To discuss what most law schools are doing, however, is beyond the scope of these materials and this presentation. Instead, we will focus on the process we went through to identify, create, and implement collaborative, cross-curriculum outcomes and exercises. At first, our attention focused primarily on areas of substantive overlap in our respective classes and clinics. With time and collaboration, our efforts turned to creating exercises that presented the same or similar facts, but required students to analyze and perform in a different context. Then, we decided how to incorporate appropriate feedback and reflection components. Upon further research, we realized that our project fused three important pedagogical concepts: problem-based learning; assessment, feedback, and reflection; and, scaffolding and transfer of learning.

LEARNING BY DOING:
THE PROBLEM-BASED LEARNING METHOD

Current conversations in legal education are driving legal educators to think past Socratic Method as the gold standard of instruction. As a result, law school faculty are seeking to

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[5] *See, ABA Transition to and Implementation of the New Standards and Rules of Procedure for Approval of Law Schools,* August 13, 2014 letter which, in part, mandates that law schools begin following Standard 302 by 2016-2017.
https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governancedocuments/2014_august_transition_and_implementation_of_new_aba_standards_and_rules.authcheckdam.pdf

[6] Two notes of interpretation accompany Standard 302. Those interpretations state:

> Interpretation 302-1. For the purposes of Standard 302(d), other professional skills are determined by the law school and may include skills such as, interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and self-evaluation.
>
> Interpretation 302-2. A law school may also identify any additional learning outcomes pertinent to its program of legal education.

integrate pedagogically recognized methods of instruction in to their course design. As part of the current conversation, a great deal of attention is focused on problem-based learning as an effective tool for legal education.[7] Problem-based learning in law school is nothing new. Law schools have been using problem-based learning for decades.[8] Although until recently, problem-based teaching seemed to be relegated to Research and Writing, Moot Court, and Trial Advocacy classes.[9] ABA Standard 302 seems to encourage law schools to adopt problem-based learning techniques.

What is Problem-Based Learning? John Dewey, an American philosopher, psychologist**,** and influential educational reformer once said, "[t]rue learning is based on discovery guided by mentoring rather than by the transmission of knowledge."[10] Problem-based learning was introduced in the 1980's at McMaster College in Canada. Although the introduction of problem-based learning first occurred in medical education, it has since spread to other disciplines including legal education.[11] Problem-based learning is a "systematic way to introduce active, student-centered learning to both large and small classes."[12]

The main components of problem-based learning are what makes it such an effective teaching technique. There are five key features of problem-based learning:

1. Faculty introduces a complex problem based on real-world scenarios;
2. Faculty withholds some information, requiring students to make assumptions and estimations;
3. Students learn how to identify, search for, and use information outside the textbook;
4. Students work in groups and learning is active and connected; and,
5. Faculty act as a guide and mentor.[13]

Considering the five key features of problem-based learning, it is readily observable that students are necessarily and meaningfully engaged in the learning process. In fact, well-designed problems offer not only motivation to be engaged in the learning process, but they create an environment for productive and meaningful student participation.[14] Quite simply, the student is the center of the learning process.

Despite the benefits of active student learning, some professors are reluctant to try problem-based learning methods. A common refrain from reluctant law school faculty is that if they incorporate problem-based learning into their classroom, they will lose valuable time to teach substantive law. However, in his article, Hirokawa pointed out:

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[7] Hirokawa, Keith H., *Critical Enculturation: Using Problems to Teach Law,* 2 *Drexel L. Rev.* 1, 6-11. *(2009).*
[8] Hirokawa, Keith H., *Critical Enculturation: Using Problems to Teach Law,* 2 *Drexel L. Rev.* 1 *(2009), citing Frank, Jerome, Why Not a Clinical Lawyer-School?, 907, 914-23 (1933); Morgan, Thomas D., Use of the Problem Method for Teaching Legal Ethics, 39 Wm. & Mary L. Rev. 409, 409-10 (1998); and Ogden, Gregory L., The Problem Method in Legal Education, 34 J. Legal Educ. 654, 654-55 (1984).*
[9] Hirokawa *at 6.*
[10] *https://www.creighton.edu/sites/www12.creighton.edu/files/TL-Pedagogies-PBL.pdf (last visited June 6, 2017).*
[11] *https://www.creighton.edu/sites/www12.creighton.edu/files/TL-Pedagogies-PBL.pdf (last visited June 6, 2017).*
[12] *Id.*
[13] *Id. at 2.*
[14] Hirokawa *at 5.*

> What is notable about this method is that what teachers gain in opportunities to address professionalism and lawyering skills is not offset by a loss in teaching substantive law. Mindful of the student mantra--"I read and I forget; I see and I remember; I do and I understand"--PBL recognizes that "[p]roblem-solving skills can be developed only by actually working through the process of resolving problems." PBL methods improve retention by situating knowledge into a constructive context, embedding information through use.

That is not to say professors will not lose time that would otherwise be dedicated to lecture or Socratic instruction. Indeed, professors will need to dedicate additional time, thought, and work toward effectively designing problem-based exercises. And depending on how the professor designs the problem-based learning exercise, class time will need to be allocated toward performing the exercise. But, the potential for successful learning and implementation is palpable.

But, students will not learn merely because they receive a problem from a professor. For maximum learning benefit, the problems must be appropriately crafted to platform the substantive knowledge while challenging students to solve problems.[15] "Teachers can optimize the benefits of [problem-based learning] methods in the problem-solving process through the quality of problems presented to students."[16]

Designing Problem-based Problems. So, how does one craft a quality problem? Problem design is the key to effective problem-based learning. In his article, Hirokawa suggests there are several general factors and five specific design factors to developing quality problem-based learning courses and exercises. Generally, the problem design will depend on the course. But beyond the confine of the subject matter, the content of a problem should stimulate passion and creative problem-solving, expectations of high engagement and sophisticated performance, offer students independence in the problem-solving process, yet provide the guidance and the support necessary to learn, assimilate, and meet the desired objective.[17]

In addition to the general design factors, there are five specific design factors to consider when crafting a high-quality problem-based exercise.

1. *Problems should be relevant and consistent with course objectives.* It is important for professors to have strong, clearly-defined course objectives and learning outcomes. Any problem-based learning experience should help move the student to accomplishing the stated objectives and outcomes. The problems should be organized and limited in scope to the objectives and outcomes the professor has targeted.[18]

[15] Hirokawa *at 11, 12.*
[16] *Id.* at *12.*
[17] *Id.* at *13.*
[18] *Id.*

2. *Students must feel they are learning useful knowledge and skills.* If students believe they are learning useful knowledge and skills, they are much more likely to be fully invested in the exercise. Making the problems as realistic as possible, both in content and process, increases the chance that the students will adopt the roles intended by the professor as well as the role they assume in practice.[19]

3. *Encourage students to collaborate through the problem-solving process.* Collaboration is an important part of lawyering; so, it is an important part of the problem-solving process. It exposes students to different ideas, conflict, negotiation and resolution, leadership, and learning.[20]

4. *Problems should reflect ordinary and everyday conflicts and circumstances.* In short, the problem-based learning exercises should "make it real." Students want to know that what they are learning and doing in the classroom has practical value to what they will be required to do as lawyers. And, ABA Standard 302 demands it. By ensuring that problems reflect everyday conflicts, professors bring to life the substantive law and course objectives.[21]

5 *Students must be given opportunity for reflective presentation or reporting on the results the problem-solving process.* Lawyers must possess the skill to reflect and self-evaluate their knowledge and performance. Developing this skill, therefore, must start during law school. With some diligent and structured course design and problem-based learning exercises, faculty can guide students to effectively reflect on their learning and report their conclusions and evaluations.[22]

The five specific design factors are structured to place the student in an active role to solve practical, relevant legal issues either independently or collaboratively. And although the professor will guide the student through the problem-based exercise, the student bears the responsibility to report the results and to reflect on their own learning.

The first step to creating and implementing problem-based exercises is to formulate the substantive problem. Many theories exist as to what makes for an effective problem. But, two methods seem particularly well-suited to problem-based learning: scaffolding and transfer of learning.

SCAFFOLDING AND TRANSFERRING LEARNING

Scaffolding is an instructional technique that is designed to move students progressively toward stronger understanding and greater independence in the learning process. Scaffolding is an

[19] *Id.* at *13, 14.*
[20] *Id.* at 14.
[21] *Id.* at 14, 15.
[22] *Id.* at 15, 16.

essential element of effective teaching. Scaffolding is also implemented to bridge the gap between what students have already learned and what they are expected to know and to be able to do at a certain point in their education.[23] Said another way, "[a]t its most essential, psychological scaffolding is the idea that people integrate new information into existing frameworks of knowledge."[24]

Some research suggests that the scaffolding technique aligns with the manner in which memory is stored and retrieved.[25] Scaffolding engages two important concepts, short-term memory and working memory.[26] Short-term memory is the ability to quickly recall a specific set of facts. On the other hand, working memory describes the ability to actively use and work with the learned facts.[27] Scaffolding maximizes the strengths of each of these types of memory.

Transfer of learning is a related pedagogical concept. Transfer of learning reflects the idea that students will be able to apply the "doctrine, skills, and critical reasoning" learned in the classroom and apply that knowledge in a different setting.[28] Using a classic model of transfer, "students more readily recognize applications for prior learning when the new context has similarities that 'line up' to make it recognizable as more familiar or 'near.'"[29]

Consequently, combining the teaching techniques of problem-based learning with scaffolding and transfer of knowledge promises to be an effective method to improve teaching *and* learning the substantive material, the requisite skills, and the ability to use the knowledge and skills to solve future problems. These combine techniques served as the basis for creating our cross-curriculum exercises. One conceptual category remains, however, to maximize the teaching and learning experience of problem-based exercises: incorporating assessment, feedback, and reflection as part of the learning exercises.

INCORPORATING ASSESSMENT, FEEDBACK, AND REFLECTION INTO THE PROBLEM-BASED LEARNING METHODOLOGY

The greatest problem-based learning exercises in the world are to no avail if the educator does not also require students to perform assessments, provide students with positive and meaningful feedback, and foster students' ability to self-reflect. These final steps will move the students from passively learning the substantive material and working with material to solve problems to a point where they actually think about how they have contributed to their knowledge of the material and what they need to do to work toward mastery of the subjects and skills involved.

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[23] *Scaffolding, The Glossary of Education Reform for Journalists, Parents and Community Members (2015). http://edglossary.org/scaffolding/* (last visited June 6, 2017).
[24] Archer, Eyster, Kelly, Jr., Kowalski, and Shanahan, *Reaching Backward and Stretching Forward*, 64 *J. Legal Educ.* 258, 265 (2014).
[25] *See generally*, Archer, Eyster, Kelly, Jr., Kowalski, and Shanahan, *Reaching Backward and Stretching Forward*, 64 *J. Legal Educ. at* 265-268. (2014).
[26] *Id* at *267.*
[27] *Id.*
[28] Archer *at 269.*
[29] *Id. at 274.*

Assessment. The overall purpose of assessment is to provide both the teacher and the student a snapshot of the students' understanding of the material in question. Generally speaking, "[a]ssessments are tools used to obtain and document information about student achievement, skills, and ability."[30] Specifically, "[t]he main purpose of assessments in educational institutions is to determine whether students are learning what we, as teachers, believe they should be learning."[31] Traditionally, law schools have relied on exams as the primary form of assessment.

However, there is another facet of assessment that the presenters focused on: improving students' knowledge and performance. "The ideal assessment program should help teachers discover whether students have achieved the learning outcomes of the course and provide guidance and feedback to students to help them improve their learning skills."[32]

> "The focus of student assessment in law school should be on enhancing student performance, providing multiple evaluations of student performance, and giving appropriate feedback to students. Hence, assessment is more than just tests and testing. Rather, it is an approach to legal education that fosters more active teaching and learning."[33]

Assessments can be summative or formative. Summative assessments are typically graded. They are designed to indicate whether, and to what extent, students have met the course objectives.[34] On the other hand, the primary purpose of formative assessments is to assist the process of learning. One of the key features of formative assessments is that feedback should be provided.[35]

Meaningful Feedback. To move the students' education forward, teachers must provide students with meaningful feedback regarding the students' performance on the assessments. Feedback can be teacher, student, or peer-based. But whatever form the feedback takes, it must—at a bare minimum—highlight what the student did well, what the student did not do well and needs to improve to attain mastery of the system, and confidence that the student is capable of achieving the goal.[36] Feedback must also be timely and instructive.[37]

Developing and Promoting Self-Reflection. While professors should provide students with recommendations to improve performance, students must develop the skill to reflect on their own performance and improvement.[38] Whether the reflection is a structured journal entry of one-on-one interview with faculty or other students, students must learn how to evaluate their own knowledge and performance as well as determine a path for improvement.[39]

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[30] Lasso, Rogelio, *Is Our Students Learning? Using Assessments to Measure and Improve Law School Learning and Performance*, 15 *Barry Law Review*, 73, 76 (2010).
[31] *Id. at 78.*
[32] *Id. at 79.*
[33] *Id. at 78, 79, citing, Gregory Munro*
[34] Lasso *at 77*.
[35] *Id.*
[36] *Id.* at 91, 91.
[37] *See generally, Id. at 89-99.*
[38] Hirokawa *at* 15-17.
[39] *Id.*

OUR PROJECT

Our project began long before we were even aware it had begun. Several years ago, Professors Krause-Phelan and Vuletich, teaching Criminal Procedure and Personal and Professional Responsibility respectively, began informally discussing the overlap in material (i.e. the overlap in the substantive topics of ineffective assistance of counsel and conflict of interest, due diligence, and zealous representation) that existed in our two classes. Based on our conversations, we discovered there were several more areas where our two classes intersected. At that point, we became incredibly excited about the teaching possibilities this cross-curriculum opportunity presented. As a result, we created a new class called Advanced Ethics in Criminal Cases. There, we co-taught the class and created discussion, exercises, and student research opportunities that provided students with an environment to explore the cross-section between criminal law and legal ethics.

Then, Professor Vuletich was assigned to teach a new course, Evidence. As she began her new course preparation, she was looking for practical exercises to provide students. Professor Krause-Phelan shared an exercise she used in Criminal Law that could be modified and expanded to cover issues in her Evidence class. And with that, an idea was born.

The problem-based exercises listed below are at various levels of creation, adoption, and implementation. During the conference, a PowerPoint presentation, further details regarding each exercise, and compliance talking points will be provided to conference attendees.

Exercise #1: The Self-Defense Trial

Phase One: In Criminal Law, Professor Krause-Phelan provides her first-term the chance to advocate, deliberate, and evaluate the law of homicide and self-defense in a "mini-trial." Four students, two acting as the prosecution team and two acting as the defense team, receive a fact pattern they have not previously read, relevant statutes, and the necessary jury instructions two days before class. These students are directed to prepare a closing argument (appropriate modeling is provided).

The rest of the students are divided into the following groups: jurors, legal analysists, and jury experts; these groups do not receive the information given to the student lawyers. To ensure active participation, these groups are given tasks to perform both during and after the exercise.

At the conclusions of the in-class mini trial, Professor Krause-Phelan provides substantive feedback regarding the elements, statutes, and jury instructions. All students are required to submit a written summary providing reflection with respect to several targeted questions.

Phase Two: In Evidence, Professor Vuletich builds on the self-defense trial by using the same factual scenario as a vehicle for identifying relevant and admissible character evidence. The students are tasked with working with their law firm partner to 1) identify the types of character evidence the prosecution can seek to admit on direct; 2) identify the types of character evidence the prosecution can seek to admit on cross if the defendant invokes the Mercy Rule, and 3) whether the defendant should introduce character evidence, and if so, what kind of character evidence.

Phase Three: In the Public Defenders Clinic, which is a blended clinical experience, Professors Brame and Krause-Phelan, are required to provide students with tutelage beyond what the students receive from their supervising attorneys. To that extent, students are provided a copy of the exercise as it was last presented in Evidence. Students will be required to prepare a written motion in limine and present oral argument. From there, the knowledge and skill will be transferred to preparing a motion in limine for an actual case at the Public Defenders Office.

Exercise #2: Criminal Sentencing Hearing

Phase One: In Criminal Law, students are exposed to the theories and goals of punishment in their first week of class. Professor Krause-Phelan provides students with a factual scenario leading to an offender's conviction and sentencing, the court's sentencing order, and a sentencing statute. Students are required to write a short essay analyzing the theories and goals of punishment employed by the sentencing judge.

Phase Two: In the Personal and Professional Responsibility class, Professor Vuletich will give students a scenario where the prosecutor fails to disclose mitigating information and the defense attorney is aware of a prior conviction of his/her criminal defendant/client that was not reported in the presentence report. The students are tasked with identifying the duties of the attorneys under the Model Rules of Professional Conduct and asked how the attorney should resolve the dilemma. We also discuss the cultural and personal dynamics that contribute to attorney advocacy overtaking ethical obligations.

Phase Three: In the Public Defenders Clinic, students are given the sentencing problem as prepared by Professor Krause-Phelan and Vuletich. The problem is the starting point for a lesson on the Michigan Sentencing Guidelines. From there, the lesson turns to writing an effective Sentence Memorandum. Again, the problem is used as the starting point for instruction. Students are then required to author a Sentence Memorandum for a client at the Defenders Office. A list of criteria is provided; student performance is assessed in light of the criteria.

Exercise #3: Rape Trial[40]

[40] *Inspired by Professor Joshua Dressler, Professor of Law, Moritz College of Law.*

Phase One: In one of the first few weeks of Criminal Law, Professor Krause-Phelan provides her first-term the chance to advocate, deliberate, and evaluate the law of rape in a "mini-trial." Four students, two acting as the prosecution team and two acting as the defense team, are required to prepare a closing argument based on the law and facts presented in one of the cases from their reading assignment (appropriate modeling is provided).

The rest of the students are divided into the following groups: jurors, legal analysists, and jury experts; these groups do not receive the information given to the student lawyers. To ensure active participation, these groups are given tasks to perform both during and after the exercise.

At the conclusions of the in-class mini trial, Professor Krause-Phelan provides substantive feedback regarding the elements, statutes, and jury instructions. All students are required to submit a written summary providing reflection with respect to several targeted questions.

This exercise is also designed to spotlight societal attitudes and prejudices about rape and sexual misconduct. Consequently, it allows for a discussion on sensitivity and cultural competency.

Phase Two: In Evidence, Professor Vuletich modifies the Rape Trial exercise from Criminal Law into a Motion in Limine exercise. Student lawyers must analyze the facts under FRE 412 (the Rape Shield Law) and FRE 413-415 which allow admission of acts of prior sexual assaults, even uncharged acts, against defendants, in sexual assault prosecutions. The student lawyers must argue for and against admission of certain pieces of evidence. The goals of the exercise are to: 1) Have the students master the substance of these rules, 2) explore whether there are any cultural biases in these rules and practice their oral advocacy skills.

Phase Three: In the Public Defenders Clinic, students are given the exercise as prepared by Professor Vuletich. The problem is the starting point for a lesson on the Michigan's Rape Shield Statute and the associated motion practice. As part of sensitivity training as well as strategy for cross-examination, students are required to prepare one of three cross-examination: a child sexual assault victim, a victim of forcible rape, and a victim of acquaintance rape. A list of criteria is provided; student performance is assessed in light of the criteria and by the professors, peers, and supervising attorneys.

Exercise #4: Motion and Appellate Advocacy

Phase One: In Criminal Procedure, Professor Krause-Phelan provides students with copies of the appellant and appellee briefs from a case studied in class (*Florida v Jardines*). Professor Krause-Phelan instructs on the efficacy of the legal arguments

presented in each brief. Students are then required to draft an outline for oral argument. They argue the case.

Phase Two: In Personal and Professional Responsibility Professor Vuletich will use the briefs as a vehicle to discuss the obligations of candor to the court trial attorneys have under the Model Rules of Professional Conduct when a case in pending on appeal.

Phase Three: Students in the Public Defenders Clinic will draft a motion to suppress evidence based on client's case.

Exercise #5: Crawford

Phase One: In Criminal Procedure, Professor Krause-Phelan will introduce the *Crawford* case in conjunction with *Georgia v Randolph.* Students will write a "minute paper" regarding the case rule.

Phase Two: In Evidence, Professor Vuletich will build upon Professor Krause-Phelan's scenario to assist students in recognizing and distinguishing among admissible hearsay against a criminal defendant (admissions) vs. "testimonial" hearsay that is barred under *Davis v. Washington* and *Crawford*, as violative of the Confrontation Clause.

Phase Three: Regarding the *Crawford* and *Davis* rulings, Professors Brame and Krause-Phelan will monitor Public Defenders Clinic students as they prepare a substantive checklist for addressing these issues. This process will also include guidance on reading police reports and discovery documents to look for the issue as well as drafting and filing appropriate motions.

Exercise #6: 12 People in a Box

Phase One: In Criminal Law, Professor Krause-Phelan provides students with Michigan Criminal Jury Instructions for several of the crimes covered in class. Students are given a statute they have not learned and a case interpreting the elements. From there, they must draft the jury instructions for that case. This exercise involves peer review with a professor-guided rubric.

Phase Two: In Personal and Professional Responsibility students work through a scenario which forces them to identify when and how an attorney may speak with a juror. In Evidence, the students will receive a scenario to discern when a jury's deliberations may be challenged and when they may not, focusing on the new U.S. Supreme Court Case *Pena-Rodriguez v. Colorado which modifies the prior test.*

Phase Three: Professors Brame and Krause-Phelan will provide the Public Defender students with a brief review of the problems from Phases One and Two. Then, students will receive a brief tutorial on effective jury selection. The students will write *voir dire*

questions for a case they are currently working on. Finally, the students will practice asking the questions. Professor, peer, and supervising attorney review.

Exercise #7: He Looked "Crazy!"

Phase One: In Criminal Law, students learn the basic competency and insanity tests and the basic procedure for handling the insanity defense. To solidify the concept, students are given puzzle pieces which contain relevant facts and law. Students must then put the pieces together in the correct order for handling the defense.

Phase Two: The same exercise, with appropriate modifications, will be given to the Evidence students to study the admissibility of opinions by lay witnesses and experts. The student lawyers will practice examining and impeaching expert and lay witnesses.

Phase Three: Unless a current client situation exists, the Public Defender students will be given the problems presented by Professors Krause-Phelan and Vuletich. From there, the students are required to draft a motion for forensic exam, a motion for expert witness fees, and a notice of intent to assert the insanity defense.

Exercise #8: Bad Lawyering

Phase One: In Criminal Procedure, Professor Krause-Phelan provides students with a short factual scenario involving a suspected burglary and larceny. The defendant is charged and receives questionable advice from her lawyer regarding whether to proceed to trial or to accept a plea agreement. Students must recall the elements of the crimes to analyze correctly whether trial counsel provided ineffective assistance of counsel. The assessment requires students to outline the argument for ineffective assistance of counsel. Peer review.

Phase Two: In Personal and Professional Responsibility, students will be given a modified scenario where they will identify Ineffective Assistance of Counsel; Zealous Representation issues; the problem will also include listing meaningful ways to avoid the ineffective conduct.

Phase Three: Using one or both exercises above, the Public Defenders students are provided a lesson on the responsibilities and due-diligence requirement of providing clients with advice regarding the collateral consequences of guilty plea. Students are challenged to create a list for the lawyers as well as other externs of the relevant collateral consequences that might be triggered by a guilty plea as well as discussing ways to communicate these concepts with the clients.

Exercise #9: Rule Makers and Rule Breakers

Phase One: Prior to the first class, Professor Krause-Phelan's students are required to read the Syllabus. Students must take a short quiz on the contents of the Syllabus, including rules of conduct. Here, the students are introduced to the type of professional conduct that must be exhibited in a courtroom: standing, use of surnames, limited (or no) use of electronic devices, filing requirements, and punctuality.

Phase Two: In Professor Vuletich's Professional Responsibility class, students work together to identify proposed standards of classroom conduct, a proposed sanction for violating the standard, and what level of conduct will trigger a violation. The proposals are written on the board and the class votes on both the standards and the sanctions. This introduces the concept and practice of self-regulation. It also relieves the professor of being the disciplinarian as the professor simply enforces cultural norms established by the students.

The idea for this is based on a tip I read about in the Institute of Law Teaching newsletter. (Thank you to the professor who shared this!)

Phase Three: In the Public Defender Clinic students are required to write a journal entry (or as part of their final reflection memo) how they learned to hold true to their professional persona while navigating local custom and practice. Students are provided guided questions with respect to how their behavior changed depending on the courtroom they were in, how they dealt with bad lawyering or instances of misconduct.

Exercise #10: The Living Eulogy

Phase One: On the first day of Criminal Law, Professor Krause-Phelan asks the students to write down the answer to the following three questions: Many decades from now, when you have passed away and people are preparing your eulogy: 1) What kind of person/lawyer do you hope people will remember you as? 2) What kind of person/lawyer do you think people will say you really were? 3) What can the professors and Cooley team do to help you in developing your professional persona so that people say the things you hope they'll say when they eulogize you?

After the midterm, Professor Krause-Phelan asks the students how their professional persona is developing in light of their original answers. During the last class, she then asks students to reflect on how their professional persona aligns with the answers they provided in the first week of class. Student answers are retained for future reference.

Phase Two: Professor Vuletich will provide the students with modified questions requiring continued reflection. The students must also interview a practicing lawyer

regarding ethical issues they have encountered and write a reflection piece discussing those issues.

Phase Three: As part of their final reflection memo, Public Defender students are asked whether their ideas of professionalism have changed over the course of their law school career; if so, how and why. They are asked if they lived up to their own standards. They are also asked if their standards of professionalism comply with local custom as well as state standards.

CONCLUSION

As law professors seek ways to merge ABA Standard 302 into their current course objectives and outcomes, collaboration and creativity will go a long way to that end. Our journey to this point, as well our future plans, encompass creating, implementing, and evaluating cross-curriculum problem-based learning exercises that include scaffolding and transfer of learning techniques. Effective assessment, feedback, and reflective components will also be included to round out the efficacy and efficiency of these exercises.

INSTITUTE FOR LAW TEACHING AND LEARNING
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Transaction Planning—Creating a Roadmap for Transactional Clinics

Joseph Pileri, Georgetown University Law Center

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Teaching Transaction Planning to Clinical Students

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Overview

Transaction planning is the process of converting a client's abstract goals into a set of concrete deliverables and timelines. It involves:

- Utilizing cross-cultural lawyering skills
- Identifying client goals and priorities
- Brainstorming deliverables that meet the client's goals
- Developing legal strategies
- Sequencing events and deliverables
- Setting internal and external deadlines

Student Learning Goals

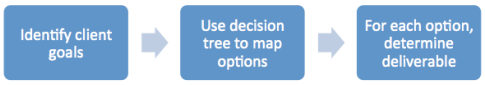
- Learn a systematic, transferable method of planning legal work.
- Identify and distinguish between client goals, options, and deliverables.
- Understand historic, economic, and cultural contexts with which students may be unfamiliar.
- Identify and think critically about students' own assumptions underlying their decision-making process.
- Learn to anticipate and plan around contingencies.

Class Plan

- **Class Discussion**
  - 3-step transaction planning: goals, options, deliverables.
  - Distinguishing between goals, options, and deliverables.
  - Types of deliverables.
- **Guided Exercise** – developing a decision tree for a simple case
- **Group Exercise** – developing a decision tree for a complex case
- **Class Discussion**
  - Deliverable planning process
  - Converting the decision tree into a transaction plan

Class Discussion

The three-step transaction planning process



Class Discussion

Distinguishing between the three steps

Goal	Option	Deliverable
Operational outcome the client wants to achieve	Legal approach that helps the client reach the desired outcome	Document or legal action that accomplishes a desired outcome

Note: Clients may request a specific legal outcome (e.g. 501(c)(3) status). Students must investigate the underlying *operational* goals (e.g. obtain donations, conduct charitable activities, use volunteers, etc.).

Class Discussion

Types of deliverables

Deliverable	Advisory Memo	Transactional Document
Purpose	Explains ways to achieve goals	Directly achieves goals
Content	• States facts and goals • Describes options • Analyzes pros & cons of options, focusing on alignment with goals • *May* give a recommendation	Contract, administrative filing, governance document, etc.
Delivery	Provide and seek client input, then draft transactional document(s)	Provide along with an explanatory memo/transmittal

Guided Exercise

Developing a Decision Tree for a Simple Case

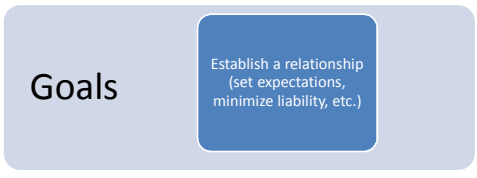
Hypo

Bob's Burgers wants to host a fundraising night for Kat's Kidz, a local nonprofit. Bob wants to donate a portion of the night's profits to Kat's Kidz, and Kat wants to set up a table in the burger shop and tell customers about the organization. Bob has contacted the clinic to seek help in arranging this.

Develop a decision tree to determine the client deliverable.

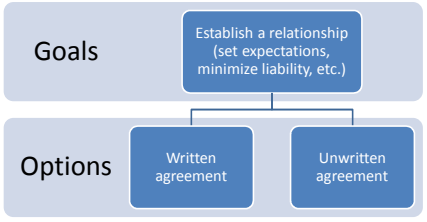
Guided Exercise

Developing a Decision Tree for a Simple Case



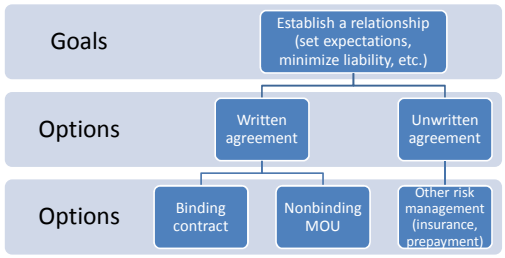
Guided Exercise

Developing a Decision Tree for a Simple Case



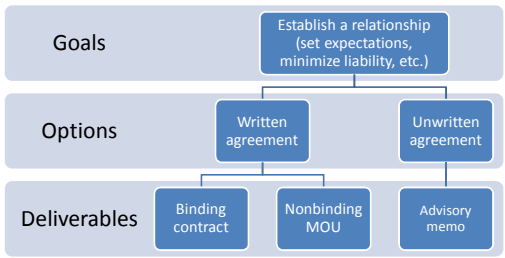
Guided Exercise

Developing a Decision Tree for a Simple Case



Guided Exercise

Developing a Decision Tree for a Simple Case



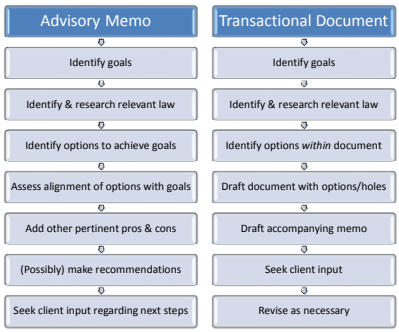
Group Exercise

Developing a Decision Tree for a Complex Case

Students receive a written hypothetical (see handout) involving a client who is interested in incorporating an informal organization. Students work in groups of 3-4 to develop a decision tree for the client. They then reconvene as a class to discuss.

Class Discussion

Deliverable Planning Process



Class Discussion

Converting the Decision Tree into a Transaction Plan

- Identify the deliverables
- Identify inflection points that require client input
- Set internal and external deadlines
- Account for contingencies
- Allow specified timeframes for revisions (e.g. 5 days for supervisor review of memoranda)
- Budget at least three rounds of revision for deliverables

Class Discussion

Converting the Decision Tree into a Transaction Plan

Example of planning around contingencies:

Initial Board Meeting Deliverables	External	Internal
If client selects board by April 10:		
• Meeting agenda	April 20	Drafts – April 12, 15, 18
• Presentation for board	April 20	Drafts – April 12, 15, 18
• Meeting minutes	April 30	Drafts – April 22, 25, 28
If client does not select board by April 10:		
• Template meeting agenda	April 30	Drafts – April 14, 20, 26
• Template meeting minutes	April 30	Drafts – April 14, 20, 26
• Guidance on how to conduct meeting	April 30	Drafts – April 14, 20, 26

Lessons Learned

- Emphasize that transaction planning is an iterative process that they will revisit throughout the semester.
- Characterize all client inflection points as contingencies (i.e. whether the client makes a decision, when the client makes a decision, what the client decides).
- Build in opportunities to discuss cultural competence, especially around client-stated goals.

Materials

- Group exercise hypothetical
- Decision tree template
- Copy of presentation

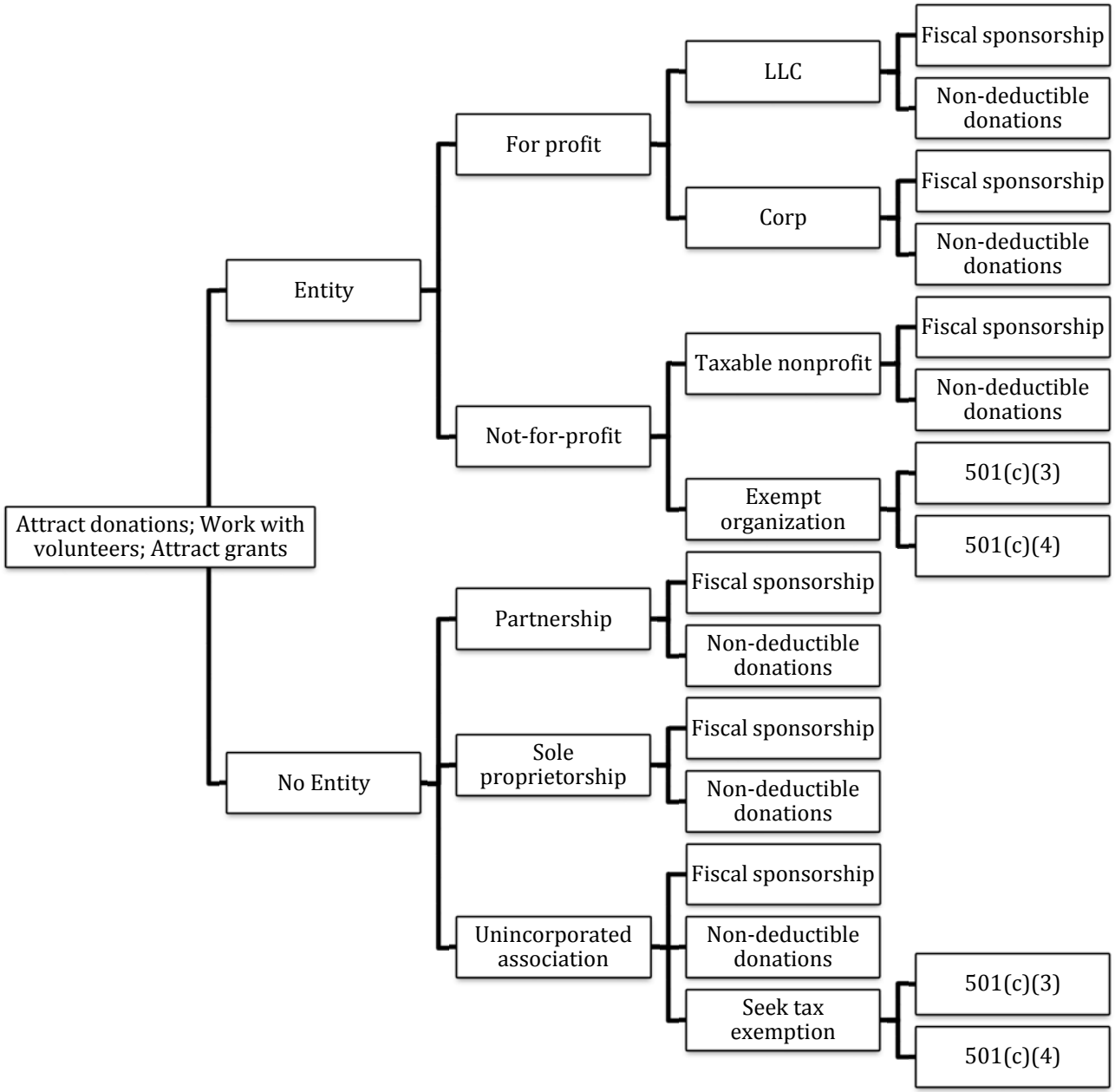
Transaction Planning Class Hypothetical

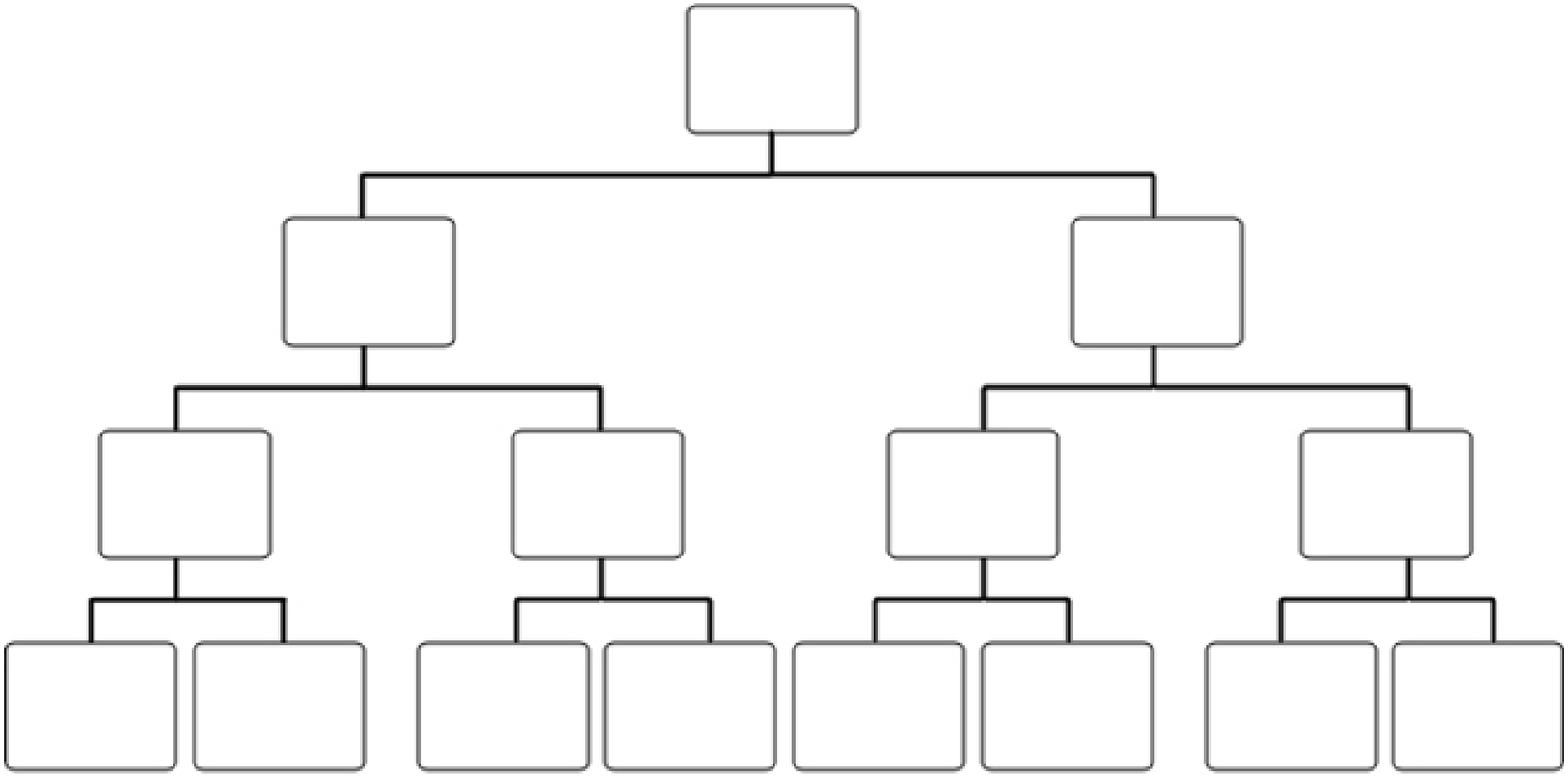
Your client, Ms. Ray, operates an afterschool program called Everybody Loves Raisins ("ELR"). Ms. Ray is a longtime volunteer at Joe's House, a 501(c)(3) emergency homeless shelter in Ward 5. She started ELR to provide healthy snacks and tutoring to children living in Joe's House.

ELR is not incorporated – Ms. Ray just operates it out of the shelter. Ms. Ray has a regular rotation of 10 volunteers who provide tutoring to elementary schoolchildren two nights per week. She purchases all of the healthy snacks out of her own pocket, in accordance with the DC Health & Safety Regulations. Ms. Ray recruits and trains these volunteers, but Joe's House does reference checks and makes the volunteers sign an agreement with standards of conduct. Joe's House also provides a tutoring classroom, has staff monitor the room, publicizes the ELR program to residents, and cleans the classroom after each tutoring session.

ELR has just been awarded a $20,000 grant. Ms. Ray is very excited because this will allow her to expand tutoring hours and offer tutoring to middle school children. She would love to ultimately offer ELR at other shelters as well. She is concerned, however, that Joe's House may not be able to support ELR's expansion into other shelters. They are happy to support her on-site, but seem very busy with the daily operations of the shelter.

Ms. Ray is wondering whether to incorporate ELR. The current grant award does not require 501(c)(3) status, but this is unusual. Ms. Ray would love to apply for some foundation grants as well as accept donations on her website. Ultimately, if ELR grows the way she foresees, it will be a full-time job for her and she would like to earn some money from her efforts. Even if this doesn't happen, she intends to remain involved in the long term to ensure that ELR remains faithful to her vision.


Attract donations; Work with volunteers; Attract grants
Entity
For profit
LLC
Fiscal sponsorship
Non-deductible donations
Corp
Fiscal sponsorship
Non-deductible donations
Not-for-profit
Taxable nonprofit
Fiscal sponsorship
Non-deductible donations
Exempt organization
501(c)(3)
501(c)(4)
No Entity
Partnership
Fiscal sponsorship
Non-deductible donations
Sole proprietorship
Fiscal sponsorship
Non-deductible donations
Unincorporated association
Fiscal sponsorship
Non-deductible donations
Seek tax exemption
501(c)(3)
501(c)(4)



INSTITUTE FOR LAW TEACHING AND LEARNING
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Teaching Cultural Competency and Other Professional Skills

Workshop
5A

BUILDING ON BEST PRACTICES: A Resource and Advocacy Tool to Keep Our Teaching, Our Law Schools, and Legal Education on the Right Track with Teaching Professional Skills

Carolyn Wilkes Kaas, Quinnipiac University School of Law

Melanie DeRousse, University of Kansas School of Law

Building on Best Practices: Transforming Legal Education in a Changing World

LexisNexis 2015
Editors:
Deborah Maranville, Lisa Radtke Bliss, Carolyn Wilkes Kaas, Antoinette Sedillo Lopez

This book addresses law school missions, creating a balanced curriculum, and pathways, integration, and sequencing the curriculum. It provides a comprehensive analysis of experiential education and all its forms, including law clinics, externships, and alternative clinical models. The book provides a broader view of what legal education must do to train lawyers of the future, and identifies ten essential areas of legal education, together with guidance on what and how to teach them. Finally, the book identifies how to create an institutional culture of assessment in law schools, and how to transform legal education in today's world.

The book may be purchased through Carolina Academic Press, at http://www.cap-press.com/books/isbn/9781630443207/Building-on-Best-Practices ISBN: 978-1-63044-320-7

The book sections are available via SSRN with express permission by LexisNexis and Carolina Academic Press at the following links:

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Link to page with links to All Chapters https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2637499

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Chapter 4 http://ssrn.com/abstract=2637490

Chapter 5 http://ssrn.com/abstract=2637495

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Chapter 7 http://ssrn.com/abstract=2637541

Chapter 8 http://ssrn.com/abstract=2637544

Executive Summary of Building on Best Practices: Transforming Legal Education in A Changing World

LexisNexis 2015

Editors:
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This Executive Summary is designed to acquaint the reader with the main ideas found in *Building on Best Practices: Transforming Legal Education In A Changing World.* It provides a concise summary of every section of the book, which is not a second edition, but a follow up to *Best Practices in Legal Education: A Vision And A Road Map.* The book addresses the law school missions, a balanced curriculum, and pathways, integration, and sequencing the curriculum. It provides a comprehensive analysis of experiential education and all its forms, including law clinics, externships, and alternative clinical models. The book provides a broader view of what legal education must do to train lawyers of the future, and identifies ten essential areas of legal education, together with guidance on what and how to teach them. Finally, the book identifies how to create an institutional culture of assessment in law schools, and how to transform legal education in today's world.

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BUILDING ON BEST PRACTICES

SYNOPSIS OF BEST PRACTICES FOR CREATING AN EFFECTIVE LAW SCHOOL MISSION

Part One: Building an Effective Law School: Mission and Accountability
Chapter 1: Creating an Effective Law School
Section A: *The Accreditation Context and the Law School Mission*

This summary of "best practices" is a compilation of those identified in *The Accreditation Context and the Law School Mission,* by Judith Welch Wegner. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 1 Section A. References to other sections of the book identify the relevant page and chapter.

The Larger Context

1. **Why the accreditation process matters:** Understanding the larger context of the accreditation process provides important insights and resources that prove helpful in complying with the ABA rules. (p. 3). Accreditation is largely driven by a commitment to quality control and accountability. (p. 3).
2. **Accreditation today:** In 1988, the United States Department of Education stated that accreditors needed to focus on educational effectiveness. (p. 4). By the 1990's, leaders in higher education turned efforts to understanding how assessment of student outcomes could be employed in schools. (p. 4). Regional accreditors are now firmly committed to requiring universities to adopt evidence-based assessment practices. (p. 4).
3. **The role of the ABA:** The ABA draws its power in part from the authorization it receives as a specialized accreditor from the Department of Education. (p. 5). The ABA serves as an agent of state supreme courts by determining whether graduates may sit for the bar exam and be admitted to practice in a given state. (p. 5). Law schools and law teachers thus need to learn to navigate the accreditation process in order to understand and appreciate the newly adopted ABA accreditation standards.

New ABA Requirements

4. **New standards bear directly on accountability:** One of the first revisions to take effect requires law schools to provide accurate consumer data to prospective student applicants, including data on employment and scholarships. (p. 6). Law schools had failed in the past to accurately report important data, in part allowing them to manipulate data sent for U.S. News and World Report Rankings. (p. 7).
5. **Focus on learning outcomes:** Under revised Standard 301, law schools must establish and publish learning outcomes. (p. 8). Learning outcomes must address the following areas: (1) knowledge and understanding of substantive and procedural law; (2) legal analysis and reasoning . . . and written and oral communication in the legal context; (3) exercise of proper professional and ethical responsibilities; and 4) other professional skills needed for competent, professional representation. (p. 8).
6. **Expand skills-related and experiential education:** Schools will be required to develop learning outcomes relating to professional skills such as interviewing, counseling, negotiation, cultural competency, etc. (p. 9). Schools must also now require students to take at least six credit hours of experiential coursework. (p. 9). Schools must also provide students with substantial opportunities for clinics or field placements and participation in pro bono legal services. (p. 9).

7. **Focus on formative and summative assessment:** Schools must use both formative and summative assessment methods to measure and improve student learning and provide meaningful feedback. (p. 9). These accreditation requirements will no longer be limited to review of curriculum, and schools will be explicitly required to evaluate their adopted learning outcomes and assessment methods. (p. 10).

Part One: Building an Effective Law School: Mission and Accountability
Chapter 1: Creating an Effective Law School
Section B: *Mission Statements that Accurately Define, Distinguish, and Reflect the Law School's Praxis*

This summary of "best practices" is a compilation of those identified in *Mission Statements that Accurately Define, Distinguish, and Reflect the Law School's Praxis,* by Vanessa Merton and Irene Scharf. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 1 Section B. References to other sections of the book identify the relevant page and chapter.

A Clear Mission

1. **A well-conceived mission is necessary for long-term survival:** Those inside the organization need to understand and communicate institutional goals; those outside need ways to distinguish organizations from their peers. (p. 12). A mission statement is important because it defines aspirations not only for student preparation for practice, but also for bar success, outcome-measurement instruction, etc. (p. 13).
2. **The ABA requires law schools to adopt and to fulfill mission statements:** A recent study still showed more than 30 law schools without a mission statement, another 20 with one-sentence statements, and another dozen with two-sentence statements. (p. 15). The ABA has no record of sanctioning a school for failing to produce or fulfill a mission statement. (p. 15).

Characteristics of an Effective Mission Statement

3. **Clarity, specificity, honesty:** A law school mission statement is an accurate description of the relative value placed on different components of the school's ongoing activity. (p. 15). Law schools should avoid vague generalizations and give clear guidance as to their goals and ideals. (p. 16).
4. **Themes among current mission statements:** Review of available law school mission statements reveals themes such as "challenging, rigorous, excellent" and "diverse," as well as an emphasis on excellent teaching, scholarship, and public service. (p. 17).
5. **Deciding how to craft your statement:** Developing an effective mission statement requires decisions about priorities, tone, orientation, and framework. (p. 17). Some may be purely descriptive; some may include history; others focus entirely on the future. (p. 18). Another approach employs language of aspiration such as "seeking" or "striving". (p. 18). More recent statements embrace alternative pedagogy and modern educational technology. (p. 18). Several schools have adopted goals that focus on outcomes not merely for graduates, but for the institution itself. (p. 19)

Developing Your Mission Statement

6. **Maintaining your mission:** The maintenance phase of a successful mission statement entails identifying methods for ongoing assessment of law schools capacity for progress, the statement's congruence with law school choices, and the need for revision and adjustment. (p. 21).
7. **The value of wide input:** The most effective mission statements are built through a process that includes the broadest array of stakeholders. (p. 20). Law schools should consider the potential benefit of

participation by faculty, administrative staff, current students, and graduates. (p. 20). Administrators and faculty need to incorporate these statements pervasively into their culture. (p. 21).

8. **Integrate your mission:** A necessary mission for law school should be preparation to ensure the adequate representation of clients. (p. 22). This mission should be clearly articulated and integrated into curriculum from the first day of class to the last. (p. 22).

Part One: Building an Effective Law School: Mission and Accountability
Chapter 2: Assuring Accountability through Mission
Section A: *Assessment Plans that Support Student Learning*

This summary of "best practices" is a compilation of those identified in *Assessment Plans that Support Student Learning,* by Judith Welch Wegner. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 2 Section A. References to other sections of the book identify the relevant page and chapter.

Developing an Assessment Plan

1. **Don't re-invent the wheel:** A law school affiliated with a university may be able to request assistance from its university's assessment office, many of which have considerable expertise. (p. 25). Law-school specific resources are also available from law professors, conferences on the subject, and other schools with in-depth experience. (p. 25).
2. **Start with institutional mission:** Institutional mission statements can provide grounding principles and values, as well as institutional identity. (p. 26). Law schools should focus their mission statements on how they prepare students for careers and serve other roles in advancing knowledge and providing public service. (p. 26).
3. **Understand the purpose of assessment:** The purpose of assessment planning is to learn something about the effectiveness of the educational program as measured against benchmark outcomes and to gather evidence to help the school determine how to achieve those outcomes. (p. 26).
4. **Identify desired outcomes:** Law schools should ask what outcomes (skills, benefits, attributes) they expect graduates to be able to demonstrate. (p. 27). The ABA focuses on outcomes based on what students have learned. (p. 28). Learning outcomes generally address such matters as written and oral communication, critical thinking, teamwork, professionalism, and research. (p. 28).

Assessment Tools

5. **Develop evidence:** Law schools need to consider how they can develop evidence to illuminate how well their desired outcomes are being achieved. (p. 29). Assessors should look backward at the success of the program to date and forward to foster insight to improve. (p. 30).
6. **Learn from others:** *Best Practices* included many examples of learning outcomes and many law schools can learn from these examples and from similar schools with missions similar (and different) to their own. (p. 31).
7. **Analyzing assessment evidence:** Law schools should use both direct (examinations, portfolios, capstone courses, seminar papers, performance in skills courses) and indirect (student surveys and questionnaires, exit interviews, focus groups, peer insights) assessments in order to develop learning outcomes. (p. 36).

Part One: Building an Effective Law School: Mission and Accountability
Chapter 2: Assuring Accountability through Mission
Section B: *Curriculum Mapping as a Tool for Improvement*

This summary of "best practices" is a compilation of those identified in *Curriculum Mapping as a Tool for Improvement,* by Judith Welch Wegner. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 2 Section B. References to other sections of the book identify the relevant page and chapter.

A Roadmap for Instruction

1. **Importance to faculty:** Faculty must understand not only what they teach, but what students learn throughout the entire program of instruction. (p. 37). With the new ABA accreditation requirements, curriculum mapping is more important than ever. (p. 37).
2. **What is it?:** Curriculum mapping is a process to discern the actual, as opposed to the desired, curriculum offered in schools. (p. 38). Mapping can be accomplished by having instructors note key information about their classroom activities, or by having classroom observers try to collect actual evidence of the curriculum as it is taught. (p. 38).
3. **Why engage in mapping?:** Mapping helps law schools understand the actual learning objectives and outcomes, create opportunities for learning transfer and enhance learning through integration, and avoid gaps and overlaps in curriculum. (p. 39).

How to Map the Curriculum

4. **Collect evidence of what happens in class:** Curriculum mapping can be used as a tool not only to address content delivery, but also how best to develop professional skills and attributes. (p. 40). Curriculum mapping is not a means of evaluating the efficacy of individual faculty members, nor is it an approach to mandating action; instead, it is an opportunity for shared reflection and decision-making. (p. 41).
5. **Identify targets for action:** It is important to identify initial targets for action salient to the law school community, such as a law school's competitiveness, the needs of its students to perform on the bar exam, the need to achieve accreditation, or the vision of its dean and faculty members. (p. 41).
6. **The importance of leadership:** Leadership both by someone with personal commitment and by the institution is necessary for launching a successful mapping project. (p. 42). Absent that personal commitment, it will be difficult to rally faculty members to engage in a time-consuming process. (p. 42).

SYNOPSIS OF BEST PRACTICES FOR MATCHING PROGRAM WITH MISSION

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 3: Rethinking the Curriculum
Section A: *A Balanced Curriculum*

This summary of "best practices" is a compilation of those identified in *A Balanced Curriculum,* by Martin J. Katz and Kenneth R. Margolis. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 3 Section A. References to other sections of the book identify the relevant page and chapter.

Achieving Coherence through Curriculum

1. **Traditional curriculums:** Traditionally law school focused on teaching legal doctrine to a level that allowed graduates to spot and analyze legal issues. (p. 45). Many, if not most, law schools continue to devote the lion's share of resources to doctrinally-focused teaching. (p. 45). Commentators are increasingly suggesting the traditional approach is untenable. (p. 45).
2. **Incorporate practice-oriented education:** Many law schools are beginning to make curriculum changes that reflect a greater emphasis on practice-oriented education. (p. 46). Practice-oriented education is important because the marketplace for potential law students demands those skills and because they hope to gain an advantage among schools competing for a shrinking applicant pool. (p. 46).
3. **Importance of doctrinal/practical balance:** Striking a balance in favor of practice-oriented learning does not necessarily mean less doctrine. (p. 47). Doctrinal classes still teach students substantive law and the analytical skills required to interpret and understand substantive law. (p. 47). Practice-oriented classes should not replace doctrine; rather, they contextualize it. (p. 47). Additionally, practice-oriented clases often cover doctrine and doctrinal analysis, as they almost always involve doctrinal issues. (p. 47).

Teaching Settings and Methods

4. **A balancing act:** Law schools should balance teaching settings and methods. (p. 49). Teaching settings include large and small classes, group learning, one-on-one instruction, etc. (p. 49). Teaching methods include lectures, Socratic dialogue, group discussions, presentations, and problem based teaching. (p. 49).
5. **Outside the classroom:** Law schools must also determine how to balance in-the-building and field experiences. (p. 50). The main focus of debates between classroom and field experiences tends to revolve around who is teaching, and the effectiveness of practitioners as educators. (p. 50).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 3: Rethinking the Curriculum
Section B: *Pathways, Integration, and Sequencing the Curriculum*

This summary of "best practices" is a compilation of those identified in *Pathways, Integration, and Sequencing the Curriculum,* by Deborah Maranville with Cynthia Blatt. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 3 Section B. References to other sections of the book identify the relevant page and chapter.

Approaches to Structuring a Curriculum

1. **Three approaches to structure:** First, law schools can on-line pathways to provide structure to improve course advising. (p. 52). Second, they can integrate the curriculum, connecting individual courses both concurrently and across the years of study. (p. 52). Third, schools may sequence the curriculum by structuring offerings from introductory to intermediate to advance, with each level building on the concepts and skills from the others. (p. 52).
2. **Pathways:** One approach is to use internet advising or concentration tracks to build defined pathways through the curriculum. (p. 53). Pathways can integrate career and course advising and provide recommended courses for students pursuing different careers. (p. 53). If well designed, the resulting concentrations can require some degree of breadth while immersing students deeply in one field. (p. 53).
3. **Integration:** A curriculum is best integrated by both individual teachers and the institution through consciously creating connections among different courses. (p. 53). Connections across courses can be driven by faculty who reinforce students' learning by cross-referencing doctrine, skills, or values addressed in other courses. (p. 53).

4. **Sequencing:** A law school should consider whether a particular sequence of courses will best facilitate learning. (p. 55). Law school's should consider a "marble cake" approach, introducing students to doctrinal and analytical skills and client-focused lawyering simultaneously, rather than a "layer cake" approach whereby students learn such skills separately and independently. (p. 56).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 3: Rethinking the Curriculum
Section C: *A Three-Year Curriculum that Engages Law Students and Prepares Them for Practice*

This summary of "best practices" is a compilation of those identified in *A Three-Year Curriculum that Engages Law Students and Prepares Them for Practice,* by Karen Tokarz. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 3 Section C. References to other sections of the book identify the relevant page and chapter.

The Length of Law School

1. **Stick to three years:** Better use of the current three years of law school is a superior alternative to a truncated, two-year legal education. (p. 60). Three years are needed to move students significantly along the path to lawyering competency. (p. 60). Two years are not sufficient to develop the necessary lawyering competencies and prepare new lawyers for practice in today's legal market. (p. 60).
2. **Experiential coursework in the third year:** Three years of credit are necessary for reaching the required amount of experiential coursework needed in modern legal education. (p. 61).
3. **Steps to improve curriculum, rather than shorten it:** Law schools could, for example, make the third year "all-experiential." (p. 62). Another suggestion is to redesign the third year to include skills components or practice labs, infusing new methodologies, and increasing clinical opportunities. (p. 62).
4. **Current two-year programs:** About fifteen law schools have recently adopted accelerated programs to allow law students to complete the 83 required credits over two calendar years, including summers. (p. 63). The programs do not reduce cost or the number of credits required, but they do allow students to begin practicing earlier. (p. 63). At least another two-dozen schools have "B.A. to J.D." programs in which students earn both undergraduate and law degrees in six years. (p. 63).
5. **Downsides to two-year programs:** These programs may undermine law clinics and other programs already offered by turning students to bar preparation too early. (p. 64). They also eliminate summer job opportunities, and substitute shortened, post-bar exam law practice opportunities without the benefit of mentoring and instruction. (p. 64).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 4: Revisiting the Characteristics of Effective Education
Section A: *A Review of Teaching and Learning Theory*

This summary of "best practices" is a compilation of those identified in *A Review of Teaching and Learning Theory,* by Michael Hunter Schwartz. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 4 Section A. References to other sections of the book identify the relevant page and chapter.

Key and New Principles in Learning and Teaching Theory

1. **Differences between the two:** Teaching theory seeks to identify and explain the teaching behaviors and activities that teachers can adopt to help their students learn. (p. 67). Learning Theory seeks to identify

and explain the process by which students transform what a teacher tries to teach into a part of what the student knows, is able to do, or values. (p. 67).

2. **Key principles of learning theory:** Learning theories fall into three core categories: behaviorism, cognitivism, and constructivism. (p. 68). For legal educators, the two most relevant are cognitivism and constructionism. (p. 68).
3. **Cognitive theory:** Cognitive theory focuses on what occurs inside the brain during the learning process. (p. 68). Students cannot apply skills, values, and knowledge to real-world or simulated problems unless they have stored the skills, knowledge, and values in their brains in an organized, meaningful, and useable way. (p. 68). The more deeply students work with what they are learning, the more likely they are to remember and use it. (p. 68).
4. **Constructivist theory:** Constructivist theory focuses on the process required for new learning to become a part of who the students are. (p. 69). Constructivists define learning as the process of constructing an interpretation from an experience. (p. 69). Constructivists champion real-world experiences, arguing that such experiences are critical to effective learning activities and assessment. (p. 69). Constructivists believe social interaction pays a critical role in genuine learning, asserting that groups are so effective because they expose students to multiple perspectives. (p. 69).
5. **Key principles of teaching theory:** Eleven core teaching principles have emerged from studies that represent the practices of extraordinary law teachers: expertise, respect, caring, expectations, humility, authenticity, preparation, active learning, variety, clarity, and formative feedback. (p. 70). The best law teachers do what the best teachers in any education setting do, represented by these eleven core principles. (p. 72).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 4: Revisiting the Characteristics of Effective Education
Section B: *An Effective and Welcoming Environment for Learning*
Subsection 1: *Humanizing the Delivery of Legal Education*

This summary of "best practices" is a compilation of those identified in *Humanizing the Delivery of Legal Education,* by Amy C. Bushaw. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 4 Section B, subsection 1. References to other sections of the book identify the relevant page and chapter.

Attending to the Well-Being of Law Students

1. **Concerns about student well-being:** As law students proceed through their studies, many grow increasingly passive or cynical. (p. 74). Some exhibit symptoms of depression, anxiety, aggression, social alienation, and other serious forms of dysfunction. (p. 74). The distress law students and lawyers impedes their effectiveness and compromises their ability to live lives of meaning and value. (p. 74).
2. **Factors that support student well-being:** A sense of autonomy as well as competence or efficacy correlates strongly with long-term well-being. (p.77). Also, individuals who experience relatedness to others have meaningful, appropriate, and mutually supportive relationships with colleagues, clients, family and friends. (p. 77).
3. **Promoting law student well-being:** The most important practice is to humanize the delivery of legal education. (p. 78). Law schools, teachers, and staff should take steps to prepare students better for the emotional and psychological rigors of law practice. (p. 78).

Institutional Efforts to Promote Student Well-Being

4. **Law-school programs:** Some law schools have instituted broad-base programs, informed by the principles of psychology, to alleviate law student distress. (p. 79). Other schools dedicate courses, either for-credit or non-credit to law student or lawyer well-being. (p. 79).
5. **Law Teachers:** To improve student well-being, law teachers should expressly acknowledge the importance of well-being and conditions that undermine or promote well-being. (p. 79). Law teachers should also support student autonomy and nurture intrinsic values. (p. 81). Law teachers should help students develop a sense of competence in a broad range of skills and encourage community and healthy relationships. (p. 82–83).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 4: Revisiting the Characteristics of Effective Education
Section B: *An Effective and Welcoming Environment for Learning*
Subsection 1: *Using Interculturally Aware Teaching Methods*

This summary of "best practices" is a compilation of those identified in *Using Interculturally Aware Teaching Methods,* by Steven K. Homer. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 4 Section B, subsection 2. References to other sections of the book identify the relevant page and chapter.

Legal Education and Non-Dominant Student Groups

1. **Legal education:** Three main aspects of legal education contribute to disparate impacts on non-dominate groups. (p. 85). First, the presence of faculty diversity and the concomitant effect on the ability of faculty to mentor students. (p. 85). Second, course materials that either elide the experience of women and students of color directly by omitting them as actors with legal issues. (p. 85). Third, the ways in which faculty interact with female students and students of color, both in and out of the classroom. (p. 85).
2. **Importance of intercultural teaching:** Having a diverse faculty allows students to visualize themselves in positions of authority within the law. (p. 86). It also shapes the views of non-diverse students by allowing them to imagine a broader role for minority lawyers. (p. 86).

What Teaching Methods are Interculturally Aware?

3. **Diversity by example:** Use teaching materials that include women, LGBTQQIA people and people of color as participants in the full range of legal transactions. (p. 86). Where possible, teachers should initiate discussion of the racial, gender, or sexual orientation issues the material presents. (p. 86).
4. **Classroom environments:** Evidence suggests that some teachers misuse the Socratic Method in a way that favors white students and male students, and white male students in particular. (p. 87). The Socratic Method should be used in accordance with this Book. (See Chapter 5, Section A, *The Socratic Method* at p. 101).
5. **Use all methods equally:** Whatever teaching methods are employed, they should reflect eight characteristics of good teaching: respect, expectation, support, collaboration, inclusion, engagement, delight, and feedback. (p. 88). Provide more context for students' learning through experiential learning exercises, writing exercises, and collaborative learning exercises. (p. 88).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 4: Revisiting the Characteristics of Effective Education
Section C: *Transfer of Learning*

This summary of "best practices" is a compilation of those identified in *Transfer of Learning,* by Deborah Maranville. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 4 Section C. References to other sections of the book identify the relevant page and chapter.

Ensuring Students Retain and Build on Information

1. **The importance of transfer:** Law students must be able to transfer what they learn into the work they do as professionals. (p. 90). Transfer is a core issue for effective teaching and learning, yet how to create conditions that will lead to transfer has been neglected in legal education. (p. 90).
2. **How law schools fail to teach for transfer:** Law schools (1) provide little to no discussion of common themes across the law school experience; (2) fail to disclose that law schools want them to learn to generalize knowledge; (3) do not present law school problems in a context connected to students' life experience; and (4) fail to reach out to non-dominant students. (p. 92).
3. **What students need to learn to transfer:** Students need a broad and deep fund of knowledge about their discipline. (p. 92). Educators should identify foundational concepts need to understand more advanced concepts and ensure that students can master them. (p. 92). Students are more likely to retain knowledge if they understand the conditions in which it is used. (p. 92).
4. **How educators can teach for transfer:** Be explicit that transfer is one of their goals and identify how learning in a course may transfer to others. (p. 92). Ensure that students are absorbing the necessary disciplinary knowledge by providing conceptual frameworks and engaging in outcomes assessments. (p. 93). Include transfer as a goal of the law school and facilitate it through integration and sequencing of otherwise disparate parts of the law school curriculum. (p. 93).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 4: Revisiting the Characteristics of Effective Education
Section D: *Outcomes Assessment for Improving Student Learning*

This summary of "best practices" is a compilation of those identified in *Outcomes Assessment for Improving Student Learning,* by Barbara Glesner Fines. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 4 Section D. References to other sections of the book identify the relevant page and chapter.

Students Should Know what Teachers Want Them to Learn

1. **Understanding assessment:** It is important to note the difference between grading and assessment. Grading is evaluative, while assessment is the process by which law teachers decide what they want students to learn and measure how they are learning it. (p. 95). While outcomes assessment might use the same methods as those used to assign grades, assessment require more analysis of the components of those grades. (p. 95).
2. **Outcomes assessment at the course level:** In an outcomes-focused course, the attention is on the student's learning rather than content. (p. 95). More content does not necessarily translate into more learning. (p. 95).

3. **Identifying outcomes:** The first step of outcomes assessment is to identify learning outcomes. (p. 96). A teacher must first reflect on questions about the course to reveal basic the themes of knowledge, skills, or values that are central to a course. (p. 96). Learning outcomes should also be measureable and definable. (p. 97).

Using Outcomes Assessments

4. **Design and administer assessments:** The key to turning assignments and activities into assessments is to deliberately choose to gather concrete data. (p. 97). If a teacher uses data insights to investigate ways to teach students to construct legal rules more effectively, she can achieve improved learning. (p. 97).
5. **Improving learning through assessment:** A teacher must first analyze whether the students' performance on the practice actually demonstrates their skill on the targeted outcome. (p. 97). To improve student learning in areas that have presented difficulties for students, law teachers should consider not only improving teaching materials related to that area, but also incorporating more formative assessments during the term. (p. 98).
6. **Use technology:** Technology can permit formative assessment without hours of grading activity. Examples include clickers, online quizzes, CALI lessons, etc. (p. 98). These techniques are especially efficient when the goal is purely assessment for learning, rather than for grading. (p. 98).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 5: Implementing Effective Education in Specific Contexts
Section A: *The Socratic Method*

This summary of "best practices" is a compilation of those identified in *The Socratic Method,* by Elizabeth G. Porter. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 5 Section A. References to other sections of the book identify the relevant page and chapter.

Using the Socratic Method

1. **Background information:** The Socratic method is student analysis of cases led by a teacher, who calls on students to articulate gradually deeper understandings of a legal doctrine or theory. (p. 101). For over a decade, the Socratic method has been out of fashion among those who write about legal pedagogy, describing how the theory alienates and humiliates students and indicates inattention to legal theory and professionalism. (p. 101).
2. **The value of the Socratic method:** The Socratic method can be an easily scalable, effective, deeply engaging way to achieve student learning. (p. 102). The method can also be a wonderful way to create a sense of community and a shared learning purpose among students. (p. 102).
3. **Optimizing the method:** The best way to improve upon the use of the Socratic method is to consciously create a sense of camaraderie and respect among the students and between the students and the teacher. (p. 105). The students should have a clear sense of the teacher's expectations and the benefits that will accrue from enthusiastic participation in a course. (p. 105).

Improving the Socratic Method

4. **Get to know the students:** A focus on students as individuals promotes collegiality and eases the tensions of the Socratic classroom. (p. 106). In a highly functioning classroom community, professionalism will be an integral aspect of the learning process. (p. 106).

5. **Choreograph the class:** In this context, choreography means the preparation of content, theme, and structure. (p. 106). Teachers should map out classes with a fairly high degree of specificity, while allowing room for variation based on what emerges during class. (p. 107).
6. **Class design:** A 110-minute class might follow this pattern: warm up; set goals, learn the concept, apply the concepts through hypotheticals, conclude. (p. 108). Both the substance and the structure of classes should change over time as students become more advanced and more quickly able to enter a legal discussion at a deeper level. (p. 108).
7. **Involve everyone:** Try calling on two students together, asking one to represent the plaintiff's view and the other the defendant's. (p. 109). Ask students to respond to other students' comments. (p. 109). A helpful goal is get more than half the class to participate on a given day. (p. 109).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 5: Implementing Effective Education in Specific Contexts
Section B: *Analysis, Research, and Communication in Skills-Focused Courses*

This summary of "best practices" is a compilation of those identified in *Analysis, Research, and Communication in Skills-Focused Courses,* by Ruth Anne Robbins, Amy Sloan & Kristen K. Tiscione. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 5 Section B. References to other sections of the book identify the relevant page and chapter.

Skills Courses

1. **The focus:** Skills-focused courses, legal analysis, research, and writing should be taught as a fluid and recursive process in a client-centered context. (p. 111). For maximum effectiveness, all foundational writing, research, and analysis courses taught in the first year should be taught in small classes by full-time law teachers. (p. 112).
2. **Analysis and synthesis:** Legal analysis begins with an understanding of the client's problem and their desired outcome. (p. 113). To understand the legal issues implicit therein, a lawyer must identify the legal sources that will help construct the best answer. (p. 114). Legal analysis merges legal rules with determinative facts. (p. 113).
3. **The importance of writing:** Writing activities improve class discussion, give teachers a sense of the students' understanding, and help students prepare to write final exams. (p. 113). Writing assignments expose students to a variety of documents used in law practice and introduce them to the basic structure of statutes and sources of law. (p. 113).
4. **Combine theory and practice:** In order to understand law in context, students should learn the theory and structure of legal reasoning in all courses. (p. 114). Law students should learn about: (1) rule-based reasoning; (2) analogical reasoning; (3) policy-based reasoning; (4) narrative reasoning; and (5) inferential reasoning. (p. 116).

Teaching Informational Literacy

5. **Research instruction:** Two approaches have emerged in legal research instruction. (p. 116). The first focuses on the structure of the legal system and introduces students to sources of primary authority and methods of locating those sources. (p. 117). The other is process-oriented and allows students to learn about various sources in a sequence that mimics a typical assignment, starting with secondary sources and proceeding through various primary sources. (p. 117).
6. **Keeping up with technology:** Students are now awash in ever-increasing amounts of information, including content from Westlaw Next, Lexis Advance, Bloomberg, and even Google. (p. 117). Research instruction must be reoriented around a flexible process that can be adapted to different types of research instead of individual sources of information. (p. 117).

7. **The search process:** To research effectively, students must internalize a flexible process that they can adapt to different research needs. (p. 118). Students should be introduced to the following process for narrowing a wide field of information to the subset of information necessary to solve their problem: (1) conduct pre-search analysis; (2) search for content; (3) evaluate and filter. (p. 118).
8. **The scope of research instruction:** Law schools must build a foundation in the first year that continues into upper-level courses. (p. 119). In the first year, students should gain facility with the flexible research process described above. (p. 119). Upper-level courses can focus on understanding legislative history, administrative materials, foreign and international materials, and sources unique to their state or jurisdiction. (p. 120).

Teaching Legal Writing and Oral Communication

9. **Communication as an extension of the analytical process:** To be effective orally, students must understand the needs of the audience in a variety of contexts and adjust accordingly. (p. 121). Teach students how preparing legal memoranda and briefs function in the context of representing a client. (p. 122).
10. **Opportunities to write:** Students should have opportunities to reinforce and hone their skills beyond those provided only by the required writing courses. (p. 123). Some schools have merged doctrinal courses with writing courses, and others require at least one significant writing experience every semester. (p. 123).
11. **The first-year writing course:** Courses should include several short, diverse assignments throughout the semester, in addition to any larger project. (p. 123). Courses should also introduce the context of client counseling in the first semester and focus the second or third semester on client advocacy. (p. 124).
12. **Upper-level courses:** Schools should require six semesters of writing, although no law school currently has this requirement. (p. 125). The hallmark of a strong legal writing course is the individualized feedback that students receive. (p. 127).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 5: Implementing Effective Education in Specific Contexts
Section C: *Use of Technology in Teaching*

This summary of "best practices" is a compilation of those identified in *Use of Technology in Teaching,* by Michele Pistone and Warren Binford. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 5 Section C. References to other sections of the book identify the relevant page and chapter.

Innovation in Legal Education Technology

1. **Emerging technology:** Law teachers must become familiar with the growing pool of modern educational technologies, and ensure that law faculty are provided with the support needed to adapt appropriately. (p. 129). It is easier than ever for legal educators to modernize the delivery of their curriculum in formats that are familiar to a generation of students increasingly comprised of digital natives. (p. 130).
2. **Availability of resources:** Almost every law school in the country is a member of the center for Computer-Assisted Legal Instruction (CALI) which hosts almost 1,000 interactive tutorials in over 35 subjects. (p. 131). Like CALI, the H20 Project at Harvard is utilizing a Creative Commons license to encourage legal educators to pool knowledge and resources to make legal knowledge more affordable, accessible, and adaptable. (p. 131). One group of legal educators recently created LegalED, an online network and database of educational materials for the study of law and legal systems. (p. 132).

3. **Feedback through technology:** Legal technology can assist teachers in providing students with assessment and feedback throughout the semester. (p. 134). Such assessment tools can identify gaps and patterns in student knowledge and provide individualized remediation in those areas where the student is struggling. (p. 135).
4. **Technology in practice:** Law students should also be familiar with the technologies used in modern law practice. (p. 136) (See Chapter 6, Section I, *Technology in the Profession* at p. 400).
5. **Online instruction:** Educators differ on the value of online instruction, but the fact remains that it is rapidly expanding across the country. (p. 137). Online law coursework can take many forms, including: (1) synchronous, (2) asynchronous, (3) massive open online courses, and (4) blended courses with both online and face-to-face instruction. (p. 137).
6. **Games and simulations:** Educational games and online legal simulations offer substantial potential for legal education. (p. 138). Legal educators should advocate for new interactive educational games and legal simulation apps that are familiar and accessible to current and incoming generations of law students. (p. 139).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 5: Implementing Effective Education in Specific Contexts
Section D: *Law Libraries and Legal Education*

This summary of "best practices" is a compilation of those identified in *Law Libraries and Legal Education,* by Jonathan Franklin. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 5 Section D. References to other sections of the book identify the relevant page and chapter.

Law Libraries Today

1. **The current state of affairs:** The law library has become a hub for student activity, ranging from traditional study groups to advanced negotiation projects. (p. 140). The most important function of a 21st century law library is not their collection size or study spaces, but the services offered. (p.140). Law librarians are central to increasing curricular emphasis on preparation for practice. (p. 140).

Law Libraries Going Forward

2. **New challenges:** Schools are transitioning from walls of reporters and citators to exclusively online case access and highly selective collections. (p. 141). Law librarians face new challenges as they attempt to educate students who are sometimes overconfident in their legal research abilities due to their experiences with Google. (p. 141). Challenges law librarys will continute to face include shrinking budgets, rapid changes in user expectations, and a migration away from texts. (p. 141).
3. **Rethink your resources:** A law library must dedicate resources to meet their institution's new directions with limited resources. (p. 141). Law schools should hire more highly skilled library staff who are familiar with changing resources and technologies. (p. 143).
4. **Reorganize services:** Schools should rethink the relationship between the library and IT departments. (p. 143). Law libraries should coordinate more effectively with university libraries. (p. 144). Libraries should reexamine whether to continute to separate reference and circulation departments. (p. 144).
5. **Contribute to the teaching mission:** Law libraries should shift resources to further the teaching mission of the law school more directly. (p. 145). Law schools should embed librarians on faculty and student floors. (p. 145). Library staff should develop special materials to correlate with the different roles that law students inhabit. (p. 145). Law librarians should collaborate with subject specialist and librarians from across the campus in teaching law students about resources relevant to the curriculum. (p. 146).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 5: Implementing Effective Education in Specific Contexts
Section E: *Cross-Border Teaching and Collaboration*

This summary of "best practices" is a compilation of those identified in *Cross-Border Teaching and Collaboration,* by Kimberly D. Ambrose, William H. D. Fernholz, Catherine F. Klein, Dana Raigrodski, Stephen A. Rosenbaum and Leah Wortham. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 5 Section E. References to other sections of the book identify the relevant page and chapter.

The Globalization of Legal Education

1. **Principles for cross-border teaching:** Eight guiding principles apply to all cross-border teaching contexts: (1) develop intercultural effectiveness; (2) acknowledge assumptions that impede learning and communication; (3) design backward by defining the outcome desired by the learner; (4) approach cross-cultural work as an opportunity for all involved to learn from each other; (5) rediscover the culture, law, and legal systems of other countries by "seeing it from the outside;" (6) recognize the comparative advantage of the participants; (7) provide support for students' comfort, safety, and mental well-being; and (8) stress the importance of collaboration over time. (p. 150).
2. **International students in U.S. law schools:** Most international students are similar to another in that they speak English as a second language, have law degrees from their home countries, and chose to leave to continue their legal education. (p. 151). International students, paradoxically, are most similar to another in their diversity. (p. 151). As a result, international students expect different things from U.S. law schools and teachers. (p. 151).
3. **Learning environments:** Law teachers must balance being inclusive and respectful of students' learning styles while at the same time challenging students to leave their comfort zone. (p. 152). Teachers should incorporate research about growth mindset to reassure students that mistakes are inherent to learning. (p. 152). Students should understand that it is acceptable for them to ask questions and to challenge the teacher and one another. (p. 153).
4. **Assessment methods:** Law teachers should use methods and distribute materials that allow students to continue learning after class. (p. 153). To improve and prioritize classroom discussion, teachers should use open-ended questions and circulate reflection questions in advance of class. (p. 154).

International Students in Modern Legal Education

5. **International students in clinics:** Many international students come to the U.S. specifically to participate in experiential learning. (p. 154). Clinic faculty must consider the knowledge, skills, and values international students will need to achieve their goals. (p. 155). International clinic students must understand the ethical standards of law students working under supervision. (p. 155). Teaming international students with U.S. students can be a beneficial experience for both. (p. 156).
6. **International collaboration in academia:** U.S. teachers should talk with their international counterparts and with students about career goals. (p. 158). Often, ideas about legal education are best illustrated by working on a joint project with law faculty abroad. (p. 159). Teachers collaborating in the development of new legal educational ventures should learn as much as possible about the local context, visiting classes, courts, communities, and other venues to enhance contextual understanding. (p. 160).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 5: Implementing Effective Education in Specific Contexts
Section F: Experiential Education
Subsection 1: *Incorporating Experiential Education Throughout the Curriculum*

This summary of "best practices" is a compilation of those identified in *Incorporating Experiential Education Throughout the Curriculum,* by Deborah Maranville with Cynthia Batt, Lisa Radtke Bliss and Carolyn Wilkes Kaas. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 5 Section E, subsection 1. References to other sections of the book identify the relevant page and chapter.

Incorporating Experiential Education

1. **What it is:** "Experiential learning" encompasses both experiential courses and experiential modules. (p. 162). Experiential learning is a primary way that people learn on their own, whereas experiential education involves active and purposeful design and teaching. (p. 163). The way in which a law school designs and delivers a coherent array of courses to allow a student to progress from novice to competent professional will define its efficacy, reputation, and leadership. (p. 163).
2. **Promoting deep learning:** Five general best practices have emerged from empirical research: (1) incorporating experiential education widely throughout the curriculum; (2) providing a range of experiential course types and making them available to all students; (3) ensuring that experiential courses add value to students' experience; (4) requiring real supervised practice experience for all students; and (5) developing a common vocabulary and evaluative criteria for experiential education. (p. 163)

Experiential Education Throughout the Curriculum

3. **Furthering the mission of legal education:** Experiential education furthers the mission of legal education in at least three important ways. Active learning: (1) engages students so they are motivated to be learners; (2) has a common focus on role and performance as lawyers which should facilitate transfer of learning to practice; and (3) gives students opportunities to engage in the core lawyer skill of problem-solving. (p. 164).
4. **Experiential learning in doctrinal courses:** All students should encounter multiple experiential opportunities in their doctrinally-focused courses that allow them to apply the doctrinal concepts, analytical skills, and policy in a practice context. (p. 164). Experiential education can be incorporated into new courses or infused into existing courses which are primarily focused on doctrine. (p. 164).
5. **Experiential modules**: Teachers can incorporate experiential learning into doctrinally-focused courses through at least three formats: (1) required observation and reflection; (2) simulation exercises; (3) assignments in which students engage in real legal work as part of the course. (p. 165).
6. **Try something new**: Reflecting the surge of interest in experiential education, major publishers now offer textbooks that include experiential exercises, providing built-in opportunities to address both professional skills and values. (p. 165). Before incorporating in experiential learning, teachers should have a basic familiarity with the underlying skills and concepts. (p. 165).
7. **Successful incorporation**: Teachers can also incorporate in experiential education through real-life writing projects, field experiences, observations or coordinated externship placements. (p. 166). Teachers who wish to do so should: (1) identify learning objectives; (2) determine how to assess whether students are meeting those objectives; and (3) create learning activities that support those objectives. (p. 166).
8. **New courses**: The two most common experiential structures are the lab course and the practicum. (p. 167). Lab courses provide an opportunity for students to apply the concepts learned in other courses. (p. 167). The practicum structure incorporates experiential education as a part of a doctrinally-focused course, rather than as a course offered separately for credit. (p. 167).
9. **Experiential education in the first year:** Three reasons exist for incorporating experiential education into the other first year courses: (1) experiential education can provide context for doctrinal learning; (2) experiential education can help students maintain a connection to their reasons for attending law school; and (3) students need to begin early the process of understanding how lawyers use doctrine. (p. 168).

Providing a Range of Course Types

10. **Law courses come in all shapes and sizes:** Legal education has reached a point where it is a best practice to provide opportunities within different types of courses and inform students about the distinct benefits of each. (p. 170). To qualify as an experiential course, a course must integrate doctrine, theory, skills, and legal ethics and engage students in the performance of skills and concepts. (p. 170).
11. **Structural differences:** Experiential courses differ on three primary structural dimensions: (1) whether they involve simulated or real practice experience; (2) whether the experiences take place in a setting specifically created for educational purposes; (3) and whether the supervision is integrated or dual. (p. 171).
12. **Real vs. simulated:** Simulated experiences give the teacher more control over what the students will learn. (p. 171). Real experiences typically present the students with more complexity, indeterminacy, and uncertainty. (p. 172). Real experiences also allow some level of authentic role assumption. (p. 172).
13. **Created for educational purposes**: Settings created primarily for educational purposes can be intentionally designed with students in mind. (p. 172). An education-focused setting can also be staffed with the students' expectations in mind, choosing teachers or attorneys whose personalities are suited to mentoring. (p. 173).
14. **Integrated vs. dual supervision:** In the integrated model, a single supervisor is responsible for overseeing a group of students who perform and reflect upon legal work. (p. 173). The integrated supervisor focuses on the student's experience and teaches the student in the class room as well as helps the student work. (p. 173). Under the dual supervision model, the student benefits from two perspectives: a field supervisor and an instructor. (p. 174). This model provides an opportunity to foster student self-reliance and independence. (p. 174).

Ensuring Added Value

15. **Law schools must ensure that such courses add value:** Teachers of all experiential learning courses add value by structuring the experience in advance, and through their actions during the course. (p. 177).
16. **Preparing in advance:** All experiential teachers should choose the subject matter for the legal work that students will perform, design the syllabus, and prepare classroom sessions. (p. 177). Teachers provide value in any of four primary ways: (1) offering in-depth conceptual frameworks for individual skills; (2) providing intensive supervision of student performance; (3) giving specific feedback; and (4) structuring opportunities for student reflection.
17. **School support:** law schools must support their experiential courses sufficiently to realize their distinctive benefits. (p. 178). For clinics, this requires adequate staffing and support for the complex administrative demands for the course and realistic expectations for enrollment. (p. 178). For externships, this requires courses externship courses taught by law faculty and balanced course loads. (p. 178)

Experiential Opportunities for All

18. **Require experiential courses:** Schools should provide more than one clinical experience and a variety of experiential courses, and require that students participate in both. (p. 179). How a given school should implement a requirement of clinical education depends on: the law school's mission, the student body and job market, and the geographic location. (p. 179).
19. **A mix of clinics and externships:** Law students are best served by programs which offer a mix of experiences, including both clinics and externships. (p. 180). These courses should be offered for enough credits to provide students with sufficient experience to generate meaningful reflection and learning. (p. 180). The average combined credits per semester for law clinics is five to seven. (p. 180).
20. **Caps and costs:** Schools should significantly lift credit caps or other limits on clinical education, or remove them entirely. (p. 181). Clinic opportunities should not be limited based purely on cost. (p. 180).

Cost is only one piece of the equation and schools should not cut corners to assure that students receive the critical educational benefits. (p. 182).

Course Sequencing

21. **The importance of sequence:** Law schools can choose to offer simulated and real experiences in a specific sequence. (p. 182). Some schools require all students to participate in a relevant skills theory or simulation course in their second year, or make such a course a prerequisite for participating in a clinic. (p. 182). Law schools should consider whether students should be able to take such courses concurrently, or participate in externships before clinics (or vice versa). (p. 183) While sequencing experience is not yet common enough for best practice recommendations, schools should consider and analyze the benefits and risks associated with any proposed sequence. (p. 183).

Common Vocabulary and Evaluative Criteria

22. **Proliferation and confusion of terms:** Different institutions use different terms to describe the same types of learning experiences and even use the same terms inconsistently. (p. 184). A common vocabulary can prevent misunderstandings in which different parties assume they are both talking about a course or experience that has certain characteristics. (p. 184).
23. **Vocabulary for ABA purposes:** As the ABA increasingly requires experiential opportunities, it will be more and more important to develop terms that can be easily understood. . (p. 184). Law schools and law students need to know which courses satisfy ABA requirements. (p. 184).
24. **Developing a vocabulary:** Developing and adopting a common vocabulary and common evaluative criteria are easier said than done. (p. 185). Schools have already developed their own usages that students, alumni, and faculty are already familiar with. (p. 185). Because experiential offerings vary, creating a common vocabulary risks overlooking important dimensions. (p. 185).
25. **Current uniform vocabularies:** The most comprehensive effort to date to develop a common experiential vocabulary has emerged from the Alliance for Experiential Learning's Vocabulary Working Group. (p. 186). This effort, however, has not yet been fully vetted. (p. 186).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 5: Implementing Effective Education in Specific Contexts
Section F: Experiential Education
Subsection 2: *Delivering Effective Education in In-House Clinics*

This summary of "best practices" is a compilation of those identified in *Delivering Effective Education in In-House Clinics,* by Lisa Radtke Bliss and Donald C. Peters. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 5 Section 5 Subsection 2. References to other sections of the book identify the relevant page and chapter.

Clinics Today

1. **A reflection of the nature of law practice:** Law clinics have long embraced the multifaceted nature of law practice. (p. 189). Law schools recognize that effective preparation of students for practice requires clinics to expand into new areas of focused representation or advocacy. (p. 190). A defining feature of law clinics is intensive faculty supervision and integrated student learning. (p. 190). The clinic structure allows students to draw upon and further develop their substantive knowledge, doctrinal reasoning, lawyering skills, ethical engagement, and professional identity. (p. 191).

2. **Handling real legal matters for real people:** A guiding principle of in-house law clinics is educating students through serving real clients with real legal needs and problems in a setting expressly designed for educational purposes. (p.191). In real cases, students and the clinical educator must together address matters in which uncertainty, ambiguity, and the fluid nature of problem-solving in real matters are ever present. (p. 192). Students in most clinics must assume the role of a lawyer and shift their identity from student to professional. (p. 193).
3. **Opportunities for students to develop a professional identity:** As students perform a professional role and begin to understand what the profession expects of them, they also learn that they have many opportunities to decide for themselves how they want to behave as lawyers. (p. 194). Clinics employ a supervision model in which the student and educator have time allocated to planning lawyering activities, to the student performing them, and to discussing and reflecting upon those experiences. (p. 195).
4. **Clinics integrate student experience into the learning process:** Clinical educators are able to help students make explicit connections between their legal work and their classroom experiences based on firsthand knowledge of events. (p. 195). In an in-house clinic, the educator relies primarily on her own observation of the student, rather than on student work experience reports. (p. 195). The continuous cycle of planning, doing, and receiving feedback, then revisiting the skills performed and applying knowledge from previous efforts enables clinic students to achieve deep learning. (p. 195).

Students and Supervisors Engaging Together

5. **Shared understanding between student and supervisors:** Clinical educators can take advantage of their integrated knowledge of the students' work and experiences and use inquiry-based feedback regarding the actions they observe. (p. 196). Feedback in team or group settings encourages discussions about whether behaviors coincide with theories, and facilitates student identification of appropriate generalizations for similar, future situations regarding theories, actions, and revisions. (p. 196).
6. **Challenge students to take control of their own decisions:** Clinics focus on student learning from experience by fully debriefing all activities related to the clients in individual and small group settings, which provides additional support, and ensures feedback for performances. (p. 197). The supervisor's insights make it easy to engage students in conversations that explore objectives and options for client representation, as appropriate in light of student and case needs. (p. 197).
7. **Accessibility of faculty supervisors:** Clinical educators meet with students in person regularly, supervise student work, and review and approve written work product. (p. 198). Through this close personal contact, clinic teachers are often the educators with whom students form the closest relationships. (p. 198). It is a best practice to ensure that students have such access. (p. 198).
8. **Unique clinical faculty:** As employees of the law school, clinical educators provide necessary supervision to enable students to handle real legal matters. (p. 198). Clinical teachers learn, study, and develop clinical pedagogy and then apply it directly to student learning. (p. 198). Clinical educators have greater detachment from and opportunities to assess the dominant norms of legal practice in their community. (p. 199).

Clinical Pedagogy

9. **Clinics draw upon multiple teaching methodologies:** It remains a best practice to include a classroom component that helps accomplish the educational goals of clinical course. (p. 199). A clinic seminar should reinforce and advance the shared learning experience of clinical students and include case rounds, group settings for examining critical incidents in cases. (p. 199).
10. **Case rounds as context for showcasing core concepts of lawyering:** During case rounds, students can integrate their legal work experiences with legal doctrine, lawyering ideals, self-awareness, professional identity, etc. (p. 200). Case Round conversations may focus on specific legal experiences or more broadly on themes or experiences. (p. 201). It is a best practice to plan a structure for rounds and to plan topics to be addressed in order to trigger reflection. (p. 201).

11. **Three primary teaching methodologies:** (1) the use of exercises, role plays, and simulations; (2) reflection; and (3) providing students with multiple opportunities for performance and feedback. (p. 201).
12. **The importance of being continually self-reflective:** Reflection involves stepping back and reflecting on both the cognitive and affective aspects of an action or event. (p. 202). Reflection is an essential component of clinical instruction, and it is a best practice for clinical teachers to incorporate formal and informal opportunities for reflection throughout the clinic experience. (p. 202).
13. **Special learning opportunities:** Doctrine, practice, and professional responsibility are together in clinics solely by virtue of their context. (p. 203). Clinics allow students examine law in a larger societal context and address race, class, poverty, and access to justice. (p. 203). It is a best practice for clinical dilemmas that may arise, to build cross-cultural competence, and to identify systemic issues in the justice system that lawyers are in a position to address. (p. 203).

Learning Objectives

14. **Clinics are creatures of their environment:** A law school must adapt the kinds of clinics it offers to its location. (p. 204). The design and type of clinics are also influenced by faculty and student interest. (p. 204). Clinical educators make intentional choices about levels of student responsibility and autonomy. (p. 204).
15. **Objectives and Assessments:** Clinical teachers should provide students with clear and explicit learning objectives and assessment criteria. (p. 205). Learning objectives for a particular clinic may be constrained by credit hours, the type of legal work performed, or type of clinic. (p. 205). It is a best practice for clinic teachers to provide students with the opportunity to identify their own learning objectives as well. (p. 205).
16. **Synthesized list of clinic goals:** (1) Develop a professional identity and practice with a purpose; (2) Increase understanding of how law, the legal system, and other institutions function in the lives of people; (3) Improve capacities to manage uncertainty, exercise judgment, and take action; (4) Develop new modes of thinking like a lawyer; (5) Build lifelong commitment and skills to learn in professional settings; (6) Develop skills associated with the human dimensions of practice; (7) Build Lawyering Skills (p. 205–06).

The Value of Clinics

17. **Advantages of clinics**: Clinics offer benefits to students, law schools, the community, and society. (p. 207). Continued support for and development of clinics inures to the benefit of law schools. (p. 207). Law clinics not only prepare students to become lawyers, but they achieve important goals for clients and their communities. (p. 207). Clients also receive legal services at no cost from students eager to provide help, benefitting communities and marginalized populations. (p. 208).
18. **Linking the academy and practice:** As academic lawyers, clinical educators strive to expose students to those parts of the lawyering process that are likely to be invisible to them or at least difficult to observe in practice. (p. 208). Clinical educators have also developed other theories about practice models for representing poor and marginalized clients. (p. 208). It is a best practice for clinical educators to aid students in examining the role of lawyers and to facilitate student reflection on the legal system. (p. 209).
19. **Reflecting law school's missions**: Clinics that provide direct legal services are perhaps the best expression of law schools' mission to serve and engage in their communities. (p. 209). A law school's clinical program sends important messages to law faculty, students, and members of the community. (p. 209). Law clinics also model the professional ethic of pro bono and public service for the law school and the greater legal community. (p. 209).

Maintaining Clinical Programs

20. **Sufficiently staff clinics:** An appropriate student-faculty ratio is necessary to allow clinic faculty to competently supervise student work. (p. 210). It is a best practice for a clinical educator who is

supervising students in a clinic to supervise no more than eight students per term. (p. 210). The effectiveness of supervision also depends on clinical faculty's overall course loads, scholarly expectations, and service responsibilities. (p. 211).

21. **Clinics as a model of law office management:** Learning office management skills may be especially important for students who intend to engage in solo or small-firm practice. (p. 211). Some clinics teach students about billing practices, including how to bill lawyer time, and how to develop clients. (p. 211). Part of a holistic development of professional identity includes student learning of the ethical, effective accounting for and communication of time and costs. (p. 211).
22. **Ensure a positive client experience:** Clinics must evaluate how clients are referred, how intake is performed, and how the student/client interactions progress. (p. 212). Supervisors must ensure transitions from one student to another are handled in a way that recognized the client's needs. (p. 212).
23. **Embrace different styles of practice:** Establishing a collegial work environment is healthy for educators as well as good modeling for students. (p. 212). Clinic educators should encourage students to observe the similarities and differences in approaches to practice that their clinical teachers pursue. (p. 212). An important message is that there are different ways to do things correctly and there may be a range of ethically appropriate approaches to practice. (p. 212).
24. **Administer clinical programs effectively:** Clinical programs with more than one clinic sharing the same space can reinforce student learning by fostering reflection on how law firms operate. (p. 213). Clinical educators should be transparent about how the clinical "firm" operates and why. (p. 213).
25. **Modeling administration:** It is a best practice for clinical programs to seek ways to promote coherence and cooperation among different programs and the educators who staff them. (p. 214). Law schools should identify a person to serve as managing director of clinics, responsible for duties to those handled by a law firm managing partner. (p. 214).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 5: Implementing Effective Education in Specific Contexts
Section F: Experiential Education
Subsection 3: *Delivering Effective Education in Externship Programs*

This summary of "best practices" is a compilation of those identified in *Delivering Effective Education in Externship Programs,* by Carolyn Wilkes Kaas with Cynthia Batt, Dena Bauman, and Daniel Schaffzin. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 5 Subsection F, subsection 3. References to other sections of the book identify the relevant page and chapter.

Place within the curriculum

1. **Integration within clinical program:** Law schools should integrate the externship program, courses, and faculty within the clinical legal education program (p. 221-22) and ensure that externship courses are robust, well designed, and well supported. (p. 244). Specifically, law schools should recognize that as courses for credit, externships should be taught, not merely administered (p. 220).
2. **Student opportunity:** Law schools should provide a field placement opportunity to every student, and refrain from offering externships as a substitute for law clinics. (p. 244). It is an emerging best practice for law schools to assure that students can take at least one law clinic and one externship course. (pp. 220, 163).
3. **Credits awarded:** An externship course should be offered for enough credits to provide students with sufficient experience to generate meaningful learning and reflection opportunity. (p. 180) and reflects the work and time committed in the field placement (p. 241-42).
4. **Issues of specific student populations:** Law schools should examine and address the needs of part-time evening students in designing and teaching externships. (p. 238).

Faculty status, scope of responsibilities, and professional development of externship teachers

5. **Primacy of teaching mission:** Law schools should provide that the person assigned to teach any externship course and/or direct the externship program is a member of the clinical teaching faculty.[1] The primary function of such persons is to assure the pedagogical soundness of the overall program each externship course, acknowledging that skilled administration is a necessary component of a pedagogically sound program. (p. 220-22).
6. **Sufficient support:** Law schools should provide adequate direction, staff, and support for the complex administrative demands of the overall program and each course, based on realistic enrollment projections. (p. 178, see also Chapter 8, p. 433)
7. **Teaching expertise:** Law schools should assign externship teaching only to individuals with sufficient talent, interest, and training in clinical methods. (p. 236). Externship teachers should have the necessary expertise, time, and protection to perform the teaching task well and the requisite status and recognition of the importance of this teaching endeavor. (p. 222, see also Ch. 8, p. 435).
8. **Professional development in clinical pedagogy:** Externship teachers should be provided the time and resources necessary to develop expertise in clinical pedagogy (p. 222) including the opportunity for attendance at appropriate conferences and participation in the faculty as clinical teachers (irrespective of whether the person also has non-externship responsibilities like student services). (p. 224)
9. **Role of student services:** If career or student services administrators are assigned substantial roles within the externship program, law schools should ensure that they are accorded part-time faculty status, held to the same pedagogical goals and standards as the rest of the faculty, (p. 224), and given protection against interference in their teaching role (p. 222, see also p. 224 regarding teacher vulnerabilities).
10. **Reasonable workloads:** Law schools should also ensure that externship teachers are assigned a reasonable course load and number of students, allowing sufficient time to foster meaningful student reflection. This requires appropriate protection from competing duties. (p. 234)
11. **Scholarship:** Given the rich scholarship opportunities that result from this vantage point, law schools should decide carefully how externship teachers contribute best to the mission of the law school as teachers or as teacher/scholars. (p. 223). If scholarship duties are available to, and/or required of, externship teachers, then law schools should ensure that the teaching workload, directorship duties, and other obligations are assigned or adjusted equitably. (p. 223, n. 34)

Course learning goals, reflection skills, and assessment

12. **Core components of externship pedagogy:** Externship teachers should ensure that the program adds educational value to the raw experience beyond that which would otherwise be gained from a job and volunteer opportunity through both advanced structuring of the experience and the teacher's actions during the semester. (p. 170, 177). The defining components of externship pedagogy include: (1) immersion in live practice where facts, law, theory, skills and ethics are entwined; (2) dual supervision meshing external practitioners and campus faculty; (3) guided reflection to enhance in situational learning in real time and to develop the lifelong habit; and (4) providing opportunity and responsibility for student self-determination and self-reliance to shape his/her learning and career goals. (p. 217-20).[2] The full

[1] Chapter 5 notes that law schools use many titles for the persons who run and teach the externship program, and opted to use a common term, "externship teacher" as the working title for anyone with teaching or substantial administrative or management duties for the program. Some of these best practices summarized here are more appropriately assigned to the person with academic oversight of the program, while others are within the purview of the person designated to teach a particular externship course or academic component (e.g., judicial field placement seminar). Like Chapter 5, this Executive Summary will use externship teacher exclusively, without suggesting where the appropriate locus of responsibility lies in a law school.

[2] Many of the learning opportunities found in externship courses are similar to those found in in-house clinical courses, and so they share some important best practices. But there are two important differences between these experiential

potential of externships is realized when the field supervisor and the teacher, backed by their respective institutions, put in the time and energy necessary to achieve the pedagogical objectives. (p. 219).

13. **Institutional, program, and course learning goals:** To ensure that each characteristic of externship pedagogy delivers maximal benefit, the law school and externship teachers should *articulate* and *assess* the specific learning goals for the program and courses. Law schools need not have the same learning goals for all the students enrolled in its externship courses. (p. 226). Some learning goals are universally applicable and minimally necessary for all externship courses; these goals converge in two clusters: (1) professionalism, professional identity and ethics; and (2) learning how to maximize one's learning and contemplation of the larger lessons from the experience. (pp. 226-29). Law schools and/or externship teachers should supplement those universal goals with ones specific to the law school mission, course focus, and/or the nature of placements.
14. **Communication of goals to field supervisors:** Externship teachers should clearly communicate those stated goals to each field supervisor, and ensure that every field supervisor is prepared to devise assignments and structure the student experience to align with those goals. (p. 225).
15. **Student individual learning goals:** Externship teachers should guide each extern to set and pursue individual goals, personal to his/her experience and career direction. Student goal setting enables students proactively to identify an appropriate field placement, seek assignments for specific skill building and practice exposure, and pursue feedback and supervision from their field supervisors. (p. 219-20, 229).
16. **Student self-assessment tools:** Externship teachers should develop and use meaningful student self-assessment tools to plan for and monitor progress toward their goals, thereby providing important information to the student, the field supervisor, and the teacher. (p. 229-30).
17. **Reflective practice:** Externship teachers should develop a program of student reflection, assigning journals frequently and regularly (e.g., bi-weekly), to develop student skills in continual reflection on uncertainties, complexities, and conflicts that arise in their professional lives. (p. 233–34). The teacher should provide timely commentary on the journals to create a continuing and iterative dialogue throughout the experience. (p. 235).
18. **Assessment of student performance:** Externship teachers should develop and select course assessment tools designed to measure student performance and progress in synthesizing their field experience, particularly regarding reflection skills, employing both formative feedback and summative evaluation methods. (p. 230).

Relationship and management of field placement offices and supervisors

19. **Quality field supervision:** Externship teachers should work with field supervisors to assure that students receive high quality supervision of their legal work, recognizing the reality that the teacher is not present to witness the student performance. (p. 230-31). The externship faculty director should help supervisors understand that they are the principal caretakers of and advocates for the extern. (p. 231).
20. **Training for field supervisors:** Externship teachers should provide training and develop materials to assist field supervisors in discharging their obligation to provide task-specific feedback and overall periodic evaluation in the field. (p. 230).
21. **Monitoring and supporting field supervision:** Although there is no consensus about the best practice to nurture field supervisors in executing their educational role, the externship teachers should oversee and support field supervisors by using pro-active and reactive techniques, alternately anticipating and responding student learning needs. These might include one or more of the following (p. 232-33):
    a. Provide early information and training regarding program goals and techniques in supervision and feedback, such as by formal training sessions, handbooks and resource materials, and/or

courses. In clinics, students are taught through integrated supervision of one or more school-based faculty members, who are devoted first and foremost to the student's education, as is the mission of the clinical office. In comparison, externship students are taught under the dual supervision of a school-based externship teacher in partnership with a law office practitioner. The practitioner's principle mission is the delivery of legal services and an ancillary mission to provide student training. (See pp. 171-74).

formalized supervisor agreements.

b. Implement consistent checks to ensure a high quality educational experience and underscore that the school is ready to help resolve any problems that may arise.
c. Monitor student work and supervision in field placement through a combination of site visits, student and supervisor evaluation tools, periodic phone or email check-in with supervisors, and/or careful review of student timesheets and journals.
d. Solicit student feedback on both placement and field supervisor by means of a formalized end-of-semester evaluation tool.
e. Seek feedback from the field supervisor regarding all aspects of externship partnership.

22. **Hybrid clinic/externships:** Where the student's work with a community partner blends features of a traditional in-house clinic and externship course, the law school should ensure that the student learning value justifies charging tuition, and the school contribution to the educational experience justifies receiving tuition. Three considerations are integral to that determination: (1) Does the student work integrate doctrine, theory, skills, and ethics; include opportunity to practice skills, receive feedback and provide for self-evaluation and reflection?; (2) Are there specific and achievable course learning objectives?; and (3) Does the school provide professional support and oversight of the instructor and monitor the program to ensure educational benefits and student value? (pp. 245, 251–52).
23. **Special placement issues: law firm and corporate placements:** There is no consensus regarding the appropriateness of for-profit placements for students. Each law school will answer the question based on its own circumstances, including the needs and desires of the students, other clinical opportunities available, and other options for students to take advantage of learning opportunities in the private sector. Law schools choosing to allow private placements must navigate the Fair Labor Standards Act's requirements about permissible training programs. (p. 240–41).
24. **Special placement issues: full-time placements:** Law schools and externship teachers should give special attention, time and care in establishing, approving, and monitoring any full-time placement. Externship teachers should ensure each student is ready for the challenge of the responsibilities of a full-time placement. Externship teachers should be mindful of the risks of students securing their own placements (e.g., students' limited ability to assess supervisor quality, or to negotiate an effective learning experience). (p. 242-43).
25. **Special placement issues: remote placements:** While remote externship placements offer exciting opportunities, externship teachers should incorporate guided reflection techniques developed in externship courses generally while also being mindful of the challenges of distance learning. (p. 243)

Nature of academic component

26. **Student-teacher minimum contact:** Law schools should provide for student-teacher contact, a minimum of one credit, or roughly fourteen contact hours. This can be accomplished through a seminar or through one-on-one tutorials. (p. 237)
27. **Separate seminar learning goals:** Externship teachers who teach a seminar should set learning goals and outcomes, distinct from the goals for the fieldwork. The classroom should be a site for enhanced reflection on topics that arise naturally from the casework. (p. 237)
28. **Student feedback:** Externship teachers should continually seek student feedback on activities that enrich their field experience, and adjust the seminar as appropriate. (p. 238)

Other chapters and sections with material relevant to Externship best practices:

Structure of the school's overall curriculum:

a) Curriculum mapping to discern learning outcomes that are reliably achieved (Ch. 2, pp. 25-42).
b) Balancing doctrinal and practice-oriented education (Ch. 3, pp. 45-51).
c) Outlining how pathways, integration, and course sequencing can advance delivery of learning outcomes (Ch. 3, pp. 52-58).

d) Incorporating experiential education throughout the curriculum, with special attention to the three-part balance of simulation, clinic, and externship courses (Ch. 5, pp. 162-87).

Faculty status:

a) Explaining the considerations of faculty status to institutional effectiveness, giving specific attention to the status of experiential teachers, addressing reasons for job security protection, and acknowledging the necessary administrative aspects in this form of education. (Ch. 8, pp. 432-43, see also Ch. 1, at p. 20).

Topics especially pertinent to externship pedagogy:

a) Use of deliberate and reflective practice to maximize transfer of learning (Ch. 4, pp. 90-93).
b) Teaching students intercultural effectiveness in their professional work. (Ch. 6, pp. 337-59). This section gives special attention to teaching in the externship context, pp. 353-54, and provides methods for formative, summative, and institutional assessment in intercultural effectiveness, pp. 356-59.
c) Incorporation of teaching in professional identity formation, empathy, and relational skills, reflective and decision-making skills to achieve ethical competence. These learning objectives are especially relevant to externship teaching, flowing from live experience and reflective journal writing. (Ch. 6, pp. 253-71).
d) Teaching of relational skills, such as understanding clients and others in context; promoting considerations of process oriented choices; and appreciation of the interpersonal, cultural, and emotional issues in play. (Ch. 6, explaining relational skills in lawyering, pp. 314-23; describing teaching of such skills, pp. 324-32). Both sections give special attention to externships and other experiential courses as ideal platforms for teaching these lawyering skills.
e) Teaching professional responsibility through four developmental levels: moral sensitivity, mature ethical reasoning, prioritization of moral decisions over competing interests, and effectiveness in implementing a moral decision. This section gives special attention to the role of journaling and reflective papers as a teaching vehicle. (Ch. 6, pp. 280-96, esp. 263). This section also includes detailed best practices models. (Ch. 6, pp. 289-93). See p. 295 for an example of a multi-level professional formation curriculum that included an externship with extensive readings, reflective journaling, and class discussion of professional identity formation.

Context, guidance, and suggestions for designing and teaching the externship program and its constituent courses:

a) Learning and teaching theory. (Ch. 4, pp. 67-72).
b) Setting and implementing course goals, outcomes, and assessment tools. (Ch. 4, pp. 94-99).
c) Incorporating techniques to deliver education that supports student well-being. (Ch. 4, pp. 73-84).
d) Use of interculturally aware teaching methods with students. (Ch. 4, pp. 85-89, see also Ch. 5, pp. 148-51).
e) Opportunities for and application of teaching technologies. (Ch. 5, pp. 129-39).
f) Exploration of how the profession has changed and needs to change in the face of technological advances, including issues of the client relationships, access to justice, law office efficiencies, and knowledge management. (Ch. 6, pp. 400-06).
g) Use of librarians in direct teaching and/or distance education support. (Ch. 5, pp. 145-47).
h) Incorporating foreign students into experiential courses, especially clinics. (Ch. 5, pp. 154-57).
i) Incorporation of simulation exercises into a course. (Ch. 5, pp. 164-65).
j) Teaching leadership. (Ch. 6, pp. 297-301).
k) Teaching collaboration and teamwork skills, and using externship reflective journals to explore teamwork dynamics in the field. (Ch. 6, pp. 335).
l) Regarding the role of externships in school pro bono programs. (Ch. 6, pp. 305, 309).

m) Teaching skills in problem-solving and dispute resolution, including comprehensive law movement (Ch. 6, pp. 369-75); alternative dispute resolution (Ch. 6, pp. 377-82); and practical problem solving across the curriculum (Ch. 6, pp. 383-88).
n) Exploration of interprofessional education to understand the limits of single discipline approaches to complex problems (Ch. 6, pp. 389-99).
o) Teaching business and financial literacy. (Ch. 6, pp. 407-12).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 5: Implementing Effective Education in Specific Contexts
Section F: Experiential Education
Subsection 4: *Ensuring Effective Education in Alternative Clinical Models*

This summary of "best practices" is a compilation of those identified in *Ensuring Effective Education in Alternative Clinical Models,* by Deborah Maranville. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 5 Subsection F, subsection 4. References to other sections of the book identify the relevant page and chapter.

Structural Variations of Experiential Course Models

1. **Best practices:** Before sponsoring an experiential offering, law schools should: (1) consider what the potential structure provides for integrating theory, skills, values, opportunities to practice and receive feedback, and self-evaluation / reflection, (2) identify specific learning objectives in light of available resources, and (3) include a plan, developed by the law school, for professional development, and for reviewing the structure and educational benefits of the course.
2. **Fundamentals of experiential course variations:** Law schools have adopted many of the possible structural variations and clinicians have an intuitive understanding of the strengths and challenges therein. (p. 245). Two fundamental best practices for evaluating how to structure alternative experiential offerings are: (1) ensure that students learn enough to justify the tuition they pay; and (2) ensure that the law school contributes enough to justify the law school receiving the tuition paid by the student (p. 245). To evaluate whether an experimental course provides serious educational opportunities, it is best to identify the role of structural characteristics, and consider variations from traditional designs. In-house clinics and externships are not the only models for experiential learning.
3. **Who: teacher or supervisor?** Consider skill and expertise of the instructor in clinical teaching, the time of the instructor has available to spend on the course, and the expertise of the instructor. Time and expertise may present trade-offs.
4. **What: education or service focused?:** Law school offerings tend to be more education focused, while grant-funded initiatives are typically driven by service concerns.
5. **How: community partner contributions:** The central question is determining who is responsible for case coverage when the clinic is not operating. Limited budgets may constrain community partners, but law schools can contribute financially by covering overhead or staff time.

Seven Common Variations of Experiential Course

6. **Grant funded in-house clinic:** Funders are usually focused on providing services, not legal education. This model is like the traditional in-house clinic, but there is more focus on client services.
7. **Faculty-taught clinics with volunteer attorneys:** This model is most common in transactional areas involving multiple, specialized subject matters, and is typically education focused.
8. **Off-site, faculty-taught and supervised community partnerships:** "External Clinics" are generally for educational purposes but operate externally. Law schools benefit from a stream of cases without having to setting up an in-house law office.

9. **Off-site, faculty-taught and partnership supervised clinics:** This model uses the "dual supervision" characteristic of externships. Unlike externships, a practioner-supervisor oversees group of students with a significant emphasis on education.
10. **Partnership supervised and taught clinics:** This model may be education or service focused. A practitioner leads classroom teaching and case supervision. Practitioners may be limited in the time they can spend on supervision and developing expertise on clinical pedagogies.
11. **Enhanced externships:** In this model, faculty consult on some or all cases, taking a more intense supervisory role. Ehanced externships fall somewhere between an in-house clinic and an externship, but without a cohort of students or one external supervisor.
12. **Field placements in law school courses:** Field placements may be attached to existing course. Faculty member may arrange placements or function as an externship faculty teacher.

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 6: Teaching the Newly Essential Knowledge, Skills, and Values in a Changing World
Section A: Professional Identity Formation
Subsection 1: *Teaching Knowledge, Skills, and Values of Professional Identity Formation*

This summary of "best practices" is a compilation of those identified in *Teaching Knowledge, Skills, and Values of Professional Identity Formation,* by Larry O. Natt Gantt II & Benjamin V. Madison III. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 6 Subsection A, subsection 1. References to other sections of the book identify the relevant page and chapter.

Professional Identity Formation

1. **Knowledge, skills and values:** Professional identity development asks students to internalize values consistent with the core values of the legal profession. (p. 255). It is best done by exposing students to explicit areas of knowledge, skills and values. Before teaching the values of legal profession, instructors should introduce core principles of moral development from other disciplines. There are eight normative values of the legal profession law students should be taught. (p. 256). Law schools must consider ways to teach skills that foster these values. (p. 260).
2. **Integrity - being true to self:** Integrity deals with personal wholeness. (p. 257). Law schools must adopt specific strategies to promote integrity among students. (p. 257).
3. **Honesty:** This value is specifically emphasized by the ABA. Law schools should establish honesty as a core professional value early and often. (p. 258).
4. **Diligence / excellence:** Law schools should focus on teaching the students about process of performing to the best of their abilities instead of simply meeting objective standards. (p. 258).
5. **Fairness / seeks justice & truth:** Law schools must do more to develop student commitment to justice, fairness and truth. (p. 258).
6. **Courage / honor:** Law schools must recognize and present students with examples of moral courage, moral exemplars, and decision-making scenarios. (p. 258).
7. **Wisdom / judgment:** Wisdom denotes solid decision-making in light of the legal profession's core values.
8. **Compassion / service / respect for others:** Law is a "public" profession designed to serve both clients and communities. Law schools need to explain why students should develop the habit of service.
9. **Balance** Law students and lawyers both struggle with balance. Law schools should exemplify the importance of balance in curricula, course design, teaching methods, administration and management.

Teaching Skills to Foster Values

10. **Self-awareness:** Self-awareness is the foundational skill to developing professional identity (p. 260). Teaching methods include: (1) journaling / reflection papers; (2) class discussions on readings which evoke emotional reactions; and (3) contemplative practices. (p. 263).
11. **Empathy, ethical sensitivity and other relational skills:** Empathy is the heart of ethical sensitivity. (p.261). General relational skills promote the values discussed above. (p. 261). **E**xperiential learning, coupled with journaling and reflection, is the best way to teach empathy. (p. 264). Additional methods include: (1) student roleplay as clients; and (2) communication models, such as Appreciative Inquiry. (p. 265). Relationship-Centered Lawyering skills develop through empathic listening and demonstrations of empathy. (p. 266).
12. **Reflective and decision making skills:** Law schools must equip students with skills to reflect on and resolve "unstructured" problems with no clear answers. (p. 262). Fostering student dialogue is the optimal method to teach reflection. (p. 266). Methods for teaching deliberation and decision making include: (1) including ethical exercises in doctrinal courses; and (2) analyzing actual decisions. (p. 267).
13. **Self-motivation:** Law schools should encourage self-motivation to act on ethical decisions. (p. 262). Teaching methods include: (1) using stories; (2) introducing students to moral exemplars; (3) mentorship programs; (4) encouraging law student collaborative discussion; and (5) student assessment.

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 6: Teaching the Newly Essential Knowledge, Skills, and Values in a Changing World
Section A: Professional Identity Formation
Subsection 2: *Integrating Professionalism into Doctrinally-Focused Courses*

This summary of "best practices" is a compilation of those identified in *Integrating Professionalism into Doctrinally-Focused Courses,* by Paula Schaefer. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 6 Subsection A, subsection 2. References to other sections of the book identify the relevant page and chapter.

Integrating Professionalism into Doctrinally-Focused Courses

1. **Developing course-specific professionalism learning outcomes:** Integrating professionalism into traditional law school classes enhances their understanding of the law and helps students develop their identity as a lawyer. Teachers should introduce professionalism issues commonly encountered in that doctrinal area. Course learning objectives should relate to the lawyer's: (1) fiduciary obligations to clients; (2) obligations under professional conduct rules; and (3) personal values. (p. 271).
2. **Fiduciary obligations:** One goal of a doctrinal class should be enhancing student understanding of how they can satisfy their fiduciary duties of competence, diligence and loyalty to clients in that area of law. To teach competence, teachers should describe how the course will prepare students for practice in both litigation and non-litigation settings. Teachers should consider which loyalty issues frequently pose challenges for lawyers in that practice area. (p. 272–73).
3. **Professional conduct obligations:** in developing course goals, doctrinal teachers should consider how professional conduct rules relate to class issues. (p. 273). Teachers should include learning objectives referencing the intersection between course subject-matter and professional conduct rules. (p. 274). Three conceptual categories may be useful: (1) rules for fulfilling fiduciary obligations; (2) limits on what lawyers may do; and (3) rules to maintain the profession's integrity. (p. 273). Some professional conduct rules are also a matter of day-to-day concern in specific legal fields. Students should resolve professional conduct issues as they arise in doctrinal classrooms.
4. **Personal values:** Course outcomes should specify the values students are expected to develop, referencing two or three values emphasized in the course. (p 274).
5. **Teaching methods for professionalism issues:** Professionalism themes can be integrated using the cases in a standard textbook. If case facts involve a document drafted by a lawyer, or a lawyer advising or

consulting a client, the lawyer's advisory role can be highlighted by having students present the case from the viewpoint of the lawyer who advised the client. (p. 275). To teach the importance of competent litigation, teachers can present cases involving mistakes or misconduct and ask students to explore the consequences to the client. Cases which relate to issues in professional conduct rules can lead into discussions on character-based values. Teachers should point to concrete examples of consequences of misconduct. When there is not a single right answer, teachers should share their perspective and integrate professionalism stories from practice.

6. **Doctrinal classes and experiential exercises:** There are many resources for introducing experiential exercises into doctrinal classes. (p. 277). Many textbooks and practice-focused texts for doctrinal classes contain experiential learning exercises. Teachers can also create short problems based on recent cases or news stories or adapt problems already in casebooks. Teachers can adopt or adapt innovative classroom exercises described in law review articles. Finally, teachers can integrate service-learning or pro bono projects into doctrinal classes. (p. 278).
7. **Other methods:** Teachers can invite speakers from the bench or bar to speak on relevant professionalism issues. Doctrinal teachers might also consider adding a book which integrates professionalism issues with the subject matter of the course. (p. 279).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 6: Teaching the Newly Essential Knowledge, Skills, and Values in a Changing World
Section A: Professional Identity Formation
Subsection 3: *Learning Professional Responsibility*

This summary of "best practices" is a compilation of those identified in *Learning Professional Responsibility* by Clark D. Cunningham. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 6 Subsection A, subsection 3. References to other sections of the book identify the relevant page and chapter.

Integrating Professionalism into Doctrinally-Focused Courses

1. **The Four Component Model (FCM):** Traditional professional responsibility courses teach the "Law of Lawyering," an approach research shows is inadequate. (p. 281). The FCM model identifies four reasons professionals may behave unprofessionally, as well as four corresponding capacities necessary for appropriate professional conduct. The four corresponding capacities are: (1) moral sensitivity to interpret the moral decision; (2) mature ethical reasoning to reach a morally defensible decision; (3) identity formation supporting the prioritization of moral decisions; and (4) effectiveness in implementing moral decisions. (p. 283).
2. **Moral sensitivity:** The Law of Lawyering model fails to teach students to notice moral issues hidden in complex and ambiguous situations, and constrains what students consider ethical issues. (p. 283). Moral sensitivity requires both knowledge of the law's norms and the ability to engage imaginatively and foresee realistic chains of events. Teachers should avoid relying on "predigested" appellate decisions or casebook problems. Rather, teachers should use problems which present clues without actually suggesting what the problem is. (p. 284).
3. **Moral reasoning:** The Defining Issues Test (DIT) assesses the maturity of moral reasoning. (p. 285). DIT scores demonstrate law students develop sophisticated moral reasoning from specially designed courses in professional responsibility and legal ethics, not traditional professional responsibility courses. Students develop more mature moral reasoning when presented with problems involving lawyers facing competing duties or problems which cannot be resolved because the rules either: (1) are vague or grant discretion, (2) do not address the issue, or (3) justify a decision which should not be followed. (p. 285).
4. **Moral motivation:** Combining moral motivation with a life-span model of self-development, researchers develop the Professional Identity Essay (PIE), a validated measure of professional identity formation. (p.

287). The primary goal of professional formation should be developing students' moral core of responsibility to others. The most effective methods of teaching moral motivation combine clinical education, practical experience, and expert feedback. Key components are close relationships between students and faculty, chances to take responsibility for professional interventions and outcomes, and timely feedback. (p. 288).

5. **Effective implementation:** Teaching strategies should require students to develop action plans and even specific dialogue for resolving tough problems (p. 289). Because the focus is not on student knowledge but student ability, teaching and assessment must place students in the role of the attorney solving the problem. (p. 289).

Best Practices for Learning Professional Responsibility

6. **Features of best practice approach:** The best practices include the following elements in addition to the traditional 'law of lawyering' approach (p. 290):
    - **a.** require all students complete the DIT, the PIE, and a test of intermediate legal practice concepts;
    - **b.** require all students to complete the three assessments upon completion of the program;
    - **c.** instruct students on the values and duties of the legal profession early in the course;
    - **d.** introduce students to various ethical theories and studies on the legal system;
    - **e.** enable students to learn about ethical challenges in a variety of practice settings and institutional contexts;
    - **f.** offer engaging simulation exercises containing only clues to ethical dilemmas for small group instruction;
    - **g.** expose students to professional exemplars;
    - **h.** provide opportunities for dialogue about "tough calls" involving the student's moral core;
    - **i.** use team-based teaching methods;
    - **j.** provide opportunities to observe actual and simulated legal practice and reflect about the lessons for ethical conduct; and
    - **k.** provide opportunities for students to engage in real-life work with real-life responsibilities.

Innovative Courses and Programs

7. **Rationale:** Clinical courses involving client representation are distinctly able to employ the best practices described above (p. 291). Since 2007, growing numbers of law schools are embracing the "pervasive method" of teaching ethics throughout classes (p. 293). There is a strong case for uniting formal legal knowledge and the experience of practice into a single educational framework (p. 296).
8. **Challenges:** Challenges in using clinics to satisfy the ABA requirement for professional responsibility include (p. 291): (1) the clinical teacher's expertise in substantive law, scholarship and pedagogy of legal ethics; (2) responsibilities to supervise and ensure effective representation, (3) exposure to only one exemplar professional; (4) limited student opportunity to observe exemplary professionals at work, (5) urgency of issues may not be conducive to reflection or critique; (6) lack of sufficient credit hours to teach all material; (7) lack of variation on ethical issues in cases. (p. 292).
9. **Approaches:** Four approaches which address these challenges are: (1) requiring students take a professional responsibility course and a clinic; (2) adding a client representation component to professional responsibility courses for an extra credit; (3) using students in professional responsibility courses as a clinic's the actual Ethics Committee; and (4) creating a separate clinic with a specific focus on ethics. (p. 292).
10. **Innovations:** Innovations include: (1) moving an enhanced format of professional responsibility into the first year of law school; (2) offering an entirely new course on the legal profession's values in the first year (p. 294); (3) creating ethical lawyering mini-courses in the first year which teach ethics in context of a global community; and (4) integrating simulation-based courses into a comprehensive program spanning the second and third years. (p 295).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 6: Teaching the Newly Essential Knowledge, Skills, and Values in a Changing World
Section A: Professional Identity Formation
Subsection 4: *Teaching Leadership*

This summary of "best practices" is a compilation of those identified in *Teaching Leadership* by Deborah L. Rhode. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 6 Subsection A, subsection 4. References to other sections of the book identify the relevant page and chapter.

Teaching Leadership

1. **Challenges in leadership education:** Traditional legal education did not address leadership, but a growing number of law schools are now teaching leadership courses or skills. (p 297). The five essential leadership qualities are: (1) values; (2) personal skills; (3) interpersonal skills; (4) vision; and (5) technical competence. However, these traits are not emblematic of the personalities which choose to enter the legal profession. (p 298). Two other challenges are overcoming both assumptions that leadership isn't a serious subject, and students' cognitive biases which blind them to their own errors. (p 299).
2. **Learning strategies:** Leadership education can improve student self-knowledge and sense of self by forcing students to think about their values, passions and priorities and what personal changes, skills and experiences they need to obtain leadership goals. (p 300).
3. **Leadership curricula:** Direct and indirect ways to teach leadership skills include: (1) focusing on topics such as problem-solving, communication or conflict management, (2) using case histories, role simulations and media portrayals for ethical analysis, (3) identifying ways to integrate leadership through curricular and extracurricular programs, such as a lecture series or movie discussion. (p 300).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 6: Teaching the Newly Essential Knowledge, Skills, and Values in a Changing World
Section B: *Pro Bono as a Professional Value*

This summary of "best practices" is a compilation of those identified in *Pro Bono as a Professional Value* by Cynthia F. Adcock, Eden E. Harrington, Elizabeth Kane, Susan Schechter, David S. Udell & Eliza Vorenberg. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 6 Subsection B. References to other sections of the book identify the relevant page and chapter.

Pro Bono Values

1. **Why pro bono?:** Law schools are not producing enough graduates who engage in pro bono services. (p. 302). The ABA is now encouraging law schools to promote opportunities for students to perform at least 50 hours of pro bono service. Pro bono service enhances student's educational, professional and career development. (p. 304). The fundamental goal of a law school pro bono program should be to teach why pro bono service matters and introduce students to ways to engage in pro bono services as an attorney. (p. 303). As pro bono service is provided without academic credit or compensation, clinical program participation is not pro bono activity.
2. **Defining law school pro bono programs:** Law school pro bono programs are administratively supported programs which help students engage in pro bono service. In addition to independent student group projects, the AALS has identified five types of formal pro-bono programs. (p. 305):

   a. (1) *Public service graduation requirement with pro bono option* Students must perform public service, but they may receive credit.
   b. (2) *Pro bono graduation requirement* Students must perform law-related public service without academic credit or payment.
   c. (3) *Community service graduation requirement with pro bono option* Students must perform public service without academic credit or payment, but both legal and non-legal work qualifies.
   d. (4) *Formal voluntary program with referral system and coordinator(s)* Students are voluntarily matched with law-related pro bono opportunities through a formal referral system, which is promoted and administered by a designated advisor.
   e. (5) *Formal voluntary program with administrative support for student projects* Student groups engage in law-related pro bono work and receive some level of administrative support.
3. **Best practices:** Best practice is for law schools to offer formal pro bono programs with a goal of full student participation. Schools should perform ongoing evaluations of student participation and program success. (p. 306–07). Pro bono programs should: (1) respond to community need, (2) encourage student participation in skill-appropriate work, and (3) train and supervise students. Law schools should create opportunities for faculty to engage in pro bono service individually and with students (p. 307).
4. **Strong institutional support:** Best practice is to ensure law school faculty, staff, and administration are well-informed about the benefits of and needs for pro bono legal services, as well as the ABA accreditation standards and AALS recommendations. Schools must commit to providing enough funding for adequate staffing and resources. (p. 308). A clear policy outlining the school's formal support for and commitment to pro bono service should be created and disseminated. (p 307). The definition of pro bono should be modeled after ABA Model Rule 6.1. (p 308). The policy should set forth the program's goals, requirements for participation and supervision, and the amount of service expected from students.

Leadership Program Design

5. **Development:** Schools should reach out to the civil legal aid community to assess unmet legal needs in the community, why needs are unmet, and possible student roles. (p. 309). Student roles can include client intake, assistance with legal forms, legal advice and representation, legal and policy research, analysis, drafting, and advocacy, community education, translations and poll-monitoring. (p. 309). For each project, the pro bono director must clarify the goals, create a road-map, work closely with partners, make material for students, determine experience and supervision levels for participants, and develop evaluation tools.
6. **Participation goals:** Law schools should communicate descriptions of faculty and student pro bono service in promotional materials. Pro bono programs should include different opportunities for boarder participation. Factors like venue, exposure or legal experience may attract students who are not interested in public interest work. Structure may impact participation, depending on whether programs are hours based, case based or short term. (p. 310).
7. **Training and supervision:** Programs should have a structure for training and supervising students. All students should receive a training which includes readings, activities or simulations on professionalism and access to justice as well as information on the individual project's population, legal issues and legal skills. Students should be given the opportunity to reflect and evaluate the experience and obtain feedback. The program should have a system to select efficient supervisors and monitor supervision. Monitoring supervision can include visiting project sites and soliciting reports from students, clients and other participants. (p. 311).
8. **Tracking outcomes:** Law schools should use a tracking system to capture information relevant to program goals, including both data and narratives. The information can serve as an annual report and can help assess program effectiveness and student engagement. If made public, the information can also serve as a recruitment tool. (p. 311).
9. **Other considerations:** Consider what forms will help students with the project and keep them in a place accessible to students. (p. 312). To motivate students, faculty and community lawyers to participate, it is important to recognize exceptional pro bono activities and participation. (p. 313).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 6: Teaching the Newly Essential Knowledge, Skills, and Values in a Changing World
Section C: *The Relational Skills of the Law*
Subsection 1: *Teaching Relational Skills: The Evidence*

This summary of "best practices" is a compilation of those identified in *Teaching Relational Skills: The Evidence* by Susan Daicoff. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 6 Subsection C, subsection 1. References to other sections of the book identify the relevant page and chapter.

Evidence for Teaching Relational Skills

1. **Relational skills of law:** The common dissatisfaction with lawyers shows a need for attorneys to improve their interpersonal skills. (p 315). "Relational skills" implies more than just client relations skills, and encompasses interpersonal and intrapersonal skills. Empirical evidence suggests lawyers who acquire and hone relational skills, are more likely to succeed professionally. (p 322). However, many skills found central to lawyer effectiveness are overlooked by law schools. (p 316). Thus, best practices call for law schools to provide training on relational skills in law. (p 322).
2. **Empirical support for relational skills:** Different studies surveying lawyers, judges, law teachers and students on the skills most important to their profession produce consistent results. (p 317). It is a best practice for law schools to correct this imbalance between legal education and the abilities important for the practice of law. (p 319). Four Canadian studies assessed the skill level of attorneys and performed a comparative analysis using emotional analysis as a measure. (p 319). These findings provide an empirical foundation for efforts to revise law school curricula. (p 320). Several of the studies mention qualities particularly important in the legal field, such as strategic planning, problem solving, drive, honesty and integrity. Inconsistencies in interpersonal competency skills suggest lawyers may read people easily, but often struggle with empathy. (p 321).
3. **Teaching relational skills:** Relational skills are not inherent or unteachable. (p 322). Relational exercises like those routinely taught in graduate schools for clinical and counseling psychology and social work can be performed in law schools, particularly in simulation-based or clinical classes. Trainings should explicitly identify what skills are being taught. (p 322).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 6: Teaching the Newly Essential Knowledge, Skills, and Values in a Changing World
Section C: *The Relational Skills of the Law*
Subsection 2: *Cultivating Students' Relational Skills*

This summary of "best practices" is a compilation of those identified in *Cultivating Students' Relational Skills* by Susan L. Brooks. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 6 Subsection C, subsection 2. References to other sections of the book identify the relevant page and chapter.

Cultivating Relational Skills

1. **Relational skills in legal education:** Legal educators have been experimenting with teaching approaches to supply grounding necessary to guide law students to proper attorney-client relationships. (p 324). It is an emerging best practice for law teachers to help students cultivate relational skills. (p 332).

2. **Relationship-centered lawyering:** Relationship-Centered Lawyering (RCL) is a framework identifying three areas of competency for relational skills. (p 324). There are several models for integrating relational lawyering in the classrooms and law school culture. (p. 326).
3. **Person-in-context:** Legal professionals need a highly contextualized understanding of the client, case and situation, including the exploration of moral and ethical-social issues in legal representation. (p 324). Theoretical models from other disciplines, including family systems theory and attachment and network theories, can provide specific guidance. (p 325).
4. **Promoting procedural justice:** Procedural justice focuses on improving clients' trust in the legal system. Relationship-centered lawyering pays attention to questions of trust, respect, fairness, judgment and perceptions about such values in the legal system. (p 325).
5. **Appreciating interpersonal, cultural and emotional issues:** Ability to understand four key dimensions in oneself and in others facilitates effective interactions and positive professional relationships: (1) culture; (2) empowerment; (3) strengths; and (4) emotion. (p 325).

Relational Lawyering and Legal Education

6. **Experiential courses:** Law schools should offer opportunities for experiential learning through simulation and real world practice in order to help students develop relational skills. (p 326). Law schools must be willing to invest in high-quality experiential learning courses embracing relational frameworks. Law teachers should reevaluate their methodologies to maximize student reflection on relational lessons learned from experience. (p 326).
7. **Dedicated courses:** Obvious examples of classes dedicated to teaching law students relational skills include courses on negotiation or on client interviewing and counseling. (p 326). However, skills are often taught as a means to an end rather than as valuable parts of the lawyer/client relationship. (p 327). A true relational approach values the process of how people relate to each other as equally, if not more, important than the outcome.
8. **Pervasive practices:** Best Practices listed eight components of healthy and supportive learning environments: (1) fostering mutual respect; (2) setting high expectations; (3) supporting student autonomy; (4) encouraging collaboration; (5) making students feel welcomed and included; (6) encouraging students and teachers; (7) taking delight in teaching; and (8) giving regular and prompt feedback. (p 327). Research continues to support the importance of these components. (p 328). An emerging best practice is for law teachers to consider how to apply the following practices in all interactions with students, inside and outside the classroom:
9. **Creating safe space:** Teachers should recognize that dominant culture emphasizes individualism and self-sufficiency. (p 328). Providing a space for law students to give and get support from classmates is a powerful model for the attorney/client relationship. (p 328).
10. **Encouraging fully present, authentic students:** Law teachers should consider revealing more of themselves and perhaps being slightly vulnerable with students. (p 329). An effective technique is to have students discuss questions or problems in pairs or small groups.
11. **Cultivating resilience:** Law teachers need to help students focus on healthy striving rather than perfectionism. (p 329).
12. **Storytelling:** Storytelling and generous listening can be powerful tools.. (p 330). The goal of these skills is to slow down, so that intuition can be used constructively in conversation. (p 330).
13. **Strength Focused:** Focusing on strengths rather than only problems and avoidance of risk translates into student ability to see clients as whole human beings rather than cases. (p 330).
14. **Hope and creativity:** Hope is a cognitive process which fuels energy and efforts to rise above adversity. (p 330). Hope requires setting goals and staying flexible while achieving them, which translates into skills developing realistic goals for clients. (p 330).
15. **Joy and gratitude:** Rather than happiness through instant gratification, law teachers and students should aim to find happiness through meaningful work and compassionate relationships. (p 331).
16. **Making room for stillness and reflection:** Making time for calm and stillness gives students an opportunity to set aside whatever else may have occurred before entering the classroom. (p 331). Some

teachers set aside a short period at the beginning of class for a meditative exercise, while others teach and encourage use of breathing exercise. (p 331).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 6: Teaching the Newly Essential Knowledge, Skills, and Values in a Changing World
Section D: *Teamwork*

This summary of "best practices" is a compilation of those identified in *Teamwork* by Linda Morton & Janet Weinstein. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 6 Subsection D. References to other sections of the book identify the relevant page and chapter.

Teamwork

1. **Teamwork in legal education:** Teamwork requires: (1) individuals working together; (2) toward a shared objective; (3) to which they are accountable. (p 333). Students should be taught teamwork theory, skills, and values, and teamwork should be taught explicitly in clinical contexts *Best Practices* urged teachers to encourage collaboration and projects among students. This section offers practical ides for teaching teamwork in law school curriculum. (p 333).
2. **Teamwork in the legal profession:** The legal profession has recognized collaboration often produces better results. (p 333). Effective teamwork requires clear communication, shared responsibility and acknowledgement leadership skills, a set of knowledge labeled "Collaborative Intelligence."
3. **Developing cultures of teamwork:** Teaching teamwork skills is difficult as law schools traditionally value individual work and competition. (p 334). First-year law teachers should teach students basic principles of teamwork, and assign team activities. Frequent group work with shared results (product and grade) conveys the message that lawyers often work in teams. (p 335).
4. **Reinforcing teamwork in experiential courses:** In-house clinical are natural environments for teamwork. (p 335). Externships also provide ways for teamwork in law practice. Finally, simulated courses also provide clear opportunities for student teamwork. In all three models, students should reflect on and discuss experiences in journals or in class. (p 335).
5. **Importance of interprofessional teamwork:** Lawyers also frequently work in teams with members from other disciplines. (p 335). Creating interprofessional student teams with other degree programs is optimal. (p 335).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 6: Teaching the Newly Essential Knowledge, Skills, and Values in a Changing World
Section E: *Intercultural Effectiveness*

This summary of "best practices" is a compilation of those identified in *Teamwork* by Mary A. Lynch, with Robin Boyle, Rhonda Magee & Antoinette Sedillo Lopez. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 6 Subsection E. References to other sections of the book identify the relevant page and chapter.

Current Intercultural Legal Education

1. **Legal education and intercultural effectiveness** *Best Practices* suggested legal educators should train students in cross-cultural competence and listed five habits. (p 337). However, legal education lags behind other fields in teaching students to be effective practitioners in a multi-cultural world. (p 338).

Differences and similarities among clients, faculty and law students are both challenges to effective representation and opportunities for rich learning experiences. (p 340). Law schools should prepare students to serve diverse clients and value universal human dignity. (p 342). Traditional client-centered lawyering models focus only on the client's race and behavior, not on the lawyer's. (p 340).

2. **Terminology** "Cultural competence" in legal education is the development of skills to effectively represent individuals from different backgrounds. (p 338). The core of cultural competence is effective intercultural communication. (p 339). Cultural challenges to communication include ethnicity and identity, as well as experience, professional acculturation, socialization and all values and norms from both culture and lived experience. (p 341).

Enhancing Intercultural Effectiveness

3. **Developing learning objectives:** Effective cross-cultural education requires law students learn about intercultural effectiveness, and integrate that knowledge into developing skills. (p 343). Educators should consider developing goals around three habits central to intercultural effectiveness.. (p 344). A recent seminal study identified five factors to enhance law student intercultural knowledge may also be useful. (p 344). Alternatively, educators may prefer the traditional organization based on knowledge, skills and values. Knowledge objectives focus on understanding culture, conditioning, identity, bias and assumptions impact the traditional attorney client relationships. (p 345). Skill focused objectives includes practicing communication across identities, identifying different cultural expectations and identifying one's own biases and assumptions to overcome obstacles to personal intercultural effectiveness. (p 346). Methods to promote essential values include developing students' belief in a professional obligation to address bias. (p 347).
4. **Building competencies:** Best practices for law schools include ensuring each student has an intercultural learning experience in a safe learning environment. (p 347). Central competencies include respecting others and engaging inclusive interpersonal interactions. (p 348). Law teachers can build student competencies by using materials and exercises on cross-cultural lawyering, and can assist teacher development by creating faculty learning communities. (p 348). When creating materials, teachers should consider characteristics of the surrounding community, the students, and their future clients. (p 348).
5. **Strategies for classrooms:** Best practices include developing ground rules for discussions before challenges arise. (p 349). Suggested methods to build intercultural skills in the classroom include: (1) discussions on alternative approaches to intercultural issues raised in cases; (2) small group roleplay or discussion problems on cultural difference; (3) use of games and exercises; (4) assigning reflective writing, or storytelling exercises; and (5) out-of-class field trips or exercises. (p 350–351). Simulation-based classes should include opportunities to demonstrate active listening, check biases and assumptions, and explore cultural contexts. (p 352). Using an interpreter as part of a role-play exercise may be useful. (p 353).
6. **Strategies for externships and clinics:** The classroom component should include cultural competency trainings and reflective exercises. (p 353). This is especially important in externships, where students may receive different messages from their placement supervisor and their law school teacher. (p 354). Field supervisor trainings should also include information on intercultural effectiveness and inclusive mentoring. (p 354). In clinics, faculty members can have one-on-one discussions with students about specific instances where difference or power imbalances interferes with representation. (p 354). Some clinical instructors prefer to wait until after students meet and become more comfortable with clients to begin teaching intercultural awareness. (p 354).

Assessing Intercultural Effectiveness

7. **Methods to assess student intercultural skills:** Despite the availability of multiple tools to assess intercultural competence, legal professionals and educators spend little time assessing such skills. (p 355). *Best Practices* differentiated between formative assessments, which aim to help student development and are intended to be incorporated into future actions, and summative assessments, which produce one point of data, typically at the end of a grading period. (p 356).

   a. Common methods of formative assessment of intercultural competency include: (1) student self-identification of goals and progress; (2) student journaling and parallel universe thinking; (3) one minute papers on knowledge factors; (4) mid-semester evaluations through simulated exercises or hypotheticals; (5) in-class quizzes and tests; (6) multi-cultural rounds similar to the "dialogic" process used in clinical rounds; and (7) standardized client roleplays with rubrics. (p 357).
   b. Common methods of summative assessment of intercultural competency include: (1) assessment of student participation and demonstrations of diversity skills; (2) papers on concepts in multi-cultural competence; (3) end-of-semester observation and evaluation or doctrinal examinations; and (4) pre- and post-course attitudinal tests. (p 358).
8. **Methods for institutional assessments:** Law schools and teachers should assess intercultural learning directly and indirectly. Indirect methods should supplement direct methods. (p 358).
   a. Common direct methods include: (1) student course assessments, and (2) employer or client assessments of student ability. (p 358).
   b. Student surveys are particularly useful in evaluating student attitudes and opinions, and program post-graduation outcomes. (p 358). Common methods include: (1) questioning students about learning during exit interviews; (2) institutional reviews of syllabi and course evaluations; (3) pre- and post-experience surveys of students or course evaluations; (4) anonymous surveys focused on appreciation of intercultural competence; (5) student portfolios showcasing intercultural development; and (6) surveys of summer employers or student clients. (p 358). It may be useful to develop assessment tools around the five factors of intercultural competence. (p 359).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 6: Teaching the Newly Essential Knowledge, Skills, and Values in a Changing World
Section F: *Social Justice Across the Curriculum*

This summary of "best practices" is a compilation of those identified in *Social Justice Across the Curriculum* by Susan Bryant. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 6 Subsection F. References to other sections of the book identify the relevant page and chapter.

Teaching Social Justice

1. **Best practices:** According to the ABA's Model Rules, lawyers have a special responsibility for the quality of justice. (p 3610). It is best practice for law schools to assure every student learns about the role of social justice in legal practice by raising the subject early and often in legal education. (p 360). Law schools have a responsibility to teach professional values related to achieving justice in both procedurally and in regards to the law's impact on the people it regulates and protects. (p 361).
2. **Teaching through routine inquiries:** Teaching social justice requires educating students about professional values and enhancing student ability to recognize and address injustice. (p 361). Legal educators can accomplish this in any classroom through routine inquiries about social justice issues. These include questions like. (p 362–364): (1) Who does the law privilege in framing rights, wrongs and remedies?; (2) Does the application of the law disproportionately affect less privileged groups?; (3) What roles do assumption and bias play in articulation or application of the law?; (4) How does context matter?; (5) How could the law be written differently to include multiple experiences and address injustice?; (6) How can lawyers practice differently in regard to injustice in laws and in application?; and (7) What are we privileged not to see?
3. **Experiential learning:** Any law class can incorporate experiential exercises and simulations to highlight social justice issues in day-to-day legal practice. (p 364). Teachers should work collaboratively to design exercises which strengthen doctrinal understandings and highlight the lawyer's role in addressing social justice issues. (p 364). When designing exercises, teachers should: (1) identify teaching goals, including

justice issues; (2) prioritize them; (3) design hypothetical problems incorporating each of those goals; (4) design a debriefing process; and (5) highlight the justice component if students fail to make the connection. (p 364).

Impediments and Challenges to Teaching Social Justice

4. **Lack of time:** The key to meeting time constraints is to highlight intersections between social justice issues and course material already being taught. (p 367). By normalizing these inquiries, students learn their value and ask themselves such questions during independent study. (p 367). Teachers may also introduce questions without fully discussing them. (p 367).
5. **Faculty competency:** As many law faculty come from socially privileged groups, competency in identifying issues and leading discussion may be a concern. (p 367). Many casebooks and legal scholarship point out where social justice issues intersect with traditional cases, and offer lesson plans and tips for managing difficult conversations. (p 367–368). Teachers may also fear student accusations of "political correctness," especially if issues raised implicate their own identity. (p 368). However, failure to raise these issues risks marginalizing some students' experiences and leaving other students with an incomplete legal education. (p 368).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 6: Teaching the Newly Essential Knowledge, Skills, and Values in a Changing World
Section G: *Problem Solving and Conflict Resolution*
Subsection 1: *Teaching Students to be Healers*

This summary of "best practices" is a compilation of those identified in *Teaching Students to be Healers* by Susan Daicoff. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 6 Subsection G, subsection 1. References to other sections of the book identify the relevant page and chapter.

The Comprehensive Law Movement

1. **Teaching law as a healing profession:** As public opinion of lawyers demonstrates, the legal profession is not usually seen as helpful. (p 369). However, important developments over the past 25 years have coalesced into a movement towards law as a healing profession. (p 369). Many of these approaches are well-known and failure to advise clients of their availability may constitute malpractice. (p 375). It is an emerging best practice to prepare law students for this changing understanding of legal practice. (p 369).
2. **Modern approaches to comprehensive law:** Two characteristics shared by all comprehensive law approaches help distinguish them from traditional legal methods. All comprehensive law methods (1) explicitly seek to improve or maintain parties' well-being during in legal problems and cases; and (2) use a "rights plus" approach, considering additional factors outside of mere legal rights and obligations when resolving legal problems. (p 370). There are many possible ways to apply comprehensive law. (p 374).
3. **Lens and process vectors:** Some approaches provide a particular lens to view legal problems, while others suggest innovative, non-traditional processes to resolve legal matters. (p 371). Process vectors present alternatives to alternative dispute resolution methods to resolve legal problems outside of the litigation or mediation. (p 371).

Vectors of the Comprehensive Law Movement

4. **Therapeutic jurisprudence ("TJ"):** A well-known and broadly applied approach, TJ views law, legal procedures and roles of legal actors as social forces which produce therapeutic or anti-therapeutic

consequences. (p 371). TJ approaches identify those consequences and seek to optimize the law's therapeutic consequences. (p 371).

5. **Procedural justice:** Research demonstrates that, regardless of the legal outcome, litigants are more satisfied with the judicial process when they: (1) are treated with respect and dignity, (2) are heard and given opportunities to speak and participate, and (3) find authorities trustworthy (p 371). Legal personnel can enhance client satisfaction integrating this knowledge in attorney-client relationships.
6. **Preventive law:** Like preventive medicine, preventive law explicitly seeks to intervene in legal matters before disputes arise. This approach emphasizes proactive intervention, planning, and relationships both generally and between the lawyer and client. (p 372).
7. **Problem solving court movement:** This specialized approach draws from therapeutic jurisprudence. (p 371). Problem solving courts utilize the court process to resolve nonlegal issues underlying problems instead of assigning punishment or fault. Examples include drug courts, mental health courts, domestic violence courts and veterans' courts. (p 372).
8. **Holistic justice:** A grassroots movement among lawyers, holistic justice seeks to integrate the moral values of clients and lawyers into the resolution of legal matters. (p 372).
9. **Creative problem solving:** This approach to lawyering is explicitly humanistic, interdisciplinary and creative and seeks to prevent legal problems and creatively solve existing ones. (p 372).
10. **Collaborative law:** This nonlitigative, collaborative process is employed mainly in family law. (p 373). Attorneys and parties participate in a series of four-way conferences, often including neutral experts. Parties agree to voluntary disclosure of information. Lawyers are contractually forbidden from representing clients in courts if agreements break down. (p 373).
11. **Restorative justice:** An approach to criminal justice which views crime as a tear in the social fabric between the victim, offender and community, restorative justice models bring these three stakeholders together through dialogue, conferencing and restitution. (p 373). Models vary and include post-sentencing victim-offender mediation to alternative diversion to stand-alone processes independent of criminal court systems.
12. **Transformative mediation:** Viewing conflict as a crisis in human interaction rather than a violation of rights or interests, this approach to mediation seeks to transform parties by increasing their moral growth. Mediators aim to help parties regain their sense of strength and expand their responsiveness to each other. (p 373).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 6: Teaching the Newly Essential Knowledge, Skills, and Values in a Changing World
Section G: *Problem Solving and Conflict Resolution*
Subsection 2: *Teaching Students to be Problem-Solvers and Dispute-Resolvers*
Subsection a: *Teaching Alternative Dispute Resolution*

This summary of "best practices" is a compilation of those identified in *Teaching Alternative Dispute Resolution* by Andrea Kupfer Schneider. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 6 Subsection G, subsection 2, subsection a. References to other sections of the book identify the relevant page and chapter.

Alternative Dispute Resolution in Legal Education

1. **Alternative dispute resolution ("ADR") in legal education:** ADR classes exist in slightly more than half of all law schools. (p 377). Many law schools also offer courses in the three main ADR processes: negotiation, mediation, and arbitration. (p 377, 379). The goals and learning outcomes in these courses vary depending on the number of students enrolled, the interests of the teacher, and the rest of the school's ADR offerings. (p 378). ADR courses introduce students to how cases are actually handled, as

most are resolved by settling or pleading before trial. (p 378). ADR courses can also teach students that lawyers are problem solvers. (p 378).

2. **ADR scope and coverage:** There are six major topics covered in most courses: (1) personal style, strategy and personality in negotiation; (2) communication skills; (3) integrative vs. distributive negotiations; (4) concepts of bargaining zones, BATNA and reservation prices; and (5) the importance of preparation. (p 379). A focus on ethics and misrepresentation in negotiation proceedings is crucial, as studies show many lawyers do not understand what behavior is considered fraudulent in settlement negotiations. (p 379). If there is sufficient time, courses should cover psychological obstacles to effective decision making.
3. **Meditation and arbitration courses:** Mediation courses should cover the process of mediation, the mediator's role and how that role differs from the litigation context. Using the Riskin grid may help explain possible approaches and styles in mediation. (p 380). Arbitration courses focus on the law of arbitration and discussions of the Court's changing opinion on mandatory mediation. Classes should focus on the extensive adoption of arbitration in a variety of contexts. (p 380). If time allows, arbitration courses can also cover hybrid processes, like mediation-arbitration or summary jury trials. (p 380).
4. **Pedagogy:** Survey courses can be taught much like any other law class. (p 381). To determine teaching methods, ask whether students will spend time actually engaging in ADR processes. Methods may include the Socratic Method, problem method, small group work, videos. Reflective essays are useful to assess courses with more experiential education opportunities, while a more traditional classroom may assess students using quizzes, final exams and research papers. (p 382).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 6: Teaching the Newly Essential Knowledge, Skills, and Values in a Changing World
Section G: *Problem Solving and Conflict Resolution*
Subsection 2: *Teaching Students to be Problem-Solvers and Dispute-Resolvers*
Subsection b: *Integrating Alternative Dispute Resolution & Problem-Solving Across the Curriculum*

This summary of "best practices" is a compilation of those identified in *Integrating Alternative Dispute Resolution & Problem-Solving Across the Curriculum* by Jill I. Gross & John Lande. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 6 Subsection G, subsection 2, subsection b. References to other sections of the book identify the relevant page and chapter.

Problem-Solving in Legal Education

1. **Context-based learning:** *Best Practices* stressed the importance of context-based learning to help students develop abilities to resolve legal problems effectively and responsibly. (p 383). Law schools should integrate problem-solving into existing non-clinical courses. (p 383).
2. **Practical problem-solving:** Practical problem-solving (PPS) skills include fact-gathering, research, client interviewing and counseling, representation in dispute resolutions, drafting legal documents, professionalism and handling cultural differences. (p 383).
3. **Expanded case analysis:** PPS can be integrated into courses simply by asking students to discuss cases from the perspective of a lawyer advising a client or negotiating with the other side. (p 384). Teachers can use traditionally-assigned appellate cases to discuss PPS. For example, teacher can ask students why parties chose to litigate the case, what other procedures they may have used, or how lawyers might have advised clients to avoid the problem being litigated. (p 383).
4. **Problem based learning:** Teachers give students hypotheticals and ask them to apply the law to the facts, similar to exam questions. Teachers can use prior exam questions, hypotheticals in teaching manuals or notes following cases. (p 383).

5. **Simulations:** Teachers can organize and conduct simulations based on fictional or real scenarios. (p 385). Exercises may be done inside or outside of class. Students should prepare, execute and reflect on the simulation. Teachers can prompt reflection through class discussion, group debriefing and written papers. (p 385).
6. **Media:** Teachers can show portrayals of lawyers' work in videos, film excerpts, YouTube clips or other media either inside or outside of class. (p 385).
7. **Guest speakers:** Teachers can invite guest speakers who are experienced practitioners to address the class. (p 385).
8. **Interaction between courses:** Teachers can foster interaction between students enrolled in different courses. (p 385). For example, a simulation could incorporate students from a pre-trial litigation and a mediation course.
9. **Drafting legal documents:** Teachers should incorporate an assignment where students will draft a legal document involving the doctrinal topic. (p 385).
10. **Background stories:** Teachers should use public records, books or journalistic accounts to provide rich background stories for cases. (p 385).
11. **Interactive student exercises:** Teachers should assign group projects, breakout group discussions, online student discussion groups or labs and short excises, such as "quick-writes" of answers and "pair and share" discussions. (p 385).

Barriers and Strategies to Incorporating Problem Solving Skills

12. **Perceived separation:** It is an emerging best practice to integrate practical problem-solving (PPS) throughout the curriculum. (p 388). The ABA encourages law schools to equip students with more practice-based and problem-solving skills. (p 385). Teachers can readily make adjustments without much change in doctrinal course curriculum by discussing already assigned cases from the lawyer's perspective. (p 386).
13. **Lack of time or practice experience:** Teachers can use available text with suitable problems, collaborate with practitioners as guest speakers or otherwise and seek advice from colleagues. (p 386). Teaching experiments can be fruitful subjects for scholarship. (p 386). Teachers may assign exercises to students to complete outside of class. (p 386).
14. **Detracting from bar examination coursework:** Most bar exams now require the Multistate Performance Test, which tests PPS skills. (p 386). Additionally, students may better understand legal doctrines when practically applied. (p 386).
15. **Student engagement:** Teachers should explain to students why such exercises or activities are included, use small-group activity to avoid student passivity, and distribute rubrics for student assessment. (p 387).
16. **Logistical:** Teachers should use available resources and technology, and should limit PPS instruction to what is manageable. (p 387). Available assessment techniques include self-assessment and peer assessment. (p 387).
17. **Small group accountability:** Faculty should set clear and realistic expectations about group work through ground rules and grading rubrics. (p 387). To create a classroom culture that values group work, faculty should explain learning benefits in advance and be strategic about group composition. (p 387). Groups are more effective when each individual has a specific task. (p 387).
18. **Assessment:** Teachers should become comfortable with assessment tools other than the standard exam. (p 387). Options include self-evaluation, peer evaluation, using online surveys, teaching assistants, clickers, group reports, exercise debriefs, pass/fail exercises, e-portfolios, journals and scored exercises. (p 387).
19. **Questions about intercultural effectiveness:** Teachers can ask students to discuss their own culture and values, assign videos or readings to expand awareness of cultural issues, or explore "back stories" of cases to address intercultural issues. (p 387).

Section H *Interprofessional Education*

This summary of "best practices" is a compilation of those identified in *Interprofessional Education* by Lisa Radtke Bliss, Sylvia B. Caley, Patricia Roberts, Emily F. Suski & Robert Pettignano. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 6 Subsection H. References to other sections of the book identify the relevant page and chapter.

Interprofessional Legal Education

1. **Definition and benefits:** Interprofessional legal education blends the knowledge, skills and values of two or more professions to address complex legal problems. (p 389). This approach is often used in practice and produces more comprehensive solutions than single-disciplinary work. (p 390).
2. **Knowledge and skills outcomes:** Interprofessional legal education teaches students that legal problems often involve multiple other disciplines, and that problems which may not seem legal in nature may have legal solutions. (p 391). Understanding the complexity of problems allows students to see and identify analytic gaps created by the sole use of legal analysis. (p 392). Interprofessional education also provides students with both the skills for collaborative work in other professional cultures, and a deeper understanding of their own profession and professional identity. (p 392). Students also learn to consider problems from the perspective of other disciplines, helping them uncover their own assumptions and identify non-legal solutions. (p 393). Interprofessional work requires law students to work in groups and strengthens leadership skills as well as the ability to follow. (p 394). Intercultural work exposes students to values of different professions, which may differ from those of the legal profession. (p 395).
3. **Challenges and strategies for success:** Barriers to creating interprofessional education courses include physical and psychological isolation, faculty marginalization, overly simplistic instruction, potential overreaching, different ethical norms and student expectations, bar passage pressure, parochialism, cost and logistical issues. (p 395). Successful interdisciplinary education requires educators create "win/win" opportunities by identifying existing courses where professional obligations overlap. Interprofessional classes should be carefully planned to ensure faculty and students share similar expectations. (p 396). Goals should be set collaboratively and should note reasons for incorporating each profession. (p 396).
4. **Interdisciplinary education models:** Four models identified for interprofessional education are: (1) informed disciplinarily models, which focus on one discipline, with other disciplines informing, but not altering, the course content; (2) synthetic interdisciplinary classes uses theories, concepts and methods from other disciplines, but keeps disciplines distinct; (3) transdisciplinary courses teach concepts, theories and methods across disciplines without focusing on the disciplines themselves; and (4) conceptual courses adopt no discipline focus but instead considers and critiques multiple disciplinary perspectives. (p 396). Another model is to create an interdisciplinary clinical setting. (p 397).
5. **Teaching methods:** To ensure students from all professional backgrounds are engaged, teachers should employ multiple teaching strategies. (p 397). Effective teamwork is a professional skill which must be taught intentionally, teachers may choose to identify "working with others" as a skill for students to develop. (p 397). Interprofessional classrooms should foster a culture of collaboration and cooperation. (p 398).
6. **Assessment:** Assessment tools should adequately measure knowledge, skill and value outcomes achieved by participating students. (p 399). Scholars have identified 21 cognitive skills strengthened through interdisciplinary skills which may be useful. (p 399). Common objectives for courses include improving student's foundational knowledge, to advance abilities to integrate problem-solving skills, and to arrive at a heightened level of critical awareness. (p 399).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 6: Teaching the Newly Essential Knowledge, Skills, and Values in a Changing World
Section I: *Technology in the Profession*

This summary of "best practices" is a compilation of those identified in *Technology in the Profession* by Conrad Johnson. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 6 Subsection I. References to other sections of the book identify the relevant page and chapter.

Technology and Legal Education

1. **Best practices:** An emerging best practice in legal education is to teach students about the intersections of technology, practice and the legal profession. (p 400). Currently, legal education lacks focus on the impact of technology on legal practice. (p 400). However, ABA Model Rule 1.1 requires lawyers keep abreast of benefits and risks of relevant technology on legal practice. (p 401). Legal education should offer opportunities for students to learn to use technology in more innovative, thoughtful and professionally sustaining manners. (p 401).
2. **Legal skills and technology:** Lawyers gather, manage and present information. (p 402). Technological competence can enhance skills in each one of these traditional functions. (p 402). Students benefit from gaining proficiency in sills like electronic fact gathering, ediscovery, effective search engine skills, as well as expert skills like predictive coding and data assembly tools. (p 402).
3. **Teaching technology:** Legal educators should provide a safe, structured environment for students to explore a variety of technological methods for gathering, managing and presenting information. (p 402). Students should understand the positive and negative repercussions of technology. (p 402). Technological issues can be incorporated into existing law classes; for example, civil procedure courses can cover e-filing and ediscovery and evidence can incorporate digital presentation tools. (p 406).

Technological Trends Shaping Legal Practice

4. **Access to information:** The internet has eliminated many barriers to information created by traditional print sources. (p 403). This has prompted changes in the legal profession, such as the rise of self-help, unbundled legal services, limited-scope representation, alternative fee arrangements and increased affordability. (p 403). Additionally, aspects of professional and private life are now easy to digitally trace and access, and law students should understand "big data" and consequences of social media. (p 403).
5. **Client relationships:** Increased access to information has altered the traditional balance of power between lawyers and clients. (p 403). Client portals, email and extranets make prompt communication and greater transparency possible. (p 403). Document assembly tools and expert systems lower production time and allow clients to access a greater variety of services. (p 403).
6. **Mechanics:** The Model Rules of Professional Conduct require lawyers be aware of technological changes impacting in law and practice. (p 403). Law students should know: (1) what digital means; (2) how the underlying architecture of Internet transactions; (3) differences between free and proprietary search engines; (4) implications of digital data; (5) risks and benefits of the cloud and metadata; and (6) open source lawyering resources. (p 404).
7. **Sharing v. hoarding:** While lawyers traditionally created value by hoarding information, a new model is beginning to emerge where the lawyer creates value by sharing information in an organization's content management system or to a broader client community online. (p 404).
8. **Repurposing:** Innovative lawyers are beginning to use knowledge gleaned from experience to better serve clients and create new markets. (p 404).
9. **Government use:** Courts now use technology for administrative processes, including e-filing ediscovery and courtroom technology. (p 405). The internet makes government information more accessible, but privacy and surveillance concerns abound. (p 405).

10. **Access to justice:** Online intake and referral services help maximize scarce free legal resources and address the "justice gap". (p 405). Online expert systems, combined with document assembly, allow unrepresented litigants to create legally sufficient answers to various complaints. (p 405).
11. **Employability:** Law school graduates who are trained to effectively use technology are more employable. (p 405).

Part Two: Building a Program of Instruction that Meets the Mission
Chapter 6: Teaching the Newly Essential Knowledge, Skills, and Values in a Changing World
Section J: *Business and Financial Literacy*

This summary of "best practices" is a compilation of those identified in *Business and Financial Literacy* by Dwight Drake. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 6 Subsection J. References to other sections of the book identify the relevant page and chapter.

Financial Literacy Best Practices

1. **Best practices:** It is an emerging best practice for law schools to examine curriculum and offer opportunities for students to gain knowledge, skills and values related to basic business and financial concepts. (p 407). Graduates who lack these skills may face impediments to their professional development, effectiveness in servicing clients and managing their own financial affairs. (p 407). Skills can be incorporated through supplementary materials and problems in a traditional business organization course or by offering an additional, two-credit course covering core concepts. (p 408). Topics should be designed for students untrained in business and focus on core concepts. (p 411). Ideally, reading materials should include problems requiring students to analyze and apply readings. (p 411).

Core Technology Skills

2. **Core skills:** Though teachers may choose to teach all or a portion of the following topics, all students who study business organizations should be exposed to the core skills below. (p 408). Additionally, all law students should be familiar with business factors impacting the core legal challenges businesses face, areas of the law impacting business executives and owners, and business-related ethical challenges. (p 411).
3. **Business classifications and characteristics:** Understanding the different characteristics of businesses and possible organizational structures help students identify growth potential and risk factors for businesses. (p 409). Lawyers should understand it is a mistake to assume all businesses are essentially similar or that all owners share the same basic objectives. (p 409).
4. **Accounting and financial statements:** Lawyers should know how to read and interpret financial statements. (p 409). While knowledge of sophisticated principles is not necessary, students should graduate with a working knowledge of the components of financial statements, as these routinely surface in legal disputes. (p 409).
5. **Basic concepts and performance measures:** Lawyers should understand basic business concepts, such as income, cash flow, opportunity cost, fixed and variable expense structures, economies of scale, depreciation, return on equity, going concern value and capitalization rates, and other concepts which help evaluate business performance. (p 409).
6. **Leverage and debt:** Lawyers should be familiar with the vocabulary of common creditor-debtor transactions such as simple and compound interest, installment obligations, security interests, covenants, mortgages vs. deeds of trust, the role of the FDIC and Federal Reserve, and others. (p 409). Ongoing debt leverage and creditor-debtor relationships may be particularly important. (p 409).

7. **Time-value of money:** Lawyers need to focus on the relevant concepts related to comparing the value of money at various points in time and should be able to use simple technology to perform these calculations. (p 409).
8. **Business valuation techniques:** As business valuation issues arise in a broad range of litigation contexts, lawyers should have a basic understanding of the vocabulary and techniques of business valuations. (p 410).
9. **Microeconomics:** A must in anti-trust law, a rudimentary understanding of microeconomics, including supply and demand, is useful for lawyers. (p 410).
10. **Funding challenges:** Law students should be familiar with challenges of funding a business, including how stock markets work, issues related to startup capital funding, trading strategies and securities law. (p 410).
11. **Business taxation:** Lawyers should have an understanding of business taxation both nationally and internationally. (p 410). Law students should be familiar with concepts like transfer pricing, C and S corporations, partnership-taxed entities, and payroll taxes. (p 410).
12. **Choice of entity:** Students should be introduced to key concepts and collateral consequences involved in the choice-of-entity decision for businesses. (p 410).

Part Three: Building and Maintaining an Effective Instruction
Chapter 7: Creating an Institutional Culture of Assessment
Section A: *An Institutional Culture of Assessment for Student Learning*

This summary of "best practices" is a compilation of those identified in *An Institutional Culture of Assessment for Student Learning* by Barbara Glesner Fines. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 7 Subsection A. References to other sections of the book identify the relevant page and chapter.

Institutionalizing Assessment

1. **Preparing today's law students:** Changes in the job market and the legal profession create substantially different demands for today's legal graduates. (p 415). To ensure legal education adequately prepares students to meet these challenges, law school faculty must assess and improve student learning. (p 416).
2. **Barriers to an assessment culture:** Two barriers law schools must overcome in adopting a culture of assessment are fears of external control and vocabulary barriers. (p 417). Law schools should be clear that assessment is to evaluate student learning, not teacher effectiveness or marketing. (p 417). Additionally, faculty should work to familiarize other faculty members with vocabulary related to assessment or use different terms for the same ideas. (p 418). Once a shared understanding of assessment is established, teachers should collaborate to develop rubrics and criteria. (p 418).
3. **Creating a culture of assessment:** Institution-wide assessment requires law teachers agree on core learning outcomes and then examine current content and sequencing and fill gaps. (p 418). Assessment is more powerful when teachers collaborate on learning outcomes and are interested in data-driven improvements to teaching. (p 418). Teachers can create and share grading rubrics corresponding with learning outcomes across the curriculum. (p 419). Law teachers working in the same course area or with the same group of students may agree to create a common assessment activity and look at the aggregate results. (p 419).
4. **Formal mechanisms of assessment:** Formal assessment mechanisms include: (1) creating an assessment committee with experienced or enthusiastic law teachers; (2) regular communication to law teachers; (3) formalizing law school priorities and programs; (4) faculty workshops or retreats on assessment; (5) requiring learning outcomes in all new course proposals or descriptions; (6) covering use

of assessment in faculty reviews as part of overall teaching efforts; and (7) financial or teaching credit for developing collaborative assessment projects. (p 419–420). Additionally, questions asking students how well they feel they achieved course learning outcomes can be added to end-of-course teacher evaluations. (p 420). Law schools should take advantage of institutional research offices or other university resources which may aid in design and evaluation of assessment measures. (p 420).

Part Three: Building and Maintaining an Effective Instruction
Chapter 7: Creating an Institutional Culture of Assessment
Section B: *Implications for Traditional Grading Practices*

This summary of "best practices" is a compilation of those identified in *Implications for Traditional Grading Practices* by Judith Welch Wegner. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 7 Subsection B. References to other sections of the book identify the relevant page and chapter.

Re-examining Traditional Grading Practices

1. **Reasons to re-examine assumptions:** Traditional norm-based grading practices do not account for student ability before the educational experience and thus are not effective measures for assessing learning outcomes. (p 422). Given the changes in the legal profession, it is more important than ever that law schools re-examine assumptions behind traditional teaching and grading practices. (p 423).
2. **Increasing formative assessment:** When students are provided with more formative assessment and feedback instead of one final exam, more students will perform better. (p 423). Teaching strategies should be designed to alter traditional statistical grading spreads, and legal education should help students perform better than their predictors might suggest. (p 423). This is especially relevant for law students of color. (p 423).
3. **Growing skills-based courses:** Law schools should ask how student achievement might differ if faculty members focused on intervening to improve student accomplishment rather than ranking achievement based on prior strengths. (p 424). Skills-oriented instruction continues to expand, and is not necessarily graded on the same curve as doctrinal classes. (p 424). Context-based skill courses often employ grading rubrics tied to learning outcomes. (p 424).
4. **Smaller courses:** Grading curves represent statistical patterns in the absence of teaching interventions to improve performance. (p 424). Faculty working intensively with students in smaller classes may see enhanced performance which exceeds norms. (p 424). Some law schools already exempt small classes from mandatory curves to account for this. (p 424).
5. **Recognizing changing competencies of students:** Traditional grading systems often fail to account for the abilities of "late bloomers," who may not start law school with strong analytical skills but develop them. (p 425). Because these students will continue to be judged against their peers, they have limited incentive to improve. (p 425). Moreover, mandatory curves often disguise teaching capabilities and limit instructor ability to assess the real quality of student performance, and students lack clear signals on how to improve. (p 425).

Alternative Grading Approaches

6. **Investigation:** Changes to grading shouldn't happen overnight. (p 426). Rather, law schools may simply invite faculty to examine their own grading practices or grade students using criterion-based rubrics and compare student grades under those standards to typical grading methods. (p 426).

7. **Consider modifications or variances:** Performance-based courses can adopt a variance procedure conditioned on formative feedback throughout the semester, with documentation to support assigned grades. (p 426). Consider if variances should be limited to certain types of classes, such as performance based classes, and when performance based assessment is appropriate. (p 426). Courses with students below a certain number should employ different grading protocols, such as criterion referenced grades or writing assignments. (p 426).
8. **Grading responsive to course and year:** Assessment of law student performance could change depending on the student's year or the type of course. Law schools should consider whether assessment strategies should change after first-year courses. (p 426). Grading systems can be designed to encourage student development and allow meaningful assessment of student competence? (p 426).

Part Three: Building and Maintaining an Effective Instruction
Chapter 8: Transforming Legal Education as an Imperative in Today's World
Section A *Implications for Traditional Grading Practices*

This summary of "best practices" is a compilation of those identified in *A Conscious Institutional Strategy for Expanding Experiential Education* by Lisa Radtke Bliss & Deborah Maranville. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 8 Subsection A. References to other sections of the book identify the relevant page and chapter.

Re-examining Traditional Grading Practices

1. **Reasons:** Law schools are responding to the changing legal profession by incorporating experiential education opportunities in traditional contexts and throughout the curriculum. (p 427). Methods to promote experiential opportunity throughout the curriculum include: (1) hiring faculty with significant experience in law practice or experiential teaching; (2) provide incentives to promote experiential education; (3) supporting faculty attendance at conferences; (4) holding regular in-house faculty workshops; and (5) promoting faculty collaboration for ideas on integrating theory, doctrine and practice. (p 427–28).
2. **Shifting law school culture:** A culture of appreciation and enthusiasm around effective teaching is an important backdrop to promoting experiential education. (p 428). Law schools should foster regular conversations between faculty about how students learn and invite teachers to share innovative lessons. (p 428). Deans may further support efforts by addressing them in faculty reviews, establishing awards for teaching innovation, and promoting faculty innovation on the school's marketing materials. (p 428).
3. **Administrative leadership:** A faculty leader should be appointed to oversee the development of experiential education throughout the curriculum, perhaps as a "director" or "associate dean" of experiential education. (p 428). When creating such a position, schools should identify their goals and the extent to which current faculty are already doing work related to those goals. (p 429). A Dean of Experiential Education should take a broad view of all experiential programming and should promote student awareness of these opportunities. (p 429). It is best practice for schools to appoint the necessary resources to ensure a new leader can be successful. (p 429). Narrower efforts may include appointing a director of a particular experiential program. (p 429).
4. **The role of a director:** Simply having a director or dean of experiential education puts a "face" on the program and reaffirms the school's commitment to experiential education. (p 430). Once appointed, a director's first task should be to survey the faculty about current experiential education practices and disseminate this information. (p 430). Directors can assist with designing experiential exercises or cultivate collaboration between legal practitioner and educators to develop practice-based experiences. (p 430). A director should promote experiential programs to students, especially at first-year orientation, and

to community donors, alumni and stakeholders. (p 430). This leader can also work with the Dean of Faculty Development to mentor and train new faculty. (p 431).

Part Three: Building and Maintaining an Effective Instruction
Chapter 8: Transforming Legal Education as an Imperative in Today's World
Section B *Faculty Status and Institutional Effectiveness*

This summary of "best practices" is a compilation of those identified in *Faculty Status and Institutional Effectiveness* by Deborah Maranville, Ruth Anne Robbins & Kristen K. Tiscione. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 8 Subsection B. References to other sections of the book identify the relevant page and chapter.

Re-examining Faculty Status

1. **Faculty status:** *Best Practices* identified qualified faculty as a key dimension to enhancing educational effectiveness. (p 433). ABA accreditation standards require law schools provide some status profession for experiential teachers, but that protection has significant limits for clinical instructors and even more for legal writing teachers. (p 433). Notably, as experiential education teachers are overwhelmingly female, status discussions involve a significant gendered element. (p 433). Clinical teachers are categorically ineligible for tenure at many higher ranking law schools. (p 434). Because law schools tend to impose higher workloads on contract faculty, even if teachers are eligible for tenure, they may lack time to produce scholarship. (p 433).
2. **Importance of status:** Debates about faculty status are about more than salaries, titles and benefits—they are often proxies for deeper issues. (p 434). First, faculty status determines job security, a prerequisite for academic freedom to engage in controversial research or discussions. (p 435). Clinical teachers must be insulated from pressure to drop contentious clients or end relationships with partner organizations. (p 435). Antiquated ideas around the seriousness of traditional law school teaching are reinforced when experiential educators are not treated as faculty members. (p 435). Additionally, while experiential educators produce significant scholarship which "theorize practice," this scholarship is not always respected or encouraged. (p 436). Finally, faculty status is the gateway to full institutional citizenship, including equal treatment and full voice and participation. (p 437).

Addressing Unequal Faculty Status

3. **Addressing status issues:** Status issues may be addressed by one of four paths to full citizenship: (1) a unitary tenure track; (2) a unitary tenure track decoupled from scholarship; (3) separate forms of tenure; and (4) a separate teaching track for interested or experiential teachers only. (p 438). Additionally, the ABA adopted standards requiring law schools to make graduates more practice ready and utilize assessment tools. (p 442). However, policies encouraging lower status, pay and prestige for experiential educators may backfire by increasing turnover and diminishing the effectiveness of these programs. (p 443).
4. **Unitary tenure track:** Benefits of this approach include: (1) avoid lingering concerns plaguing the other three options; (2) encouraging experiential scholarship; and (3) absorbing the benefits of increased scholarship by clinical staff (p 438). To make this track viable, law schools should: (1) adopt realistic scholarship expectations; (2) value all kinds of scholarship; and (3) design teaching and job responsibilities which allow tenure-track experiential educators to succeed. (p. 439).
5. **Unitary tenure track decoupled from scholarship:** If university rules and culture allow, law schools can remove scholarship within the main tenure track. (p. 441). Job security, titles, pay and benefits remain the same, but scholarship is not required of all teachers. (p 441). To avoid devaluing experiential

education, educators not producing scholarship should be involved in uniquely burdensome teaching activities, such as intensive law practice in clinics. (p 441).

6. **Separate tenure:** Some law schools develop alternative tenure tracks, such as clinical tenure, often to address challenges of implementing a unitary tenure track. (p 441). In practice, however, such tracks are highly separate and unequal. (p 441). Law schools with alternative tenure tracks should create policies to promote equality and equitable treatment. (p 442)
7. **Teaching tracks without tenure:** When university culture does not allow tenure to be decoupled from scholarship, universities can retain expert teachers by adopting non-tenure teaching tracks with no scholarship expectation using ABA Standard 405(b). (p 442). These tracks include full committee participation and voting rights as assistant professors. (p 442). At best, these tracks provide alternative paths to job security and full citizenship, often accomplished through long-term contracts. (p 442). In practice, however, separate teaching tracks will likely be unequal and lack job security and lower salaries. (p 442).

Part Three: Building and Maintaining an Effective Instruction
Chapter 8: Transforming Legal Education as an Imperative in Today's World
Section C: *Leadership and Curricular Change*

This summary of "best practices" is a compilation of those identified in *Leadership and Curricular Change* by Martin J. Katz & Kenneth R. Margolis. It is supplemented by best practices identified elsewhere in the book that are supportive or complementary to those in the section.

Note: All page citations are to Chapter 8 Subsection C. References to other sections of the book identify the relevant page and chapter.

Identifying Stakeholders

1. **Stakeholders:** This section examines emerging best practices for law school administrators and leaders to encourage and implement curricular changes and institutional reform. (p 444). Implementing curricular change involves engaging all relevant stakeholders, securing their buy-in and support, and addressing their concerns. (p 444). While stakeholders have important ideas, their involvement may help or hinder projects unless interests are addressed in ways that build support. (p 444). Those with interest in curriculum change include students, faculty, administrations, alumni, legal practitioners, clients and society at large. (p 444).
2. **Students:** Students are interested in: (1) educational opportunities which prepare them for practice; (2) reasonable freedom in course enrollment and career choices; and (3) financial situations which allow them to pursue long-term career goals. (p 444). Skills needed for practice differ based on employer and practice area; thus, law schools must accurately identify and address those requirements. (p 445). The more specialized a curriculum becomes, the smaller the subset of students enrolling, which may be a benefit or a drawback depending on institutional goals. (p 445).
3. **Faculty:** Faculty support is essential to curricular reform efforts, both because the ABA requires faculty participation and because of logistical challenges to implementation when faculty are unsupportive. (p 445). Faculty interests include security, independence, freedom of choice, student success, and personal growth and development as a teacher and scholar, as well as issues of status and respect, especially in the distribution of resources. (p 446).
4. **Administrators:** When law schools are part of a university system, the support of university administrators is often essential to curricular change as they control allocation of resources. (p 446). Administrator interests tend to be based on the university's reputation, finances and overall system. (p 446). If new curriculum adds demonstrable value and increases enrollment, some cost concerns may be offset. (p 446). Increasingly, administrators may be interested in cross-curricular learning between law schools and other graduate programs. (p 446).

5. **Alumni and practitioners:** These two groups provide financial support for law schools and hire new graduates. Interests include: (1) the law school's reputation; (2) access to a pool of well-trained graduates; and (3) resources for creative ideas for practice. Additionally, alumni and PR actioners are an invaluable source of information about changing competencies and evolutions of the practice of law. (p 447).
6. **Potential clients:** As serving clients and seeking justice are two of the most areas of competency for law students, potential clients have an important interest in the preparation of lawyers. (p 447). Client interests include: (1) access to helpful, honest and ethical legal service providers; and (2) affordability of legal services. (p 447). As client needs vary across practice areas, law schools may decide to focus on narrower population groups to meet specific preparation needs based on employment patterns or emerging legal needs. (p 447).
7. **Society at large:** While society may not seem to have a particular concern with how lawyers are educated, legislatures may begin to address societal interests in access to justice and public confidence in the justice system if these institutions are perceived as failing. (p 448). Thus, law schools should be aware of current political climates, as well as the opportunities experiential education offers to serve the public interest by enhancing law student competencies.

Obtaining Stakeholder Buy-in and Support

8. **Committee leadership:** Leadership may come from a dean, associate dean, a faculty committee or some combination. (p 449). Best practice is to establish a partnership between faculty and the law school dean and have a committee work on curricular reform. (p 449). As this committee needs legitimacy, members should be elected by faculty. (p 449). The committee should work closely with the dean, who may or may not be a formal member, depending on circumstances. (p 449). Adding ex officio members, or using consultants or a modified committee structure may help encourage buy-in and participation from more law school faculty and staff and alumni / donors. (p 449). Finally, as students are the target audience of curriculum reform, student input is extremely important, though their shorter-term perspective should be taken into account. (p 450). Additionally, early-stage student involvement also educates students on data and research on experiential learning, and increases student buy-in and participation. (p 450). The most effective leadership structures are developed with the process of curriculum reform in mind. (p 450).
9. **Collecting and analyzing data:** Multiple stakeholders should provide input. (p 450). As data collection efforts educate the data collector and the information provider, law schools should communicate with employers on curricular reform efforts before and after changes. (p 451). It is worth considering knowledge and experiences from outside the legal education, including representatives from other disciplines such as adult education, systems analysists, organizational behaviorists and curricular designers in other fields. (p 451). Once market data is collected, proposals based on this information, as well as scholarly work in teaching and learning, should be created. (p 452).
10. **Creating successful proposals:** Though goals will generally be finalized by a committee, developing program goals should be a collaborative process. (p 452). An iterative process which develops goals based on gathered data, and which asks for and responds to stakeholder input on draft proposals is ideal. (p 452). Outside consultants may be helpful. (p 452). Because curriculum reform must be approved by faculty, the committee and dean must get support from faculty and ensure that proposed goals align with faculty and stakeholder values. (p 452).
11. **Timing of implementation:** While overly hasty changes which do not consider and engage all stakeholders may be ineffective, prolonged processes may never reach any resolution or outcome. (p 453). Dividing curricular reform into two phases—the development of a plan and implementation. (p 453). Best practice is to create a project timetable with set deadlines and goals. (p 453).

Addressing Concerns

12. **Addressing concerns:** Lack of buy-in from stakeholders is of the key reasons law schools fail to adopt best practices for curricular reform. (p 453). Administrators can respond to stakeholder concerns in a number of ways.

13. **Balance between teaching, scholarship, service:** While law professors often stress how faculty scholarship enhances student education, outside of academia, this proposition has been seriously challenged. (p 454). Law schools should discuss the roles of scholarship, service and teaching in the school's mission and in student education, and foster faculty understanding that law schools must be more responsive to the needs of practice to remain viable. (p 454). A school's incentive structure may need to be adjusted to implement certain types of curricular change. (p 454).
14. **Academic freedom:** Faculty members may believe that standardization of curriculum encroaches on their academic freedom. (p 455). However, other academic disciplines integrate standardized curriculum without threats to faculty autonomy. (p 455). While institutions should not be reluctant to implement curriculum reform, they should discuss and articulate boundaries of academic freedom and the school's curricular needs. (p 455).
15. **Cultural intera / rankings:** The survival of the current model of legal education is not a testament to its effectiveness in preparing students for practice. (p 455). While law schools generally stressed homogeneity with other law schools in organization, curriculum and hiring practices, this lack of program diversity contributes to some of the problems with legal education today. (p 456). Added pressure from the U.S. News & World Report increases the risks faced when trying to adopt innovative practices. (p 456). Recently, however, more schools are diversifying curricula, which may eventually result in pressure toward innovation. (p 456). Schools should discuss pressures of conformity and how they intend to address and react to those problems. (p 456).
16. **Time, expertise and evaluations:** Course relief and knowledge transmission may eliminate faculty fears related to the time and expense required to develop new programs. (p 457). Teachers may also fear negative student evaluations. Student buy-in can be generated by explaining rationales for changes to students and showing how changes align with student interests. (p 457). Administrators can also discount student evaluations in faculty reviews during the first year of implementing a new approach, and by ensuring student evaluations track the goals of curriculum reform and course learning outcomes. (p 457).
17. **Cost:** Concerns about cost can be addressed by noting that law school tuition does not vary depending on the amount of experiential courses a school offers. While in-house clinics may require more resources than a lecture class, schools which prioritize experiential learning opportunities are able to find ways to fund them. (p 458). Secondly, even if cost-per-credit-hour is the only factor considered, different forms of experiential education have different prices—in-house clinics, externships, simulation courses and experiential modules in doctrinal courses vary in terms of cost. (p 459). Schools considering reform efforts should evaluate the costs of expanding experiential education in different curriculum areas. In doing so, it is obvious that not all experiential education comes with a higher price tag. (p 459).

Incentivizing Change

18. **Incentivizing change:** Faculty support is important at the big picture level and the practical level. (p 459). At the big picture level, faculty should understand the need for curricular reform in light of falling numbers of law school applicants and budgetary cuts. (p 459). Budget transparency and faculty involvement in data collection and assessment both help faculty understand the role of enrollment and curriculum in relation to their own interests. (p 459). At the practical level, faculty may participate in curricular changes because they are told to, because they want to, or because they understand the importance of doing so, but administrative incentives help guarantee changes will be implemented in classrooms. (p 460). The three most important incentives administrators can offer faculty are money, time and respect. (p 460).
19. **Resources for training:** As success is dependent on the enthusiasm, interest and participation of faculty, new teachers should be trained in and encouraged to use different methods achieving pedagogical goals. (p 461). Effective and established programs to train new law teachers include the New Law Teacher's Workshop by AALS, the CLEA's New Clinicians Workshop. Useful resources are offered by the Institute for Law School Teaching and learning, the Center for Excellence in Law Teachings, and Educating Tomorrow's Lawyers. (p 461). Informal training methods, such as collaboration or mentorships, are also valuable. (p 461).

INSTITUTE FOR LAW TEACHING AND LEARNING
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Teaching Cultural Competency and Other Professional Skills

Workshop
5B

"It's All a Bit Hippy Isn't It?": The Importance of Teaching Self-Evaluation and Reflection in Law School

Andrew Henderson, University of Canberra (Australia)

"It's All a Bit Hippy Isn't It?": The Importance of Teaching Self-Evaluation and Reflection in Law School

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This workshop will model a seminar lesson plan and two activities for introducing law students to the fundamentals of self-evaluation through reflective thinking and practice. It will also put the importance of self-evaluation in the wider context of supporting students' mental health and wellbeing.

Self-evaluation through reflection is a skill identified both in the commentary to the ABA's Standard 302(d) and in Threshold Learning Outcomes (TLOs) 2 and 6 for law students in Australia. Commentary on the TLOs has placed an emphasis on the development of the ability to self-evaluate and reflect as a principal method of addressing a significant issue among law students and young lawyers – high rates of substance abuse and depression (Marychurch, 2011).

Research in the United States has drawn very clear links between students' experiences of law school and their mental health (O'Brien, Tang, & Hall, 2011). The same experience has been identified in Australia (Kelk, Luscombe, Medlow, & Hickie, 2009). To the extent that self-evaluation, self-awareness and reflection has been identified as a means of supporting students and new lawyers, it serves a more important purpose than just "[an]other professional skill".

This workshop was first presented to students enrolled in the University of Canberra's unit "Lawyers and Professional Responsibility" (LPR). A journal was included in the unit as an assessment task. Students were asked to respond to a weekly prompt based on the week's materials. As a means of scaffolding students to meet the requirements of the assessment, they were introduced to reflective practice through two activities which will be modelled in this workshop.

In the first activity, participants will be presented with examples of reflective writing and be asked to assess them according to a marking guide for the activity. The examples are intentionally designed to evidence progressively more effective reflective thinking and self-assessment. The result of the activity is to construct a process for moving through the reflective thinking cycle – from reviewing an experience; evaluating it (in relation to what we know, understand, did or should have done) by reference to internal *and external* information; and identifying what steps we could take to improve our knowledge, understanding or performance.

In the second activity, participants will be presented with a prompt taken from the unit and adapted from Daniel Pink's work on personal motivation (Pink, 2011). Through a carefully sequenced process of responding, reflecting, evaluating and revising, participants will move

through the reflective thinking process in a "real" and practical way and in a way that could be replicated in their own seminar rooms.

A Brief Background – Legal Education in Australia

Until the 1960s, the content and delivery of legal education in Australia was principally administered by the profession (Bartie, 2014). The content of legal training remained largely at the discretion of the local legal profession despite the advent of full time law schools in the 1950s and 1960s (Johnstone & Vignaendra, 2003). A recommended common, national standard for legal education did not occur until 1992 when the Consultative Committee of State and Territory Law Admitting Authorities (1992) recommended that 11 subject areas (also referred to as the "Priestley 11" after the chair of the Committee) should be included in all undergraduate law degrees.

The Priestley 11 (Law Admissions Consultative Committee, 2008), now constitute the principal law school "curriculum" and the minimum academic requirements in all Australian jurisdictions for admission to the legal profession. Although the Priestley 11 have been identified as a "curriculum" (Johnstone & Vignaendra, 2003), they represent little more than a syllabus rather than a complete curriculum (Hicks, 2007). The Priestley 11 does not prescribe methods of delivery of instruction or even changes in behaviour among undergraduates, simply the subjects and content to be covered.

In 2010, driven by the Commonwealth Government's creation of the Higher Education Quality Education Framework, a number of disciplines including law moved to create a framework of discipline based learning outcomes (Learning and Teaching Academic Standards Project, 2010). The Council of Australian Law Deans ("CALD"), representing all of Australia's law schools, developed a set of "Teaching and Learning Outcomes" ("TLOs") for undergraduate students. The TLOs are intended to supplement the Priestley 11 by identifying a number of skills that undergraduates should also be expected to demonstrate. However, unlike the Priestley 11, there has been no formal recognition by law societies or admitting bodies of the TLOs.

Australian law students and 'the black dog'

In *Bleak House*, Dickens (2003) describes the miserable scene of the death of the law clerk, Nemo, alone in a dirty room over a rag and bone shop not far from the Court of Chancery. Although the inept coronial inquest into the death delivers a verdict of 'accident', Dickens' heavy implication is that the clerk's death was related to his heavy use of opium.

While Nemo died more than 150 years ago, a number of surveys and reports, like those collected by O'Brien et al. (2011), and even mainstream media (Marcus, 2014; Margo, 2015), have recently brought the incidence of substance abuse and mental illness among Australian lawyers back into sharp relief. A recent survey (Michalak, 2015) found that lawyers reported significantly lower levels of psychological wellbeing than other professionals (p. 19) and a higher rate of alcohol and tobacco use (p.21) – a result that is consistent with similar studies conducted over the previous seven years (O'Brien et al., 2011).

While this might appear far removed from teaching, obtaining a law degree from a university has, since the 1960s, become the most common way of preparing for entry to the legal profession in Australia (Johnstone & Vignaendra, 2003, pp. 1-2). This has prompted some limited research into the extent to which laws schools might be affecting the mental health of students and to what extent it should or could be addressed either through changes to teaching or explicit teaching of techniques to manage stress and depression.

While research in the United States has drawn links between students' experiences of law school and their mental health (O'Brien et al., 2011), Australian universities took relatively little interest in the issue. Until the 2000s, Australia had a much smaller number of law schools producing a much smaller number of students (Johnstone & Vignaendra, 2003, p. 4). At the same time the adoption of findings from the United States, while sharing a similar English legal tradition, was actively challenged (Kelk et al., 2009, p. ii).

(Re)-Designing for reflective practice – A rationale

Consistent with an approach to legal education focused on content, the design of legal ethics units generally, and LPR in particular, has traditionally tended to be "over stuffed" (Hunt, Chalmers, & Macdonald, 2012) and focused heavily on the text of rules and reading case law.

The identification of reflective thinking as a mechanism for approaching ethical conduct has begun to gather momentum as a result of the promulgation of the TLOs by CALD. The TLOs identify reflection as a valuable skill both in terms of professional development and in managing ethical dilemmas. TLO 2 deals with ethics and professional responsibility and requires that all graduates be able to demonstrate:

> (b) an ability to recognise and *reflect upon*, and a developing ability to respond to, ethical issues likely to arise in professional contexts,
>
> (c) an ability to recognise and *reflect upon* the professional responsibilities of lawyers in promoting justice and in service to the community… (emphasis added). (Learning and Teaching Academic Standards Project, 2010, p. 10)

TLO 6 deals with "self-management" and requires that all graduates be able to demonstrate the ability to "reflect on and assess their own capabilities and performance, and make use of feedback as appropriate, to support personal and professional development" (p. 22). CALD also noted the importance of reflection as building "capacity for resilience through personal awareness and coping skills that might include openness to assistance in times of personal and professional need" (p. 23).

The acknowledgement of the need for developing coping skills has become more critical in light of recent studies of the profession and law students that identify much higher rates of dissatisfaction, substance abuse and depression relative to the broader community (Kelk et al., 2009). While difficult ethical dilemmas have not been directly linked to concerns with lawyers' and students' well-being, legal practice does raise uncomfortable questions about, for example, the maintenance of confidentiality in the face of serious criminal conduct which can seriously test personal ethics (Evans & Palermo, 2005).

The Learning Activities

In order to develop and reinforce reflective practice in the context of legal ethics, students are required to complete a reflective journal. The reflective journal assessment is designed to provide students with the opportunity to reflect on their learning and experience. Reflective practice is the process of reviewing an experience, evaluating it (in relation to what the practitioner knows, understands, did or should have done) and identifying what steps could be taken to improve performance or to find out more about the question posed (Parker & Evans, 2014; Rogers, 2001).

What is being taught and assessed?

Based on CALD's TLOs, students are required to be able to demonstrate:

- an ability to recognise and reflect upon, and a developing ability to respond to, ethical issues likely to arise in professional contexts,
- an ability to recognise and reflect upon the professional responsibilities of lawyers, and
- an ability to reflect on and assess their own capabilities and performance, and make use of feedback.

In order to bring these learning objectives into the context of teaching ethical responsibilities, students are required to complete five file notes based on five different prompts or questions directly linked to the week's topic – either expanding on the tutorial activity, allowing the student to revisit their answers based on their experience in the tutorial or revisiting previous week's journal entries in light of their developing experiences.

In order to provide clarity in the exercise, a marking guide identifying what is required to be demonstrated in each entry is provided in the following terms:

Criterion	Description
Responding and relating	The journal entry: • identifies and analyses the relevant prompt(s), • explains the student's response based on their own experiences or opinions, and • draws links between new information (eg tutorials, readings or lectures) and their own experiences.
Reflecting and evaluating	The journal entry • identifies and acknowledges alternative responses based on new information, • identifies the strengths and weaknesses of the lawyer's own response, and • identifies possible options for further understanding.
Communicating	The writing is clear and understandable.

There is very little written about teaching reflective practice in legal education. The marking guide is therefore drawn from a much broader selection of literature and based on an assessment of the key steps in the reflective process. That is, if an entry were to each of the things identified in the criterion, the student will have been compelled by the criterion to have worked through a reflective process (Rogers, 2001).

How is it taught? – Resources and teaching activities

The process of reflective thinking is not something that is generally discussed in law school, despite the position adopted by CALD. Both students and teachers tend to find more comfort in the Priestley 11's dispassionate recitation of subject matter and attendance in lecture halls (Brand, 1999). It's all a bit "hippy" and entirely at odds with the "black letter" tradition of legal education. Bringing students along requires a high degree of enthusiasm and active modelling from lecturers and tutors as a means of infusing the same in them (Hunt et al., 2012).

The criteria outlined above are insufficient to provide guidance to students on what is a new skill. That the process is a deeply personal one to each student and each student will seek to make sense of the prompts and the process in their own way. There is no "right" or "wrong" answer – which is a unique experience for law students. In that context, it is the *process* rather than the outcome that requires emphasis and scaffolding.

In order to provide that support, the following process has been adopted:

- Appropriate reading materials on the importance of reflective practice are provided, lectured on and tutorial activities developed to support the process.
- A short video setting out the process is available on the unit's website.
- The reflective process is explicitly modelled by tutors in tutorials in response to "practice" prompts and then followed by a cooperative process on a further "practice" prompt to provide opportunities to practice.

In order to continue to support students to meet expectations, and to meet the CALD requirement of allowing students to practise responding to feedback in a meaningful way, each of the entries is marked separately and feedback provided with reference to the marking criteria *before* the next entry is due.

Activity 1 – Reflective Writing[1]

This is an account of the experience of giving an in class presentation. It is written by Marianne who is in her first job after graduating. It is written in three different versions. At the end of each entry are the marking criteria for journal entries in this unit. Assess each entry for how well it performs against those criteria. Assume you are marking the entry. What feedback might you give?

The Presentation – Version 1

I had to do an in class presentation for my Lawyers and Professional Responsibility tutorial. I had to respond to a question about confidentiality. I had done a presentation before and then I relied on my acting skills. Despite the acting, I spent quite a bit of time preparing it in the way that I have seen others make similar presentations.

I became nervous when I realised they were all waiting for me to speak and my nerves made my voice wobble. I did not know how to stop it. Early on, I noticed that people seemed not to understand what I was saying despite using Power Point. Using Power Point meant that people received my presentation both through what I was saying and what I had prepared on the slides. In a way that meant they got it twice but I noticed that my tutor repeated bits of what I had said several times and once or twice answered questions for me. This made me feel uncomfortable. I felt it was quite patronising and I was upset.

I received my feedback from the presentation that included a list of points for improvement including: putting less on Power Point; talking more slowly; and calming myself down in some way.

The Presentation – Version 2

I had to do an in class presentation for my Lawyers and Professional Responsibility tutorial. I had to respond to a question about confidentiality. I had given a presentation before and that time I relied on my acting skills. I did realise that there were considerable differences between then and now, particularly in the situation (it was for a much smaller group of students before). I was confident but I did spend quite a bit of time preparing. Because everyone else uses Power Point, I felt I had better use it – though I realised that it was not for the best reasons. I also prepared lots of case reference so that I could answer questions.

When I set up the presentation in the meeting I tried to be calm but it did not work out. Early on the Power Point went wrong and I began to panic. Trying to pretend that I was cool and confident made the situation worse because I did not admit my difficulties and ask for help. The more I spoke, the more my voice went wobbly. I realised, from the kinds of questions that the others asked, that they did not understand what I was saying. They were asking for

[1] This activity is adapted from from Jenny Moon, *A Handbook of Reflective and Experiential Learning* (Routledge Falmer, 2004).

clarification – not the figures. I felt worse when my tutor started to answer questions for me. I felt flustered and even less able to cope.

As a result of this poor presentation, my self esteem is low now. I had thought I was doing all right. I got my feedback for my tutorial. I still feel that my tutor's interventions did not help me. Partly through talking over the presentation and the things that went wrong, I can see several areas that I could get better. I need to know more about using Power Point – and to practice with it. I recognise, also, that my old acting skills might have given me initial confidence, but I needed more than a clear voice, especially when I lost my way with Power Point. Relying on a mass of research was not right either. I needed to focus on answering the question. In retrospect, I could have more information on a handout.

The Presentation – Version 3

A couple of days ago I had to do an in class presentation for my Lawyers and Professional Responsibility tutorial. I had to respond to a question about confidentiality. I was thinking I could use my acting skills to maintain my confidence. I decided to use Power Point. I was not very easy about its use because I have seen it go wrong so often. However, I have not seen anyone else give a presentation here without using it - and learning to use Power Point would be valuable. I was not sure, when it came to the session, whether I really knew enough about running Power Point. (How do you know when you know enough about something? – dummy runs, I suppose)*.

In the event, the session was a disaster and has left me feeling uncomfortable. The Power Point went wrong. My efforts to be calm and 'cool' failed and my voice went wobbly – that was, anyway, how it felt to me. When I think back to that moment, I could have regained the situation.

Thinking back over the presentation, it was not as bad as it felt at the time. Several of my colleagues told me afterwards that my tutor always steps in to answer questions and they commented that I handled her intrusion well. I need to do some thinking about how to act next time to prevent this interruption from happening or to deal with the situation when she starts*. I might look in the library for that book on assertiveness.

I have got my feedback too and begun to analyse what I could do better in the presentation. I am not sure how helpful was my reliance on my acting skills*. Acting helped my voice to be stronger and better paced, but I was not just trying to put over someone else's lines. I needed to be able to discuss matters in greater depth rather than just give the line*.

I probably will use Power Point again. I need not only to know how to use it, but I need to feel sufficiently confident in its use so I can retrieve the situation when things go wrong.*

*I have asterisked the points that I need to address in order to improve.

Criterion	Description	
Responding and relating	The journal entry: • identifies and analyses the relevant prompt(s), • explains the pre-admission lawyer's response based on their own experiences or opinions, and • draws links between new information (eg tutorials, readings or lectures) and their own experiences.	
Reflecting and evaluating	The journal entry • identifies and acknowledges alternative responses based on new information, • identifies the strengths and weaknesses of the pre-admission lawyer's own response, and • identifies possible options for further understanding.	
Communicating	The writing is clear and understandable. AGLC3 is used to identify references.	

Activity 2 – Identifying Motivation

The activity may appear simple, but to get the real value from it take some time to think about and reflect on your answers. You can re-write them as many times as you wish. They are *yours*. While you might include them in your reflective journal, you **are not** being assessed on the answer you provide but the process by which you arrived at that answer.

Question 1: First Ask a Big Question…

Read the following extract from Daniel Pink, *Drive: The Surprising Truth About What Motivates Us* (Canongate Books, 2010), 154-155.

> In 1962, Clare Boothe Luce, one of the first women to serve in the U.S. Congress, offered some advice to President John F. Kennedy. "A great man," she told him, "is one sentence." Abraham Lincoln's sentence was: "He preserved the union and freed the slaves." Franklin Roosevelt's was: "He lifted us out of a great depression and helped us win a world war." Luce feared that Kennedy's attention was so splintered among different priorities that his sentence risked becoming a muddled paragraph. You don't have to be a president— of the United States or of your local gardening club— to learn from this tale. One way to orient your life toward greater purpose is to think about your sentence. Maybe it's: "He raised four kids who became happy and healthy adults." Or "She invented a device that made people's lives easier." Or "He cared for every person who walked into his office regardless of whether that person could pay." Or "She taught two generations of children how to read." As you contemplate your purpose, begin with the big question: What's your sentence?

What is your sentence?

Questions 2 and 3: What Gets You Up in the Morning? What Keeps You Up at Night?

Read the following extract from Alan Webber, *Rules of Thumb* (HarperCollins, 2009).

> **What gets you up in the morning?**
>
> It's a tragedy of American work life. Polls vary but in general it's safe to say that more than 50 percent of American workers hate their jobs. For them, the answer to the question "What gets you up in the morning?" must be "I just need the money. I don't have a choice; I'm so numb I just do it without thinking. It doesn't really matter."
>
> The level of energy put out by an organization's people is one of the things that separate a company you'd want to work for from one that leaks talent like a sinking boat. When I'd go visit a company I could feel it the moment I arrived. There'd be a buzz in the air created by people who are working hard and working together. Places

where people know why they get up in the morning feel, sound, and move differently from places where dread and drudgery are the sum total of the work experience.

What keeps you up at night?

…

I like the question "What keeps you up at night?" because it's a chance for leaders to be honest. Much of what preoccupies men and women in positions of responsibility is of little long-term importance. Rarely do they get a chance to reflect on the things that really matter to the company's long-term viability. Business leaders who care deeply about matters of community and social change find day-to-day concerns crowding out broader issues. The things that keep leaders up at night, I've found, are the matters that never seem to find the time or place for serious engagement in the course of an ordinary workday. And, I've found, leaders genuinely believe there are things worth caring about so much, they do keep you up at night.

We all want to do work that excites us. We want to care about things that concern us. Here's a chance to make your list so you can work on those two things.

…[W]rite down your answer to the question "What gets you up in the morning?"

Try to keep it to one sentence. If you don't like your first answer, throw it away and do it again... Keep doing it until you've got an answer you can live with. When you're done with the first question, do the same exercise for the second one: "What keeps you up at night?" Work at it until you've got an honest answer.

Then read your two answers out loud to yourself. If you like them—if they give you a sense of purpose and direction—congratulations! Use them as your compass, checking from time to time to see if they're still true. If you don't like one or both of your answers, it opens up a new question: what are you going to do about it?

Because whatever your answers are, you're spending almost two thousand hours a year of your life doing it. That makes it worthwhile to come up with answers you can not only live with but also live for.

What gets you up in the morning?

What keeps you up at night?

Question 4: What do you want to do with your law degree?

Yes, this is the same questions we have asked each other since the beginning of law school. If so, then you already have an answer. However, are you happy with that answer? You can always have another try.

What do you want to do with your law degree?

Question 5: Are there links between your answers to questions 1 to 4?

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INSTITUTE FOR LAW TEACHING AND LEARNING
GONZAGA UNIVERSITY SCHOOL OF LAW
WASHBURN UNIVERSITY SCHOOL OF LAW
UA LITTLE ROCK WILLIAM H. BOWEN SCHOOL OF LAW

Teaching Cultural Competency and Other Professional Skills

Workshop
8A

The Role of Leadership in Law School Education (More Than Just an "Other" Skill)

Leah Witcher Jackson Teague, Baylor University School of Law

The Role of Leadership in Law School Education
(More than just "an "other" skill)

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The Role of Leadership in Law School Education
(More than just "an "other" skill)

Throughout history, lawyers have played critical leadership roles in both the public and private sector. Leadership is mentioned in the mission statements of many law schools and law school personnel know their students will actively and civically engaged in their communities in a variety of leadership capacities. In fact, no other occupation in the United States supplies a greater number of its leaders. Yet the development of law students' abilities as leaders has not been a part of traditional law school curricula leaving many law students ill-prepared for their leadership roles. Even more practically, law students who devote attention to leadership development will be better prepared to succeed professionally.

As the practice of law continues to change, law firms and other legal providers are forced to adapt. The legal profession is under assault for its high cost and for the "access to justice" gap. Legal education in general is being criticized for its failure to produce lawyers actually ready for practice. The ABA Standard 302 requires law school to develop students' competencies in "other professional skills needed for competent and ethical participation as a member of the legal profession." Opportunity exists in the midst of change. Leadership development courses and programs help students develop professional competencies and skills that will give them a competitive edge in the marketplace.

The Traditional Role of Lawyers as Leaders

Lawyers account for just 0.4 percent of the population; yet, all over this country in every aspect of society, lawyers lead.[1] Alexis de Tocqueville recognized, in *Democracy in America*, that the special training of lawyers as problem solvers and advocates and the role of lawyers as keepers of the "Rule of Law" ensured for them "a separate rank in society" (in his words, the "American aristocracy").[2] As described by Heineman, the role of lawyers has

[1] Deborah L. Rhode, Lawyers as Leaders 1 (2013).
[2] Alexis d Tocqueville, *Democracy in America* (13th ed. 2003).

traditionally been three-fold – that of "technical expert, wise counselor and effective leader."[3]

Lawyers by training learn to serve others by strategizing, persuading, and ultimately commanding the room, whether it be the boardroom, the courtroom, or the arena of public opinion. These are foundational leadership skills. Teaming with professionals from different disciplines to craft innovative solutions for clients in all sector of our economy affords lawyers a broader perspective of societal issues. Every aspect of what lawyers are called upon to do in the representation of their clients is practiced leadership - the influence of others to accomplish a perceived need and, hopefully, the greater good. Utilizing the skills and influence of a small but powerful band of lawyers can have a tremendous impact on society.[4]

Today's Diminishing Role of Lawyers as Leaders

Without significant attention to all three roles of "technical expert, wise counselor and effective leader," the legal profession is in danger of losing its special status which has helped shape and guide our country since its inception. The implications to law schools, to the legal profession, and to our nation are profound.

One representative snapshot comes from examining the percentage of U.S. Congressmen who are lawyers. "In the mid-19th century almost 80% of members were lawyers. By the 1960s this had dropped to under 60%, and by 2015 it was less than 40%."[5] Does having fewer leaders trained and experienced in strategic planning, advocacy and negotiation make a difference? Regardless of the answer to that question, with fewer lawyers serving in prominent roles in public leadership positions, law schools are less able to attract the best and the brightest students seeking to make a difference in the lives of our citizens and in our communities. But this decline in elected leadership may simply be emblematic of the declining role of lawyers in serving and advocating for ordinary citizens.

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[3] Ben W. Heineman, Jr., William F. Lee & David B. Wilkins, *Lawyers as Professionals and as Citizens: Key Roles and Responsibilities in the 21st Century* 9, Harvard Law School's Center on the Legal Profession (2014), available at https://clp.law.harvard.edu/assets/Professionalism-Project-Essay_11.20.14.pdf.

[4] Joseph Jaworski, Synchronicity 80 (2nd ed. 2011).

[5] Nick Robinson, *The Declining Domincance of Lawyers in U.S. Federal Politics* 1 (2015), available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2684731.

As reported by the ABA's 2016 "Report on the Future of Legal Services in the United States," 80% of Americans either cannot afford legal assistance or do not believe they can afford a lawyer and thus "are forced to either represent themselves or avoid accessing the legal system altogether."[6] Instant access to the "law" through technology means ordinary citizens are less likely to recognize the value of hiring a lawyer. For those who ostensibly qualify for free assistance, most of those needs go unmet, and what funding these programs have is under attack. We should be alarmed by studies finding that at least one party is not represented by a lawyer in up to ninety percent of cases in America's civil courts.[7] This access to justice gap leaves the majority of our citizens without affordable legal representation and advice. If the legal profession does not find creative solutions to address these challenges, how can we expect the public to look to us as leaders for guiding and forging the future of our nation?

Even those who recognize the need for lawyers and can afford their services are demanding more value for their investment. Many tasks previously reserved for lawyers are now routinely performed by laypersons with the assistance of technology or shipped overseas for cost efficiencies. Law firms are pressuring partners and associates to be more efficient to meet the demands of clients, leaving less time for public service and for training young associates. The partner-associate mentoring that commonly took place 10 years ago is significantly limited or non-existent at most firms. In a 2016 study by IAALS of more than 24,000 lawyers in all 50 states and across practice settings, only 23% of practitioners believe new lawyers have sufficient skills to practice.[8] This gap between the skill sets possessed by law school graduates and the skill sets they need not only exacerbates the employability difficulties graduates face, but also undermines the public trust in our legal system when lawyers enter the workforce under-prepared to meet the current challenges.

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[6] American Bar Association Commission on the Future of Legal Services, *Report on the Future of Legal Services in the United States* 8, 12 (2016)), available at http://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport_FNL_WEB.pdf.

[7] Jessica K. Steinberg, *Demand Side Reform in the Poor People's Court*, 47 Conn. L. Rev. 741, 749 (2015).

[8] Institute for the Advancement of the American Legal System, *Foundations for Practice: The Whole Lawyer and the Character Quotient* 1 (2016), available at http://iaals.du.edu/sites/default/files/reports/foundations_for_practice_whole_lawyer_character_quotient.pdf.

Law schools must do more to prepare law students for the challenges awaiting them after graduation.

Law schools have increasingly emphasized an expansive selection of specialized elective courses at the expense of an extensive, rigorous required curriculum designed to prepare graduates for broad-view solutions to legal problems. The result has been to prepare lawyers to serve the narrow, specialized needs of a shrinking clientele able and willing to pay for those services, while ignoring the need for innovative solutions to the problems faced by the majority of citizens.

These gaps in legal training have been exacerbated by a lack of formal leadership development in law schools directed to advancing students' personal aptitudes and professional competencies. As lawyers, our ability to serve as trusted advisors and leaders is tied directly to our ability to innovate and solve the real problems that people encounter. The preparation for innovative legal leadership must come from our law schools, or our legal education system will fall to the wayside.

Legal Employers want Graduates with Leadership Skills

Leadership development programming can provide essential training to give students a competitive edge in the marketplace. Legal employers want law school graduates who need less training and mentoring. Law firms are demanding that new lawyers have "not only intelligence and legal skills but also key characteristics and professional competencies to use those skills in practice."[9] The 2016 IAALS study found that a majority of respondents identified the following professional competencies and characteristics as necessary right out of law school: integrity, work ethic, common sense, trustworthiness, conscientiousness, emotional intelligence, listening attentively and respectfully, tact and diplomacy, working well with a team, empathy, self-control, self-awareness, being a self-starter, courtesy and respect for others, adaptability, resilience, and possessing a strong moral compass.[10] These are all competencies and characteristics that leadership development programs are designed to help law students build and develop.

Incorporating leadership development into the law school curriculum also produces graduates with an understanding of lawyers' obligation and opportunity to serve society.

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[9] *Id.* at 2.

[10] *Id.* at 5.

As law schools teach students to be logical, analytical, organic problem-solvers, students need to recognize that the skill sets learned in law school provides them with the capacity to lead. Integrating principles of leadership into the curriculum, especially when infused with ideals of service, can produce lawyers who understand that:

1. At the heart of effective societal leadership is a deep sense of purposefulness;
2. There is extraordinary power in a group committed to a common vision; and
3. Successful leadership depends upon a fundamental shift of being, including a deep commitment to the dream and a passion for serving versus being driven by the pursuit of status and power. [11]

By creating a culture of expectations for service and leadership by their students after graduations, law schools can help the legal profession regain its stature in society as trusted advisors and effective leaders.

Integrating Leadership Development into Law School Curriculum

Leadership development should be a core component of the education and training of every law student. While business schools have long emphasized leadership development, formal leadership development training has not been part of traditional law school experience, at least until recently. A growing number of law schools are introducing leadership development into their programming and curriculum to prepare students for their future roles as lawyer and leaders.

Leadership strategies and skills, meet the requirement in ABA Standard 302 for competency in "other professional skills needed for competent and ethical participation as a member of the legal profession,"[12] giving law schools another reason to embrace leadership development. Commonly part of a leadership development program is the development of important skills such as cultural competency, conflict resolution, collaboration, negotiation, self-evaluation, and other relational skills.

Attached are examples of leadership development syllabi and materials from Baylor Law School and Chapman Law School.

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[11] *Supra* note 4, at 94

[12] ABA Standard 302(d) available at https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2016_2017_standards_chapter3.authcheckdam.pdf

Leadership Engagement and Development (LEAD)
Baylor Law School
Professors: Associate Dean Leah Teague and Assistant Dean Stephen Rispoli
Winter 2016-17 Syllabus

Course Description[1]
Throughout history, lawyers have played critical leadership roles in both the public and private sector. In every aspect of American society, lawyers lead and Baylor Lawyers in particular are known for actively serving in leadership capacities in their communities and the legal profession. While leadership training is part of the fabric of Baylor Law School, specific emphasis and training is important and helpful to adequately equip our graduates with the leadership skills needed in this increasingly-complex and ever-changing professional environment. Recent studies show that an ever-increasing number of employers are seeking graduates with leadership skillsets. Topics will include leadership styles and strategies, personality assessments, public service and professional responsibilities, and leadership opportunities for lawyers. Using case studies, students discuss leadership lessons learned by experienced leaders through challenging circumstances. Using introspective tools and team-building exercises, students boost strengths and minimize weaknesses to better equip them for their future. Attendance is mandatory for each class and the class participates as a group in a Ropes Course.

Grade

The LEAD course is graded on a Pass/Fail system. Student must satisfy all requirements of the class in order to receive passing credit.

Absence/Laptop Policy
Absent emergency or medical necessity, we do not allow any absences for this class. In addition, you may not use laptops in class. As a pass/fail class, your presence and participation is critical.

Assigned Reading
All assigned reading for class will be from Lawyers as Leaders by Deborah L. Rhode [ISBN #978-0-19-989622-6] and articles found on Canvas.

Book Report
For the book you choose, be sure to email us to confirm that it is acceptable. The book report should be 4-5 pages long, and will be due at 5 p.m. on the last reading day of the quarter. This report will be graded substantively by us, and by one of our writing graders here at the law school. If the report is deemed unacceptable by either us or the writing grader, you'll have to do a re-write to receive credit for the class.

Below are some examples of books that you can read for your book report. We encourage you to look for a book about leadership that you would like to read that is not on this list.

- "40 Strategies for Winning in Business" by Bud Haney and Jim Sirbasku

[1] Taken from Baylor Law School Course Catalog.

- "A First-Rate Madness: Uncovering the Links Between Leadership and Mental Illness" by Nassir Ghaemi
- "Called to Lead: Leadership Lessons from the Life of the Apostle Paul" by John MacArthur
- "Everyone Communicates, Few Connect" by John Maxwell
- "Leadership Axioms: Powerful Leadership Proverbs" by Bill Hybel
- "Leadership Lessons By Bill Snyder" written by Robert Shoop and Susan Scott
- "Lean In" by Sheryl Sandberg
- "Lessons in Leadership: Essential Skills for Lawyers" by Thomas C. Grella
- "Lincoln on Leadership: Executive Strategies for Tough Times" by Donald T. Phillips
- "Predictably Irrational" by Dan Ariely
- "The Leadership Challenge" by James M. Kouzes and Barry Z. Posner
- "The Story of My Experiments with Truth" by Ghandi
- "The Team Captain's Leadership Manual: The Complete Guide to Developing Team Leaders Whom Coaches Respect and Teammates Trust" by Jeff Janssen
- "Turn the Ship Around!: A True Story of Turning Followers Into Leaders" by David Marquet
- "Wooden on Leadership: How to create a winning organization" by John Wooden and Steve Jamison

Group Presentations, Case Studies, and Activities

The best way to learn leadership is to practice leadership, so this course is interactive and requires teamwork and interaction. Over the course, each student will be expected to participate in group presentations, case study discussions, and other classroom activities.

Five minutes prior to the start of each class, we will play a short video relating to that day's class discussion. We encourage you to look for videos you'd like to share with the class, and send them to us. We will consider all submissions for our before-class video and try to get to all of them. Likewise, if there is an article you'd like to share with the rest of the class, please send it to us.

Specific assignments and classroom activities will be explained in more detail in class, but below are basic guidelines.

Presentation Guidelines

- Presentation on two leaders, who have been out of the spotlight long enough for history to judge them, and be prepared to discuss how the two are related (style, characteristics, etc.).
- Two partners per team.
- Ten minutes in length, and there must be fairly equal presenting time between the two partners.
- Think of this as a moot court argument - be prepared to talk for the entire time, but be ready to answer questions as they arise and/or at the end of your presentation. Be mindful of time as you must keep the conversation on track to finish your entire topic in the time allowed.

- PowerPoint (or another presentation software) is required. There is a minimum of 5 slides, and you cannot read from your slides.
- If you use a video clip, it cannot be longer than 2 minutes.
- Interactivity is encouraged!
- If you have a handout for the class, email it to us and we'll print it for you.
- Business Dress
- After your presentation, email the PowerPoint (or other presentation software file) to Dean Teague and Stephen Rispoli.

Case Study Guidelines

- The assigned portion of the case packet must be read prior to the in-class simulation and/or discussion.
- Some students will participate in the simulations while others will observe and evaluate the participants.
- Roles/parts will be disbursed in the class prior to the simulation or via email.
- Participation in the class discussion after Case Study simulations is required.

Journal

You will need to keep a journal throughout this class you're your thoughts and reflections on each class, as well as special topics as outlined below. In addition, write down a leadership quote at the beginning of each journal article.

Week 1: Introduction to Leadership – Why Lawyers Make Bad Leaders

Assignment prior to first class:
Text: Ch. 1 Lawyers as Leaders
Canvas: Law Schools, Leadership, and Change; and Brave New Legal World_ Keeping Lawyers Relevant in the Future.
Journal: What is leadership? Look up a definition of Leadership, write down what it means to you, and bring it to class.

Day 1 Wednesday, November 9, 2016

Post-Election Day: The history of lawyers as leaders, and the landscape of the legal profession.
Assignment for next class: MBTI Assessment
Journal:

1. Reflect on your path to law school – how did you get here?;
2. List your prior leadership roles (including non-traditional);
3. How do you believe law school prepare you to be a leader?;
4. List quote about leadership, and the definition you brought to class today. What do they mean to you?; and
5. What is your 5-year plan?

Day 2 Friday, November 11, 2016

Guest Lecturer: Dean Brad Toben (Baylor Law School)
Assignments for next class: Ch. 2 The Nature of Leadership; Ch. 3 Developing Leadership; and Problem 2-1 (available on Canvas).
Journal:

1. Write down your "take-aways" from Dean Toben's lecture this morning;
2. What else did you learn?;
3. What can you use in your own leadership style?; and
4. Look back at your journal entries from Wednesday – did the conversation today change any of your journal answers? Why?

Week 2: The Nature of Leadership

Day 1 Wednesday, November 16, 2016

Discussion: Ch. 2 The Nature of Leadership; Ch. 3 Developing Leadership
Class Follow-Up Journal Entries:

1. Which leadership styles come naturally to you? What can you do to improve/strengthen those styles?
2. Which leadership styles are you least comfortable with? What can you do to improve/strengthen those styles?
3. Look back at your 5-year plan and answer the following:
   a. How can a coach help you?
   b. How can a mentor help you?
   c. How can a sponsor help you?

Assignments for next class (all available on Canvas):

1. Ten Fatal Flaws that Derail Leaders;
2. 7 Personality Traits of a Great Leader;
3. 7 Traits of Highly Effective Leaders: Developing Leadership Character;
4. Leadership: Do Traits Matter?; and
5. 5 Characteristics of Charismatic Leaders

Journal Entries after Reading the Assignments for Friday's class:

1. Write down 5 positive traits that mean something to you, and explain why they are meaningful.
2. Write down 5 negative traits that mean something to you, and explain why they are meaningful.

Day 2 Friday, November 18, 2016

Guest Lecturer: [Former U.S. Congressman]

Journal:

1. Write down your "take-aways" from [speaker]'s lecture this morning;
2. What else did you learn?;
3. What can you use in your own leadership style?; and
4. Have you ever thought about running for public office?

Assignment for next class:

1. Ch. 4 Leadership Capabilities, pg. 40-67;
2. Read this article: https://medium.com/the-mission/one-behavior-separates-the-successful-from-the-average-936f7ff04793#.7emm1w76s;
3. Leadership Style Quiz – http://www.kent.ac.uk/careers/sk/leadership.htm;
4. Take the Grit Test (http://angeladuckworth.com/grit-scale/);
5. Read "Grit: A Critical Success Strategy" from the Wisconsin Lawyer; and
6. Take the Growth Mindset test (http://mindsetonline.com/testyourmindset/step1.php).

Week 3: Traits & Styles

Day 1 Wednesday, November 23, 2016

Discussion: Ch. 4 Leadership Capabilities, pg. 40-67; ABA Grit Scenarios

Notes: We have posted the slides from class on Canvas.

Journal:

1. Challenge Ropes Course
   a. What did you learn from the course that you did not anticipate?
   b. What did you learn that you can apply to your daily life?
2. Take the first scenario, "Struggling with your workload." As you read the scenario, keep in mind that regardless of your path in life, there will be times when you are already at capacity, and will be asked to do more.

a. Identify the possible leadership style(s) of John.
b. What positive and negative characteristics would you expect a leader with that style to exhibit?
c. If you decided to accept, what strategies might you implement to be successful in that environment.

3. Take the second scenario, "Billing Credit Dispute." As you read the scenario, keep in mind that regardless of your path in life, there will be times when you are working with others who you disagree with or who may have taken advantage of you.
   a. Identify the possible leadership style(s) of Jim.
   b. What positive and negative characteristics would you expect a leader with that style to exhibit?
   c. If you decided to accept, what strategies might you implement to be successful in that environment.

Week 4: MBTI and Conflict Resolution

Day 1 Wednesday, November 30, 2016

MBTI Results: [Career Development staff member, Baylor University, brought in to discuss MBTI results]

Journal:

1. Thinking about your results from today, look back at your journal entry from Wednesday, November 16, 2016. How does what you learned about yourself today impact your assessment of your own strengths and weaknesses?
2. In what ways do the MBTI results inform your understanding of your strengths and weaknesses?
3. If you have taken the MBTI previously and your results are different, to what do you attribute the difference or differences?

Assignments for next class:

1. Ch. 4 pages 60-67;
2. Churchill, JFK, and MLK Speeches – read the attached primers regarding the context surrounding each speech. Then watch the videos of each speech, which are available on Canvas;
3. Complete the Thomas-Kilmann Conflict Mode Questionnaire; and
4. Understanding Conflict Handling Styles (available on Canvas – complete the Thomas-Kilmann first).

Assignment for next class: Amity Island Focus Group Case Study from Harvard Law School

1. To everyone: please see the attached document "general instructions for facilitators."
2. For those that drew a short straw: we will follow up individually with your assignment for Friday's Focus Group. Be sure to read your packet carefully and keep your memorandum confidential.

3. [Facilitator]: you will be the facilitator for Friday's Focus Group, so please prepare for that role (as such, you will not receive another email).

Day 2 Friday, December 2, 2016

The Right Leader at the Right Time – JFK/MLK/Churchill

Interactive/Group Discussion: Review all three videos, then have each group read background material on each, then each group leads the discussion on the background of the video

Amity Island Focus Group

Journal:

1. Come up with an outline of how you would run a facilitation now that you've done or observed one.
   a. What would be your starting point?
   b. What are your steps and objectives?
   c. (Laura, what do you think went well, and what would you do differently on your next facilitation?)
2. Which category of the Thomas-Kilmann Conflict Mode assessment are you most closely associated?
3. Which of the other categories are you least comfortable with?
4. Think about your top categories from the T-K Conflict Mode Assessment. Next, think about your MBTI results. Considering your results from both instruments in the context of conflict management, what do you need to work on to become better at conflict resolution?

Assignments for next class:

1. Ch. 7 Diversity in Leadership;
2. What do leaders need to know about diversity? (available on Canvas); and
3. Diversity and Conflict Management Exercise (available on Canvas).

Optional Assignment: We found a free version of the Enneagram Test, in case you would like to take it: http://enneagram.net/tests/sampler/samplerlogin.aspx.

Week 5: Diversity in Leadership and Leadership Scandals

Day 1 Wednesday, December 7, 2016

Discussion: The Business Case for Diversity

Journal:

1. Were you surprised by any of the statistics we covered in class? Why?
2. As discussed by Sheryl Sandberg in Lean In, one's own personal empowerment in necessary to achieve your full potential. This applies to all of us regardless of our background or circumstances. Identify for yourself one aspect that could potentially keep you from seeking opportunities outside your comfort zone. What is your plan to overcome this inhibition?
3. Using the diversity exercise, give us your five most important strategies to create a productive team with the individuals in your group.

Assignments for next class:

1. Ch. 6 Leadership Scandals;
2. Ch. 4 pages 67-81;
3. Eleven Rules for Media Relations (available on Canvas);
4. How to Communicate a Message Effectively (available on Canvas); and
5. Communication as Changing the Negotiation Game (available on Canvas).

Day 2 Friday, December 9, 2016

Guest Lecturer: [Former Waco News Anchor, over 25 years reporting]

Journal:

1. What did you learn from today's discussion and exercise?
2. For those of you who were the reporters during today's mock press conference, write the statement you would have given to open the conference.
3. [Students that answered questions during the press conference], you both did very well today. Reflect on how the mock press conference went – what would you do differently?
4. As lawyers, we want to be the first person that our clients call when they have a crisis.
    a. If you had gotten that call from this client after this crisis, what would be your first priorities?
    b. In crafting a message to help your client during a press conference, how will you ensure that the media (and your client) see you as a representative ("the face") for them, not merely a client?
    c. How would you ensure that your clients know that they are your priority in a crisis situation like this?
    d. What about during times of normal operation?

Assignments for next class:

1. Ch. 5 Ethics in Leadership;
2. Texas Lawyer's Creed (available on Canvas);
3. ABA Model Rules of Professional Conduct: Preamble & Scope (available on Canvas);
4. Enron, Accounting and Lawyers – Matthew Barrett (available on Canvas);
5. How to be an Enron Millionaire (available on Canvas); and
6. Non-Profit Dilemma 2014 (available on Canvas).

Week 6: Ethics in Leadership and Famous Leader Presentations

Day 1 Wednesday, December 14, 2016

Discussion: Ch. 5 Ethics in Leadership

Journal:

1. How will you ensure that you do not fall into the same trap that Kristina Mordaunt found herself in?
2. Read the Texas Lawyer's Creed. Everyone who reads the Creed carefully has a different "take-away" after reading it. What stands out to you? How will you make sure that you are upholding the principles in the Creed throughout your legal career?
3. Please see the attached article about personal and professional credos. Draft your own credo.

Day 2 Friday, December 16, 2016

Famous Leader Presentations

Journal:

1. What do you feel went well in your presentation today and what could have been better?; What can you work on to improve your ability to make even more memorable, impressive presentations?
2. From the other presentations (not your own), list something you learned that you found helpful or interesting. From the other presentations, what was something you learned that you can use in your own leadership development?

Assignment for next class:

1. Ch. 8 Leadership in Law Firms;
2. Read Leadership and Self-Deception; and
3. Review profile of [next class' speaker].

Week 7: Facing Difficult Decisions and Effective Leadership

Day 1 Wednesday, January 4, 2017

Guest Lecturer: [Managing partner of large law firm in Texas]
Journal: Write down your "take-aways" from [speaker]'s lecture. What did you learn? What can you use in your own leadership style?
Assignment for next class: Three Baylor Lawyers (available on Canvas).

Day 2 Friday, January 6, 2017

Guest Lecturer: Professor Michael Morrison (Baylor Law School)
Journal: Write down your "take-aways" from Professor Morrison's lecture. What did you learn? What can you use in your own leadership style?
Assignment for next class: How to Be a Better Listener (available on Canvas).

Week 8: Artful Listening and Leadership for Social Change

Day 1 Wednesday, January 11, 2017

Guest Lecturer: [Former Judge, Former University President]
Journal:

1. Who do you know to be an "artful listener?" What was your relationship with, and general opinion of, that person? Until the presentation today did you identify that skill in this person?

2. How would you describe your ability to be an artful listener? Whether you are strong or not, take time this weekend and be intentional about being an artful listener to at least one person. It needs to be a person with whom you have had other encounters. Journal about how that encounter was different from other encounters.
3. Name a person you know to be intentional about reaching out to encourage others on a regular basis and give an example.
4. Describe 3 specific acts you plan to implement as a "habit" in your professional career to encourage those who work for you or your employer.

Assignments for next class:

1. Ch. 9 Leadership for Social Change;
2. Texas Access to Justice Facts (available on Canvas);
3. Executive Summary of the ABA's Report on the Future of Legal Services in the United States (available on Canvas); and
4. Watch the ABA video, Be The Change: https://www.youtube.com/watch?v=hvBBUrejuiI.

Day 2 Friday, January 13, 2017

Guest Lecturer: [Accomplished Baylor Lawyer who decided to retire from a high-profile litigation practice to run a non-profit]

Journal:

1. Re-watch the ABA video, Be The Change: https://www.youtube.com/watch?v=hvBBUrejuiI.
   a. What is your reaction to this video?
   b. Do you feel a calling to lead on a particular issue? If so, what is it and how will you do it?
   c. Did any of the statistics shock you? Why or why not?
2. List three issues that you think need to be addressed in our profession or in our society.
   a. Do you see yourself involved in any of these? How will you get involved? What will be your first steps?
   b. If you do not see yourself involved in these, what are you passionate about? Where do you want to make a difference? How do you see your career as making a difference or giving you the opportunity to make a difference?

Assignment for next class: Ch. 10 The Leader's Legacy.

Week 9: The Leader's Legacy

Day 1 Wednesday, January 18, 2017

Discussion: The Leader's Legacy

Journal:

1. Look back at your definition of leadership from the beginning of class. Has it changed? If so, how and what is your current understanding of its meaning?

2. Look back at your 5-year plan. Has it changed?
3. How did this class help you on your journey to make a difference in the lives of others?

Day 2	Friday, January 20, 2017
	Guest Lecturer: [Baylor Lawyer who is CEO of a large company in Dallas] Journal: Looking at [speaker]'s list of 25 keys to effective leadership and personal success, which 5 are you currently doing well? Which 5 are you not doing well but you believe you would benefit by being more intentional in incorporating into your life.

BAYLOR LAW SCHOOL

LEADERSHIP DEVELOPMENT PROGRAM

As a professional school, Baylor Law School has a particular obligation to develop students who not only can provide legal services competently to their clients upon graduation, but also will assume leadership within their community and the legal profession.

Lawyers Serve as Leaders

Throughout history, lawyers have played a critical role in shaping stable, peaceful and prosperous societies. In our own country, no other profession accounts for more of our leaders. Thirty-five of the fifty-five delegates to the Constitutional Convention in 1787 were lawyers.[1] Twenty-five of the forty-four United States presidents have been lawyers.[2] The occupation with the largest representation in U.S. Congress is the legal profession.[3] All over this country in every aspect of society, lawyers lead. Lawyers serve as heads of government, business and nonprofit organizations. Additionally, lawyers influence other leaders daily as they interact with and represent them. Perhaps more importantly, all lawyers have a duty to lead their clients by providing principled counseling.[4]

At Baylor we pride ourselves on producing "Baylor Lawyers" who will be actively and civically engaged in their communities. From our mission statement:

> As a professional school, the School of Law has a particular obligation to develop students who have the character, maturity, skills, and values needed to assume leadership positions in a profession charged with responsibility for maintaining and improving our nation's system of justice. . . The obligation to develop students prepared for professional leadership also mandates that the School of Law expose students to the history, traditions, and values of the legal profession. Among these values is a commitment to public service and leadership within one's community and profession. . .[5]

The Law School's desire to produce leaders is accordant with the University's *Pro Futuris* strategic vision for Baylor's distinctive role in higher education: "We strive to prepare students to make a difference in our world as citizens and leaders who have the faith and integrity to do what is right in the face of competing pressures and to have a passion to apply their knowledge to ends that transcend mere self-interest."[6]

Leadership development has always been a core component of the education and training of every Baylor Law student. From day one of each student's orientation through our rigorous third-year Practice

Court program, we are developing individuals who will be prepared to seek and assume leadership roles across a wide spectrum of organizations within their communities and within the legal profession. While leadership training is part of the fabric of Baylor Law School, specific emphasis and training is important and helpful to adequately equip our graduates with the leadership skills they will need in an increasingly-complex and ever-changing environment.

Formal Leadership Training More Important Than Ever

Recent leadership studies suggest the competencies that will be most valuable to developing future leaders appear to be changing as organizations and the world become "more complex, volatile and unpredictable."[7] Leaders of the future need to have "more complex and adaptable thinking abilities."[8] Creativity is an increasingly important skill. A recent study of Trends in Executive Development found that a common concern of CEOs is the concern that the individuals within their organizations being groomed for leadership were lacking in "the ability to think strategically and manage change effectively."[9] The need for students to focus on developing analytical skills is more important than ever. Additional instruction on, and practice in, leadership strategies and skills will better prepare students for their future roles in effectively manage people and organizations they will lead.

An increasing number of legal publications discuss the importance of formal leadership training for students in law school.[10] A growing number of law schools have created leadership programs.[11] Leadership skills and acquiring leadership attributes are fundamental lawyering skills which can be gained through experience over a period of time. Developing leadership skills and professional competencies while in law school can provide competitive advantages to graduates in the marketplace especially in an era where legal employers are less willing to hire inexperienced law graduates when the market is ripe with experienced lawyers seeking a change in employment.

An emphasis on public service and leadership while in law school will help all students build careers and habits leading to satisfying and fulfilling lives in the law. Specific leadership training in law school not only helps law graduates be more successful as lawyers and leaders but also has the added bonus of improving the reputation of lawyers and the legal profession in general.[12]

Requirements for Baylor Law School Program

Successful completion of the Leadership Development Program requirements leads to a certificate and recognition at graduation. To successfully complete the Leadership Development Program, a student will be required to complete the following:

1. Take the two-hour Leadership Development class. Since this class is a limited enrollment class, priority will be given to students participating in the Leadership Development Program.
2. Complete a personal development and team building course, such as a Ropes Challenge Course.
3. Leadership students must complete twenty-three hours of Professional Development programming and at least five hours must be designated as Leadership Development programming. For students entering law school in the Fall 2013 quarter or later, their requirement is an additional five hours of programming approved as professional responsibility

hours in addition to the eighteen hours of Professional Development programming required for graduation.

4. Serve as an officer of a Baylor Law School student organization for a minimum of three quarters. While serving as an officer, the student must perform a minimum of 25 hours of service related to the activities of the organization.
5. Complete 25 hours of community service (including *pro bono* work).
6. Serve as an intern for a charitable or community organization's director or management team, working a minimum of 45 hours. Alternatively, a student can work as an extern for a legislator (either state or federal level) for a minimum of 45 hours.

Coaching

If you are interested, as a Leadership Development Program participant, we will do our best to introduce you to a coach who fits your interests in the geographic region where you want to practice.

If you have questions, please see Associate Dean Leah Teague or Assistant Dean of Student Affairs Stephen Rispoli.

To declare your intent to complete the Leadership Development Program, complete the Leadership Development Intent to Participate Form and deliver it to Dean Teague.

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[1] AMERICA'S FOUNDING FATHERS: DELEGATES TO THE CONSTITUTIONAL CONVENTION. Available at http://www.archives.gov/exhibits/charters/constitution_founding_fathers_overview.html

[222] Dan Slater, *Barack Obama: The U.S.'s 44th President (and 25th Lawyer-President!)*, WALL ST. J., Nov. 5, 2008. Available at http://blogs.wsj.com/law/2008/11/05/barack-obama-the-uss-44th-president-and-24th-lawyer-president/.

[3] Thirty-eight percent of the Members of the House and fifty-seven percent of the Senators in the 113rd Congress. JENNIFER MANNING. MEMBERSHIP OF THE 113RD CONGRESS: A PROFILE 2 (Congressional Research Service, May 29, 2013). Available at http://www.fas.org/sgp/crs/misc/R42964.pdf.

[4] HERB RUBENSTEIN, LEADERSHIP FOR LAWYERS 3 (2d ed. 2008)

[5] Baylor Law School Mission Statement. Available at http://www.baylor.edu/law/about/index.php?id=76319.

[6] *Pro Futuris:* Baylor's Distinctive Role. Available at http://www.baylor.edu/profuturis/index.php?id=91098.

[7] Nick Petrie, Future Trends in Leadership Development, Center for Creative Leadership, December 2011, pg 6.

[8] *Id.*

[9] *Id.* At 9 (quoting EDA Pearson, *Trends in Executive Development.* Available at http://www.executivedevelopment.com/Portal/O/docs/EDA_Trends_09_Survey%20Summary.pdf).

[10] HERB RUBENSTEIN, LEADERSHIP FOR LAWYERS (2d ed. 2008); Ben W. Heineman, Jr., *Law and Leadership,* 56 J. LEGAL EDUC. 596 (2006); Donald J.P Polden, *Educating Law Students for Leasdership Roles and Responsibilities, 39* U. TOL. L. REV. 353 (2008); Faith R. James, *Engaging Law Students in Leadership,* 30? ST. LOUIS U. PUBLIC L. REV. 409 (2011)

[11] With a quick internet search I found leadership programs at the following law schools: Columbia Law School, Elon University School of Law, Harvard Law School, New York University Law School, Northwestern Law School, Steton University School of Law, University of Chicago School of Law, University of Maryland School of Law, University of Minnesota Law School, University of Pennsylvania School of Law, University of Washington School of Law, William & Mary Law School

[12] HERB RUBENSTEIN, LEADERSHIP FOR LAWYERS 4 (2d ed. 2008)

Advanced Topics Seminar
Leadership For Lawyers

Fall 2016
Law 5756

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Course Description

Prerequisite, enrollment in the J.D. This course focuses on the theory and practice of leadership and its implications in the professional and personal lives of lawyers and students. Students will study how lawyers, including those who work at firms, in-house or in other roles, view leadership, ethics and their roles in society. Students will learn how lawyers who are leaders are more successful and fulfilled in their careers in law, business and other fields. Through interactive exercises of problems lawyers encounter in practice, readings, and guest presentations, students will develop their capacity to lead and practice law effectively and with integrity. Students will gain insight into and develop their values, identity, and self-leadership. Topics include: the roles of lawyers with clients and in society, leadership paradigms (e.g., power vs. service), leading vs. managing, risk-assessment and decision-making, values-based leadership, communicating as a leader, understanding yourself and others, leading change and articulating a vision. This course will qualify for the Legal Skills Requirement and the Business Emphasis Certificate. (3 Credits).

Course Objectives

1. Develop the ability to act as a leader as lawyer and in other roles and gain insight into individual abilities, strengths and styles of leadership and their impact on others and on an organization.

2. Review and apply contemporary leadership models that are especially relevant to transformational organizational processes in a democracy, most notably Greenleaf's Servant Leadership, and Kouzes & Posner's 5 Leadership Practices.

3. Generate an appreciation for the role of self-understanding, and the internal work of leadership as a core resource for enhancing individual and organizational effectiveness.

4. Appreciate the relationship between structural conditions and individual leadership assumptions and behaviors in legal organizations and others.

5. To understand the challenges of leadership for lawyers and articulate one's theory of leadership and values concerning the roles of lawyers.

Required Texts (These are paperback books and not textbooks.)

Kent Keith. The Case For Servant Leadership (2e). Westfield, IN.: The Greenleaf Center for Servant Leadership. 2012.
James Kouzes & Barry Posner. The Leadership Challenge (5e). San Francisco: Jossey Bass. 2012.
(Additional articles and readings to be assigned.)

Curriculum and Approach

This experiential course will be taught primarily through case studies, exercises and simulations of situations lawyers and leaders encounter. Students will be introduced in the first half of the course to leadership approaches, the Servant-Leadership and the five practices of leadership by Kouzes and Posner. In the second half of the class students will apply these approaches to various situations and prepare a paper that will be presented on a topic that they choose with input from the faculty. No prior knowledge or experience in business or with transactions is needed.

As in the real world, students will receive feedback on their work and are encouraged to provide comments and feedback on the progress of the class and the projects.

Assignments, Attendance and Class Participation

This is a class in which students will learn by doing. Preparation for class is critical for students to participate effectively in exercises, simulations, and class discussions. In addition to carefully studying the readings and preparing the exercises, students will need to have a command of the material to allow them to discuss it in class and apply it in exercises and simulations both in and outside of class. Work submitted by students may be reviewed in class, except for reflections or other communications that a student requests be confidential. Students are encouraged to help each other and collaborate in class by offering constructive and professional comments and suggestions when appropriate, except for the Final Paper that may be discussed only in class.

Because the assignments and classroom work build on each other, a student who is not prepared or misses class will not only lose the benefit of what is covered in class, but also may lack the foundation to complete future work. Since the work in class will involve exercises and simulations, students who do not attend, are not prepared or arrive late, will not only diminish their learning but also may negatively impact the learning experience of other students.

To receive full credit, assignments must be timely submitted in the required manner and in proper form. Repeated failure to timely submit assignments in the proper form and method will have adverse consequences, including loss of credit for the assignment.

Attendance is mandatory. If a student is aware that he or she will be late for class or any class related activity for reasons beyond his or her control, he or she must, whenever possible, communicate the reason for absences in advance and notify any student with whom he or she is scheduled to work. It is the responsibility of the student to contact the teachers, to complete the assigned work, obtain future assignments and make arrangements to ensure the student is able to progress.

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Grading – This is the proposed approach. Any changes will be confirmed in writing.

(1) Commitment, Attendance, & Preparation – 30%
Ongoing commitment to the course and one's colleagues is expected. This includes being prepared, completing the reading, engaging fully in all class activities (dialogue, discussion, exercises, assessments etc.) and reflections. Graded on a credit/no credit basis except in close cases the level of commitment may be considered

(2) Analysis and Presentations of Case Studies and Problems--30%
Students will analyze and present to the class case studies and problems to apply the theories and insights developed from the readings and class. Case studies will be presented in Weeks 3-12 and students will be assigned times in advance.

(3) Leadership Final Paper – 40%.
The final paper will allow students to articulate and apply the theories of leadership covered in the course on a topic of their choosing to the law or other career with faculty input, including their personal philosophy of leadership, with specific, clear examples in an evidence-based essay.

Professionalism

Professionalism is at the core of a lawyer's identity. We will be professional in all of our dealings, including but not limited to the following:

Respect: first and foremost, we will respect the dignity of each member of the class and conduct ourselves in a manner that supports each other as colleagues.

Integrity: is the cornerstone of a lawyer's identity and reputation. Each of us will conduct ourselves with integrity in our dealings in and outside of class. For the readings and exercises, students may consult each other so long as each student does their own work. For the graded assignments, students will not consult or have their work reviewed, edited or proofread by students or others outside of class; provided that students may consult with the teacher and Fellows.

Effort: this is an introductory course in which students are learning and doing many activities for the first time. Mistakes are part of the process and may present important learning opportunities. Students are not expected to work at the level of practicing lawyers but are expected to make efforts within their capabilities. This includes submitting work that has a professional appearance, and with attention to detail.

Communications: lawyers ensure their communications are professional in substance, manner, and appearance. Teachers and students should set an example in the course and only use language that would be appropriate for professional dealings in all forms of communication whether it be spoken, written, email, etc. We should also communicate in a timely manner by monitoring phones, email and Blackboard. We should respond the same day as a communication is made or the next business day at the latest whenever possible.

Timeliness: lawyers complete work in a timely manner in order to fulfill their responsibilities to clients and the legal system. We will make every effort to be timely in terms of attendance,

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communications and work.

Distractions: lawyers give their full attention to their clients, judges and other lawyers when they are communicating, meeting, or in proceedings. We will not use laptops, tablets, cell phones or any devices during class; or engage in any form of electronic communication during class. We will not engage in conduct during class that disrupts or distracts others. Cell phones and other devices that distract or disrupt class shall be turned off. Violation may result in a loss of credit and may have additional adverse consequences. We will not eat during class. If not eating during class presents an issue; please contact Dean Jayne Kacer or your teacher.

Chapman University Academic Integrity Policy

"Chapman University is a community of scholars that emphasizes the mutual responsibility of all members to seek knowledge honestly and in good faith. Students are responsible for doing their own work and academic dishonesty of any kind will be subject to sanction by the instructor and referral to the University's Academic Integrity Committee, which may impose additional sanctions including expulsion. Please see the full description of Chapman University's Policy on Academic Integrity at www.chapman.edu/academics/academic-integrity."

Please know that plagiarism and cheating in ANY form will NOT be tolerated. As a leadership course, it is especially vital that each student adhere to the highest standards of personal integrity. ***ALL work submitted must be the original work of the student, and secondary sources relied upon for ideas (as well as direct quotes, of course) must be properly attributed and cited.*** Failure to comply with this standard will result in the student failing the class and possible additional sanctions.

Chapman University Equity and Diversity Policy

Chapman University is committed to ensuring equality and valuing diversity. Students and professors are reminded to show respect at all times as outlined in Chapman's Harassment and Discrimination Policy: http://tinyurl.com/CUHarasssment-Discrimination. Any violations of this policy should be discussed with the professor, the Dean of Students and/or otherwise reported in accordance with this policy.

Chapman University Students with Disabilities Policy

In compliance with ADA guidelines, students who have any condition, either permanent or temporary, that might affect their ability to perform in this class are encouraged to contact the Office of Disability Services. If you will need to utilize your approved accommodations in this class, please follow the proper notification procedure for informing your professor(s). This notification process must occur more than a week before any accommodation can be utilized. Please contact Disability Services at (714) 516-4520 or (www.chapman.edu/students/student-health-services/disability-services) if you have questions regarding this procedure, or for information and to make an appointment to discuss and/or request potential accommodations based on documentation of your disability. Once formal approval of your need for an accommodation has been granted, you are encouraged to talk with your professor(s) about your accommodation options. The granting of any accommodation will not be retroactive and cannot jeopardize the academic standards or integrity of the course.

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INITIAL COURSE OUTLINE/SCHEDULE
(Subject to Change)
SERVANT LEADERSHIP refers to Kent Keith, The Case For Servant Leadership (2e).
LEADERSHIP CHALLENGE refers to James Kouzes & Barry Posner, The Leadership Challenge (5e).
(+ Selected articles and readings as assigned)

Week	Date	Topic	Assignments
1		Introduction; Course Overview; Leading & Managing	Exercise: "Leadership, Power & Movement" Exercise: "The Leadership Shield" Lincoln's Lesson for Lawyers by Stipanowich
2		Leading as a Way of Serving	**SERVANT LEADERSHIP**, Introduction + Chapters 1-5 Exercises: "Symbols of Service" and My Leadership Example
3		The 5 Practices of Exemplary Leaders Modeling the Way (1)	Review **LEADERSHIP CHALLENGE** Intro + Chapters 1-3; Case Study on Modeling the Way
4		Inspiring a Shared Vision (2)	Review **LEADERSHIP CHALLENGE** Chapters 4-5 Case Study on Inspiring a Shared Vision
5		Challenging the Process (3)	Review **LEADERSHIP CHALLENGE** Chapters 6-7 Case Study on Challenging the Process
6		Enabling Others (4)	Review **LEADERSHIP CHALLENGE** Chapters 8-9 Case Study on Enabling Others
7		Encourage the Heart (5)	Review **LEADERSHIP CHALLENGE** Chapters 10-12 Case Study on Encourage the Heart
8		Leading with Integrity Business and Law: Dealing with Different Value Systems and Roles Discussion of Topic for Final Paper and Presentation	The Cardboard Client by Kathryn Kruse Case Study on the Role of Lawyers and Really is the Client
9		Communicating as a Leader	Exercise: "JetFighter" HANDOUTS, "What you don't know about making decisions"; "Value-creating communication" Understanding your style and others
10		Leadership in Action Risk-Assessment & Decision-Making Submission of Topic for Final Paper and Presentation	Case study- Making Difficult Decision—Short Term v. Long Term and Multiple Constituencies
12		Leading Change; Articulating a Vision and Achieving Impact	Case Study- Should the Firm Take the Case?
13		Student Presentations	
14		Student Presentations	

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LEADERSHIP MORE THAN JUST AN
"OTHER PROFESSIONAL SKILL"

OVERVIEW OF AN EXPERIENTIAL COURSE IN
LEADERSHIP FOR LAWYERS

By
DAVID H. GIBBS

Teaching Cultural Competency and Other Professional Skills
Suggested by ABA Standard 302
Institute for Law Teaching and Learning
University of Arkansas at Little Rock William H. Bowen School of Law
July 7-8, 2017

In the Fall of 2016 Professor Mark Maier, PHD of the Chapman School of Education and I taught a special topics seminar on Leadership for Lawyers. Co-teaching an experiential leadership development class with Mark showed me that students have an extraordinary capacity for leadership that can be developed in an experiential course. Mark, who founded the graduate leadership program at Chapman, has been a consultant, taught and written about leadership for many years, was the ideal partner to co-teach the first course on leadership at Chapman.

The premises of the course are:

- Leadership is central to what lawyers do every day in practice and is not limited to those in positions of power, great historical figures or people of certain ages or experience.
- Students can learn about leadership by applying leadership theories developed in business and education to their own experiences with leadership and problems lawyers face in practice.
- Leadership development can help law students develop their professional identities and find the confidence and ability to pursue their own goals.
- We structured the course to address a number of challenges, including:
    - Student and lawyers often focus on legal issues and not the picture.
    - Students practice working with facts provided rather than investigating and asking questions.
    - Many believe that leadership is for heroes, saints and celebrities and not law students, faculty or lawyers and cannot be learned.
    - Law school, youth and inexperience lead students to lack confidence in their capabilities.
    -

We organized the course to provide students with a foundation in leadership theories and concepts that they would apply to situations lawyers encounter and their own experiences through readings, exercises and simulations as follows:

A. We considered the questions of what leadership is and what leadership means to lawyers. Based on Tom Stipanowich's essay on Lincoln's Lessons for Lawyers we asked what is the difference between a good lawyer, person, teammate or speaker and leader?

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We looked at the leadership concepts of "leading from above", "leading from the side" and "leading from below" to consider how leadership applies to lawyers and especially young lawyers and law students. We discussed dimensions of lawyer leadership that we would consider throughout the course:

a. Self-leadership
b. Leadership with clients, colleagues and members of a team
c. Leadership with other parties, counsel and tribunals
d. Leadership by service to the profession and society

B. We examined the Servant Leader approach as articulated by Robert Greenleaf and the difference between servant leadership and power based models. Students studied the application of the Servant Leader approach as a model for lawyers and considered real world challenges for lawyers who have duties to their clients and organizations, the legal profession as officers of the court and to the profession and society.

C. For five weeks students led and taught classes on the five practices of leadership by Kouzes and Posner and worked on cases. The Five Practice of Leadership were

1. Modelling the way
   - Clarify values by finding your voice and affirming shared ideals.
   - Set the example by aligning actions with shared values.
2. Inspiring a shared vision
   - Envision the future by imagining exciting and ennobling possibilities.
   - Enlist others in a common vision by appealing to shared aspirations.
3. Challenging the process
   - Search for opportunities by seizing the initiative and by looking outward for innovative ways to improve.
   - Experiment and take risks by constantly generating small wins and learning from experience.
4. Empowering others
   - Foster collaboration by building trust and facilitating relationships.
   - Strengthen others by increasing self- determination and developing competence.
5. Encouraging the heart
   - Recognize contributions by showing appreciation for individual excellence.
   - Celebrate the values and victories by creating a spirit of community

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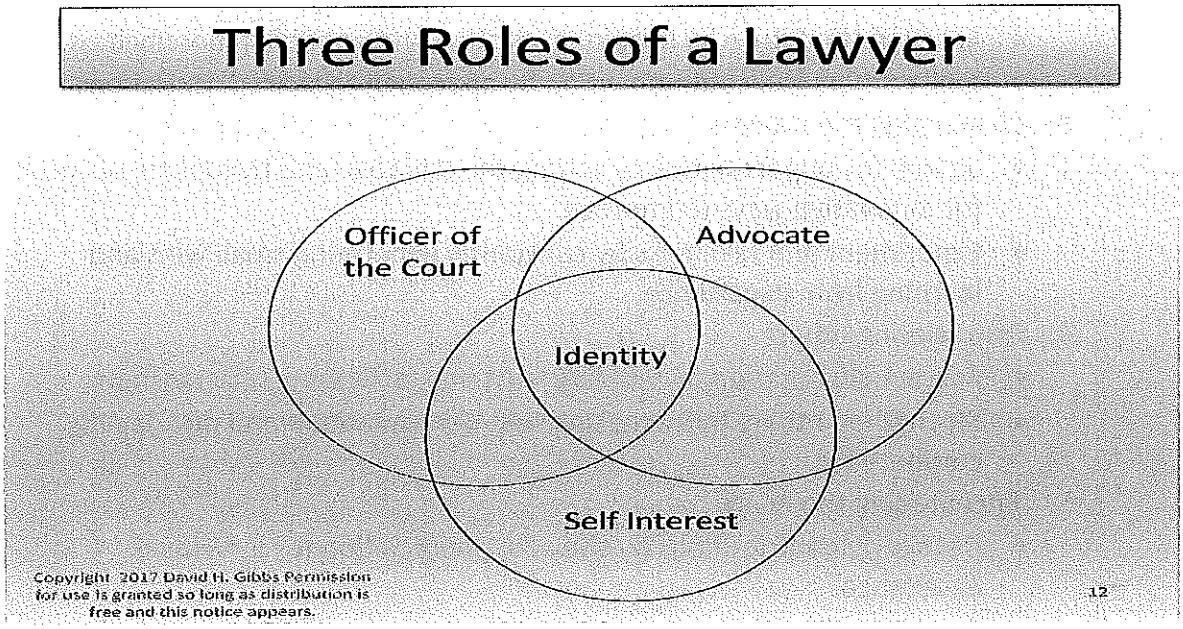
D. During the course, we became a team by: (1) establishing learning agreements; (2) setting and sharing goals for the semester; (3) breaking down barriers by checking in at the beginning of class with one personal and one professional event; (4) helping each other with assignments, feedback on work each and leadership issues; and (5) at mid-semester students met without the teachers to review their goals and determine proceed how to proceed for the second half of the semester.

E. We studied three theories of legal representation: (1) the Holmes "bad man theory" based in his essay the "The Path of the Law," (2) David Luhan's public statesman or public interest approach; and the "whole client approach" as articulated in Katherine Kruse's article "Beyond Cardboard Clients in Legal Ethics". These theories were the bridge between leadership ideas developed in other fields to law practice. Using Simon Sinek's terminology, students considered not just the "what" or the "how" of a situation but the "why." Even more importantly, Mark Maier suggested that students think deeply about the "who"—who their clients are and their own identity and values.

F. We considered the three roles of lawyers and how they are balanced by a lawyer's identity.



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G. Students applied these concepts to a series of simulations that I designed in a manner similar to Harvard Business School cases. The students were given a set of facts, asked to prepare individually in writing how to approach the problem in advance of class. In class students would work as a group or teams on their approaches. After presentation and discussion of their proposals we would share what participants actually did and students would be asked to reflect in writing on the exercises.

The problems were complex and required students to analyze facts, ask questions, spot issues, apply the law and canons of ethics, consider the issues, the deeper context and develop solutions that required leadership in different ways. We studied a number of problems, including:

- How should a managing partner of a law firm with 65 lawyers deal with a request to handle a major pro bono case for a nursing mother who was prevented from taking her medical board exams? (Should the firm take the case? Who should decide? Who should work on the case? How should the time spent on the case be treated for compensation and advancement?)
- Preparing a press release for Mattel about the findings that lead paint was placed on toys for tots manufactured in China and other advice how to proceed. Is the answer in the law? Risk analysis or in understanding "who" the client is? (We adapted this from the Harvard Problem Solving Course.)
- How should a young general counsel proceed when provided with information of serious financial fraud at the company at which she is employed?
- Should an attorney hired by an insurance company to represent a defendant in a personal injury lawsuit disclose to the plaintiff and his counsel that the plaintiff suffers from a heart condition which if not treated could cause death or serious illness. The plaintiff and his counsel did not know about the condition and the information is not subject to discovery. (This problem was based on the Spaulding v. Zimmerman case.)
- A racing car simulation based of the Challenger disaster to demonstrate the impact of culture and communications on decision-making, the role of lawyers and the importance of a moral compass. (Interestingly, the lawyers for the manufacturer of the booster that failed directed the

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employees to answer questions "yes" or "no" and not to volunteer any information. The Presidential Commission studying the disaster learned what happened only because certain employees disregarded those instructions.)

We used a leadership model for problem solving model which consisted of:

1. Who is the client? (and the other parties)
2. What are the goals of the client (and the other parties)
3. What do we know and need to know?
4. What are the options?
5. How should a decision be made and communicated and implemented?
6. What have we learned?

The students' analyses of the problems and questions were as insightful and sophisticated as experienced lawyers in practice.

H. Presentation to class for discussion and feedback of a final fact-based paper to the class applying the theories of leadership covered in class to philosophy of how lawyers should act as leaders. The students' presentations and papers were moving and displayed a depth of understanding and purpose that far exceeded our expectations.

Conclusion:

The experience confirmed that students could benefit from an experiential approach to leadership development that applied leadership concepts to the problems faced by lawyers.

Leadership is required of lawyers on a daily basis, but is not yet an important focus of the education and development of law students or lawyers. Leadership development is central to what the Carnegie Report called the "apprenticeship of the heart." Lawyers who are leaders are not only more successful but also are more fulfilled in their careers because of their service to others. Lawyers, law students and law faculty do not need to reinvent a well-established field. The question is how to adapt and apply leadership theory and practices to the special roles and responsibilities of lawyers.

I welcome the chance to learn from your suggestions and to share experiences or materials.

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