Thoughtful Curriculum Development Crucial to Legal Profession’s Future

The legal market has been changing rapidly, and the after-effects of the current economic downturn are likely to alter the practice of law, and legal education, in profound ways for the future. Law schools, which have benefited greatly from legal practice expansions and general economic prosperity for the past 50 years, are coming to grips with the realities of today. These include contraction in hiring and, in some instances, retrenchment at law firms and other legal employers. Successful law schools of the future will be those that both respond to a changing environment and have sound programs of legal education that are forward-looking.

In many ways, law schools will have to look more deliberately at their programs of legal education and listen more closely to what recent graduates, experienced alumni, and employers think about legal education. In the past few years, some law schools have tried major curriculum “reforms” with less than successful results. In analyzing what went wrong, frequently the “reforms” were driven with a particular endpoint in mind and support for the changes was not strong. Often missing was a thoughtful process leading to a consensus for change that was wide and deep. Indeed, even the use of the word “reform” was, to some extent, counterproductive to the processes at most law schools.

Rather than embarking on “reform,” law schools should engage in ongoing curriculum development. Smart law schools are relying upon some of the best thinking about how to develop a law school curriculum in a thoughtful, effective way. Some law schools, like our own, are embarking on a twofold approach to curriculum development. Schools must first identify and implement changes that can help current students and improve both the program of legal education and the business model of the law school quickly. Second, they must implement a process to develop the curriculum more comprehensively to meet future needs. This should include seeking input from alumni and employers working toward the goal of better preparing graduates to meet client needs.

Three years ago, two important books critiquing U.S. legal education were published. The first, Educating Lawyers, a Carnegie Foundation for the Advancement of Teaching report, concluded that the study of law required emphasis on three apprenticeships: acquisition of formal knowledge; development of practical skills; and development of professional identity in which formal knowledge and practical skills are integrated to focus on developing ethical, competent legal professionals. The second book, Best Practices for Legal Education: A Vision and a Road Map, primarily authored by Professor Roy Stuckey of the University of South Carolina, recommended a series of steps to better prepare students for the practice of law.

Both Educating Lawyers and Best Practices provide more than a critique of legal education. They advance useful ideas about structuring an effective curriculum-development process. The premise of curriculum development in Best Practices is that the overarching goal of law school is to prepare students for the effective, ethical practice of law.

Essential to achieving this goal is the integration of legal analysis and practical skills throughout the curriculum, starting in the first year of law school, as the Carnegie report also recommends. Best Practices outlines several steps for setting goals for legal education, ways to organize the program of instruction, and best practices for delivering legal instruction. It also stresses three key questions: 1) What outcomes (what graduates should be able to do on their first day of practice) do we expect for our students? 2) What is the best way (the most appropriate educational content and methodologies) for our students to achieve those outcomes? 3) How will we measure student achievement? In the process of identifying goals, effective curriculum planning involves a continuing dialogue with academics, practitioners, judges, licensing authorities, and the general public about how best to accomplish these goals. The first step toward fostering that dialogue usually begins by seeking these groups’ input concerning the lawyering skills and professional values law graduates should possess.

While thoughtful curriculum development has long been a priority at Washington University School of Law, we have redoubled our efforts in this area, including an informative discussion with our National Council last spring. As we move forward, we are continuing to seek input from alumni, practitioners, judges, employers, legal educators, and others. Current economic conditions may have accelerated the need for law schools to review their operations thoroughly, and successful law schools will engage in a healthy examination of curricula and best practices for professional development.

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