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A Conscious Institutional Strategy for Expanding Experiential Education

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Chapter 8

TRANSFORMING LEGAL EDUCATION AS AN IMPERATIVE IN TODAY'S WORLD

A. A CONSCIOUS INSTITUTIONAL STRATEGY FOR EXPANDING EXPERIENTIAL EDUCATION **By Lisa Radtke Bliss & Deborah Maranville**

1. Introduction

As law schools seek to better prepare students for the profession, they are expanding experiential education in traditional contexts such as theory and practice simulation skills courses, clinics, and externships. At the same time, they are also searching for opportunities to expose students to practical learning opportunities during the entire course of their legal education by incorporating experiential education throughout the curriculum. It is a best practice to develop conscious strategies for pursuing this effort. While *BEST PRACTICES FOR LEGAL EDUCATION*¹ called for the integration of teaching theory, doctrine, and practice, it did not address strategies for integrating experiential education across the curriculum.

2. Measures that Promote Experiential Education

Numerous measures can be part of a conscious institutional strategy to promote experiential education. A school might choose to hire faculty with significant law practice experience or education in teaching methods. It also might choose to recognize the scholarship of teaching for tenure purposes.² A school's administration might provide incentives to promote experiential education, such as offering teaching innovation grants to faculty to encourage the creation of new curriculum structures or the incorporation of experiential exercises into courses.³ Other measures include supporting faculty attendance at teaching conferences, and holding regular in-house

¹ ROY STUCKEY AND OTHERS, *BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP* (2007) [hereinafter *BEST PRACTICES*].

² See Chapter 8, Section C, *Leadership and Curricular Change*, below.

³ For example, Steven Kaminshine, the Dean of Georgia State University College of Law, awards teaching innovation grants to faculty who propose to develop a new course or significantly retool an existing course to integrate experiential education methods. The grants are awarded in lieu of summer research grants and pay the same amount as a summer research grant. Applicants must establish that the proposal is sustainable. Recipients of innovation grants are required to make a presentation to the faculty after teaching the course for which the grant was received in order to share the methods used and lessons learned.

faculty teaching workshops that teach about and model experiential education methods and sharing of ideas for integrating theory, doctrine, and practice. Additionally, the school might encourage doctrinally-focused faculty, especially those who do not have significant practice experience, to collaborate with either clinical faculty or local practitioners who may serve as adjuncts to co-create and co-teach courses with experiential components.

a. Shifting the Teaching Culture

Sometimes a conscious effort to promote experiential education will encompass efforts to shift the institutional culture, an endeavor that will inevitably require a period of time. It is a good practice to cultivate a culture of appreciation and enthusiasm around effective teaching generally, and this can be an important backdrop to promoting experiential education. Such efforts can include not only the structures identified above, but convening informal faculty gatherings during which teachers share innovative teaching ideas with one another. Fostering regular conversations about teaching invites faculty to reflect upon how they help students learn and to imagine different ways of doing so. Moreover, inviting teachers to share what they do in the classroom with their colleagues can yield exciting discoveries and opportunities for collaboration. Creating a space (physical or virtual) where teachers can share exercises and other examples can inspire creativity. The school's leaders in experiential education can serve as models and consultants for how to integrate experiential modules into classes and how to create new courses that include client representation or other experiential opportunities. The dean may further support and recognize innovation efforts by addressing them in faculty annual reviews, establishing awards for teaching innovation, and promoting faculty teaching innovation via the school's website⁴ and other promotional materials.

b. Fostering Development of Experiential Education Through Administrative Leadership

For many schools, consciously infusing experiential education throughout the curriculum will entail designating a faculty leader to oversee this task. The most visible approach to appointing a leader to oversee infusing experiential education throughout the curriculum in the early 2010s to appoint a "Director" or "Associate Dean" of Experiential Education. This strategy sends two strong messages: first, experiential offerings are an essential part of a law school's curriculum and, second, the school's offerings need to be expanded, integrated and sequenced.

The portfolio of persons assuming such appointments may vary depending upon the existing management structure of a school's experiential programs.⁵ Multiple factors

⁴ For example, the Georgia State University College of Law highlights the innovative teaching styles of ten law faculty, some of whom were recipients of teaching innovation grants, via a video on its website. See *Hands On Learning in the Curriculum*, at <http://law.gsu.edu/experiential-learning/>, archived at <http://perma.cc/57NR-AWDY>

⁵ Schools may combine this role with other duties, identifying those duties either via a single title or conferring multiple titles on the same person. For schools that identify roles using a combined title, see, e.g.,

are relevant in making such appointments. How developed are a law school's experiential offerings already? Are existing offerings part of well-integrated existing programs or do they operate as individual silos in a relatively uncoordinated fashion? How receptive are faculty members to efforts to coordinate experiential courses and incorporate experiential education throughout the curriculum? Are faculty members likely to resist what they may view as additional "middle manager" administrative appointments? Are resources available to give the designated individual time to devote energy to the needed tasks? More importantly, has the Dean given the person the authority to act? It is important to identify the goals for creating such a position and to discern the extent to which anyone currently within the law school is already doing some of the work that could help accomplish those goals.

Given the role, the Dean of Experiential Education is able to and should take a broad view of all the experiential programming offered by a school in order to support the growth, development and success of all the offerings. Clinics, externships and variations on traditional models of experiential education complement one another and are essential to the education of law students.⁶ A Dean of Experiential Education can ensure that students understand the breadth of a school's experiential offerings and should work with teachers in the school's various experiential programs to create student awareness and understanding of those programs and the unique benefits of different forms of experiential education.⁷ Depending on the school's existing experiential opportunities, mission, and location, a Dean of Experiential Education might focus on creating new in-house clinics and alternative clinic structures, externships, hybrids or simulation skills offerings, and creating newer structures such as practice labs or practicums.⁸ He may also expand experiential education by encouraging teachers of courses focused primarily on teaching doctrine to incorporate experiential exercises. For a relatively narrower effort, appointing a director of a particular experiential program, rather than appointing a Dean of Experiential Education, might be a sufficient first step. A school with relatively expansive experiential offerings, or with a faculty open to incorporating experiential education into doctrinally-focused courses and needing support to do so, might find an Associate Dean position with a broader purview more appropriate. If a significant portion of the school's faculty resists such an appointment, or the school does not devote the necessary resources to give the individual significant time to devote to the effort, creating an associate dean or director position is unlikely to generate meaningful change. Thus, in making such appointments, it is a best practice for schools to commit the necessary resources to ensure that the appointee is able to successfully achieve the goals of the initiative.

For most schools, appointing a person in this role puts a "face" on the experiential curriculum, thus communicating a message to all of the law school's constituencies,

Fordham University School of Law ("Associate Dean for Clinical and Experiential Programs"), Hamline University Law School ("Associate Dean of Experiential Education and Curriculum"), Elon University School of Law ("Associate Dean for Experiential Learning and Leadership"), and New York Law School ("Director, Office of Clinical and Experiential Learning").

⁶ See Chapter 5, Section F, *Experiential Education*, above.

⁷ *Id.*

⁸ See J.P. Ogilvy, *Guidelines for the Self Evaluation of Legal Education Clinics and Clinical Programs*, 15 THOMAS T. COOLEY J. PRACT. AND CLIN. LAW 1, 15 (2014) [hereinafter Ogilvy, *Guidelines for Self-Evaluation*].

including students, faculty, alumni, and the surrounding legal community, about the importance of and commitment to experiential education.⁹ One serving in this role may assist the law school and its students by educating new students about experiential programming at orientation. This early outreach¹⁰ can teach students about how their law school experiences will relate to their ultimate goal of becoming lawyers. This raises awareness among students about the existence and importance of experiential opportunities and helps them identify options relevant to their own learning. The person may also educate relevant practice communities, including potential employers, about how the school prepares students for practice. The person may also educate important alumni and donor stakeholders about how the law school curriculum is evolving. The appointment of a Dean of Experiential Education can also have the positive effect of raising the profile of the school's experiential programming and concomitant preparation of its graduates among the legal community and potential job market, current and prospective students, faculty recruits, the bench and bar, and the public at large.

Often the first task for a person in such a role is to survey the faculty to determine what they are already doing in their classrooms. Many talented and respected faculty members have been engaging in creative teaching for years, and a significant number may already be incorporating experiential education into their courses. A Dean of Experiential Education can assemble information about existing teaching practices and disseminate it to all faculty members. This allows junior faculty to see what senior faculty are doing, and vice versa. Sharing ideas about how to teach inspires faculty to learn and borrow from one another. They become better teachers in the process.

Faculty who have not engaged in the practice of law may find designing practical exercises or experiential modules to be challenging. A Dean of Experiential Education can assist directly or help cultivate collaborators from within the bench, bar, and alumni community who can help design exercises or even co-teach. Finding and matching collaborators from outside the institution with law faculty is beneficial to the institution because it breaks down the walls between what happens in law school and what happens in practice. Interacting with and learning from practicing lawyers enhances the connection between the study and practice of law. More importantly, it helps students contextualize their learning.

The needs of the institution will dictate the person's portfolio, so the other duties of a leader appointed to serve in this role will vary from school to school. Such persons may oversee a multitude of experiential programming, including clinics, hybrids, externships, trial advocacy, legal writing, and curriculum reform, as well as efforts to assist and encourage doctrinal faculty to incorporate experiential modules into courses. The person in this role may be generally responsible for keeping abreast of developments in legal education, and regularly communicating those developments to the faculty. As part of an overall strategy of innovation and reform, it is important for the faculty not only to see important developments within the institution but to also

⁹ See *id.* at 14-15 (discussing responsibilities that a Dean of Experiential Education may have).

¹⁰ Early outreach can also include communicating and coordinating with the office of admissions to ensure that potential student applicants are familiar with the experiential opportunities that a school offers.

know what other institutions are doing. This leader should also stay informed about developing requirements for experiential education credits as a condition of bar admission, and evolving ABA standards for experiential education.

The Dean of Experiential Education can also work with the Dean for Faculty Development to mentor new faculty. New faculty are less wedded to a particular way of doing things, and have themselves been educated in an era in which clinical and other forms of experiential education have been celebrated. Thus, they are well positioned to develop practical exercises and new courses that may include elements of experiential education and clinical pedagogy, or to develop hybrid courses. Working with newer faculty can be a conscious institutional strategy that may prove particularly effective. Junior faculty members are often innovators, and their development of new ways of teaching should be promoted and facilitated through institutional support. Innovative work done by junior faculty can reinvigorate and inspire senior faculty to try something new.

Finally, the person holding this position is responsible for big-picture thinking and engaging the faculty in such thinking about the school's educational objectives for experiential education, the relationships among different offerings within the curriculum, and how those fit together into a coherent program of instruction. This person must be a flexible thinker who has good relationships within the faculty. In order for experiential initiatives to be successful, the person must be able to express a vision and cultivate faculty enthusiasm for it. Faculty should be encouraged not to view legal education as an "all or nothing" proposition — innovation can exist simultaneously with more traditional approaches to legal education as different ideas are implemented and their success evaluated.

3. Conclusion

Appointing an individual to be responsible for developing experiential education is a growing trend among law schools focused on curricular reform. Such an appointment appears to have potential to help shift the teaching culture, but no concrete evidence is yet available to help schools systematically assess the effectiveness of that strategy. A law school that chooses to appoint an Associate Dean of Experiential Education should be clear about what it wants the individual to accomplish. The contours of this role may evolve as those who assume this responsibility reflect on the success of different initiatives, compare notes, and identify a path for the future.