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From Langdell to Lab: The Opportunities and Challenges of Experiential Learning in the First Semester

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FROM LANGDELL TO LAB: THE OPPORTUNITIES AND CHALLENGES OF EXPERIENTIAL LEARNING IN THE FIRST SEMESTER*

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I. INTRODUCTION

Time is the friend of learning and the enemy of teaching. Learners learn best when they have ample time to explore, experiment, fail, and reflect. Teaching, at least teaching in a graduate professional program like law school, is time-limited: a class meets for a certain number of hours on certain days of the week for a certain number of weeks. This is, of course, a ubiquitous challenge in legal education, but experiential and skills courses present particular time-related challenges. On the other hand, these courses also provide rich opportunities to give students activity- and skills-based learning environments. This Article is about one law school's development of such a course and what we have learned through implementing it.

In 2019, the University of New Mexico School of Law ("UNM") inaugurated Lab, a new three-credit experiential course as part of the required first-semester curriculum. The course has many goals, but its over-arching purposes are to "enhanc[e] student readiness to practice," to "create opportunities for 'near transfer' of clinic lawyering skills," and to "address student concerns that they are prepared to work in the roles of lawyers, introduce students to the challenge of lawyering, and incorporate and inculcate students in lawyer professional roles early and often."[1] Lab has been successful in capitalizing on the opportunities experiential learning creates for teaching and learning these things; however, it has also confronted the challenges entailed in such a course—especially the challenges of such a course in the first semester.

In broader terms, the educational goals of a course like Lab represent a desirable shift in focus for legal education, one that, if fully realized, has the potential to transform law teaching and learning. In the meantime, however, this same shift in focus brings to greater light pedagogical and structural impediments to fully embracing experiential learning and skills education that are inherent in the dominant mode of legal education. The larger purpose of this Article is to begin a conversation about those impediments and how they may be addressed.

Part II of this Article details some of the impetus for experiential learning in legal education and at UNM. Part III then describes the course at UNM that resulted from this and reflects on some of the lessons learned about the specific course. Then, Part IV considers some of the benefits and challenges of experiential learning early in a student's legal education. Finally, Part V proposes some curricular approaches that point towards a radical reimagining of the law school curriculum through the lens of

[1] Report and Recommendations of the Experiential Learning Comm., Univ. of N.M. Sch. of L. (Spring 2017) (copy on file with author) [hereinafter Report of Experiential Learning Committee].

experiential and skills education and concludes that this approach entails a massive reconsideration of the current allocation of instructional resources.

II. THE DEMAND FOR EXPERIENTIAL LEARNING

A. Defining "Experiential Learning"

"Experiential learning" is a mode of learning that can be seen as a subset of "active learning," in which "students do more than listen."[2] An experiential course, then, is one in which exercises and activities, as opposed to lectures, are the primary method of instruction. In the context of legal education, there is consensus that experiential learning and experiential courses have three primary characteristics.

First, students' learning happens while they assume the role of an attorney, either with a real client or a simulated client.[3] The course would include "both the real world and the simulated client-representation activities that we typically include under the rubric of 'clinical experiences' and a broader range of opportunities to observe or participate in the legal system at work."[4] For example, students might move along a continuum of greater responsibility from simulated practice to the "mentee" role and finally to the "first-chair" role.[5] Some call this the "experiencing" component.[6] The American Bar Association ("ABA") standards define an experiential simulation course as one that "provides [a] substantial experience not involving an actual client, that is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks."[7]

Second, while in the role of an attorney, students will synthesize their knowledge of the applicable law, the related legal skills, and the relevant professional values into strategies that serve the client's interests.[8] Students process the relevant information, turn it into action, and learn to apply what they have learned in subsequent situations.[9] Because the learning happens

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[2] Gerald F. Hess, *Principle 3: Good Practice Encourages Active Learning*, 49 J. LEGAL EDUC. 401, 401 (1999).

[3] Cynthia Batt, *A Practice Continuum: Integrating Experiential Education into the Curriculum*, 7 ELON L. REV. 119, 131 (2015).

[4] Deborah Maranville, *Infusing Passion and Context into the Traditional Law Curriculum Through Experiential Learning*, 51 J. LEGAL EDUC. 51, 57–58 (2001).

[5] Susan L. Brooks, *Meeting the Professional Identity Challenge in Legal Education Through a Relationship-Centered Experiential Curriculum*, 41 U. BALT. L. REV. 395, 403 (2012).

[6] Adam Lamparello & Charles E. MacLean, *Experiential Legal Writing: The New Approach to Practicing Like a Lawyer*, 39 J. LEGAL PROF. 135, 144 (2015).

[7] ABA STANDARDS & RULES OF PROC. FOR APPROVAL OF L. SCHS. STANDARD 304(b) (AM. BAR ASS'N 2020) [hereinafter ABA STANDARD]. ABA Standards 304(c) and (d) set out standards for law clinics and field placements, respectively, but those courses are beyond what is contemplated for Lab.

[8] *See* ABA STANDARD 304(a)(1).

[9] Lamparello & MacLean, *supra* note 6, at 144.

through this synthesis, this implies that students must already have bodies of knowledge, skills, and values that they can draw on.

Third, while performing these activities, students and instructors participate in a cycle of feedback and reflection.[10] The educational goals of the exercise (or course) are articulated, and students receive feedback and assessments as to those goals.[11] An experiential course gives the student an opportunity to reflect on their own experiences in the learning process.[12] Ideally, the performance-feedback-reflection cycle is repeated.

Conceptually, there is considerable overlap among experiential learning and related course labels like skills education and practice and procedure courses. Skills education might be defined as a course that explicitly teaches the techniques of a particular skill (legal writing, for example, or taking depositions). This could be done through role-playing or other more "experiential" activities, and that might be the best method for some students, but it is not inevitable that a skills course is automatically an experiential learning course. Similarly, a practice and procedure course or a "methods" course could be understood as a course about the general approach to a particular kind of legal work or the governing frameworks for how that work is done. Such a course could also be taught using experiential methods (and, again, those methods might be superior), but it is not inevitable that it would be. It is not essential to create clear delineations among these three categories, except to point out that a skills or practice and procedure course is not automatically an experiential course and vice versa. However, because of the conceptual overlap, these labels are used somewhat interchangeably in practice.

B. Experiential Learning and Perceived Deficiencies in Legal Education

The idea of a "law lab," it turns out, is not new. In the early 1930s, legal academics associated with the legal realist movement, drawing on educational methods in medicine and the physical sciences, proposed "law laboratories" as something that would be distinct from a "clinic" by including opportunities for experimentation and invention.[13] But the Langdellian curriculum, and its predominantly Socratic or interrogational style of instruction, has focused on a very narrow set of lawyering skills: reading appellate opinions, answering questions about the significance of those opinions, and deductive analysis and analogical reasoning through hypotheticals. These are important lawyering skills, even foundational skills

[10] ABA STANDARD 304(a)(4).

[11] Batt, *supra* note 3, at 131–32.

[12] Steven M. Virgil, *The Role of Experiential Learning on a Law Student's Sense of Professional Identity*, 51 WAKE FOREST L. REV. 325, 328 (2016); Batt, *supra* note 3, at 132.

[13] Martha F. Davis, *Institutionalizing Legal Innovation: The (Re)emergence of the Law Lab*, 65 J. LEGAL EDUC. 190, 194–95 (2015) (discussing the work of John Bradway).

(although the related practice activities represent a small part of legal work). One could argue that, inasmuch as these are experiences practicing lawyers have, this is a kind of "experiential" learning. But the fundamental passivity of this teaching method and students' inability to control the direction of the colloquy mean it is weakly experiential, if at all.

In any case, the dominance of this mode of teaching in the first-year ("1L") curriculum, both as a historical matter and in terms of first-year credit hours, has displaced a host of other, arguably equally foundational, lawyering skills.[14] Those skills include things like "relational skills, negotiation and planning skills, self-control and self-development, [and] creativity and practical judgment."[15] Nevertheless, legal education relies on a model of education "that . . . is not only out of date, but . . . was out of date one hundred years ago."[16] In general, there has been a widespread sense that these educational models, if not already outdated at the time of their adoption, serve our students very poorly today.[17] Equally important from a learning perspective, the instructional monotony of so many Socratic, doctrinal credit hours means first-year students are neither required, nor do they have the opportunity, to use diverse methods of learning to identify, analyze, and resolve legal problems.

The question is: how should law schools structure opportunities for other modes of instruction and learning? Scholars have argued that the first-year curriculum "should provide students with an introduction to the modern legal system."[18] This does not automatically mean an experiential course or skills instruction. Still, these pressures largely drive the answer: students should have more experiential opportunities, which likely means more skills, practice, and procedure training. The diagnosis seems to be that this training should happen early and often. So long as the general law school curriculum is unchanged, both "early" and "often" present pedagogical and logistical challenges. The first year's heavy focus on

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[14] Edward Rubin, *What's Wrong with Langdell's Method and What to Do About It*, 60 VAND. L. REV. 609, 662 (2007).

[15] Kristen Holmquist, Marjorie Shultz, Sheldon Zedeck & David Oppenheimer, *Measuring Merit: The Shultz-Zedeck Research on Law School Admissions*, 63 J. LEGAL EDUC. 565, 566 (2014). The MacCrate Report lists a similar set of skills and values. *E.g.*, Judith Welch Wegner, *Contemplating Competence: Three Meditations*, 50 VAL. U. L. REV. 675, 683 (2016).

[16] Rubin, *supra* note 14, at 611.

[17] Jason G. Dykstra, *Beyond the "Practice Ready" Buzz: Sifting Through the Disruption of the Legal Industry to Divine the Skills Needed by New Attorneys*, 11 DREXEL L. REV. 149, 153 (2018). In fact, what this educational model primarily achieves is increased competition among students. Tiffany D. Atkins, *#ForTheCulture: Generation Z and the Future of Legal Education*, 26 MICH. J. RACE & L. 115, 136 (2020); *see also* Alice Ristroph, *The Curriculum of the Carceral State*, 120 COLUM. L. REV. 1631, 1638 (2020) (observing that American legal education is more "designed to reproduce hierarchies, or ideologies, than to challenge them.").

[18] Rubin, *supra* note 14, at 651.

common-law subjects and precedential reasoning can preclude introducing students to other forms of legal thinking, like regulatory analysis and transactional practices, that comprise an important component of many lawyers' work.[19] Focusing on these other kinds of practice, rather than intimating that litigation is the main path for most lawyers, would help law students who are not drawn to litigation more clearly see paths for themselves.[20] The conclusion is often that a better approach might include more skills-based or experiential learning opportunities in the first year.[21]

The general perception that law students are not able to practice law when they graduate is a common refrain from the bar,[22] from students, and from recent graduates themselves.[23] It should be observed at the outset, however, that the practice of law is multivariate and polymorphous, and law school is only three years long. Much of what lawyers do in their day-to-day work is idiosyncratic to that field of practice or to practice in that jurisdiction. Many lawyering tasks that seem "basic" or routine to practicing attorneys are in fact quite esoteric. It would be impossible for any legal education, even at a law school whose primary mission is to educate lawyers for a particular community (like UNM), to prepare all its graduates for whatever practice might demand of them.

That being said, there is no doubt that many law school graduates are perceived—and perceive themselves—to lack fundamental awareness of what they are expected to do as lawyers.[24] As a result, legal education has slowly moved in the direction towards greater experiential learning or skills training. As discussed above, "experiential learning" and "skills education" are sometimes conflated (because there is conceptual and practical overlap between them), but experiential learning is seen to be the panacea to address this problem. The question is not whether to provide experiential learning

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[19] *Id.*

[20] *Id.* at 653.

[21] *Id.* at 663.

[22] *See* Tenielle Fordyce-Ruff, *Research Across the Curriculum: Using Cognitive Science to Answer the Call for Better Legal Research Instruction*, 125 DICK. L. REV. 1, 13–14 (2020).

[23] *E.g.*, Elie Mystal, *On-Campus with Elie: Still Waiting for Employers to Care if You Are 'Practice Ready,'* ABOVE THE LAW (Jan. 8, 2015, 5:32 PM), https://abovethelaw.com/2015/01/on-campus-with-elie-still-waiting-for-employers-to-care-if-you-are-practice-ready/ [https://perma.cc/8B94-4KRE] ("Practice-ready programs are a nightmare dressed like a daydream. They sound good. They should work. There is even some evidence . . . that shows that they do serve some purpose. But there is no evidence that participating in a practice-ready curriculum helps you get a job where you can show off all of your practice-ready skills."). *See* Jason G. Dykstra, *Keeping Up with a Kardashian: Shedding Legal Educations' Vestigial Trade School Anxiety and Replacing the Dated Casebook Method with Modern Case-Based Learning*, 48 HOFSTRA L. REV. 81, 106 (2019). Other commentators are skeptical about whether a "practice ready" curriculum delivers all it promises.

[24] Fordyce-Ruff, *supra* note 22, at 13–14.

opportunities; the question is how.[25]

The economic downturn of 2008–09 had a significant effect on legal employment generally; in turn, this had an effect on law school admissions.[26] Connected to this, and to an increasing reluctance on the part of clients of large firms to pay for recent graduates' apprenticeships, law schools came under pressure from the bar and from applicants and graduates to better prepare students for practice.[27] Hiring attorneys have noted a "great disparity" between what they believe law students have been taught and what law students are able to do as new lawyers.[28] Incoming law students are certainly willing to vote with their wallets,[29] as it were, and in the face of high law school tuition (and resulting law school debt), they are likely to prefer a legal education that they perceive will put them into the world with at least some basic lawyering skills.[30]

As a result of these pressures, ABA Standard 303(a)(3) now requires at least six credit hours of experiential coursework; this can consist of one or more simulation courses, clinics, or externships.[31] This is in addition to first-year and upper-level writing and professional responsibility courses;[32] these changes became effective for the class graduating in 2019.[33] Law schools have responded: in a recent (2018) survey of ABA-accredited law schools, a fifth of the respondents[34] reported changes to their curricula that included at least an opportunity (if not always a requirement) to take an experiential course during the first year (or possibly an intersession or summer course).[35]

C. Experiential Learning at UNM School of Law

Lab resulted from the work on an Experiential Learning Committee ("Committee") created in the fall of 2016 to "explore ways in which our

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[25] *See, e.g.*, Nantiya Ruan, *Experiential Learning in the First-Year Curriculum: The Public-Interest Partnership*, 8 LEGAL COMM. & RHETORIC: JALWD 191, 201 (2011) (using simulated assignments as opposed to live client interactions).

[26] David I.C. Thomason & Stephen Daniels, *If You Build It, They Will Come: What Students Say About Experiential Learning*, 13 FLA. A & M U. L. REV. 203, 208 (2018).

[27] *Id.* at 208–09.

[28] Claire Botnick & Cort VanOstran, *Practice Makes Perfect: New Practitioners' Perspectives on Trends in Legal Education*, 53 WASH. U. J.L. & POL'Y 135, 143 (2017).

[29] Derrick Howard, *Phantom Thread: Restoring Live-Client Interactions to the First-Year Educational Continuum in this Age of Information and Beyond*, 81 U. PITT. L. REV. 597, 626 (2020).

[30] *Id.* at 627–28.

[31] ABA STANDARD 303(a)(3).

[32] ABA STANDARD 303(a)(1).

[33] Allison Korn & Laila L. Hlass, *Assessing the Experiential (R)evolution*, 65 VILL. L. REV. 713, 721 (2020).

[34] *Id.* at 723. Out of about 200 ABA-accredited law schools, 126 responded.

[35] *Id.* at 733–34.

program of experiential learning could be improved and enhanced."[36] The Committee was charged with making recommendations to the faculty based on its findings.[37] UNM was well ahead of the ABA and its recent modification of Standard 303 to require six hours of experiential learning in some form: UNM was among the very first law schools to make a clinical experience a graduation requirement.[38] This was prompted both by a desire to enhance the practical training of our graduates and by a desire to address some of the legal needs of underserved communities in the state. In the early years of UNM's Clinic, it had a variety of formulations, but by 1971 all graduates had to complete six credit hours of legal work, three of which were in an in-house clinic.[39] In 1984, this requirement was modified so that all six hours had to be earned in an in-house, live-client clinic supervised by tenure-track faculty members.[40] As UNM's Clinic already satisfied the new ABA requirement, Lab was not adopted to meet this requirement. In some ways, Lab could be read as a critique of standards for experiential learning and skills training. In fact, the Experiential Learning Committee explicitly described the ABA standard as "a minimal baseline" that, by itself, was "wholly inadequate."[41] Lab was proposed to exceed this requirement as a continuation of UNM's long-standing commitment to a goal of practice-readiness among its graduates.[42] More specifically, two things primarily motivated the development of Lab: first, UNM's general commitment to experiential learning and practice preparation, as evinced by our early development of a mandatory Clinic; second, and related to that, the perception that some (or many) students arrived at their Clinic experience without certain basic skills.[43]

The Experiential Learning Committee's report led to a proposal for a course called "Anatomy of Law Practice" or "Preparing for Practice."[44] The course was "designed to introduce students to the practice of law and to embed the attorney-client relationship in the professionally formative first year curriculum."[45] The idea was to capture the idea of a laboratory in which

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[36] Report of Experiential Learning Committee, *supra* note 1, at 3.
[37] *Id.*
[38] *Id.* at 2.
[39] *Id.* at 1.
[40] *Id.*
[41] *Id.* at 3.
[42] *Id.* at 3–4.
[43] *Id.* at 1.
[44] *Id.* at 7; *see also* Lab Course Proposal (n.d.) (on file with author).
[45] Lab Course Proposal, *supra* note 44. Despite its name, the content of Lab is probably more consistent with a course called "Anatomy of Law Practice" (its original name) than truly a "laboratory" experience. This is due, in part, to its placement in the first semester: students do not yet have sufficient tools to truly "experiment." They are much more at the stage of learning what the tools might be. The course is not about legal experimentation, and it was neither designed nor proposed to be. It is probably actually a "practicum," but one of the

students experiment with legal concepts and tools. Because this seemed to be a salient feature of the course, it was renamed "Lab."[46]

The course proposal was ambitious. It indicated that among the course's primary goals would be content that would implicate all seven of the School of Law's main student learning outcomes, but most significantly "Problem Solving," "Professional Skills Needed for Competent Participation as a Member of the Legal Profession," and "Professionalism and Ethics."[47] The course would "incorporate formative and summative student assessments."[48] It would be taught by adjuncts "with a strong practice background, ideally with some teaching experience,"[49] and the co-directors were to include "one professor who has strong experience in the clinical methodology and one professor who has strong experience in the doctrinal pedagogy."[50] By the time Lab became part of the 1L curriculum, the co-directors of the course were (and still are) a clinical faculty member and a member of the legal writing faculty.

The course was proposed to examine, through a problem-oriented approach, "practice related topics to include client-centered lawyering, cultural competency in practice, professionalism, ethics in a real-world context, case development and theory, fact investigation and development, client interviewing and counseling, problem solving and prospective lawyering, writing skills for law practice, professional identity formation,

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first-semester courses it replaced was a one-credit course called "Practicum," and it made more sense to distinguish this course from the earlier one. (The other course it replaced was a two-credit comparative and legal history course.) The exact category or label for this course, or any like it, is not especially significant except to the extent that as more of these courses are offered, it may be useful to generally categorize what these courses accomplish to provide informed guidance to faculty developing this kind of curriculum. I will not attempt to exhaustively delineate possible categories here, but it is worth noting that it may be useful to do so.

[46] A consensus may be forming around what to name these types of courses. According to one survey, fifty-one percent of respondents call their course a "practicum" and twenty-one percent call it a "lab." Korn & Hlass, *supra* note 33, at 764.

[47] Lab Course Proposal, *supra* note 44.

[48] *Id.*

[49] *Id.*

[50] *Id.* I have not found any records that indicate why legal writing faculty were not proposed at this juncture; possibly, it was just because of an awareness of how much work legal writing faculty already do in the first year. Possibly, it was because doctrinal faculty and Clinic faculty were thought to have enough combined experience to integrate doctrine into first-year skills instruction. Possibly, the fact that at that time legal writing faculty were not on the tenure track at UNM affected this decision. In any case, both iterations of Lab have so far been administered by one clinical faculty member and one legal writing faculty member. As it happens, integrating doctrine into skills instruction is the basic structure of legal writing programs, and in at least some law schools, this kind of "lawyering skills" program has been part of, or developed from, the legal writing program. *See generally,* Lucia Ann Silecchia, *Legal Skills Training in the First Year of Law School Research? Writing? Analysis? Or More?*, 100 DICK. L. REV. 245 (1996).

lawyer wellness, and mindfulness."[51] Further, the course would also teach students "the nature of the attorney-client relationship, and how the rule of law and legal process impacts clients' lives."[52] As proposed, the course would "employ[] a variety of methodologies that stress practical and analytical skills through oral and written exercises while also exploring substantive law questions that are addressed in other first semester courses."[53] The course would use a case file method, to be developed by the director(s), and that case file would incorporate "criminal law, tort, and contract issues."[54] Ideally, this file would "incorporate[] potential litigation claims, administrative issues, . . . negotiations that affect future rights and duties of the client, [and] ethics issues."[55]

Depending on how one counts, this proposes as many as seventeen topics, many of which are by themselves the basis of entire law school courses. Many of these topics or themes can be paired. Obviously, skills like interviewing or counseling require a basic knowledge of the substantive law that governs the client's problem. Client-centeredness consists of many "soft" skills, like cultural competency and mindfulness. At a minimum, the existence of the attorney-client relationship entails an awareness of the ethical rules dealing with competence and confidentiality. These things allow some streamlining of the course content. Ultimately, this wide-ranging course proposal reflects a basic challenge of first-year curriculum. In searching for "fundamental" or "foundational" topics, how should a curriculum delineate what is fundamental or foundational for novice legal learners from what is basic for novice practitioners? In other words, the things that entry-level associates might be expected to do with minimal supervision are not axiomatically first-semester students' best entrée into their legal training. The multiplicity of Lab's goals bespeaks the excessive topical and pedagogical footprint of the traditional Langdellian curriculum.

III. LAB AS TAUGHT IN ITS FIRST ITERATIONS

A. Overview of the Design and Implementation of Lab

At the time of this writing, Lab has been taught as a three-credit required first-year course twice at UNM, in the fall semesters of 2019 and 2020. This section will provide an overview of the common themes in both iterations of Lab. Then it will describe some features of the design of Lab 2019 and Lab 2020, give the rationales for those choices, and assess the

[51] Lab Course Proposal, *supra* note 44. Furthermore, the Experiential Learning Committee recommended that one-quarter of Lab's focus be on "law student and attorney wellness, mindfulness, and emotional intelligence." *See also* Report of Experiential Learning Committee, *supra* note 1, at 8.
[52] Lab Course Proposal, *supra* note 44.
[53] *Id.*
[54] *Id.*
[55] *Id.*

success of those choices. Finally, it will briefly discuss students' performance and reactions to both iterations. In designing Lab, one challenge that was common to both iterations is that there simply is not enough time in a single semester to give full exposure to either the full range of typical lawyer tasks or all the techniques that might apply to any one lawyering task.[56] As is always the case, the course was required to triage these topics with an eye towards focusing on those lawyering tasks that are both generalizable to many practice areas and foundational to other lawyering skills.

Therefore, it seemed to us that the two most important goals of Lab were two-fold. First, Lab should give students practical knowledge that is relevant to the first semester of law school and generally throughout their legal education. Second, Lab should lay some groundwork for students' professional identities. The ABA, the MacCrate Commission Report, the Carnegie Report on Educating Lawyers, and CLEA's Best Practices in Legal Education all speak to the importance of developing law students' professional identities.[57] This broadly meant giving students some sense of what lawyers do and why lawyers do what they do. It also meant introducing students to the related topics of the idea of themselves as attorneys and the concept of the client. In both iterations of Lab, we have focused (with differing levels of emphasis) on interviewing, counseling, and negotiating. These three things are good vehicles for introducing a cluster of related values and skills: client-centeredness and the concept of the client, certain ethical obligations, and elementary legal problem-solving. These three things are also, in various forms, common in all areas of law practice.

To develop students' understanding of what lawyers do and why, we tried to present a possible sequence of lawyering tasks as well as common vocabulary related to those tasks. The course was intended to help students understand how the appellate opinions they read in doctrinal and legal writing classes came to be and what some of the terminology in those opinions means. This material also serves to level the playing field between students with no legal background and those who have worked in law firms or have other connections to law practice. We also discussed the purposes for these tasks and some of their effects on the client and the client's legal matter. Both iterations of Lab have called students' attention to the development of information over the course of legal representation and the use of information in the development of strategies for the client. Further, both Lab iterations called students' attention to additional information that alters the apparent terrain of the client's legal matter and, therefore, requires further strategizing and problem-solving.

We also felt it was necessary to develop students' sense of themselves as lawyers as part of their professional identities. UNM enrolls many first-

[56] Stefano Moscato, *Teaching Foundational Clinical Lawyering Skills to First-Year Students*, 13 LEGAL WRITING: J. LEGAL WRITING INST. 207, 211 (2007).
[57] Ruan, *supra* note 25, at 195–97.

generation law students. These students typically do not have a strong concept of what lawyers do.[58] They understand that a career in the law provides opportunities to do good in the world and may be a means of social mobility. They may be less sure about what it is to be a professional. For purposes of Lab, professional identity includes at least five components. First, understanding what it means to be bound by rules that set a course of conduct; second, appreciating the gravity of representing another's interests; third, conducting essentially adversarial relationships with courtesy and civility; fourth, working effectively with regard to deadlines, procedures, and accepted practices; and fifth, understanding themselves and their clients as human beings whose complex emotional, social, political, practical, and cultural characteristics and needs are inextricably linked to the legal representation.

All of these components serve to give context for students' legal studies. One scholar has identified four types of context in legal education, and although this exact formulation was not explicitly part of the curricular planning for Lab, both iterations of the course have been designed to provide context in all of these dimensions: exposure to the clients whose disputes become precedent; exposure to the institutions and practices from which legal disputes arise; exposure to the legal system(s) where legal rules are applied; and exposure to the legal activities in which lawyers engage and the ways legal rules inform those activities.[59]

Finally, as a purely logistical matter, both iterations of Lab were taught by a combination of adjunct and full-time faculty.[60] Both iterations were taught in six sections with a common syllabus and assignments, which were designed by full-time faculty who administered the course and did at least some of the classroom teaching and student assessment. Adjuncts have the advantage of being considerably less expensive than full-time faculty,[61] but

[58] In many ways, Lab is an extension of the socialization into the language and culture of lawyers and the legal profession that happens in all law school courses, and especially in first-year courses. *E.g.*, Amy E. Sloan, *Erasing Lines: Integrating the Law School Curriculum*, 1 J. ASS'N LEGAL WRITING DIRS. 3, 6 (2002). Lab sought to make this socialization more explicit and concrete.

[59] Maranville, *supra* note 4, at 56.

[60] Serge Martinez and I were the full-time faculty. The following are the adjuncts who have taught lab: Cynthia Armijo (Lab 2019 & Lab 2020), Melanie Ben (Lab 2019), Rebekah Gallegos (Lab 2019), The Hon. Shammara Henderson (Lab 2019 & Lab 2020), Ann McCollum (Lab 2020), Julio Romero (Lab 2019), and William Slease (Lab 2019 & Lab 2020). All are alumni of UNM School of Law.

[61] David A. Lander, *Are Adjuncts a Benefit or a Detriment?*, 33 U. DAYTON L. REV. 285, 289 (2008); *see also* John C. Duncan, Jr., *The Indentured Servants of Academia: The Adjunct Faculty Dilemma and Their Limited Legal Remedies*, 74 IND. L.J. 513, 529–30 (1999). This is probably a big part of the reason that some law schools use adjunct faculty extensively. Lander, at 288 (reporting survey data showing that among survey respondents, the median respondent reported that twenty-four percent of its course offerings were taught by adjuncts). Lab would be impossible without the generous participation of our adjunct

from a teaching perspective, the most important advantage of adjunct faculty is that they bring current practice perspective into the classroom.[62] Although the institution may send a message to students that this kind of instruction or this subject matter is of lesser importance by assigning it to non-permanent faculty, and students may respond accordingly, evidence suggests that students appreciate adjuncts' practice experience and "routinely report high interest in and satisfaction with courses taught by practicing attorneys."[63] At their best, adjuncts are the equal of any experienced faculty member in terms of the quality of their teaching. This has certainly been the case with the adjunct faculty who have taught Lab.[64]

That said, adjunct faculty present some instructional challenges for a course like Lab. One important challenge is that they "often have full-time and intensive practices in addition to teaching, which leaves them with less capacity and time to engage in the deliberative design and assessment critical to experiential learning."[65] The need to accommodate adjuncts' primary employment has presented some challenges for the assessment of students in Lab. Indeed, "it may be less likely that an adjunct professor, particularly if they are a practitioner with little exposure to teaching, will be equipped to design and implement an experiential course as well as a full-time, in-house experiential faculty member."[66] At least one Lab adjunct faculty member felt that it would be impossible to expect Lab adjunct faculty members to design their own course materials for Lab, and given how extensive the materials for Lab are, this is likely true for all possible adjuncts.[67]

Adjuncts may also grade or teach inconsistently—either inconsistently across sections or inconsistently with a law school's grading expectations.[68] Our regular meetings discussed grading expectations, and quizzing in the second year of Lab was intended, in part, to introduce uniformity in grading.[69] Even so, some students in Lab 2020 did complain on their evaluations that they perceived that some sections were better prepared for

faculty. Adjunct compensation is not necessarily equally generous, and a concern about using adjuncts for an intense 1L course is that it may become exploitative.

[62] Duncan, *supra* note 61, at 523. The Lab Course Proposal specified that instructors should have "strong practice background[s]." Lab Course Proposal, *supra* note 44.

[63] Catherine A. Lemmer & Michael J. Robak, *So, You Want to Be an Adjunct Law Professor? The Processes, Perils, and Potential*, 86 N.Y. ST. B.J. 10, 10 (2014).

[64] All of the Lab adjuncts received mostly positive evaluations from their students. Two of them—Armijo and Slease—have taught many times at UNM. Armijo has taught several criminal procedure courses at the School of Law and has taught at Central New Mexico Community College. Slease, who for many years was chief disciplinary counsel for the New Mexico Supreme Court Disciplinary Board, often teaches Ethics.

[65] Korn & Hlass, *supra* note 33, at 758.

[66] *Id.* at 757.

[67] Zoom Interview with Cynthia Armijo, Adjunct Lab Faculty, Univ. of N.M. Sch. of L. (May 19, 2021) [hereinafter Armijo Interview].

[68] Lander, *supra* note 61, at 294.

[69] Individual scores in Lab 2019 were not always consistent across sections.

the quizzes than others, though the mean and median quiz scores were within points of each other across all sections. We coordinated our final grades so that each section had roughly the same distribution of grades and roughly the same mean and median grades, so any marginal discrepancies in preparation for testing would have had a negligible effect on the final grade. Nevertheless, students—especially first-semester law students—magnify the significance of minor variations in teaching. In any case, in any multi-section course it is challenging to ensure that students are held to roughly the same standards in each section. This would be true even if all sections are taught by full-time faculty.

As with any new course, it takes time and repetition to refine what the course is truly about, to develop the right balance of emphases, to get a good sense of the course's rhythm, and to know how exercises and readings that sound good in theory actually work in the classroom. Lab is no exception, but it has succeeded in achieving our main goals. Students are given space within which they develop the first outlines of their professional identities. The course gives first-semester students explicit, systematic exposure to some of the rules of professional conduct and the idea of professionalism in general. Students are also introduced to the concept of the client, an especially important person whose legal situation is embedded in the complex context of the client's life.

B. Lab 2019

The four main features of Lab 2019 were the alternation between large-group and small-group instruction, the organization of major topics in "reverse" order, the connection to 1Ls' first-semester doctrinal courses, and the use of largely performance-based assessment.

1. Organization of Sections

In its first iteration, Lab was divided into six small sections each taught by an adjunct. The six sections were grouped into two larger groups each taught by a full-time faculty member. The general idea was that the larger groups met once a week with a full-time faculty member for instruction on the topic of that unit. Then, during their other class meeting, students worked on an exercise intended to further develop that topic with their small-group adjunct instructor. This was the "lab" component of the course. It was intended to provide consistency in basic instruction for the major topics, while also giving students feedback and real-world insights from the lawyers leading the small-group sessions. Secondarily, it was also intended to reduce the time commitment and workload of adjunct faculty.

However, over the semester, the switch between adjuncts and full-time faculty presented several challenges. First, different teaching styles (and different levels of teaching experience) between the large group and the small groups (and among small groups) created the perception of

instructional inconsistency. Alternating between large and small groups distorted the sequencing of topics: it was not always possible to alternate effectively because some topics needed more than one class to present. The University's holiday and break schedule also complicated the alternating between large and small groups as Lab did not meet twice a week every week. Finally, the large groups, which were half the 1L class, were an ineffective way to present material, for all the reasons large classes are generally less effective: "[e]ven at its best, the large-class format offers inherently limited opportunities for participation by any individual, and the students most in need of such opportunities are least likely to exercise them."[70]

2. Syllabus: "Reverse Order"

The syllabus was divided into four large units presented in this order: negotiation, counseling, interviewing, and a capstone assignment.[71] The order of the first three units may seem backward in relation to the ordinary course of representation. The "reverse order" organization of the first three units was intentional and grounded in three main reasons.

First, the goal was that students in each successive unit could see what they would have needed in earlier steps. In other words, in the counseling unit they could reflect on what they would have needed to tell their client prior to a negotiation. In the interviewing unit, then, they could see what they should have asked their client to get adequate information for both counseling and negotiation. This was intended to build in opportunities to reflect on their prior performance of lawyering skills and consider how they might adapt their performance of those skills in the future. Through this organization, students might see the importance of how information develops over time.

Second, we were aware that the place at which an expert would begin any process is not necessarily the easiest place for a novice to begin learning.[72] Often, the beginning of a process requires professional judgment. It is the most complex moment because it requires synthesis of so much of the expert's mature judgment to coalesce in the "diagnostic" and strategic aspects of, for example, the first meeting with the client. A novice (and

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[70] Deborah L. Rhode, *Missing Questions: Feminist Perspectives on Legal Education*, 45 STAN. L. REV. 1547, 1557 (1993).

[71] The required text was in any edition of *Essential Lawyering Skills*, which is organized according to these three main skills. *E.g.*, STEFAN H. KRIEGER & RICHARD K. NEUMANN, JR., ESSENTIAL LAWYERING SKILLS: INTERVIEWING, COUNSELING, NEGOTIATION, AND PERSUASIVE FACT ANALYSIS (6th ed. 2020). Because persuasion is introduced in Elements of Legal Argumentation II (the second semester of our first-year legal writing sequence), Lab did not stress persuasion.

[72] *See* Miriam E. Felsenburg & Laura P. Graham, *A Better Beginning: Why and How to Help Novice Legal Writers Build a Solid Foundation by Shifting Their Focus from Product to Process*, 24 REGENT U. L. REV. 83, 102–03 (2011).

especially a first-semester 1L) does not know what comes next, so they cannot really use the interview in the way that they need to. For example, an experienced driver might begin their trip to the grocery store by putting the car in reverse and pulling out of the garage, but that would be a poor place to begin teaching someone how to drive to the grocery store.

Finally, and more fundamentally, we felt that students' professional identities and sense of self-confidence in law school might be bolstered by beginning with a skill (negotiation) that is already conceptually familiar to them, since many of them would have negotiated for something prior to law school or would at least have heard of negotiation. This would help them draw on their existing informational schemas and, thus, serve to bolster their confidence. Legal education drops students into skills and subjects of which they often have no prior knowledge. This destabilizes their knowledge and, therefore, their confidence. This happens because students build their understanding of the law and the legal system on their pre-existing knowledge, or their mental "schemas."[73] Without prior knowledge of the law and the legal system, students lack an adequate schema to readily incorporate new information.[74] The reverse-order organization also provided an opportunity to make observations about how a lay person's understanding of what lawyers do might be different from what it is that lawyers actually do and to reflect on what students already knew that might be useful to their careers as lawyers.

Despite these reasons, there was student resistance to the reverse-order organization. Though students understood that the units were out of order, organizing the course this way may have been one innovation too many. It is also possible that, instead of making students realize they would need more information from their clients to handle a negotiation or adequately do counseling, it just made them feel frustrated because they felt unprepared. It is also likely that students came to Lab with an expectation of how a course should work, and defying that expectation entails the risk of student resistance.

3. Attempted Coordination with Doctrinal Classes

These three units were timed to coordinate as much as possible with particular cases that at least some doctrinal classes would have covered by that point in the semester. After studying some of the purposes, techniques, and challenges of each skill through simpler, in-class exercises, each unit had a graded assignment for a different client whose facts were

[73] Jennifer E. Spreng, *Spirals and Schemas: How Integrated Courses in Law Schools Create Higher-Order Thinkers and Problem-Solvers*, 37 U. LA VERNE L. REV. 37, 50–51 (2015).
[74] Paul A. Kirschner, John Sweller & Richard E. Clark, *Why Minimal Guidance During Instruction Does Not Work: An Analysis of the Failure of Constructivist, Discovery, Problem-Based, Experiential, and Inquiry-Based Teaching*, 41 EDUC. PSYCH. 75, 80 (2006).

very similar to the facts of one of these cases.[75] We did this to make explicit connections between Lab and the doctrinal courses. Students received an opportunity to consider some of the cases they were reading in doctrinal courses in a practical context by applying each lawyering skill to essentially the same situation. This created an opportunity to ask students to "reverse engineer" at least some of the lawyer work behind cases they had studied and to use the cases as tools for developing their strategies.

Students then had a "capstone" client for whom they repeated activities related to each of these skills. Each section represented one of six tenants in an apartment building in a fictional jurisdiction. All the tenants had similar issues arising under New Mexico's version of the Uniform Owner-Resident Relations Act.[76] This exercise consisted of an interview plan for the prospective client, a counseling letter to the client, a negotiation plan[77] for the client, and a reflection on what they had learned about the relationships among these skills and how their approaches had evolved from the first time they had done each activity. This was designed to reinforce and synthesize the prior instructions by asking students to consider the interrelationships among these activities.[78]

Connecting a skills course like Lab to one doctrinal course, let alone three of them, may be easier said than done. The main practical difficulty

[75] The negotiation unit was tied to *Lucy v. Zehmer*, 84 S.E.2d 516 (Va. 1954) (holding that agreement to sell property, allegedly made in jest, was enforceable). Students prepared a negotiation plan for their client, using this case as the basis for their strategy. The counseling unit was tied to *Jones v. City of Los Angeles*, 444 F.3d 1118 (9th Cir. 2006) (holding that a city ordinance that criminalized vagrancy was unconstitutional). Students wrote a counseling letter to the client, using this case as the basis for their advice about the case. The interviewing unit was tied to *Rudolph v. Arizona B.A.S.S. Federation*, 898 P.2d 1000 (Ariz. Ct. App. 1995) (holding that the club that had organized a fishing tournament owed a duty of care to non-participant). Students videotaped themselves interviewing different parties to a dispute very similar, factually, to this one, using the case as the basis for determining which questions would be legally significant. Each of these assignments also included reflection prompts, intended to provide students with the opportunity to examine what they had learned about these lawyering activities. The assignments attached to these units were graded by the students' small-group adjuncts, and we then attempted to align the grades across sections as much as possible. Adjuncts' varying standards made this a little bit challenging.

[76] N.M. STAT. ANN. §§ 47-8-1 through 47-8-52 (1995). Students were given excerpts from this statute and told to use it as if it were binding in a fictional jurisdiction.

[77] The time and logistical challenges of recording and reviewing interviews and negotiations for the entire 1L class in the space of a week or so made it impossible to use students' performance of these activities the basis of this part of their grade. In any case, we were not concerned with their ability to perform these skills after only a few weeks' instruction; what we wanted to know was how well they understood the purposes and techniques of these skills—that is, their conceptual competence. It is an important teaching point that neither an interview nor a negotiation will ever go entirely to plan, but planning reveals the organization of the student's approach to these activities. And, of course, a plan orients the lawyer to the goals of the activity even when its course is unpredictable.

[78] The capstone assignment was graded by the large-group faculty. Given the number of students involved, this was an unrealistically large undertaking.

was that, with multiple sections of multiple doctrinal courses, it was a challenge to find cases that all doctrinal classes covered that would also suit the teaching purposes of Lab. Doctrinal faculty sequence their courses differently or emphasize different cases. This creates a risk that some students will be unfamiliar with a case, while others are overly familiar with it. The resulting exercise will feel alien to some students and stale to others.

A related problem is that at early points in the first semester, students do not have a sufficiently comprehensive understanding of a body of doctrine to do much for a client. For example, after only a few weeks of their doctrinal classes, students did not have a strong enough command of contract analysis to effectively determine what they would need to do for a client in a negotiation. Even if they accept that Lab has given them a subset of the legal tools available, they do not have enough legal knowledge to use even their limited tools intelligently. This exacerbates students' frustrations.

A more subtle challenge is that transactional work, civil litigation, and criminal prosecution and defense—the three practice areas represented by common 1L first semester doctrinal courses—each entail their own procedural and practical idiosyncrasies. Attorneys working in these areas do far more than pure doctrinal analysis before embarking on a negotiation, client counseling letter, or client interview—the three skills Lab aligned with each subject. Obviously, students can still do some version of these skills without much practical or procedural knowledge, but at that point Lab becomes an extended study hall for doctrinal courses. Its three credits demand more rigor than that.[79]

4. Assessment Based on Performance of Skills

Students' assessments and grades were based, in significant part, on their apparent mastery of relevant techniques as demonstrated by their performance of the key skills. Even as we implemented this approach, we had concerns about the pedagogical validity of basing our assessments on first-semester students' ability to perform complex lawyering skills. It is true that legal writing courses, which are well-established in the first year, typically use performance-based assessment as the grade is based on students' ability to write things like memoranda and briefs. But it is also true that students come to law school with some writing skills in place. More importantly, writing classes really teach one or two large skills: legal writing and possibly also legal research. Typically, legal writing courses teach these skills through extensive instruction as to the process of writing[80] with multiple repetitions of essentially the same written product over two semesters. Lab, as a one-

[79] In fact, some doctrinal sections did exercises very similar to Lab exercises. Minor differences in instructions for those exercises contributed to some 1Ls' confusion.

[80] Mary Beth Beazley, *Better Writing, Better Thinking: Using Legal Writing Pedagogy in the "Casebook" Classroom (Without Grading Papers)*, 10 LEGAL WRITING: J. LEGAL WRITING 23, 48 (2004).

semester course tasked with teaching several skills, does not have these luxuries.

This type of assessment poses more practical challenges as it can be subjective and time-consuming. Even with rubrics, there were some grading inconsistencies among adjuncts. Since students' final grades were given in the large class (the large group was the class in which students were registered and received a grade), minor inconsistencies across small groups created perceived inequities particularly when all students were assessed using the same assignments. Finally, performance-based assessment is also considerably more time-consuming, and adjuncts said that they struggled to find time to provide detailed written feedback.[81]

C. Lab 2020

After reflecting on what was successful in Lab 2019, noting what was less successful, consulting with the adjuncts, and reviewing student evaluations, we made several changes, of which five are most significant.[82] First, we eliminated the small-group/large-group organization of the course. Second, we dropped the "reverse order" organization. Third, we greatly increased the emphasis on conceptual competence over performance-based assessment. Fourth, we stopped trying to connect the course to the 1Ls' doctrinal courses. And fifth, we increased students' exposure to attorneys.

1. Organization of Sections

Where Lab 2019 had consisted of two large sections comprised of three subsections each, Lab 2020 consisted of six stand-alone sections. Full-time faculty administered the course and prepared the course materials, but each section was taught entirely by one instructor.[83] In general, this improved the quality of instruction by allowing for greater instructional consistency between the sections. It also created better bonding between instructors and students. Finally, it simplified the scheduling of topics by creating a more flexible, natural flow of topics as well as an easier, more natural habit of review of prior topics from prior classes, since each instructor had a clear idea what they had covered and what students had found confusing.

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[81] *E.g.*, Zoom Interview with Rebekah Gallegos, Lab Faculty, Univ. of N.M. Sch. of L. (May 27, 2019) (on file with author).

[82] Lab 2020 had a challenge Lab 2019 did not have: COVID-19. Like every law school in the country, UNM had very little in-person instruction in the 2020–21 academic year. Instruction was done entirely by Zoom. From a scheduling perspective, Zoom worked as it was designed to do: it was much easier for adjuncts to teach from their offices and to invite attorneys for the attorney panels (including attorneys outside of Albuquerque, who would otherwise not have been able to participate). We also made use of UNM Learn, an online course management platform based on the Canvas platform, to distribute course materials and administer quizzes.

[83] Two full-time faculty members and four adjuncts (three of whom taught Lab 2019) taught individual Lab sections.

Adjuncts were expected to do their own class preparation. But they were provided with a course calendar that gave an overview of the entire semester, the sequence of topics, the sequence of assignments, and the points of emphasis for each class. We also provided our own class notes for each class. Adjuncts had advance access to all the in-class exercises and teacher's notes related to those exercises. Students in Lab 2020 were assessed through quizzes and exams, and adjunct faculty were consulted about the drafting of all quizzes and exams. Finally, we met regularly to discuss the course, what we were teaching, what was coming up, and what to emphasize.

One difficulty that stand-alone sections created was that adjuncts had considerably more class preparation to do, which increased their time commitment. Although they had the benefit of our class notes and outlines, every instructor needed to adapt materials like these to their own teaching style. Similarly, where adjuncts teaching Lab 2019 led fewer than half of the class sessions, adjuncts teaching Lab 2020 led all of them, which more than doubled their time commitment. Although it was valuable to meet regularly to discuss the course, this created another time commitment for adjuncts. Obviously, adjuncts who have agreed to teach a course have agreed to the necessary time commitment.[84] Nevertheless, if a course like Lab is going to be primarily adjunct-taught, its sustainability is a direct function of the time commitment it requires. Full-time law faculty find it challenging to provide ample, timely feedback to students.[85] For adjuncts, this would be even more challenging.

In evaluating Lab 2020, students were generally very positive about the quality of instruction. One common thread among a minority of students was that students perceived significant differences in teaching, particularly in preparation for the quizzes. As would be true in any multi-section course, we each undoubtedly stressed some points more or less than other instructors, or our own practice experience gave us insights about a particular topic that other instructors did not have. The difference in instruction may be more apparent than real, especially to first-semester students who tend to magnify the differences between different sections of the same course. To the extent that grades measure learning, the mean and

[84] The adjuncts who taught Lab generally agreed that, in principle, an adjunct who has agreed to teach a course and who has been fully advised of the demands (like grading and providing feedback on regular assignments), should be expected to fulfill those expectations. *E.g.*, Zoom Interview with Ann McCollum, Lab Faculty, Univ. of N.M. Sch. of L. (May 18, 2021) (on file with author) [hereinafter McCollum Interview]; Zoom Interview with William Slease, Lab Faculty, Univ. of N.M. Sch. of L. (May 18, 2021) (on file with author) [hereinafter Slease Interview]. That said, they also agreed that it would be challenging to do so and would affect their willingness to agree to teach the course. *E.g.*, McCollum Interview; Zoom Interview with Julio Romero, Lab Faculty, Univ. of N.M. Sch. of L. (May 18, 2021) (on file with author).

[85] Howard, *supra* note 29, at 652.

median grades for each section were acceptably similar.[86]

2. Syllabus: Gathering and Using Information

Where Lab in its first year had been divided into units centered on negotiation, counseling, and interviewing and was designed in "reverse order," Lab in its second version was divided into two large units: gathering information about the client and their legal issues and using that information to problem-solve with the client. These units still incorporated interviewing, counseling, and negotiating but slightly de-emphasized them in favor of a stronger emphasis on their placement within a larger stream of lawyering activities, subsuming them within these larger units. Interviewing became one of the topics within the information-gathering unit, along with factual investigation and a gesture towards legal research.[87] Counseling and negotiation became part of the strategizing and problem-solving unit, along with crafting demand letters and collaboration among attorneys working on related issues.

The most important benefit of this organization was that it allowed us to develop client information over the course of the semester in a way that mimicked the development of client information in practice. Each section was assigned one of the six tenants from Lab 2019's capstone assignment. At various points in the course, students received information about their clients, their clients' neighborhood, or the landlord. Some of this information was intended to lead to further questions about the client and the client's neighborhood, some was intended to be directly useful to strategizing for the client, some of it was damaging to the client's apparent position, and some (as is often the case in practice) was irrelevant or not useful at all. This organization created more opportunities for students to apply some key rules of professional conduct[88] because those rules were

[86] Because of the COVID-19 pandemic and the complications of scheduling students' in-person days in other classes while also accommodating students' preferences for fully remote instruction, the sections of Lab 2020 were not equal in size. This meant that our normal practice of balancing sections of required 1L courses for student demographics and predictors could not be fully implemented. To the extent that student predictors actually predict performance in a course like Lab, variations in students' grades may also be attributable, at least in part, to minor imbalances among the sections.

[87] There is some research instruction in the first semester of UNM's legal writing sequence, but 1Ls do not take Legal Research until the second semester.

[88] N.M. R. Prof'l Conduct 16-100 (Terminology), 16-101 (Competence), 16-102 (Scope of Representation and Allocation of Authority Between Client and Lawyer), 16-103 (Diligence), 16-104 (Communication), 16-106 (Confidentiality of Information), 16-118 (Duties to Prospective Client), 16-201 (Advisor), 16-301 (Meritorious Claims and Contentions), 16-303 (Candor Toward the Tribunal), 16-304 (Fairness to Opposing Party and Counsel), 16-401 (Truthfulness in Statements to Others), 16-402 (Communications with Persons Represented by Counsel), 16-404 (Respect for the Rights of Third Persons), 16-601 (Voluntary Pro Bono Public Service), and 16-804 (Misconduct). Of these, the course most emphasized 16-101,

more relevant to the class. Thus, this organization allowed for a more robust exploration of the rules.

Lab 2020's large-scale division, gathering information and then using that information to develop solutions with the client, was probably more intuitive (than the "reverse order" organization of Lab 2019) for students. It is also more generalizable to multiple practice settings than Lab 2019's organization around interviewing, negotiating, and counseling. Ideally, this framework gives students a transferable model for lawyering in general: some activities are related to learning about all the dimensions of the client's legal problem, and some are related to strategizing about and resolving that problem. Students can see that different lawyering activities are different tools that serve the same purpose. This organization also resembles the "process" method of legal writing instruction that stresses the method by which attorneys arrive at a final product such as a memo or brief. Organizing in this fashion mimics the dominant pedagogical approach in legal writing courses, including UNM's legal writing course.[89]

Because abandoning the large-group/small-group organization had the effect of creating more time for more topics, we were able to add more writing components that included topics like demand letters and document drafting. These were not entirely successful since each topic requires several classes' worth of instruction. Although valuable topics, that class time in Lab 2021 might be better spent developing the client letter in more detail. All three topics are opportunities to synthesize information into a course of action and then reduce that to an audience-appropriate writing. But for first-semester students, it is probably better to have a sustained focus on a smaller number of topics.

Lab 2020 included a shorter negotiation unit than the analogous negotiation unit in Lab 2019. Negotiation is a very important lawyering skill. It is a rich opportunity to explore two topics. First, it is an opportunity to explore the ethical challenges of the murky boundaries among strict honesty (even if this hurts the client's interests), "puffery," dishonesty, and the gray area created by the disclosure (or nondisclosure) of key information. Second, it is an opportunity to explore the challenges of maintaining a client-centered approach to representation when the client wants to pursue a course of action that is likely to be unproductive or inconsistent with the client's larger concerns.

But negotiation is also very complex. It is nearly impossible to do without a solid understanding of the law that governs the subject of the negotiation and the procedural setting in which the negotiation is taking place. Because most 1Ls lack this background, and because in a survey course like Lab it is difficult to give them a significant understanding of this

16-102, 16-103, and 16-106, on the theory that these form a core of rules relating to professional identity and the attorney-client relationship.

[89] *See, e.g.*, Felsenburg & Graham, *supra* note 72, at 83.

background, most 1L negotiation exercises are going to come down to personal power more than actual negotiating technique. Lab 2021 will likely continue to have a negotiation component, but its emphasis will have more to do with the ethical and client-centered challenges of negotiations than actual negotiation techniques.

3. Assessment Based on Conceptual Competence

Where Lab 2019 had assessed students on their performance of, or reflections on, certain lawyering skills, Lab 2020 based its assessment on quizzes and exams. This choice was made, in part, for the practical or logistical reason that adjuncts, who are working full-time somewhere else and not highly compensated for the class they are teaching, might find it challenging to provide significant (and timely) feedback. Having changed the course to six stand-alone sections, adjuncts were expected to spend more time in class and more time preparing for those classes. Shifting to a less time-consuming method of assessment was a compromise intended to keep the adjuncts' time commitment at a manageable level.

More fundamentally, Lab 2020 focused on conceptual mastery rather than performance. In this context, I would define "conceptual mastery" or "conceptual competence" as a student's ability to identify critical concepts, explain their meaning and context accurately, and apply the concept in relevant contexts.[90] Because Lab is essentially a survey course that covers a range of topics related to lawyering, the instruction in Lab 2020 was focused on when and why a lawyer might engage in particular activities. While Lab did provide students with techniques for some common lawyering activities, the focus was on understanding the relationship of those techniques to the goals and purposes of those techniques and, in a larger sense, providing competent representation. First-semester law students, especially those without prior law firm experience, have little to draw upon to deploy techniques effectively. Using students' performance of those techniques as the basis for graded assessment is likely to end up assessing their ability to mimic—essentially grading their acting ability. Assessment that focuses on students' ability to reproduce a checklist of performance elements "diminishes the importance of the student's reasoning process as she engages with the lawyering problem."[91] To the extent that performance is measured as a form of assessment, it is almost certainly measuring students' adherence to a script they have been given.[92] For 1Ls who do not yet have

[90] Roughly speaking, this corresponds to the knowledge, comprehension, and application levels of Bloom's taxonomy. *See* Kurt M. Saunders & Linda Levine, *Learning to Think Like a Lawyer*, 29 U.S.F. L. REV. 121, 134–35 (1994).

[91] Stefan H. Krieger & Serge A. Martinez, *Performance Isn't Everything: The Importance of Conceptual Competence in Outcome Assessment of Experiential Learning*, 19 CLINICAL L. REV. 251, 277 (2012).

[92] *Id.* at 275.

much to synthesize as a basis for performing in a particular way, performance does not clearly reveal whether students understand why they have followed that script or what the script is meant to accomplish for the client.[93]

Testing also provided better uniformity in grading, and it has been shown to improve students' academic performance and retention of the material.[94] On balance, quizzes succeeded in providing students opportunities to recognize key concepts and to apply concepts in new contexts. Fact-pattern exams, in which students were asked to critique the work of another attorney, gave students a chance to recognize concepts and explain their effective (or ineffective) application.[95] To the extent that quiz and exam scores in law school generally indicate adequate mastery (an important assumption), scores in Lab were in line with scores across the 1L curriculum. Subjectively, Lab faculty felt that students' performance demonstrated an acceptable range of mastery.

Nevertheless, testing did not work perfectly well. Writing good multiple-choice questions is hard; writing flawless questions is impossible. Because some quiz questions were too easy or too hard, it is difficult to say for certain that students demonstrated command of key concepts in every case. Those questions are not a perfect method of assessing students' conceptual competence. They can end up simply being a measurement of students' test-taking abilities.[96] This presents a different set of assessment inaccuracies, as students who have good conceptual competence may simply fail to parse a question as intended by the test writer, or may have test anxiety issues that cloud their reasoning even if they could, in other circumstances, answer the question correctly.[97] Also, many course concepts "depend" and call for explanations that multiple choice testing does not permit. The midterm and the final exam, which required explanations, showed an adequate command of course concepts for most students.

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[93] Legal writing classes typically do grade performance in the form of a final memo or brief. Some of the criticisms of performance-based graded assessment surely apply equally to legal writing courses, but those courses have a much more singular focus on a smaller set of skills and techniques, and therefore spend much more time developing those skills and techniques. They also typically repeat the same fundamental skills many times over the course of two semesters.

[94] Shaun Archer, James Parry Eyster, James J. Kelly, Jr., Tonya Kowalski & Colleen F. Shanahan, *Reaching Backward and Stretching Forward: Teaching for Transfer in Law School Clinics*, 64 J. LEGAL EDUC. 258, 264 (2014).

[95] Placing students in the role of evaluating another lawyer was an intentional choice, designed to empower students to make assessments.

[96] *See, e.g.*, William D. Henderson, *The LSAT, Law School Exams, and Meritocracy: The Surprising and Undertheorized Role of Test-Taking Speed*, 82 TEX. L. REV. 975, 1044 (2004) (concluding that the LSAT, and, by extension, law school exams, primarily gauge students' aptitude for time-pressured exams).

[97] *E.g.*, Sabrina DeFabritiis & Kathleen Elliott Vinson, *Under Pressure: How Incorporating Time-Pressured Performance Tests Prepares Students for the Bar Exam and Practice*, 122 W. VA. L. REV. 107, 138 (2019).

The most obvious problem with testing, of course, is that although testing is a ubiquitous experience of law students, it is not a common *lawyering* experience. Lab is meant to be an experiential course. Students may be right that testing is not a perfect fit for Lab. The challenge is that students may also be overestimating their ability to develop and present a performance of lawyering activities because the time they need to do that comes out of the time they could spend preparing for their other classes. A course in which the grade is performance-based requires a different level of sustained attention and effort, which intrudes on students' preparation for other courses. It also entails a higher risk of the perception of failure or inadequacy, as students tend to be harsh critics of the ways in which their novice status makes their performance less than masterful. In any event, as long as Lab is adjunct-taught and as long as the 1L curriculum is structured as it is, Lab will likely retain at least some testing and quizzing. Lab 2021 will use a short-answer format that will give students a better opportunity to explain their reasoning. It may also incorporate more opportunities for performance-based assessment even if those activities are not part of the final grade. Further winnowing of topics will allow for more time for in-class performance through role-plays, with ungraded feedback, which will help contain adjuncts' time commitment.

4. Independence from Doctrinal Courses

Lab in its second year did not attempt to connect to doctrinal classes. Instead, Lab 2020 was more fully based in landlord-tenant law,[98] which we had used for the capstone assignment in Lab 2019. This is a body of law that can be excerpted so that students have a manageable, but meaningful, piece of law to work with. It is also an area of the law with which many students will have had personal experience. Because it includes some statutory procedural provisions, it gave students the opportunity to engage with some legal procedures.[99] In legal writing courses, students have typically been able to successfully assimilate a small portion of a body of law that is not necessarily part of a doctrinal class, at least for the purpose of writing an interoffice memorandum or brief. Using the same body of law across the semester gave students the opportunity to notice how their understanding of the law deepened the more they worked with it and the more information

[98] Specifically, Lab 2020 was based on New Mexico's version of the Uniform Owner-Resident Relations Act. N.M. STAT. ANN. §§ 47-8-1 through 47-8-52 (1995). Students were assigned Sections 47-8-20 (Obligations of owner), 47-8-27.1 (Breach of agreement by owner and relief by resident), 47-8-27.2 (Abatement), 47-8-36 (Unlawful removal and diminution of services), and 47-8-39 (Owner retaliation prohibited).

[99] In general, law school (and particularly the first-year curriculum) does a poor job of teaching students to read, construe, and apply statutes. *E.g.*, Ethan J. Leib, *Adding Legislation Courses to the First-Year Curriculum*, 58 J. LEGAL EDUC. 166, 170–71 (2008); *see also, e.g.*, Muriel Morisey, *Liberating Legal Education from the Judicial Model*, 27 SETON HALL LEGIS. J. 231, 233–35 (2003).

they learned about their clients.

Because Lab 2020 did not attempt to link to students' 1L doctrinal courses, we were able to give students a single client whom they represented over the course of the semester. Using the capstone clients from Lab 2019, each section was again assigned one of six tenants in an apartment building as their client for the entire semester. As in Lab 2019, each of the six tenants had different, but overlapping, complaints about conditions in the apartment building. Each tenant also had concerns or difficulties beyond their specific landlord-tenant problems. Each section became its own legal services entity—some were private firms, others were public-interest legal services organizations. This created an opportunity to have cross-section discussions about how practice might be different in each setting, as well as to expose students to the fact that attorneys might work in many professional settings. Although not exactly "communities of practice," each Lab section offered students the chance to consider their professional identities in a particular way.[100] Lab 2020 did not fully realize the opportunity to discuss the realities of different practice settings; one possible addition to Lab 2021 might be a fuller discussion across sections of what it might be like to work in various practice settings.[101]

One challenge with landlord-tenant law is that it does not necessarily provide enough of a basis for a wide range of lawyering activities that are generalizable to a broader range of practice areas. Students intuited clients with landlord-tenant issues may not really want, or need, a full range of lawyering activities or may not be able to afford them. This provided opportunities to discuss these realities for clients, but it may also have contributed to student perceptions that the course is highly artificial. Students also recognized that a client with landlord-tenant issues may need more practical or logistical, rather than legal, assistance. It is beneficial for students to learn that clients will not always need or always be helped by a purely legal approach to their problems, but it may also have contributed to students overlooking legal solutions to the client's legal problems.

5. Introduction to Other Attorneys

A strong concern of Lab 2020 was introducing students not only to the concept of the client but also the concept of the lawyer. A critical component of forming a professional identity is to create space within which students can visualize themselves as lawyers. Becoming acquainted with practicing lawyers is a key component of this. Therefore, in each large unit of Lab 2020, we invited several local attorneys (many of them alumni) to meet with our students. These lawyers represented a wide range of personal

[100] *See* Cristina D. Lockwood, *Improving Learning in the Law School Classroom by Encouraging Students to Form Communities of Practice*, 20 CLINICAL L. REV. 95, 111–13 (2013).

[101] On the other hand, it could also be yet another topic that overburdens the course.

backgrounds, practice areas, and levels of experience. We asked them to talk about the paths to the legal profession, as well as their own practice, as it relates to the larger themes of each unit: information gathering and strategizing/problem-solving. There were three purposes for these attorney panels: first, to multiply the number of perspectives on and contexts for these broad themes; second, to begin to develop some professional networking and connections for our students, many of whom do not come to law school with prior connections to the legal profession; and third, to begin inculcating the idea of a professional community in the minds of our students as they form their own professional identities.[102] A deeper purpose of these panels was to teach students that a legal career can be a wandering experience and to reassure students that such wanderers can still be successful. Students were strongly encouraged by Lab faculty and the panelists themselves to contact the panelists with questions or to seek mentorship. It is doubtful that many students did so, in part, because of the typical demands on 1L time, but probably also because many of them do not know where they would like to practice or feel they do not have intelligent questions to ask a busy attorney.

In the "problem-solving" unit of the course, students had opportunities to meet with students from other sections who were representing other tenants to discuss whether they had any mutually beneficial information they could share. Students had been told that their clients had authorized sharing information about the neighborhood and the landlord that the client knew, or the attorney had discovered, to the extent it might be useful to the client's case, as long as the client's confidentiality was shielded. This provided a chance to test the limits of their sense of client confidentiality, while also providing a chance to discuss when and how attorneys who represent clients with related issues, but possibly also with personal conflicts, might collaborate.[103] In general, even though students had been told they had their clients' permission to share at least some information, these sessions yielded very little information that students perceived to be useful. This was primarily because students were highly cautious about what they would share. The information each had about the landlord and the neighborhood was not critical to the client's case, so the fact that they shared very little of it did not significantly impede their ability to strategize for their client. Their caution demonstrated a high awareness of the rules of professional conduct, particularly confidentiality. Students reported that preparing for this meeting was a useful exercise in considering what client information was actually

[102] *See* Melissa H. Weresh, *I'll Start Walking Your Way, You Start Walking Mine: Sociological Perspectives on Professional Identity Development and Influence of Generational Differences*, 61 S.C. L. REV. 337, 339–46 (2009).

[103] This was also explicitly intended to counteract some of the isolating effects of remote instruction due to the COVID-19 pandemic, since our students had limited contact with each other.

covered by confidentiality.[104]

D. What Students Learned in Lab and Their Reactions to the Class

1. What Students Learned in Lab

If overall student performance across two years of Lab is an indicator, Lab has accomplished its main goals. Students demonstrated an adequate novice-level appreciation of the concept of the client and client-centered representation. Their work showed an awareness that clients exist as fully-formed people, not simply legal problems, and that clients' legal problems are embedded into their larger financial, social, and emotional lives. They demonstrated facility with concepts like the allocation of decision-making power between the client and the attorney. These concepts draw on students' empathy and the knowledge that students bring with them to the first semester, so it is unsurprising that students can recall these concepts and apply them to simple fact patterns. In this way, Lab, like a clinical course, provides the key benefit of fostering a stronger sense of who clients are in a more rounded way.[105]

Students also showed an adequate understanding of the New Mexico Rules of Professional Conduct, at least in the simple in-class problems they were given. They definitely took the idea of confidentiality seriously. Because students did not have any case law construing the rules, they were not required to synthesize a more complex rule framework or to construct analogical arguments. 1Ls hunger for, and to some extent excel at, simple rule-based reasoning,[106] a skill that their doctrinal classes emphasize,[107] or at least expect on exams through the Issue-Rule-Analysis-Conclusion (or "IRAC") model.[108] It is unsurprising that they were generally able to apply these rules to simple fact patterns.[109]

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[104] Zoom Interview with Molly Samsell, Lab Student, Univ. of N.M. Sch. of L. (June 28, 2021) (on file with author) [hereinafter Samsell Interview].

[105] *See* Botnick & VanOstran, *supra* note 28, at 142–43.

[106] Steven K. Homer, *Hierarchies of Elitism and Gender: The Bluebook and the ALWD Guide*, 41 PACE L. REV. 1, 11 (2020). Some suggest that the distinction between rule-based reasoning and analogical reasoning may be more apparent than real. *E.g.*, Soma R. Kedia, *Redirecting the Scope of First-Year Writing Courses: Toward a New Paradigm of Teaching Legal Writing*, 87 U. DET. MERCY L. REV. 147, 168–69 (2010).

[107] *See* David S. Romantz, *The Truth About Cats and Dogs: Legal Writing Courses and the Law School Curriculum*, 52 U. KAN. L. REV. 105, 107 (2003) (noting that doctrinal courses tend to emphasize inductive reasoning).

[108] Joan M. Rocklin, *Exam-Writing Instruction in a Classroom Near You: Why It Should Be Done and How to Do It*, 22 LEGAL WRITING: J. LEGAL WRITING INST. 189, 212 (2018). Even legal writing classes may stress this skill. Stephen Paskey, *The Law Is Made of Stories: Erasing the False Dichotomy Between Stories and Legal Rules*, 11 LEGAL COMM. & RHETORIC: JALWD 51, 54 (2014).

[109] Anecdotally, students who have already taken Lab and are now taking Ethics have a better

It is harder to measure how far students progressed towards thinking of themselves as attorneys. We can measure it obliquely by considering topics already discussed: students' understanding of the concept of the client and the idea of professionalism. By these metrics, students began to construct their professional identities. Another measure is their ability to generate legal solutions for the client. Here, students struggled more. This is predictable because over the course of the first semester, even with a course like Lab, students have only a rudimentary grasp of legal analysis and of the legal mechanisms available. As a consequence, they do not fully understand what they can do for a client. Crafting non-legal solutions is comparatively easier since they have practical knowledge and life experiences to draw on. Likely related to this, students were certainly solicitous of their clients' stated desire to avoid litigation and legal fees. While this presents as students' respect for client-centeredness, it almost certainly also reflects their inability to determine what legal avenues are available or to gauge how those avenues will affect the clients' non-legal concerns.

2. Student Reactions to Lab

As is true for any course, particularly a new course, there are evaluations that are critical of the organization of Lab, the teaching quality, or the methods of assessment. These are valid concerns which any course must address as it evolves. A new course, taught by instructors who do not teach full-time, is likely to fall short occasionally. It is also true that students confronted with wholly unfamiliar material or different assessment standards may conclude that it is the professor's incompetence that accounts for weak performance and evaluate the professor accordingly.[110] Similarly, if the experience of legal writing faculty is a guide, skills faculty may generally receive lower student evaluations.[111] Student perceptions of faculty status or rank (like being an adjunct faculty member) may affect student evaluations.[112]

Another small subset of student evaluations was critical of Lab for a different reason: they did not see the utility of the course and questioned its

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basic grasp of some of the important concepts, like confidentiality. Slease Interview, *supra* note 84.

[110] Catherine J. Wasson & Barbara J. Tyler, *How Metacognitive Deficiencies of Law Students Lead to Biased Ratings of Law Professors*, 28 TOURO L. REV. 1305, 1312 (2012).

[111] Melissa Marlow-Shafer, *Student Evaluation of Teacher Performance and the "Legal Writing Pathology:" Diagnosis Confirmed*, 5 N.Y. CITY L. REV. 115, 126–28 (2002) (finding that legal writing faculty receive lower evaluations when they teach writing classes than when they teach doctrinal courses); *but see generally* Julia Glencer, Jan M. Levine, Erin Karsman & Tara Willke, *The Fruits of Hope: Student Evaluations*, 48 DUQ. L. REV. 233 (2010) (detailing Duquesne University's efforts to mitigate and reduce potentially negative student evaluations of legal writing faculty).

[112] Wasson & Tyler, *supra* note 110, at 1319.

purpose in a way that they are unlikely to do for doctrinal courses. Experiential learning is thought by some to be "the most effective" way to build general passion among students and to provide them with context for their broader legal education.[113] But at the same time, some students are resistant, perhaps because their prior academic experience has trained them into passivity or because their intellectual development as 1Ls leads them to expect to be given material they can memorize.[114] Many 1Ls, undoubtedly, come to law school with an image of legal education, or the proper subject matter of their first year, informed by popular culture images that exaggerate outdated modes of legal education; the tedium and gratuitous cruelty of the Socratic method as depicted in *The Paper Chase*[115] comes immediately to mind in this context, but there are other examples. Similarly, some of the resistance to Lab may lie in the fact that students conflate that which is easy to learn with mastery.[116] Skills, self-evidently, require considerably more time for mastery than memorizing doctrinal concepts, and the limits of students' command of these activities is palpable to them.

Some of these evaluations may be attributed to the reality that students will not fully appreciate the value of Lab until later. Law students who bring an essentially undergraduate mentality to the study of law may expect a course to "make sense" entirely within the semester in which it is taught, and only within that semester. This may be why law students are less likely to question the utility of their doctrinal courses: it is not because those courses are inherently more valuable than a skills course or that those courses are inherently better designed. It is because students trust them more because they more resemble their prior educational experiences.

That aside, student evaluations of both iterations of Lab were largely positive. Students appreciate Lab's introduction to the practice of law in a practical way and the opportunities to learn about the complexities of representing clients in legal practice. Some Lab faculty have reported that Lab students do appreciate the course more as they begin externships and legal employment after their first year.[117] They enter these settings with greater confidence because they have a sense they understand, or at least recognize, some part of what they are doing.[118] Students have similarly reported appreciating skills and techniques they learned in Lab while at their

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[113] Maranville, *supra* note 4, at 59.

[114] Hess, *supra* note 2, at 403–04.

[115] THE PAPER CHASE (20th Century Fox 1973).

[116] *See* Elizabeth M. Bloom, *Creating Desirable Difficulties: Strategies for Reshaping Teaching and Learning in the Law School Classroom*, 95 U. DET. MERCY L. REV. 115, 121 (2018). "Students believe that if a concept seems fast and easy to learn, that they have mastered it; 'short-term excellence is mistaken for long-term competence.'" *Id.* (quoting David Dunning, Chip Heath & Jerry M. Suls, *Flawed Self-Assessment: Implications for Health, Education, and the Workplace*, 5 PSYCH. SCI. PUB. INT. 69, 87 (2004)).

[117] Zoom Interview with the Hon. Shammara Henderson, Lab Faculty, Univ. of N.M. Sch. of L. (May 21, 2021) (on file with author).

[118] *Id.*; Armijo Interview, *supra* note 67.

first legal jobs.[119] This surely also fosters a richer, stronger sense of both students' passion for the study of the law and their sense of themselves as professionals who will serve the public good.[120]

IV. THE BROADER CHALLENGES OF A COURSE LIKE LAB

A. The Risk of Overloading a First-Semester Experiential Course

Lab is an example of twin impulses: first, the sense that students may need more than they are getting from the first year in terms of what it is that lawyers do, and second, our ambition and deep desire to prepare them for the rest of law school. Lab is not unique in this regard: legal writing courses are often expected to cover significant practice-related and practical terrain.[121] Experiential learning in the first year has particular challenges, given how little students know, especially in the first semester.[122] A common thread throughout this Article has been the difficulty of guiding first-semester students towards crafting legal solutions for their clients when students have yet to develop their legal toolkits. Highly developed simulations or real-world experiences are a challenging fit for the first year.[123] The question for the first-year curriculum, in general, is whether we know where novices ought to begin their legal training. If we do not know where novices should begin learning about "the law," then we are always going to be hampered in our attempts to teach skills or practice or do experiential learning in the first year.

"Situated learning" describes a setting in which the learner begins their learning process "through purposeful authentic activities in social contexts" by doing activities that may seem "trivial."[124] Apprentices often begin their training engaged in "legitimate peripheral participation," in which they are assigned less important ancillary tasks until they are ready for responsibilities that are more central to the actual work of the profession or trade.[125] With this in mind, it may be that first-semester law students' learning may not necessarily be facilitated by beginning with the activities that constitute the groundwork of an experienced attorney's process. Of course, law students would justifiably balk at being asked to tidy files or run errands, especially for a grade in a three-credit course, but what legitimate peripheral

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[119] Samsell Interview, *supra* note 104.

[120] *See* Ruan, *supra* note 25, at 198–99.

[121] Diane B. Kraft, *CREAC in the Real World*, 63 CLEV. ST. L. REV. 567, 593 (2015); *see also* Linda H. Edwards, *A Chance to Teach Analytical Skills Intentionally and Systematically*, 16 LEGAL WRITING INST. 1, 10 (2002).

[122] Maranville, *supra* note 4, at 62.

[123] Rubin, *supra* note 14, at 664.

[124] Shiva Hajian, *Transfer of Learning and Teaching: A Review of Transfer Theories and Effective Instructional Practices*, 7 IAFOR J. OF EDUC. 93, 98 (2019).

[125] *Id.* (citing Jean Lave & Etienne Wenger, SITUATED LEARNING: LEGITIMATE PERIPHERAL PARTICIPATION (CAMBRIDGE U. PRESS 1991)).

participation provides is the opportunity to observe the activity from within the relevant community of practice[126] while remaining at a safe distance from its most important work.[127]

Ironically, law schools have a long history of shying away from an essentially apprenticeship model of instruction because they feel stigmatized by being "merely" trade schools.[128] Pure apprenticeship, of course, is problematic in its own ways as a mode of instruction, given that it has no set curriculum and no method of assessing the effectiveness of the instruction.[129] I am by no means proposing a return to that model. Rather, my point is to observe that legitimate peripheral participation shows us the places at which expert processes begin are not automatically the activities novices will find most useful for learning. In fact, novices may even be hindered by attempts to convey a sense of the whole profession because they have no mental framework within which to accommodate that information. The implication for a course like Lab, especially if it is a first-semester course, is that it might be better not to try to develop a sense of the client or a sense of the continuum of representation; instead, it may be better to focus on the less ambitious but equally valuable task of helping students more clearly understand the critical relationship between facts and the law.[130]

B. The Necessity of Repetitions of a Feedback Cycle

Lab as proposed may be ambitious in terms of what it is intended to teach, but any skills survey course would have to be, given the wide range of lawyering activities with which a well-rounded law student should be familiar. This is acutely so in a one-semester course. Adequate skills instruction, especially if performance of those skills is the basis of graded assessment, requires multiple repetitions of a cycle. First, students are introduced to the purposes and techniques of the skill.[131] Then, students are challenged to recall those things accurately. They are further challenged to observe the application of those skills to a relevant test pattern so they can see master-level problem solving using those skills.[132] From there, students

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[126] *See id.*

[127] *Id.*

[128] Tonya Kowalski, *True North: Navigating for the Transfer of Learning in Legal Education*, 34 SEATTLE U. L. REV. 51, 77–78 (2010).

[129] *Id.* at 78.

[130] Maranville, *supra* note 4, at 62–63. Of course, this triggers a different kind of curricular challenge: whether such a course demands the effort of a three-credit course. *See id.*

[131] John O. Sonsteng, Donna Ward, Colleen Bruce & Michael Petersen, *A Legal Education Renaissance: A Practical Approach for the Twenty-First Century*, 34 WM. MITCHELL L. REV. 303, 393 (2007); Kristen B. Gerdy, *Teacher, Coach, Cheerleader, and Judge: Promoting Learning Through Learner-Centered Assessment*, 94 LAW LIBR. J. 59, 63 (2002).

[132] Jaime Alison Lee, *From Socrates to Selfies: Legal Education and the Metacognitive Revolution*, 12 DREXEL L. REV. 227, 242 (2020); Terrill Pollman, *The Sincerest Form of Flattery: Examples and Model-Based Learning in the Classroom*, 64 J. LEGAL EDUC. 298, 305 (2014).

can attempt their own application of those skills to a similar test pattern with informal or low-stakes assessment.[133] This assessment provides students with feedback on their level of mastery.[134] Finally, they are challenged to incorporate that feedback by applying those skills to a more sophisticated or ambiguous test pattern, working independently.[135] Students receive formative assessment on that work,[136] reflect on that feedback with self-assessment,[137] and ideally repeat the later steps of this process.[138] This assumes, of course, that students use the feedback they receive or even know how to do so. There is reason to believe that, for some students, neither assumption is true.[139] There should be room in this process for students to fail safely and to learn from their failures.[140] It is easy to see, however, that after only a few cycles of a process like this, the semester will have ended.

Repetition of different lawyering activities is essential for student learning about those activities.[141] Students do not automatically transfer what they have learned about one lawyering activity to another lawyering activity, even if experienced attorneys can easily see the relationship between the two activities.[142] This is both because students tend to cabin their knowledge within the context in which it was learned[143] and also because, from the *learning* perspective, the activities may in fact be unrelated.[144] Despite Lab's attempt to create underlying through lines about gathering and using information over the course of legal representation, some students had difficulty transferring insights from one activity to another because the activities, as such, seemed different.

Students can most easily transfer their learning from one activity to

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[133] Olympia Duhart, *"It's Not for a Grade": The Rewards and Risks of Low-Risk Assessment in the High-Stakes Law School Classroom*, 7 ELON L. REV. 491, 493–94 (2015).

[134] Heather M. Field, *A Tax Professor's Guide to Formative Assessment*, 22 FLA. TAX. REV. 363, 378 (2019); Gerdy, *supra* note 131, at 80.

[135] Gerdy, *supra* note 131, at 66–67.

[136] Anne D. Gordon, *Better Than Our Biases: Using Psychological Research to Inform Our Approach to Inclusive, Effective Feedback*, 27 CLINICAL L. REV. 195, 217 (2021).

[137] Sarah J. Schendel, *What You Don't Know (Can Hurt You): Using Exam Wrappers to Foster Self-Assessment Skills in Law Students*, 40 PACE L. REV. 154, 170–71 (2020).

[138] Denitsa R. Mavrova Heinrich, *Cultivating Grit in Law Students: Grit, Deliberate Practice, and the First-Year Law School Curriculum*, 47 CAP. U. L. REV. 341, 365 (2019).

[139] *See* Aïda M. Alaka, *Phenomenology of Error in Legal Writing*, 28 QUINNIPIAC L. REV. 1, 26–38 (2009).

[140] Kaci Bishop, *Framing Failure in the Legal Classroom: Techniques for Encouraging Growth and Resilience*, 70 ARK. L. REV. 959, 987–88 (2018).

[141] Lamparello & MacLean, *supra* note 6, at 144.

[142] *See id.* at 141–42.

[143] Mary Nicol Bowman & Lisa Brodoff, *Cracking Student Silos: Linking Legal Writing and Clinical Learning Through Transference*, 25 CLINICAL L. REV. 269, 277–78 (2019); *see also* Laurel Currie Oates, *I Know That I Taught Them That*, 7 LEGAL WRITING: J. LEGAL WRITING INST. 1, 1 (2001).

[144] Lamparello & MacLean, *supra* note 6, at 144.

another when the two activities have many similarities; that is, if they have "identical elements."[145] An experiential learning course can accomplish this by emphasizing the relationship between its classroom exercises and the "real-world" lawyering activities to which they correspond.[146] As proposed and designed, Lab was successful to this extent because all of its exercises were explicitly identified as lawyering activities. The challenge lay in enabling transfer from one lawyering activity to another within Lab because students were not necessarily able to see the underlying similarities or continuities among the different activities. When this is the case, students may not be able to truly develop problem-solving abilities.[147] With the expectation of exposing students to multiple lawyering activities comes the necessity of spending less time on each of those activities and less time repeating them—and, therefore, less time helping students learn from "identical elements."[148]

Another way to frame the issue is the high/low transfer distinction.[149] Low transfer means that the students transfer what they have learned from one iteration of an activity to essentially the same activity.[150] This does not require the "mindful abstraction of general principles among different events in different contexts" or the "deliberate search for connections among their structures" that high transfer requires.[151] High transfer is obviously the larger goal of legal education because that is how working lawyers address all of the unanticipated issues that client representation entails.[152] In any event, both forms of transfer require sufficient time and spaced repetition for students to be able to unearth those general principles and connections.[153] Explicitly identifying those principles and connections, and asking students to attempt to identify them, can help,[154] but this does not automatically mean students will assimilate those connections into their own schema without time for repetition.[155]

Another complication is, in addition to finding space in the curriculum for repetitions throughout the semester, students must

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[145] Hajian, *supra* note 124, at 95.
[146] *See id.* at 96.
[147] *See id.* at 95.
[148] *See id.*
[149] *Id.* at 96.
[150] *Id.*
[151] *Id.*
[152] Kowalski, *supra* note 128, at 64.
[153] David A. Binder & Paul Bergman, *Taking Lawyering Skills Training Seriously*, 10 CLINICAL L. REV. 191, 201 (2003); *see also* David A. Binder, Albert J. Moore & Paul Bergman, *A Depositions Course: Tackling the Challenge of Teaching for Professional Skills Transfer*, 13 CLINICAL L. REV. 871, 879 (2007).
[154] This is sometimes called a "hugging" strategy. "Hugging" strategies "call the student's attention to the close relationships between contexts and identify opportunities for transfer." Kowalski, *supra* note 128, at 63.
[155] *See* Binder & Bergman, *supra* note 153, at 201, 879.

personally find the time to perform these repetitions. A question for further study is whether students prepare differently for skills and doctrinal classes (they almost certainly do) and whether the time it takes to be adequately prepared for a skills course is greater than the time it takes to be similarly prepared for a doctrinal course, especially if the graded assessment in the skills course is performance-based. To the extent that *performance* is to be the basis of assessment and feedback, it is not only the instructors who have a time demand: students must also prepare and revise or rehearse their work in anticipation of the graded performance.[156] Related to this, the ability to review and absorb feedback on performance obviously consumes students' time and cognitive bandwidth, but it also consumes their emotional resilience resources.[157]

Perhaps more accurately, student perception of what is needed to *feel* adequately prepared for a doctrinal course is likely quite different from what they perceive they need to prepare for a skills course. I suspect most student performance in a doctrinal course is largely improvised because students do not perceive the need to rehearse what they will say in class, and probably lack the ability to do so in any case, because they do not know what they will need to say. To the extent that study time is spent on activities like reading, rereading, and briefing cases, students may be maximizing their study time, but this may also be inefficient from a learning perspective.[158]

This is not only a question of time: students' abilities to prepare, rehearse, and revise for a skills course is also limited by their available cognitive bandwidth.[159] "Cognitive load theory" tells us that beyond a certain point, students are unable to process all of the informational inputs and convert them into meaningful learning.[160] Creating a performance-based assignment stream, in addition to the assignment stream that already exists in 1Ls' first-year legal writing sequence, could impede students' overall performance because of the additional cognitive load it would impose.[161]

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[156] The actual assessment of the performance itself takes time: even a short performance-based exercise, multiplied by the number of students in a section, will either require using several of the regularly scheduled class meetings or scheduling those performances outside of class time. Both strategies entail costs – the former eats into time which could be spent on other topics and the latter cuts into students' study time for other classes.

[157] Ann L. Iijima, *Lessons Learned: Legal Education and Law Student Dysfunction*, 48 J. LEGAL EDUC. 524, 526 (1998); *see also* Cassandra L. Hill & Katherine T. Vukadin, *Now I See: Redefining the Post-Grade Student Conference as Process and Substance Assessment*, 54 HOW. L.J. 1, 4–5 (2010); Anne M. Enquist, *Unlocking the Secrets of Highly Successful Legal Writing Students*, 82 ST. JOHN'S L. REV. 609, 626 (2008).

[158] Jennifer M. Cooper & Regan A. R. Gurung, *Smart Law Study Habits: An Empirical Analysis of Law Learning Strategies and Relationship with Law GPA*, 62 ST. LOUIS U. L.J. 361, 389–90 (2018).

[159] *See* Bowman & Brodoff, *supra* note 143, at 276.

[160] *Id.*

[161] Stefan H. Krieger, *Domain Knowledge and the Teaching of Creative Legal Problem Solving*, 11 CLINICAL L. REV. 149, 184 (2004).

Doctrinally-oriented classes take up a significant fraction of students' available time and bandwidth, and a legal writing class takes up a great deal of what remains.[162] Perhaps another way to frame this issue is that doctrinal courses *are* skills courses dedicated to a small set of lawyering skills:[163] reading cases and statutes, assembling rule frameworks from multiple primary sources, and using precedent to reason by analogy.[164] Considered that way, they then consume a very large fraction of students' time and cognitive bandwidth for a small set of skills. These are important skills; the question here is the amount of curricular and intellectual space they occupy relative to other lawyering skills because students "cannot learn as many things as we want them to learn, all at the same time."[165]

C. The Difficulty of Fairly Representing the Complexity of the Practice of Law

One choice that time imposes is the choice between giving students insight into major forms of practice—for example, civil litigation, criminal defense and prosecution, and transactional work—or focusing on only one. Typically, practice classes default to civil litigation;[166] this is certainly a major career path for some law students but not the only one. In either case, two secondary choices emerge: whether to teach the lawyerly work as it nominally is, or as it actually is. If the latter, we must further ask whether and how to teach the many theoretically available strategies which may be foreclosed by the routinization or bureaucratization of many aspects of practice. The obvious answer is that a course like Lab should probably focus on the ostensible forms of common practice areas and provide students with a general sense of common activities of representation in those areas.[167] Both iterations of Lab attempted this, but its content has mainly been about activities most likely in civil litigation. Ideally, the course would not present

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[162] *See* Linda H. Edwards, *The Trouble with Categories: What Theory Can Teach Us About the Doctrine-Skills Divide*, 64 J. LEGAL EDUC. 181, 213 (2014).

[163] *See id.* at 191–94.

[164] *Id.*

[165] Terri L. Enns & Monte Smith, *Take a (Cognitive) Load Off: Creating Space to Allow First-Year Legal Writing Students to Focus on Analytical and Writing Processes*, 20 LEGAL WRITING: J. LEGAL WRITING INST. 109, 112 (2015).

[166] Brent E. Newton, *The Ninety-Five Theses: Systemic Reforms of American Legal Education and Licensure*, 64 S.C. L. REV. 55, 84–85 (2012); *see also* Rubin, *supra* note 14, at 641–42. The very substance of the reading in most first-year doctrinal courses emphasizes civil litigation: the appellate opinions students read in courses like Contracts, Torts, Property, and, of course, Civil Procedure are all the products of civil litigation. Eduardo M. Peñalver, *The Role of Skills Instruction in Legal Education*, 13 FIU L. REV. 229, 235 (2018).

[167] Presenting a generic model of a dynamic process like lawyering may well exacerbate novice learners' tendency to over-generalize, *see* Patricia Grande Montana, *Meeting Students' Demand for Models of Good Legal Writing*, 18 PERSP: TEACHING LEGAL RSCH. & WRITING 154, 154 (2010), but this is less an argument against a course like Lab than an argument in favor of more courses like Lab.

civil litigation as the most useful exemplar of practice, but this is easier said than done.

At the very least, students should understand three things about practice in general. First, that instruction centered on "thinking like a lawyer" is really about a small subset of the ways a lawyer thinks. Practicing attorneys may spend some time thinking about how the facts of their cases do or do not align with the requirements of applicable rule frameworks, or the ways in which those facts resemble or differ from facts of precedent, but they are much more likely to think about a far broader set of tools. Lawyers spend much more time thinking in terms of strategies (legal and practical) and challenges in their cases. Second, students should understand that lawyers in these major areas of practice have very different and idiosyncratic work processes. Third, and related, students should know that many practice areas are highly bureaucratic and routinized to both reduce the burden on court systems and to improve case management within firms by putting cases on as predictable a path as possible. These systems are probably impossible to teach in law school because they are very specific to each court system or law office. Still, students should know that they exist.

D. The Challenge of Placement within the Curriculum

If a course like Lab is a first-semester course offered for only one semester, one challenge that has already presented itself is that students have little knowledge from which to generate legal strategies for their clients. This is likely to dampen students' enthusiasm and lead to frustration.[168] This is a challenge of Lab's proximity to the beginning of law school. My focus here is on the challenges presented by Lab's distance from the end of law school, capstone clinical experiences, and early employment.

A course like Lab is an example of what I call the "exposure" model of curricular design (for example, I have often heard fellow faculty members say that "students should be exposed to the practice of law in their first year"). In this model, students are exposed to a subject at an early point in their education but often have no opportunities for repetition and reinforcement. They are then expected to transfer that knowledge to a later, more advanced setting. Yet without opportunities for repetition and reinforcement, this early exposure is likely to minimize, rather than maximize, student learning. Without further coursework to repeat and reinforce the content of a course like Lab, novice learners (who lack sufficient domain-specific frameworks for the new information) will tend to

[168] Students' frustration may be compounded when they arrive at Clinic and discover that they have not retained what they thought: student perceptions that they have (or have not) been able to transfer learning from one class to another (or to a practice experience) may differ, positively or negatively, from what they were actually able to transfer. *See* Jonathan Garcia, *How Do Law Students Develop Writing Expertise During Summer Internships?: An Interview-Based Study*, 23 LEGAL WRITING: J. LEGAL WRITING INST. 129, 148–49 (2019).

organize the new information inefficiently or according to irrelevancies—or not at all.[169] For example, if they tend to organize their learning according to the course in which it was learned, they may have unexpected struggles in applying that knowledge in a different course, even if the knowledge is applicable in the later course.[170]

The placement of Lab, relative to the beginning and end of law school presents long-term learning challenges. The distance, in time or concept, between subjects to which transfer would apply, (i.e., the time between Lab and Clinic) likely affects retention of prior learning: as a neurological matter, the neural networks that constitute knowledge require stimulation over time.[171] Learning depends on memory, and memories fade.[172] Indeed, our brains are generally designed to forget; without reinforcement, even information that students recognize as important can be forgotten.[173] If a course like Lab is to serve as reliable preparation for a clinical experience, students would benefit from opportunities to revisit earlier topics, ideally in related but slightly different contexts. This is because "[a]dults tend to remember information longer when they learn it over a distributed period rather than in a single instance."[174]

V. PROPOSALS AND CONCLUSION

To the extent that law schools truly must produce "practice ready" graduates, this obligation requires something more than adding skills or experiential courses to the margins of a "crowded" curriculum—it may require reimagining the curriculum through the lens of skills education.[175] To begin with, it is possible that the problem of "practice readiness" does not lie in the first year at all. Legal education's reliance on essentially the same educational techniques over the three years of law school has a counter-productive effect in the second and especially third years: educational methods that are only arguably effective for first-year students may hinder, or even reduce, learning among more advanced students.[176] Perhaps where significantly greater experiential learning opportunities are

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[169] Hillary Burgess, *Deepening the Discourse Using the Legal Mind's Eye: Lessons from Neuroscience and Psychology That Optimize Law School Learning*, 29 QUINNIPIAC L. REV. 1, 31–32 (2011).

[170] Bowman & Brodoff, *supra* note 143, at 278.

[171] Jacqueline McGinty, Jean Radin & Karen Kaminski, *Brain-Friendly Teaching Supports Learning Transfer*, *in* LEARNING TRANSFER IN ADULT ED. 49, 49–50 (Leann M. R. Kaiser, Karen Kaminski & Jeffrey M. Foley eds., 2013).

[172] Bowman & Brodoff, *supra* note 143, at 276.

[173] *See* Archer et al., *supra* note 94, at 262.

[174] Burgess, *supra* note 169, at 37.

[175] Barbara Glesner Fines, *Out of the Shadows: What Legal Research Instruction Reveals About Incorporating Skills Throughout the Curriculum*, 2013 J. DISP. RESOL. 159, 174 (2013).

[176] *E.g.*, Pollman, *supra* note 132, at 330–32.

truly needed is in the second and third years, because those students would be better able to maximize their learning gains in an experiential context. They have richer bodies of legal knowledge, skills, and values from which they could generate legal strategies and solutions. The necessity to synthesize these things in an experiential course would produce deeper learning gains and produce the higher-level, more fully dimensional "thinking like a lawyer" that "practice readiness" implies.

However, if a course like Lab is offered or required in the first year, it would work better in the second semester, rather than the first, after 1Ls have had a full semester of writing, a research course, and basic doctrinal courses. Ideally, students would also have had Civil Procedure and Legal Research[177] in the first semester. In this scenario, a course like Lab could meaningfully synthesize doctrinal and procedural knowledge with skills like research and writing. In such a class, it could be easier to link Lab back to first-semester subjects like Torts, Criminal Law, Contracts, and Civil Procedure. Students could, for example, manage the early stages of a personal injury lawsuit, learn a little bit about the early stages of a criminal prosecution (perhaps in the context of counseling a client who is considering a plea deal), and also engage in some simple transactional work. Revisiting these subjects in the second semester would be the kind of spaced repetition and recall that strengthens learning.[178] Placing a course like Lab at a point in the curriculum at which it is realistic to expect students to be able to generate at least rudimentary legal strategies and solutions would also make it more meaningful to grade students' performance of those skills. If Lab were a second-semester course, the focus of assessment should still be primarily on conceptual mastery, but it would be more meaningful to assess performance because with a better foundation of knowledge, students' performance would be a better indicator of their progress towards becoming lawyers.[179]

Moving a course like Lab to the second semester would, however, not fulfill the impetus to give students some basic information about the legal system at the beginning of their education. Students perceive that they either do not receive this information, or they receive it piecemeal across several courses and are not able to integrate it. It might then be useful (assuming the credit hours could be found) to give students a first-semester "Introduction to Lab" course that is more focused on simply

[177] The Experiential Learning Committee recommended creating an additional one-credit Legal Research course in the first semester. Report of Experiential Learning Committee, *supra* note 1, at 6. This recommendation has not yet been acted upon. The Experiential Learning Committee also discussed moving Civil Procedure to the first semester but did not make a recommendation to that effect. *Id.* at 6 n.2.

[178] Brian Sites, *Learning Theory and the Law: Spaced Retrieval and the Law School Curriculum*, 43 L. & PSYCH. REV. 99, 104–18 (2018–2019); *see also* Catherine Martin Christopher, *Normalizing Struggle*, 73 ARK. L. REV. 27, 46 (2020).

[179] The problems of limited student bandwidth and limited instructor and course time to observe and assess the performance of certain skills would remain. Hajian, *supra* note 124, at 95 (addressing professor time); Krieger, *supra* note 161 (addressing cognitive load).

communicating and teaching this basic information.[180] It could perhaps include instruction about basic vocabulary of legal practice (something Lab currently does, albeit very briefly), as well as teaching students about various types of legal practice and the general organization of different court systems. This then would provide a foundation for a second semester of a course like Lab in which students would synthesize all of this into what would essentially be a simulated-client practice course—something that is truly experiential. This would give students the "basic knowledge of the role of the law and lawyers in our society, the rules of professional conduct, and the reasons for those rules" which they need.[181] This "Introduction to Lab" course could also provide better instruction in important topics that Lab does not currently teach in depth: how to be a successful law student, attorney wellness,[182] and cultural competence.

Two semesters of a course like Lab would give it a much bigger footprint in the first year. But the question is not really whether two semesters would be too much; the question, rather, is whether two semesters would still be too little. For example, some scholars have proposed a curriculum of six semesters of experiential legal writing.[183] This is a valuable proposal. One characteristic of experiential learning is that students may not all have the same experience. As a result, I suspect students may not all learn the same things. This has the virtue of giving each student the opportunity to learn what their experience led them to learn, but it can produce gaps in students' knowledge and abilities. A solution would be many more semesters of a course like Lab. For example, five pre-clinic semesters of Lab would go a long way towards ensuring a uniform set of instructional experiences over time and create vastly more time to teach students about various forms of practice, making them highly prepared for clinic.

A six-semester sequence might then include a first-semester Lab course that focuses primarily on the structure of the legal profession and the legal system, as described above, with a second semester that then integrates and synthesizes first-semester topics into simple client-related activities. The third and fourth semesters could be drawn from existing practice and procedure and document drafting courses, or negotiation and alternative dispute resolution courses, with students perhaps required to take one of

[180] The irony of this suggestion will likely not be appreciated much outside UNM, but one of the courses Lab replaced was a one-credit course called Practicum that attempted to teach many of these topics. It was ungraded and typically taught as an overload, so it eventually suffered from a lack of student and faculty energy and attention.

[181] Bethany Rubin Henderson, *Asking the Lost Question: What Is the Purpose of Law School?* 53 J. LEGAL EDUC. 48, 68 (2003).

[182] These are all important topics, and the Experiential Learning Committee recommended a significant allocation of class time to them. *See* Report of Experiential Learning Committee, *supra* note 1. However, with so many topics on Lab's plate it has been challenging to find room for these topics, let alone devote a quarter of the class to them. A first-semester "pre-Lab" course could make considerably more room for them.

[183] *E.g.*, Lamparello & MacLean, *supra* note 6, at 182–87.

each. The fifth and sixth semesters could be first an introduction to clinical work[184] then work in an actual live-client clinic. All of this, of course, would entail a massive reallocation of teaching resources and curricular priorities. Still, law students who successfully completed such a sequence alongside doctrinal components of their legal education (and other skills courses) would be significantly more "practice ready" than is currently the case.

A less extravagant approach might be a "meta" class that strings together a series of pre-existing skills, practice and procedure, and ethics classes, along with any externships and clinical experiences a student might have. This "class" would not involve explicit instruction any about particular subject. Rather, the instruction would be for the purpose of metacognition directed at what students are learning across a range of experiences during their entire law school careers. In effect, it would be a single, six-semester "course," the purpose of which is to teach students to stitch together their learning into a cohesive understanding of what it is to be a lawyer. Obviously, individual courses can and should require continuous reflection. The idea here is that students would be required to reflect—on an ongoing, formal, institutionalized basis—on the entirety of their legal education and training as lawyers.

Why propose such grandiose ideas that may have little chance of being implemented? The point is simple: a truly "practice-ready" curriculum requires a thorough reimagining of the allocation of curricular and instructional resources. Increasing students' experiential, skills, and practice and procedure opportunities could benefit students. Still, all of these courses require greater time commitments from students and faculty alike. Further, they all require thoughtful placement in the sequence of the overall curriculum. That which is foundational or basic for the practice of law is not automatically foundational to the *study* of law or basic to students' training as lawyers. What is foundational to the study of law and basic to students' training as lawyers cannot be done quickly.

The conundrum is as old as legal education itself: what we can do for students is not always what students need us to do. Providing what students need from us will require a thorough reimagining of curricular and instructional resources. It will require questioning the persistence of Langdellian models of legal education over time. It will require confronting our anxiety over being "merely a trade school."

As always, the devil is in the details. I have explored some of the opportunities and challenges of a course like Lab to begin cataloging the bottlenecks, pinch points, and fault lines highlighted by increased experiential and skills education. Our example may help other law schools navigate this path so that, collectively, we can better prepare our students for

[184] The Experiential Learning Committee recommended the creation of a second-year pre-clinic lawyering seminar. Report of Experiential Learning Committee, *supra* note 1, at 9. This recommendation has not yet been enacted.

the practice of law.