

Executive Summary

In 2002, inspired by the tenth anniversary of *The MacCrate Report*,¹ the ABA Curriculum Committee embarked on a comprehensive survey of law school curricula. Our goal was to transform the anecdotal into objective data. Published in 2003, *A Survey of Law School Curricula: 1992-2002* provided comparative statistical results from that decade on a wide range of curricular topics in legal education. And with the help of pioneering studies in 1975 by Donald Jackson and E. Gordon Gee,² and a 1986 report by current committee member, William B. Powers,³ the 2002 Survey was able to incorporate those observations to note longstanding curricular practices and trends.

This report, *A Survey of Law School Curricula: 2002-2010*, continues in the tradition of the 2002 Survey. It is a comprehensive empirical review of significant aspects of current law school curricula, but additionally, the 2010 Survey employs baseline results from the 2002 Survey to track curricular trends and changes since 2002.

Much has happened since the publication of the 2002 Survey to shape our conversation about legal education. Since that time, the climate for curricular reform has intensified. Recent interest has been fueled by the publication in 2007 of two influential reports on legal education: *Educating Lawyers: Preparation for the Profession of Law*, produced by the Carnegie Foundation for the Advancement of Teaching;⁴ and *Best Practices for Legal Education*:

¹ *The Report of the Task Force on Law Schools and the Profession: Narrowing the Gap*, (Chicago, 1992) is informally called *The MacCrate Report*, named for the chair of the ABA task force, Robert MacCrate. The Report identified ten fundamental lawyering skills: problem solving (Skill §1), legal analysis and reasoning (Skill §2), legal research (Skill §3), factual investigation (Skill §4), communication (Skill §5), counseling (Skill §6), negotiation (Skill §7), litigation and alternative dispute resolution (Skill §8), organization and management of legal work (Skill §9), and recognizing and resolving ethical dilemmas (Skill §10).

² Donald Jackson and Gordon Gee produced two stellar works in 1975 that blazed the modern trail. Their first book, *Following the Leader? The Unexamined Consensus in Law School Curricula*, Council on Legal Education for Professional Responsibility (1975) [hereinafter *Law School Curricula*] reported on the required curricula of the 127 ABA-approved law schools in 1975. Their second book, *Bread and Butter?: Electives in American Legal Education*, Council on Legal Education for Professional Responsibility (1975) [hereinafter *Electives*] delved into the elective curricula of the 127 ABA-approved law schools.

³ The report, *A Study of Contemporary Law School Curricula*, by William B. Powers [hereinafter *Powers Report*], was written for the Office of the Consultant on Legal Education in 1986.

⁴ William M. Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond and Lee S. Shulman, *Educating Lawyers: Preparation for the Profession of Law*, The Carnegie Foundation for the Advancement of Teaching, Preparation for the Professions Program (2007) [hereinafter *Educating Lawyers*] (critiquing the way law schools prepare their students for the profession of law).

A Vision and a Road Map, published by the Clinical Legal Education Association.⁵ Both publications posed direct challenges to law schools: reform professional legal education to better prepare students to become competent professionals.⁶

Since the 2002 Survey was published, law schools have faced a changing legal job market amid an economic downturn⁷ and increased competition as the ABA-approved ranks have swelled.⁸ Media scrutiny of legal education, and specifically of the law school curriculum, has also fueled the conversation.⁹ Each factor has contributed to make curricular-setting principles the subject of intense discussion and debate.

CURRICULAR REVIEW: THE STORY OF THE 2010 SURVEY

Results of the 2010 Survey – the objective data combined with the narrative responses – reveal that law school faculties are engaged in efforts to review and revise their curriculum to produce practice ready professionals. Survey respondents frequently cited the changing job market and the three publications (*The MacCrate Report*, *Educating Lawyers*, and *Best Practices*) as influential in their decisionmaking processes.

In the 2002 Survey, we observed that law schools had begun to retool aspects of their programs with two commitments guiding them: an increased commitment to clinical legal education and an increased commitment to professionalism. The 2010 data suggests that these goals remain firmly in place as law schools attempt to respond to the critiques and external influences of recent years. But there is more. Engaging in wholesale curricular review has produced experimentation and change at all levels of the curriculum, resulting in new programs and courses, new and enhanced experiential learning, and greater emphasis on various kinds of writing across the curriculum.

⁵ Roy Stuckey and Others, *Best Practices for Legal Education. A Vision and A Road Map*, Clinical Legal Education Association (2007) [hereinafter *Best Practices*] (offering “a vision of what legal education might become” by articulating seven sets of best practices, from setting goals through assessing both learning and institutional effectiveness). *Id.* at i, 1.

⁶ See *id.* at 19 (encouraging law schools to “expand their educational objectives to more competently serve the needs of their students”); Sullivan et al., *supra* note 4 at 91 (arguing for changes in the academic setting to integrate “the apprenticeship of practice”). See also Lauren Carasik, *Renaissance or Retrenchment: Legal Education at a Crossroads*, 44 IND. L. REV. 735, 743-744 (2011) (relying, in part, on the criticisms from *Educating Lawyers* and *Best Practices* to argue for a comprehensive approach to reform).

⁷ See, e.g., Richard A. Matasar, *The Viability of the Law Degree: Cost, Value, and Intrinsic Worth*, 96 IOWA L. REV. 1578 (2011) (analyzing the impact of external factors on the value of a law degree; Daniel Thies, *Rethinking Legal Education in Hard Times: The Recession, Practical Legal Education, and the New Job Market*, 59 J. LEGAL EDUC. 598 (2010) (tracing the effects of the economic recession on legal education).

⁸ In 2002, there were 187 ABA-approved law schools; by 2010, that number had increased to 200 ABA-approved law schools.

⁹ See, e.g., Ashby Jones, *The Boldest Move (To Date) in Legal Curricular Reform*, THE WALL STREET JOURNAL (Sept. 9, 2009), <http://blogs.wsj.com/law/2009/09/09/the-boldest-move-to-date-in-legal-curriculum-reform> (decrying the “redundant” third year of law school classes and suggesting replacing them with simulation of real-world experience); David Segal, *So You Want to Learn to Practice Law? Wait Until After You Finish School*, THE INTERNATIONAL HERALD TRIBUNE, Nov. 22, 2011, at 18 (criticizing the lack of practical, real-world, training that law students are given).

Major Findings of the 2010 Survey

Outlined here are the major findings from the 2010 Survey:

REQUIRED CURRICULUM

- Average credit hours required for graduation increased by one unit to 89 units in 2010, although there is disparity in the credits required depending on a law school's size of enrollment and whether a law school is public or private. Public law schools required an average of 89 units while private law schools required 87 units, and law schools with enrollments of more than 1300 students required an average of 86 units.
- Although accelerated graduation is permitted under ABA Standard 304(c),¹⁰ only 11% of respondents reported a policy allowing it.
- The number of law schools that required courses beyond the first year has remained relatively constant since 2002, with Constitutional Law and Evidence garnering the most support as required upper division doctrinal courses. For the first time, 28% of law school respondents indicated that they required a specific upper division legal writing course.
- Tested subject matter of bar examinations does not appear to play a prominent role in a law school's determination of which courses to require for graduation.
- Fewer law schools had upper division distribution requirements in 2010 than in 2002.
- Law schools have increased all aspects of skills instruction, including clinical, simulation, and externships, to meet recently adopted ABA Standard 302(a)(4), which requires that students receive "other professional skills" instruction.¹¹
- Pro bono service requirements have increased incrementally since 2002 with 18% of law school respondents in 2010 requiring an average of 35 hours of pro bono service to graduate, which is, on average, ten more hours of service than reported in 2002.

FIRST-YEAR CURRICULUM

- While the first-year lineup of core courses has remained constant since 1975, law schools have reconfigured unit allocation and timing of core courses and are offering additional courses and elective opportunities for first-year students.
- Legal Research and Writing continues to grow in stature as law schools increased the number of units and expanded course coverage to include skills instruction beyond traditional advocacy.
- More law schools offered first-year elective opportunities in 2010 than in 2002. In 2002, 14 respondents provided a first-year elective opportunity; by 2010, that number had grown to 33 law schools.
- Nearly half the respondents in 2010 provided a small section experience outside of Legal Writing. The average size of enrollment for the small section experience was 30 to 40 students.

¹⁰ ABA Standard 304(c) states that "the course of study for the J.D. degree be completed *no earlier than 24 months* and no later than 84 months after a student has commenced law study" (emphasis added).

¹¹ ABA Standard 302(a)(4), adopted in 2004, requires that "students receive substantial instruction in other professional skills generally regarded as necessary for effective and responsible participation in the legal profession."

UPPER DIVISION CURRICULUM

- The upper division elective curriculum remained healthy with little decrease in any particular areas of law. Course titles have increased since 2002 with noted additions in International Law, Alternative Dispute Resolution, Intellectual Property, Business Law, and Transactional Drafting.
- Law schools offered a wide range of professional skills opportunities, with half the respondents reporting ten or more types of professional skills courses. Transactional Drafting courses and upper division Legal Writing courses experienced the greatest growth in offerings. Many law schools also added courses and course components on professionalism and professional identity.
- The percentage of law school respondents that offered specialization and certificate programs remained the same as in 2002, but the number of programs each school offered increased significantly. Most popular programs were in International Law, Business Law, Intellectual Property, and Litigation.
- Over 85% of respondents regularly offered in-house live-client clinical opportunities and 30% of respondents offered off-site, live-client clinical opportunities. Law schools with in-house clinical opportunities averaged three clinics. Nearly all respondents provided at least one externship opportunity, and without exception, placement opportunities have increased in each externship category since 2002.
- Eighty-seven percent of all ABA-approved law schools offered joint degrees in 2010. The most popular joint degree continued to be the J.D./M.B.A. (masters in business administration) but the J.D./M.S.W. (masters in social work) experienced the most growth. An increasing number of law schools offered post-J.D. and non-J.D. degree programs in 2010.
- More law schools offered distance education courses in 2010 than in 2002, but law school policies permitting distance education instruction lagged the approval to do so under ABA Standards. Fewer than fifty percent reported a policy allowing distance education instruction to count toward the J.D. degree. Synchronous (simultaneous transmission) offerings increased from 13% of respondents in 2002 to 23% of respondents in 2010. Similar growth can be seen in asynchronous (on-line or web-based) offerings. In 2002, 11% of respondents offered asynchronous education; by 2010, that number had grown to 25% of respondents.

ACADEMIC SUPPORT AND BAR READINESS

- By 2010, nearly all respondents had instituted a voluntary academic support program, and 70% of respondents offered their first-year students either a mandatory or voluntary academic support course.
- As of 2010, 49% of respondents offered a bar preparation course for credit. The range of topics included multistate essay, multiple choice, state essay, and performance practice. For most law schools, the course was voluntary, and full-time faculty resources, or a combination of full-time and adjunct faculty resources, were used in two thirds of the programs.

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