

## WORKING GROUPS

### Law Schools

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### III. ASSESSING LAW SCHOOLS' ASSESSMENT TOOLS

Any effort at improving how law schools teach law must take into account how law schools assess their teaching and their students' learning. Education theorists have long identified many problems associated with law schools' traditional assessment method—the final examination. To begin with, students receive no feedback or guidance during the course itself and hence no opportunity to recognize areas in which they need to improve. In addition, even after the examination, the feedback is often limited to a number or letter grade, with no written or oral discussion of the strengths and weaknesses of the performance and the student's learning. Moreover, many students fail to engage fully with the material until the days prior to the examination. Perhaps even more critically, in a classic example of "the tail wagging the dog," many instructors report that they shape the content of their courses based on what is readily testable, and many students predictably report that they focus their energies on what they believe to be testable.

It is imperative, therefore, that as part of LEARN's work in promoting innovative reforms, it undertakes a project to assess the ways that law schools can modify their assessment tools to enhance the learning experience, to fit the style and content of courses, and to provide instructors with information about whether they are succeeding in

their teaching goals. Meaningful assessments must be designed to advance both learning and teaching. At core, assessment must be integrated into the learning experience for the benefit of the students and faculty; not treated simply as a post-course ranking system for the purposes of employers and others.

The first step in this effort is to look at a number of existing assessment innovations that individual law schools have implemented and assess whether these are models that ought to be promoted more broadly. To carry out these studies, LEARN will (a) commission pilot studies by faculty members at several schools and (b) conduct a coordinated, multi-school analysis of the effects of piloted, established, and recently-adopted assessment methods on students' learning and their socialization to professional culture. This study would use a variety of tools including data available from the Law School Survey on Student Engagement (LSSSE) and the existing national diary study of law students' attitudes, beliefs, adjustment and competencies. We anticipate studying a wide variety of tools, and the list will be adjusted as new innovations and opportunities develop. At the moment, though, LEARN hopes to focus initially on examining the following kinds of assessment tools:

#### PROPOSED PROJECT 8: LEARN WILL ASSESS THE USE OF INTERACTIVE CLASSROOM TECHNOLOGY

Some law schools and instructors have begun using interactive response systems (also known as "clickers") in classroom teaching. These devices allow an instructor to pose a question or problem to the class and ask the students to enter their answers or reactions, which are then summarized and displayed.

The intended goals are to increase in-class engagement and participation, to assess student preparation and learning in an efficient manner, and to provide critical feedback to the instructor about the students' learning. Students and faculty receive immediate feedback on students' comprehension levels and have opportunities to work more intensely on areas in which more attention or different approaches are in order. LEARN intends to study how this technology can or cannot be effectively used in various law school settings. The results of this study will be disseminated widely and would be expected to have significant impact on whether law schools and instructors adopt these devices and, if so, how they utilize them.

**PROPOSED PROJECT 9: LEARN WILL ASSESS THE USE OF PERIODIC WRITTEN ASSIGNMENTS  
AND/OR EXAMINATIONS**

LEARN also proposes to assess the costs and benefits of using periodic writing assignments and examinations as supplements to, or substitutes for, the traditional final examination. These kinds of assignments overcome many of the problems identified with the final examination—they keep the student engaged during the course itself and provide opportunities for meaningful feedback to both the students and teachers while it still matters. One of the great barriers to more frequent testing has been the demands such models make on faculty time. Unlike many other disciplines, law schools have generally insisted on having the instructor herself, as opposed to a teaching assistant, grade every examination. It is important to study and reflect on the advantages and disadvantages of this insistence, to assess whether periodic assessment really does increase the overall time expenditure of faculty, and to determine whether the benefits of more periodic testing and assignments are worth the costs they impose.

**PROPOSED PROJECT 10: LEARN WILL ASSESS THE USE OF MONITORED WIKI-POSTINGS AND  
LISTSERVS**

Another tool that needs to be studied is the role that Wiki-postings and discussion lists can play in promoting and monitoring student engagement, and in providing information to instructors about the students' learning progress. Some instructors require students to participate in these on-line discussions and find that this creates a valuable opportunity to have each student participate actively and have his voice heard—something that the logistics of the classroom render impossible. Again, serious study of this method would have great value to the national law-teaching community.

**PROPOSED PROJECT 11: LEARN WILL ASSESS THE MODIFICATIONS TO THE END-OF-TERM  
LETTER OR NUMBER GRADE**

LEARN also proposes to analyze the end-product of the assessment—in most schools a letter or number grade. Some schools have adopted different methods recently. In some instances, schools have abandoned letter grades altogether, dividing students into groups of “honors,” “pass,” “low pass,” and “fail.” Other schools have begun experimenting with providing periodic assessments across identified lawyering dimensions and skill sets. These kinds of innovations are dramatic; and their pedagogical value needs to be studied and analyzed methodically.

**PROPOSED PROJECT 12: LEARN WILL ASSESS THE USE AND ASSESSMENT OF SIMULATIONS**

Medical schools are far ahead of law schools in defining traditionally neglected practice skills and responsibilities and in developing simulations in which they can be taught and reliably assessed. Several law schools have made this kind of experiential learning a part of their core curricula. Some of these schools have profited from collaborations with medical schools to define the skills necessary for competent and responsible legal practice and develop simulations in which those skills are taught and tested. LEARN proposes that several of these schools be funded to continue the development of experiential learning in three dimensions: (1) documenting the importance of identified practical skills and values to the study and practice of law, (2) refining and standardizing simulations in which skills and values of documented importance can be taught and reliably assessed, and (3) documenting the effectiveness of assessed simulations in developing those skills and values.

**PROPOSED PROJECT 13: LEARN WILL ASSESS ALTERNATIVES TO THE TRADITIONAL BAR EXAMINATION**

Just as law school examinations affect the nature of students' learning experience in a particular course, the bar examination drives much of the curricular vision and class-content in many law schools. There is a tendency among some to assume that the nature and content of the bar examination is a law of nature, indelibly set in stone. This is clearly not the case. The best evidence of this is that a majority of states have changed their bar examinations over the past several decades to now include a practical performance test. Change in this area may take time, but it would be very wrong to write off the idea of reforming the nature of bar admission. Indeed it seems obvious that, even with the addition of a practical-performance section of the examination, the current standard form of the bar examination in most states is ripe for reform.

The State of New Hampshire recently adopted a model, in conjunction with the state's only law school, allowing students to choose a two-year bar examination, administered over the course of a student's legal education. One purpose of this radically modified bar examination is to find vehicles to assess students' competencies "in professional skills and judgment through simulated, clinical and externship settings." LEARN proposes to support and study the development of the simulated client protocols that are being developed in New Hampshire's pathbreaking program. Although the process of effecting change in bar admissions is a formidable one, the impact of the bar examination on the nature of legal education is too powerful to ignore.