



# LEARN

Legal Education Analysis and Reform Network

General Description of  
Planned Projects  
2009-2010



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## PARTICIPATING LAW SCHOOLS AND FACULTY

### PARTICIPATING SCHOOLS

CUNY Law School  
Georgetown University Law Center  
Harvard Law School  
Indiana University School of Law (Bloomington)  
New York University School of Law  
Southwestern Law School  
Stanford Law School  
University of Dayton School of Law  
University of New Mexico Law School  
Vanderbilt University Law School

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# INTRODUCTION

Ask anyone to describe the core nature of American legal education and you are likely to hear about some variation on the Socratic Method instituted more than a century ago and made famous by *The Paper Chase*. A professor calls on students to answer probing hypothetical questions that force the students to grapple with the scope, limits and ambiguities of legal principles they have read about in a decision written by an appellate court. Through this process, students' minds are trained in analytical legal reasoning and they are taught the language of the law. At the end of the semester, the students sit for a three-hour or four-hour examination in which they write essays in response to long and complicated hypothetical scenarios presenting a series of issues that admit of no objectively correct resolution. Several weeks later the students learn their grade on the examination. The students repeat this exercise 20 to 25 times over the course of three years, after which they receive their Juris Doctor degrees. All that then stands between them and the practice of law is to pass the bar examination—which involves another two or three more days of writing and testing.

There is much value in this methodology, but there is also much wanting in it. Many legal educators are now recognizing that exclusive reliance on this method of teaching threatens, in the classic words of Edmund Burke, “to sharpen the mind by narrowing it.” There is a growing understand-

ing that as the training ground for the lawyers and leaders of tomorrow, law schools must think more broadly about the kinds of knowledge, training and acculturation our students need, which various kinds of teaching methodologies best transmit those varied types of knowledge, and the best assessment methods to optimize educational value.

The curriculum that is being offered by the majority of law schools is based on a model that was developed by C.C. Langdell in the years immediately following the Civil War. While this curriculum was certainly innovative in its day, it came under intensive criticism for being obsolete as early as the Carnegie Foundation's Reed Report of 1921. Since that time, a number of significant efforts have been made to stimulate reform. For example, in 1972, Herbert Packer and Thomas Ehrlich authored *New Directions in Legal Education* in which they called for dramatic restructuring of the curriculum. The 1970s also were witness to important developments in clinical legal education, which strives to substantially broaden the methods through which law students learn to become lawyers. Similarly, in 1992 the American Bar Association's Task Force on Law Schools and the Profession issued the MacCrate Report, *Legal Education and Professional Development – An Educational Continuum*, hoping to stimulate (a) revisions of conventional courses and teaching methods to more systematically integrate the study

of skills and values with the study of substantive law and theory; (b) revisions of existing skills courses or programs, or the creation of new ones, to better achieve pedagogical goals; and (c) development of courses or programs concerned with professional values. For many years, moreover, the Keck Center on Legal Ethics and the Legal Profession has encouraged law schools to rethink their approaches to inculcating professional values in their students. Although some of these efforts resulted in some changes, they generally have not been successful in stimulating law schools to reflect systematically on their approaches about what and how to teach. As we will explain below, there are many reasons to believe that the time is now ripe to build on these past efforts and effect some real change in these areas.

At present, more than ever, the Langdellian curriculum, including its mandatory first year that focuses almost exclusively on common law, is in need of serious re-thinking. The continuing transformation of the regulatory state, globalization, social movements that generated new visions of the role of the lawyer, and changes in the practice of law (including the rise of the large, multi-office law firm), have transformed the field for which law schools are training their students. Equally significant, the development of progressive, learner-centered education by John Dewey and others in the early part of the twentieth century has transformed our ideas about the way people learn and about the most effective modes of pedagogy. These developments, from the beginning of the large law firm through the development of the regulatory state, are as much as a century old and so much knowledge has been generated about learning theory since Dewey. Yet law schools have done very little to apply these lessons to law school curriculum, pedagogy and assessment.

These are not abstract or insignificant subjects. Lawyers play a fundamental role in our democracy, both in their professional roles and as leaders of

government, industry and non-governmental organizations. Lawyers and judges are charged with a large part of the mission of implementing visions of justice and preserving liberty. It is no accident, then, that it was Shakespeare's Dick the Butcher—a character seeking to undermine liberty and impose a totalitarian form of government—who declared, “the first thing we do, let's kill all the lawyers.” Of course, the legal profession has not always lived up to its noble calling. The public recognizes this. For example, a recent poll shows that 94% of Americans have “a great deal or a fair amount of respect for physicians.” Yet only 44% feel that way about lawyers.

There are, of course, myriad reasons for the ways in which the public thinks of lawyers and lawyers think of themselves. But in addressing causes and remedies one cannot ignore the basic truth that one of the only commonalities virtually all lawyers share is that they have spent three years in law school. Regardless of whether law schools are to blame for some or most of the problems facing the profession, there can be no doubt that law schools are uniquely situated to address these problems and play a more thoughtful role in preparing lawyers who will contribute more to the public good and who will serve their clients more effectively and ethically.

These were some of the major themes addressed in the recent work by the Carnegie Foundation for the Advancement of Teaching. In *Educating Lawyers* [hereinafter “the Carnegie Report” or “the Study”], published in 2007, the authors recognize the extent to which “the profession of law is fundamental to the flourishing of American democracy” and the extent to which law schools are the forum in which lawyers “develop legal understanding and form professional identity.” The Study recognizes that there are multiple competencies that need to be developed as part of law students' professional training and call on law schools to

offer an integrated, three-part curriculum: (1) the teaching of legal doctrine and analysis, which provides the basis for professional growth; (2) introduction of the several facets of practice included under the rubric of lawyering, leading to acting with responsibility for clients; and (3) exploration and assumption of the identity, values and dispositions consonant with the fundamental purpose of the legal profession.

The Carnegie Report refers to these three areas as the “three apprenticeships” that students must experience in the course of their professional training. The reference to apprenticeship is not to suggest a return to the pre-law-school days of literal apprenticeship, but to invoke the imagery of mentored professional training that recognizes the imperative of educating students in multiple dimensions.

The Study commends law schools for the power of its “signature pedagogy”—the Socratic Method—in developing the first of these areas, but is highly critical of law schools’ failure to integrate systematically the other two aspects of the educational mission into the training of future lawyers. The Study recognizes that law schools do offer some courses that address these other areas of professional development, particularly through their programs. But the Study cautions that it is not enough to throw in elective courses in these other critical areas late in the law school experience. Rather, pedagogy in these areas must be integrated from the beginning into the formation of students’ professional identities.

Such integration is also a remedy for the notorious disengagement of law students during their second and third years of law school. Law schools’ repetitive focus on one skill set (analytical reasoning), taught more or less in the same manner, obviously has diminishing returns and also predictably leads to student boredom. The opportunity costs of

not exposing these students to so many of the areas in which they need to be trained, and with which they will engage, are staggering.

Many of these general points are not new. For decades critics of legal education have called on law schools to recognize that they are training future lawyers who need preparation beyond simply sharpening their capacity for analysis. Yet despite the pleas of these judges, scholars and commissions, institutions of legal education have remained somewhat entrenched in their ways. Although there has been significant movement to expand the curriculum to include some elective courses (such as clinical offerings) geared toward these other areas of professional training, these approaches have not been integrated into the core curriculum and it remains the case that most students’ rather steady diet is high on one form of nutrition—that which develops analytical powers—but is highly deficient in other essential nutrients. Thus, we lose wonderful opportunities to enhance students’ analytical skills and other areas of expertise by melding together the teaching of varied forms of professional knowledge.

There are strong reasons to believe that today’s calls for curricular and pedagogical reform will have a far more profound impact. Unlike previous generations in which the calls for reform came primarily from critics situated in a particularized site within legal education or from those outside the law schools, the current movement toward reform has captured the interest and commitment of many law schools themselves. More than at any time since the creation of the Socratic Method, America’s law schools are taking a hard look at how and what they teach. These schools include large and small schools, public and private schools, the most selective schools in the country and those admitting a far broader range of students.

Believing that this is a critical moment for the

future of legal education, ten law schools have come together to work with the Carnegie Foundation for the Advancement of Teaching to promote thoughtful innovation in law school curriculum, pedagogy and assessment. These ten schools, which have formed the Legal Education Analysis and Reform Network (hereinafter “LEARN”), are:

- CUNY Law School
- Georgetown Law School
- Harvard Law School
- Indiana University School of Law (Bloomington)
- New York University School of Law,
- Southwestern Law School
- Stanford Law School
- University of Dayton School of Law
- University of New Mexico Law School
- Vanderbilt University Law School

Each of these law schools became part of this project based on the school’s current and ongoing engagement in the implementation of legal education reform. Although each takes a different approach to the reforms that are optimal in its circumstances, each school recognizes that law schools must confront the lessons of teaching theory, the changing needs of our students, the evolving nature of legal practice, and the new dynamics of a global economy (and its necessary impact on the law). Without exaggeration we can say that at no time since the 1880s has there been more institutional commitment to change within America’s law schools.

In December 2007, 40 leaders of American legal education gathered in Palo Alto, California to discuss how they could work together to make sure that this great moment of opportunity is seized and that the momentum for reform is sustained and widened. Convened by the Carnegie Foundation for the Advancement of Teaching and by Stanford Law School, the group included three representatives from each of the ten participating law schools

(generally the dean of the law school, an associate dean, and a member of the faculty), as well as several other leading thinkers on the subject. After two days of meetings, the group was divided into three working groups, and a steering committee was created with representatives from each of the three groups. (A list of the members of each working group and the steering committee is attached as Appendix A.)

The list of ten schools that started LEARN was substantially underinclusive. Many other law schools are also deeply engaged in this process and would have been invited to join at the initial stages were it not for the need to keep the initial group small enough to effectively formulate the initial set of proposal projects. We now expect that the network will grow and that schools committed to LEARN’s mission will become full partners in the work.

One working group has been looking at ways in which LEARN can help maintain and enhance the momentum for law schools across the country to consider whether their curricula reflect the needs for teaching a wider variety of subjects, creating a wider array of learning environments (such as simulations and clinical work), and integrating the teaching of the three apprenticeships. The classic curriculum of doctrinal subject areas remains core to legal education, but there is great room for innovation through new course offerings that enhance students’ exposure to new areas of law and different facets of lawyering.

The second working group has been charged with exploring how the lessons and imperatives of these reforms can best be transmitted to individual faculty members of the Nation’s more than 200 law schools. Ultimately, it is the individual faculty member who sets the tone, style and content of a course. Educating faculty about the great variety of innovative approaches to legal education and pedagogical methods available to help integrate the three

apprenticeships into their teaching is a critical step in ensuring that students are exposed to a robust understanding of law and lawyering in each subject they study.

The third working group has been examining the role that assessment plays in legal education. Students are most motivated to focus on those areas on which they are being assessed, so any meaningful change in teaching methods and content needs to be accompanied by appropriate changes in assessment methods. Assessments of students, moreover, can and should be part of the learning process, not simply a sorting process thrown in at the end of a course. In addition, the information teachers glean from using assessments directed toward students' formative understanding (and not just for the purpose of evaluating students at the end of an educational experience) yields insights into the students' learning process and trajectory. Institutions can develop structures and systems for gathering this knowledge and using it to inform both broad curricular reform and the development of teaching practices. There are many approaches that can be taken in these areas, and many models available.

Each of these groups had meetings in person and/or by telephone conference over the course of the past year, and each group has formulated proposals for how it can best achieve its objectives. We set forth those proposals in this document. These plans are beginnings. Our goal is to remain

flexible and evolve as more ideas are developed across the academy. In order to develop an initial set of proposals, we created relatively small working groups. As LEARN goes forward, however, we fully invite and anticipate far broader participation from law schools and law teachers throughout the United States (and in some contexts, the world).

The specific projects described here fit together to form a cohesive approach to improving the training of lawyers. Although the budget is relatively slim for a project with this much capacity to effect lasting change, this is not the kind of expenditure of funds and resources that any one law school could individually undertake. Acting as a consortium, however, we have a powerful opportunity to be an engine of reform. We expect that many individual schools will contribute to the project through providing personnel and resources. The success of the project will turn, however, on the availability of outside sources of funding that support the development of shared learning across institutions and recognize the extraordinary opportunity for profound change.

In 1910, the Carnegie Foundation for the Advancement of Teaching's renowned Flexner Report changed the face of medical education. LEARN believes that now, one century later, again with the involvement of the Carnegie Foundation for the Advancement of Teaching, we have a spectacular opportunity to effect dramatic and much-needed changes in legal education.



## I. MAINTAINING THE MOMENTUM FOR INSTITUTIONAL REFLECTION AND REFORM

During the two years since the Carnegie Report was published, many law schools have continued or begun to reflect on their curricula and to find ways they can improve. One of the most important functions LEARN can play is to encourage this process by disseminating information about the kinds of ideas law schools are implementing and by identifying the law schools that are engaged in this process. Doing this serves three critical functions.

First, it helps spawn ideas based on the innovations that are being considered and implemented by other law schools. Every law school faces a different set of issues—based on its student body, its faculty, alumni and mission. Providing law schools with a broad set of ideas that other schools have implemented allows them to think critically about which of these reforms might work for them and which might not. Schools need not start on clean slates. There is a wealth of material available about what schools are doing, and it is important that this be made available in an easily accessible format.

Second, there has been a tendency among some law schools and some faculty to consider any deviation from the standard curriculum and methodology to be anti-intellectual in some way. There has been a perception among some in the past that intellectually rigorous schools and those with hopes of moving up in the rankings must focus exclusively on “hard” forms of knowledge (be they doctrinal or interdisciplinary) and stay away from the “softer”

areas of professional values and expert skills. By disseminating information about the schools that are engaged in broadening and integrating their curricula—schools across the spectrum from those viewed as super-elite to those viewed as less-elite—LEARN can dispel that damaging myth and open the door for schools of all types to think about the pedagogical value of possible changes, as opposed to focusing on fear of negative impact on the school’s standing.

Third, and related, it is a cold reality that law schools have become increasingly competitive among themselves. Rankings receive far more attention and affect priorities in ways they never did before. As mentioned above, it is first important that we dispel any notion that reform will hurt a law school’s reputation in any way. We can do that and more. By disseminating data about law schools that are engaged in meaningful reform we can shepherd competition into this area. This is already happening. Law schools are eager to show that they are on the bandwagon of curricular reflection and reform and that they are part of the solution, not part of the problem. We can keep this energy alive by highlighting the efforts of schools that are engaged in this process. As Martin Luther King Jr. explained in his “Drum Major Complex” sermon, we cannot change the inherent competitive nature of people and institutions. We can, however, seek to define the currency of that competition, to ensure that it is a competition that promotes good.

PROPOSED PROJECT 1. LEARN WILL GENERATE AND DISSEMINATE A REPORT ON LAW SCHOOLS' EFFORTS TO IMPLEMENT CURRICULAR AND PEDAGOGICAL REFORM

To accomplish these goals, LEARN is working on a report that will serve as an update of *Educating Lawyers*. The Carnegie Report was published in 2007 and included description of some schools' innovations and approaches through 2006. The new report will be published in 2010 and will consider the many developments that have taken place between 2007 and 2009. Two researchers, including the lead author of *Educating Lawyers*, will be collecting data and drafting the new report, which will be distributed widely in hard copy and through the internet. The report will deal with innovations in pedagogy, as well as changes in the substance of curriculum. LEARN will also make speakers available to present the new report at conferences, law schools, and other appropriate fora. We believe that this report, which will be far more descriptive than normative, will drive home the lesson that serious change is in the air, and that law schools across the nation are deeply committed to, and engaged in, the process.

## II. EDUCATING LAW TEACHERS

Reforming legal education requires law teachers committed to and capable of expanding their repertoire of teaching practices. This is a long-term effort involving changes in the ways that law teachers understand not just the overall educational enterprise, but also ways to re-conceptualize their courses and re-shape their pedagogical activities. Progress in this area demands that teachers focus on what and how they teach and how they can incorporate meaningful assessment tools that promote their teaching goals. At its core, the goal here is to show teachers how they can better integrate some of the expert-skills and professional-values components into their everyday teaching and how they can develop courses that provide more educational value for their students.

We start from the premise that many, if not most, current law teachers understand the value of teaching law in a more holistic way. They have no real models on how to do that, however, because they were not exposed to that kind of teaching as students and have not had opportunities to see it implemented by colleagues. Take, for example, a professor teaching first-year criminal law students an appellate case about a homicide. No professor would ever imagine teaching such a case without making sure that the students understand the precise elements of the crime and without carefully critiquing the reasoning of the appellate court. All that is of great importance and should continue.

But it is also imperative to make sure that students understand other aspects of the case, such as: how the facts of the case were developed by the prosecutors and the defense lawyers; what factors likely led the prosecutors to charge the case in the way they did; what ethical issues likely arose in the prosecution and defense of the case; what kind of strategic decisions the lawyers made over the course of the case and how might they have handled them differently; whether the defendant and those like him are receiving meaningful access to quality counsel; whether sentences in cases like the one studied are often affected by the race and class of the defendant and the victim; what political factors led the legislature to create the statute in the manner they did. The list goes on and the areas one can explore are endless. Other disciplines have much to add to students' appreciation of the law. Expanding legal education along these lines will require interdisciplinary cooperation. This interdisciplinary cooperation can only develop through a careful, ongoing discussion of how, whether and when social science can best contribute to substantive legal knowledge (both in legal education and legal scholarship).

Obviously choices will need to be made about the optimal issues to cover in any individual case. The point is, though, that any teacher who is committed to providing students a robust understanding of the subject will recognize the value of moving beyond doctrine to include substantial

engagement in these topics and others like them. This is what is meant by integrated teaching of legal analysis, skills development and professional identity and values. Each instructor will necessarily make individual choices about how best to teach a subject, but those choices should not be made based on ignorance of what topics might be covered or how to cover them, nor by fear of teaching areas with which the instructor is less familiar and less comfortable.

What is needed, then, are different forms of professional development activities that will educate educators about (1) their options in deciding on the content and teaching style of their courses, and (2) the development of methods of assessment that foster learning and make educators comfortable addressing this broader array of issues. LEARN has several concrete projects in mind, many of which can be implemented in the near future and will yield almost immediate positive results. Some of these are stand-alone projects that LEARN will administer; others can be done in cooperation with other organizations that focus on legal education. The Carnegie Report noted that “faculty attention to the overall purposes and effects of a school’s educational efforts is surprisingly rare.” We do not believe this inattention reflects malice.

It does, though, sharpen the need for efforts to engage faculty in critical thinking about how and what we teach.

Providing instructors easily accessible information and training in innovative teaching approaches can go a long way to improving the nature of law school pedagogy. We recognize, though, that there are other institutional obstacles in place at some law schools that will affect how much energy professors are likely to expend in this enterprise. Like other parts of the academy, law school faculties constantly struggle with the tension between devoting time to scholarship versus spending increased time on teaching and mentoring. This tension is often more apparent than real. We hope that our work on publicizing ways in which institutions themselves are committed to curricular and pedagogical innovation will help faculty members see that law schools care deeply about teaching, and are willing to reward faculty who excel in that area. Independent of that broader hope, though, reducing the costs of access to information and ideas about effective teaching, and creating networks of teachers who share commitment to their teaching, will have significant impact on teachers’ willingness to reflect upon and improve their approach to teaching.

## PROPOSED PROJECT 2: LEARN WILL CREATE A WEBSITE WITH A RICH COLLECTION OF TEACHING RESOURCES

The greatest impediment to the adoption of creative teaching techniques is inertia. In preparing to teach any particular course or class, an instructor tends toward the approaches with which she is familiar—either from having taught that way in the past or having been taught that way. It is often quite difficult and time-consuming for the instructor to develop mastery even over the conventional material to be covered. Thus, even for those instructors who appreciate the importance of bringing different facets of the case and lawyering into the classroom, and who understand that different teaching styles can be effective, the time and energy costs of imagining how to do that can seem prohibitive. We need to reduce those costs.

One answer to this problem is to launch an expansive web site that can provide a variety of tools and models for active law teachers, including a deep collection of class outlines, ideas and materials with which to teach particular courses and cases, and new forms of assessment devices. By dividing the ma-

materials by subjects—and then by topics and particular cases within subjects—the website would become an invaluable resource for any professor considering how to teach a course, a particular topic or class. The website can also serve as a locus for developing interdisciplinary approaches to law drawn from the social sciences. These materials can be presented both within particular subject and topic areas, and in a separate section of the website devoted to interdisciplinary legal knowledge and teaching.

Imagine a professor preparing to teach a torts class on libel. By accessing the website (which would be password protected) the professor would find a variety of materials, including: lesson plans; outlines of model simulations through which students can engage in the problem; background written and audio-visual materials on the leading cases including interviews with some of the lawyers and parties; some examples of ethical and strategic issues that have arisen in libel cases; innovative assessment materials; and a vast array of other supporting materials. All of this, of course, would be accompanied by an active discussion board, through which faculty would share ideas and experiences in using various techniques and covering various facets of topics. Over time, the website could also include videos of actual classes taught on the subject using different methodologies. It seems clear that a great many instructors would consult this site heavily in designing their courses and in deciding on how to teach various topics.

The engine of the website will be the materials that instructors post to share with others. The creation of such a forum in which innovative teaching is observed and recognized is a wonderful secondary benefit of this project. At present, there is very little opportunity for dedicated great teachers to be recognized. Unlike scholarship that is published in prestigious venues and is available for all to read, teaching is done in the intimate context of a classroom. This difference means that it is far easier to receive wide recognition as a scholar than as a teacher. This skews incentives away from teaching excellence for many instructors. As one professor (an accomplished scholar) who limited himself to no more than one hour of class preparation for any one hour of class once observed, “teaching is not where my bread is buttered.” No website can eradicate this problem. By creating a forum in which extraordinary teaching is recognized, though, a website like this can begin to acknowledge the brilliance, creativity and passion that go into developing exciting and innovating teaching plans.

### PROPOSED PROJECT 3: LEARN WILL CONDUCT SMALL TEACHING SEMINARS AND WORKSHOPS FOR LAW TEACHERS

Most law professors attend scores of scholarly presentations each year on substantive legal topics. Yet (outside of clinical and specialized skills teachers) very few are exposed to even one such presentation on pedagogy, course design, new teaching methods or learning theory. This must change. And it is easy to change. LEARN proposes to identify a small group of innovative teachers who are prepared to travel to different law schools around the country to give presentations and lead workshops about different ways to approach teaching a subject. This should not be done in the abstract. Rather, it should be broken down into the natural ways in which curricula are now divided. So, for example, a respected and innovative teacher of Contracts law would come for a day or two to a law school (or a community) and present a talk (or talks) on different models and styles of teaching contracts and also teach a mock class or two in which the other contracts teachers would be able to gather ideas and brainstorm about possible directions they might take to better integrate lawyering and professionalism and ethics and justice into their teaching.

In many areas of the country in which multiple law schools are located in close proximity, faculty who teach that subject from all the area's law schools would be invited to participate in these teaching seminars together. This would not only create economies of scale but would also help foster a community of teachers who would have an easy avenue for continued dialogue about improving their teaching and exploring new directions of pedagogy.

To carry out this project we first must identify the faculty members who will be leading these seminars and workshops. We expect to begin with a group of ten. These professors will come together for a training conference (as part of the Summer Institute described below) at which they will workshop and plan the nature of their presentations. We will ask each of these faculty members to give six presentations at law schools over the course of the year, meaning that 60 law schools and communities—and close to a thousand law teachers—will have the benefit of this project in the very first year.

<p>PROPOSED PROJECT 4: LEARN WILL DESIGN AND OPERATE A SUMMER INSTITUTE ON LAW TEACHING</p>
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Law professors, as a class, receive precious little—if any—training in how to teach effectively. This “seat of the pants” mentality toward the critical enterprise of teaching tends to freeze the status quo in place; new professors replicate what they experienced and there is little space or encouragement for creative innovation. As part of our efforts to combat this, LEARN proposes to create a summer institute in which law professors would come together to learn and think about the teaching methods they use and how they can better integrate a broader set of approaches and content into their pedagogy.

The summer institute will bring together teachers to develop teaching approaches that nurture students to acquire (1) excellent analytic skills, insight into their role and social responsibility as professionals, (2) an integrated understanding of how theory is translated into practice and (3) how practice can generate modifications of theory. Throughout the week-long institute, participants will receive particularized feedback on their own teaching, insight into educational theory that gives meaning to the teaching, and ideas for teaching strategies for particular courses. In addition, the summer institute will foster ongoing development of interdisciplinary skills in law training. Law teachers and students can become more sophisticated consumers of social science, perhaps thereby also altering core conceptualizations of law and legal education.

In the summer of 2008, Georgetown Law conducted the Summer Institute for Clinical Teaching and continues to develop this model. The proposed institute, designed for all faculty, will help create a network of law professors who can turn to each other continuously to further develop their skills as teachers and to support efforts toward institutional change. Faculty who participate in the Summer Institute on Teaching will receive certificates upon completion that recognize their dedication to improving their own teaching and legal education in general. These are many of the same faculty who will serve as leaders for other aspects of LEARN's work, including the local presentations, and collaboration facilitation.

Each day of the institute will include three plenary sessions and two small group meetings. Each participant will be requested to bring to the small group a teaching problem—a plan for a class or student project—that the participant will present to the group and about which the participant will get input. Small group discussions will focus primarily on the issues that each member brings to the group but will also serve as a place for more focused discussion of the plenary sessions.

The plenary sessions will be organized around three themes: Why do we teach? What do we teach? How do we teach? The first set of plenary sessions will focus on teaching goals, teaching to those goals, and assessing learning in light of those goals, taking into account insights of the sort identified in the Carnegie Report. The second set of plenaries will focus on expanding content within a course to include those aspects of legal education that, in our current approach, are lacking in the curriculum, disconnected from each other, or relegated to the informal curriculum. These include issues of practice, role and identity as a lawyer, social justice, and professional ethics and values. The third set of plenary sessions will offer participants innovative teaching methods, insights into how to foster collaborative conversations within the law school faculty and across disciplines, and opportunities to reflect on ways such methods can be incorporated into each participant's teaching. The closing plenary will explore ways that participants can work within their own institutions, identifying ways to contribute to institutional growth and ways to cope with institutional resistance that may arise.

The summer institute will begin by focusing on teachers who have three or more years of experience teaching in a law school. In the future, the target audience will also include new law teachers. Beginning with those who already have experience at teaching and an established identity within a law school provides greater assurance that the participants can overcome the perceived or actual barriers associated with adopting new teaching practices. It also provides the benefit of educating those who tend to have more influence in their law schools and can thus play a significant role in promoting reforms that require institutional initiative and support. We expect within the first several years to expand the summer institute to include newly hired teachers, who would greatly benefit from this training as they work on establishing the very first lesson plans of their careers.

#### PROPOSED PROJECT 5: LEARN WILL PROMOTE AND FACILITATE ROUNDS ABOUT TEACHING

Seminars, workshops and summer institutes can and will serve as critical catalysts for thoughtful reflection on teaching methods and content. Ultimately, though, it is essential to create long-term, sustainable mechanisms—based within each institution—to facilitate ongoing dialogue and creative thinking about teaching. One way to accomplish this is to develop pilot “Rounds About Teaching” projects in a few law schools, with the hope and expectation that other law schools will choose to replicate these programs and that teaching rounds will become an established part of the culture of law teaching.

During these Rounds meetings, teachers will talk about events in their classrooms, present “problems” to be probed and re-conceptualized, and get ideas about what and how to teach. They will also explore innovative assessment tools, reflect with supportive colleagues about the relationship between what they have done and their teaching goals, and plan with the benefit of the insights of others. Because Rounds conversations explore assumptions embedded in teaching decisions, these conversations are ideal forums for naming and evaluating the implicit lessons faculty are teaching students about what it means to be a lawyer. Many professions use Rounds-type conversations as a way to locate learning in the ongoing professional experiences of the group members. This format will be of great value to teachers seeking to implement a more integrated teaching approach in their own classrooms and can also contribute to creating a climate within a law school for thoughtful curricular reform on an institutional level. In addition, teachers who have been through Rounds will be part of the development of new ideas for integrated teaching throughout legal education.

In recent years Rounds about teaching have been held in New York and Washington and have successfully engaged teachers about pedagogical issues related to the Carnegie Report. We plan to expand these to develop pilot Rounds about Teaching projects in ten law schools around the country. Each of these Rounds Projects will be led by a Carnegie Teaching Scholar who will organize the group of teachers and facilitate regular peer conversations within the law school. These ten group leaders will meet together before the beginning of the academic year to develop a shared set of goals and understanding of best practices in Rounds teaching (such as the role of facilitators and the structure of rounds discussions) and to plan and prepare for their roles in their home institutions. Each Rounds about Teaching Group within a law school will then meet six times per semester. The Carnegie Teaching Scholars also will meet regularly by phone to share learning across Project Groups and to discuss issues that arise with regard to their individual groups. The group leaders will meet again at the end of the academic year to consolidate their ideas about facilitating successful Rounds about Teaching Projects. This information will be published and available on the LEARN website.

**PROPOSED PROJECT 6: LEARN WILL COORDINATE COLLABORATION IN COURSE  
DEVELOPMENT AND TEACHING**

Within the existing law school structure and culture of most law schools, doctrinal, clinical and skills faculty have been relatively segregated as have full-time faculty and adjunct faculty. The costs of this segregation are high. Not only does it send very problematic implicit messages to students about what really matters most (doctrinal courses are taught by the “regular” faculty), but the students lose extraordinary opportunities to meld their learning of doctrine with the learning of skills and professional values. Absent coordination and collaboration, doctrinal, clinical and skills law faculty and faculty from other disciplines, who teach both full and part-time, miss opportunities to shape understanding rooted in the interconnections among different ways of approaching a subject.

Forging collaborations among these faculty members presents wonderful opportunities to integrate teaching of the larger sets of lessons about the law and lawyering that law students must learn. Courses developed collaboratively by full and part-time faculty, teaching clinical, skills and doctrinal courses, perhaps joined by faculty from other disciplines who address the same subject from the framework of another profession, have enormous potential to create educational experiences that unite the teaching of the various facets of law and lawyering. These courses can bridge jurisprudential frameworks, knowledge of the relevant universe of legal authorities, legal ethics, practical understanding, the relationship of law and social justice, and knowledge from other disciplines.

Overcoming this divide is challenging because of the perennial separation between “stand-up” teachers, on the one hand, and clinical and skills instructors, on the other. Part-time adjunct faculty who have much to add to the doctrinal/practice mix are also isolated. Although this divide takes different forms within different institutions, certain issues recur. For example, teaching goals, visions of theory and substance, understanding of the practice of law, pedagogical methods, educational activities, evaluation criteria and methods, and student expectations can all vary in ways that make the “other” seem odd or incomprehensible. Further barriers, such as disparities among the cultures that grow up within distinct parts of the law school, the press of daily activity, and differences in status and institutional role can keep the groups separated from each other. Thus, opportunities for collaboration do not easily or readily

present themselves; committed individuals must intentionally create them by stepping outside standard patterns for the creation and teaching of courses.

LEARN hopes to make some inroads in this area by stimulating national coordination around collaboration between clinical, skills and “stand-up” faculty. LEARN will do this by identifying and generating pilot projects, designated as Carnegie Teaching Projects, to serve as models of how clinical, skills and stand-up teaching can be productively combined. LEARN will seek out existing collaborations and also identify schools where a group of clinical, skills and doctrinal faculty (full- and part-time) would like to develop and teach collaborative courses, but have not had the opportunity or support for undertaking such a project. For each of these collaborative efforts, LEARN will obtain the commitment of the law school to sponsor the project. Sponsorship will require schools to provide (a) appropriate teaching credit for these labor-intensive collaborations so that collaborative courses do not create a teaching overload for the instructors involved; and (b) institutional support for the course development and planning process. LEARN will designate the members of the collaborative teaching projects as Carnegie Teaching Scholars. These individuals will have the responsibility of shepherding the collaboration within the institution and participating in LEARN’s national project to increase and disseminate knowledge about these collaborative efforts.

LEARN will design and host a training meeting for the Carnegie Teaching Scholars engaged in the collaborative courses. The training meeting will be planned by a Carnegie Master Teacher who will address critical issues in the process of collaborative course development, present models for integrating the teaching of different aspects of legal knowledge, and provide time for participants to work with others engaged in analogous efforts on issues they face in the development and teaching of their particular courses. Following the training, LEARN, led by the Master Teacher, will organize periodic conference calls among the Carnegie Teaching Scholars in the pilot projects. Participants will share knowledge about the collaborations, identifying elements that contribute to and undermine successful activities. At the end of the project, LEARN will commission a report/article describing the collaborations and documenting the lessons learned about collaborative course development and teaching. The report will address all issues relating to the successes and failures of the collaborations from the perspectives of the teachers, students and institutions. In order to reach a broad audience within the legal academy, LEARN will use its website to disseminate this information and to create a central reference point for discussion of collaboration in course development and teaching.

#### **PROPOSED PROJECT 7: LEARN WILL CREATE A NETWORK FOR INSTITUTIONAL LEADERS**

Although individual teachers determine the actual instruction that students receive, and individual teachers can implement many innovations to improve that instruction on their own, institutional support is often crucial to this process. To begin with, the leaders of the institution – the law school’s deans and associate deans—can provide opportunities for classroom innovation in the process of assigning faculty members to particular courses. They can also provide incentives – in the form of summer research grants, travel stipends, and even sabbatical semesters – for teachers who want to develop innovative programs. In addition, some innovations require funding for training or the development materials that is most readily provided by the institution. Other innovations can only be achieved if the work of several

teachers is coordinated, something that is often most effectively done at the institutional level.

To facilitate this process, LEARN proposes to create a network of law school leaders who will share ideas and information. Any dean or associate dean, or anyone designated to serve in one of these capacities, will be eligible to join the network. One component of this network will be periodic conferences where institutional leaders can interact with one another. Each conference will last one or two days, with some of the invitees being participants in the previous conference and others being new members of the network. Topics will include both process issues (e.g., how to facilitate change, how to incentivize faculty members) and substantive issues (e.g., what are the new ideas in experiential learning, should international law be added to the first year curriculum, how should student learning be assessed). A written record of each conference will be produced and distributed to all the members of the network.

A second component of the network will involve exchanges of specific information, typically between a leader in one law school and a leader in another. At present, there is a Dean's Listserv where law school deans regularly ask each other questions of immediate concern. A similar listserve (as well as other on-line communication tools) will be organized that is devoted to generating and implementing innovative educational ideas that relate to teaching, assessment and change strategies. In addition to enabling institutional leaders to ask questions of the entire group of network participants, an effort will be made to broker particular connections through the network. Thus, if one administrator asks a question about an issue that another school has already addressed in an effective manner, that question will be specifically directed to the second school. In addition, specific efforts will be made to promote LEARN's small teaching seminars and workshops, summer institute on law teaching and related collaborative efforts through the network.

A subtext of both components of this law school leaders' network is that institutional leadership can be a somewhat lonely role. Through the conferences and the on-line communication tools, those who are committed to innovation can provide each other with mutual support as well as ideas and information. The goal is to create a climate of change in legal education, to get away from the notion that curricular innovation is a risky, largely supererogatory task, and begin developing a sense among law school administrators that it is an essential aspect of their role as institutional leaders.

### 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.



# CONCLUSION

In describing the state of legal education in the 1940s, Karl Llewellyn wrote that “[n]o faculty, and, I believe, not one percent of instructors, knows what it is they are really trying to educate for.” In many ways, legal education has come a long way since that time, but in many other ways it has not. The stars have aligned now to create a prime moment of opportunity for reflective, thoughtful, meaningful and lasting change. But we need to seize the moment. LEARN has gathered law schools and educators with the experience, imagination and gravitas to effect real improvements in how the future law students of the country (and the world) are trained. With the help of funders who understand the importance

of the project, the ripeness of the moment, and the extraordinary vehicle that LEARN provides, great improvements can be achieved

Over the next 20 years more than one million future lawyers will graduate from America’s law schools. These students will be the leaders of the next generation and will include lawyers of all stripes as well as heads of state, legislators, judges and justices, business and world leaders. LEARN believes that we can significantly improve the education these future lawyers and leaders receive in ways that will yield great benefits. This is an extraordinary moment of opportunity. We must not let it pass.