

LAW SCHOOL/BUSINESS SCHOOL COLLABORATIONS: LESSONS FROM THE KAUFFMAN ENTREPRENEURIAL FACULTY SCHOLARS PROGRAM

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I. BACKGROUND/INITIAL INTEREST IN SUBJECT

- Teaching Business Organizations, Business Planning and Securities Regulation Law School courses 50 yards from Henry W. Bloch School of Business and Public Administration (where business students are taught such courses as “Law of Business Associations” and “Legal, Ethical and Regulatory Environment of Business”)
- Practice experience with multidisciplinary team approaches to business transactions
- Grant from Ewing Marion Kauffman Foundation¹ in Kauffman Entrepreneurial Faculty Scholars (KEFS) Program (see Addendum)
- Perceived under-representation of law schools at annual conference of USASBE (United States Association for Small Business and Entrepreneurship)²

II. RESEARCH TO DATE

A. Sources of Information

- Websites of U.S. law schools
- Conferences
- Site visits and telephone/e-mail interviews
- Existing literature on law schools and interdisciplinary education

B. A Few Data-Gathering Challenges

- Distinguishing between “jointly taught” courses (principal area of interest) and merely “cross-listed” JD/MBA courses
- Moving target (new, innovative courses being created regularly)

¹ For information about the Kauffman Foundation, visit www.kauffman.org.

² For information about USASBE, visit www.usasbe.org.

III. OBVIOUS BENEFITS OF INTERDISCIPLINARY EDUCATION OF LAW STUDENTS DESTINED FOR BUSINESS/TRANSACTIONAL PRACTICE

- Existing literature speaks well to the potential benefits of familiarizing law students with material, instructors and students from other disciplines, both generally³ and with respect to the training of transactional lawyers in particular.⁴
- These benefits can include, in addition to introduction to various substantive aspects of other disciplines, exposure to the specialized vocabulary and problem solving frameworks and techniques of other disciplines, and experience in working in teams where different individuals bring different expertise to the table.
- Courses with both faculty and students from law and business schools also provide law students with (A) an understanding of the perspectives of businesspersons on working with lawyers and (B) opportunities to learn how to communicate the effects of often complex laws and regulations on business planning.
- Much of the recent literature on interdisciplinary education of law students has been generated by faculty involved in clinical programs. The increased focus on interdisciplinary initiatives has paralleled the rapid growth of clinical education at law schools across the country.⁵ Frequently, faculty involved with law school clinics have had substantial personal experience with working on projects involving multidisciplinary teams.

³ See, e.g., Paula E. Berg, *Using Distance Learning to Enhance Cross-Listed Interdisciplinary Law School Courses*, 29 RUTGERS COMPUTER & TECH. L. J. 33 (2003); Harry T. Edwards, *Reflections (On Law Review, Legal Education, Law Practice, and My Alma Mater)*, 100 MICH. L. REV. 1999 (2002); V. Pualani Enos & Lois H. Kanter, *Who's Listening? Introducing Students to Client-Centered, Client-Empowering, and Multidisciplinary Problem-Solving In a Clinical Setting*, 9 CLINICAL L. REV. 83 (2002); Desmond Manderson, *In the Tout Court of Shakespeare: Interdisciplinary Pedagogy in Law*, 54 J. LEGAL EDUC. 283 (2004); Richard A. Posner, *The Decline of Law as an Autonomous Discipline*, 100 HARV. L. REV. 761 (1987); John E. Sexton, "Out of the Box" *Thinking about the Training of Lawyers in the Next Millenium*, 33 U. TOL. L. REV. 189, 197-198 (2001); Mike Townsend & Thomas Richardson, *Probability and Statistics in the Legal Curriculum: A Case Study in Disciplinary Aspects of Interdisciplinarity*, 40 DUQ. L. REV. 447 (2002); Anita Weinberg and Carol Harding, *Interdisciplinary Teaching and Collaboration in Higher Education: A Concept Whose Time Has Come*, 14 WASH. U. J.L. 7 POL'Y 15 (2004); Janet Weinstein, *Coming of Age: Recognizing the Importance of Interdisciplinary Education in Law Practice* 84 WASH. L. REV. 319 (1999). See also N. William Hines, *Ten Major Changes in Legal Education Over the Past 25 Years*, 2005-4 AALSNEWS 1 (November, 2005) (Citing "Growth in Interdisciplinary Teaching and Research" as #5 in a list of 10 significant changes in legal education since 1980).

⁴ See, e.g., Mary C. Daly, *What the MDP Debate Can Teach Us About Law Practice in the New Millennium and the Need for Curricular Reform*, 50 J. LEGAL EDUC. 521 (2000); Phoebe A. Haddon, *The MDP Controversy: What Legal Educators Should Know*, 50 J. LEGAL EDUC. 504 (2000); Steven H. Hobbs, *Toward a Theory of Law and Entrepreneurship*, 26 CAP. U. L. REV. 241 (1997); Susan R. Jones, *Promoting Social and Economic Justice Through Interdisciplinary Work in Transactional Law*, 14 WASH. U. J.L. & POL'Y 249 (2004); Dina Schlossberg, *An Examination of Transactional Law Clinics and Interdisciplinary Education*, 11 WASH. U. J.L. & POL'Y 195 (2003).

⁵ See Hines, *supra* note 3, at 2 (citing "Increased Attention to Professional Skills Training" as #4 in his list of 10 significant changes in legal education since 1980, and noting that the growth in law school clinics and practical skills curricula "gained focus and momentum with the publication of the McCrate Report in 1992").

IV. SOME OBSTACLES TO OVERCOME IN CREATING JOINTLY-TAUGHT LAW SCHOOL/BUSINESS SCHOOL COURSES

- Long history of lack of significant interaction between law and business schools
- Misunderstanding of the pedagogical practices and goals of the faculty at each school and various related stereotypes/misconceptions
- Concern among law school faculty that traditional core curriculum and legal training not be diluted by experiments in courses with other schools
- In some cases, perception by M.B.A. students that law students lack the experience/maturity to examine business transactions with business students (many of the latter having been “out in the real world”)
- In some cases, concern by M.B.A. students that the law students may have an undue advantage in course grading because of their familiarity with details of complex legal issues or because of other credentials
- Law students’ anxiety with course requirements and grading systems that may involve (A) numerous “deliverables,” (B) grading based on oral presentations and/or (C) grading based on team projects involving law and business students
- Varying course schedules of the law and business schools, in terms of both effects on students and faculty
- To the extent clinical courses are be involved, differences in the views of the law school and the business school as to which types of clients are most appropriate for experiential learning and community service
- Institutional red tape
- Lack of incentives for faculty to work through all of the above (with special concerns for non-tenured, but tenure-track faculty)

V. SOME “BEST PRACTICES” LESSONS FROM THOSE WHO HAVE OVERCOME THE VARIOUS OBSTACLES

Despite the many potential roadblocks, faculty at several institutions have found ways to successfully design and implement courses taught jointly by law and business school faculty to law and business (and perhaps other graduate) students. These collaborations vary from schools with one or two jointly-taught course

offerings involving a few faculty members,⁶ to the extremely impressive 9-course list in the Law and Business Program at Vanderbilt University.⁷ The following are some observations on what I believe are “best practices” found in these successes:

A. Re: Creating Incentives for Faculty and Student Participation

- Get the law school and business school Deans fully on board, preferably with publicly-stated support from the institution’s Chancellor, President and/or Provost, and let faculty know that these types of course offerings are important and will be respected as integral parts of a rigorous curriculum (and by no means “negatives” in promotion and tenure and compensation decisions)
- Consider coordinating with a prominent campus-wide initiative (such as a interdisciplinary program in entrepreneurship)
- Consider making the joint law/business courses part of the approved curriculum for a law school “concentration” or “emphasis” credential
- Make sure the law and business faculty are equal partners in the course design and selection of course materials (and the naming of the course)

⁶ Some examples: “Accounting Law and Finance,” “Community and Economic Development (Clinic)” and “Nonprofit Organizations Clinic” (listed as both Yale Law School and Yale School of Management courses, with lead law faculty being, respectively, Jonathan R. Macey, Robert A. Solomon and John G. Simon); “Business Advising—Center for Technology , Entrepreneurship , and Law” (a collaboration of the Lewis & Clark Law School and the Portland State University School of Business Administration that provides law and MBA students with both seminar-style classroom instruction and clinic-based interaction with local start-up ventures; for more information contact Lisa M. LeSage, Assistant Dean for Business Law Programs at Lewis & Clark, and Jim Huston at Portland State); “Financial Planning for Mergers and Acquisitions” and “Intellectual Capital Management” (have been taught as joint law/business courses at Northwestern University School of Law/Kellogg School of Management by Law School faculty Peter Barack (M&A) and Clinton Francis (Intellectual Capital) and Kellogg School faculty Thomas Lys (M & A) and James Conley (Intellectual Capital)); “Law and Business Center for Advancing Entrepreneurship” (a collaboration of the Western New England College Schools of Law and Business and the Scibelli Enterprise Center at Springfield Technical Community College, that provides law and business students with the opportunity to consult with small business entrepreneurs in a clinical setting, under the direction of Eric J. Gouvin, Associate Dean and Professor of Law, Harlan E. Spotts, Assistant Dean for Graduate Programs and Associate Professor of Marketing and James C. McKeon, Executive in Residence at the Business School); “Law of Business and Investment Banking” (taught to law and business students at New York University by William T. Allen, Professor of Law and Business and Director of Center for Law and Business, and Gerald Rosenfeld); “Restructuring of Enterprises” (has been taught to law and business students at Syracuse University by law school faculty member Christian Day and Bob Ryan, an adjunct professor with a Ph.D. in Finance).

⁷ Consisting of the following jointly-taught courses: Corporate Governance and Executive Incentives Seminar; Financial Instruments; Law and Finance of Equity Markets; Law and Finance of Mergers and Acquisitions; Life Cycle of the Corporation; Media Industry’s Digital Future Seminar; Mergers and Acquisitions Deal Dynamics; Private Environmental Law and Voluntary Overcompliance; and Small Business Management. For information about the Vanderbilt program, visit http://law.vanderbilt.edu/academics/bus_curric.html.

B. Re: Course Design and Teaching

- Plan on both/all course instructors being at every class session (even if one is to take the lead on a given topic at a class session)
- Work with the class to build glossaries of terminology with which one group of students is initially much more familiar than the other
- Make a conscious effort to both (i) expose and address misconceptions about the training, problem-solving techniques, risk appetites or other popularly assumed characteristics of lawyers and businesspersons; and (ii) impart realistic expectations about the varying perspectives of the professionals who collaborate on complex business transactions
- Incorporate team projects that involve a cross-section of law and business students (and, if applicable, students from other disciplines) working together both within and outside the classroom
- Ask guest lecturers from the community to both (i) speak to topics of interest in the course and (ii) confirm the “teamwork” aspect of planning and consummating business transactions
- Provide students from each discipline with the opportunity to address the class on selected topics
- Make sure the assigned readings require students from each discipline to read and become familiar with materials from the varied disciplines
- Provide the students with opportunities for both self-assessment and critique of the other students in the class
- Be clear on the course work expectations and grading criteria at the outset of the course

VI. EXAMPLE OF A NEW COURSE OFFERING AT UMKC

Having benefited from the research the KEFS Program allowed me to undertake, I have been able to co-design and will be co-teaching this semester with Dr. Walt Rychlewski⁸ a new course for law, business, computer science and engineering and perhaps other graduate students entitled “Entrepreneurship and New Venture Creation.” Some key aspects of this course are:

⁸ Who was also in the KEFS Program, is currently a Visiting Professor in Entrepreneurship at UMKC, has a Ph.D. in electrical engineering, and has teaching credentials as a Professor of Business, Computer Science and Electrical Engineering.

- It is part of the curriculum designed for UMKC’s Institute for Entrepreneurship and Innovation, a cross-campus program being led by the Bloch (Business) School and supported by the Campus Administration, the Deans of the Law and Business Schools and members of the local business community with particular interests in education in entrepreneurship
- We expect enrollment of approximately 36 students, including approximately 12 law school students (who had to apply for permission to enroll).⁹
- The course is a permitted “elective” toward the UMKC Law School’s “Emphasis in Business & Entrepreneurial Law” credential for qualifying law students
- The course will be built around a semester-long team project involving the design of a business plan for the commercialization of a new technology/product; each team will include one law student (along with one or more MBA or engineering, etc. students)
- Law students will learn how business students are trained with “case studies” and business students will learn how law students study litigated cases (including, this semester, some special focus on the case before the U.S. Supreme Court in *ebay v. MercExchange*¹⁰)
- Assignments will require the students to do reading in business planning and commercialization of technology texts/materials, and in cases and other materials on a variety of legal issues, and to learn to use some business planning software
- There will be guest lecturers on such topics as markets for technology, technology transfer/commercialization and raising venture capital
- Grading will include components based on homework assignments (electronic posting of discussion on selected topics), a mid-term examination, oral presentations to the class,¹¹ critiques from other students, a written business plan to be delivered at the end of the course and a presentation of that business plan to members of the local business community in a business plan competition

⁹ Selection criteria for the law students included successful completion of courses in Business Organizations and Federal Taxation, along with successful completion of Business Planning or other credentials demonstrating training regarding business transactions or familiarity with other business law subjects (such as advanced tax courses, securities regulation, antitrust and intellectual property).

¹⁰ A patent infringement/injunction case on which the Court recently granted *certiorari*. 126 Sup. Ct. 733 (Mem) (U.S. 2005).

¹¹ This includes scheduled presentations by the law students on the following topics: issues to address in the organizational documents for a new business entity; tax and non-tax factors involved in choice of entity; overview of antitrust and other unfair competition laws; federal and state securities regulation; venture capitalist perspectives on business entity structure; and patents, copyrights, trademarks and infringement issues.

ADDENDUM

KAUFFMAN ENTREPRENEURIAL FACULTY SCHOLARS PROGRAM

SUMMARY OF YEAR ONE RESULTS

At the 2004 USASBE/SBI Conference, the Ewing Marion Kauffman Foundation announced its institution of a pilot project—the Kauffman Entrepreneurial Faculty Scholars (“KEFS”) Program—in collaboration with four institutions in the Kansas City area: Rockhurst University, the University of Kansas, the University of Missouri-Kansas City and William Jewell College. Designed to promote initiatives in interdisciplinary education in entrepreneurship, the KEFS Program has brought together eleven faculty members from diverse disciplines, as reflected in the contact information set forth on the back of this Summary.

The eleven Faculty Scholars received grants for a two-year commitment to study, design and implement courses incorporating principles of entrepreneurship, drawing upon the multiple disciplines, teaching techniques and perspectives represented by the group. After just one year of existence, the Program has been extremely productive, yielding a variety of creative curriculum enhancements and plans for further innovation. For example, the group has created 10 new courses, and modified another 15 to incorporate principles of entrepreneurship, including interdisciplinary elements in many of these classes. Nearly 1000 students have already been exposed to these curriculum changes.

The success of the KEFS Program has been facilitated by the entrepreneurial spirit of the Faculty Scholars and fueled by significant collaborations at the local, regional and national level. The Faculty Scholars have joined in various campus-wide initiatives in entrepreneurship at their respective institutions, introducing over 40 entrepreneurs as guest speakers in classroom settings and hosting conferences joining community leaders, entrepreneurs and educators. They have had approximately 70 inter-campus interactions with one another, ranging from collaborations in designing courses and extra-curricular activities to reciprocal guest lectures emphasizing the complementary nature of various disciplines. In addition, through site visits to 21 other universities across the country, the Faculty Scholars have compiled research and shared ideas about best practices in multi-unit cross-disciplinary courses and in developing integrated programs in entrepreneurship.

As the KEFS Program moves into its second year, the momentum will continue. The Faculty Scholars will implement additional curriculum enhancements, produce scholarship and capitalize on the networks they have now established among one another, with faculty in other units at their schools, across the four institutions directly involved and with other universities with which the Program has come in contact. The group members are anxious to share what they have learned with others, and encourage anyone interested to contact them for further information.

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