

Engaging Students to Educate Problem Solving Lawyers for Clients and Communities

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When law students explain why they chose to study law, they invariably speak about helping someone. Sometimes that someone is a juvenile in trouble and sometimes that someone is an inventor seeking to patent the latest technology. The legal profession offers many rewards, but its greatest reward is the professional fulfillment that can be found in helping others.

As a dean and professor, I ponder how we can keep students' passion for servant leadership alive through the demanding law school years, how we can engage students from the day they matriculate to the day they graduate, and how we can best educate them to be outstanding counselors to their clients and respected leaders in their communities.

The University of Dayton School of Law boldly responds to this challenge with its Lawyer as Problem Solver program, aiming to produce lawyers who are more than mere technicians. Building on the traditional "counselor at law" concept, the School asserts that the lawyer's fundamental role is to help clients solve complex problems and make appropriate choices. The best lawyers act with sound judgment and common sense, always cognizant of their clients', and their own, ethical responsibilities.

Lawyers serve the people and organizations they represent through a blend of practical and intellectual activities, with their mind and heart. Effective lawyers need to understand people and organizations to handle the human aspects of resolving legal problems. Lawyers who excel at problem solving become fulfilled leaders – serving their clients and communities by promoting fair processes and just outcomes.

How can legal education help lawyers achieve such ambitious aims? Students can surely develop fulfilling approaches to their professional roles through a variety of programs. At Dayton, we offer one innovative approach to this challenge of educating a generation of lawyers who will offer positive role models for the profession, their clients and communities.

Primary Features of The Lawyer as Problem Solver Program

The curriculum, first offered for students entering in Fall 2005, contains the following central elements:

1. A solid base of core required courses intended to build a strong foundation in a wide variety of fundamental legal concepts;
2. Subject-matter tracks or concentrations which allow students to explore an area of interest and challenge them to build upon the skills and knowledge obtained in their earlier survey courses;
3. Skills integration throughout curriculum, including a required externship, small-enrollment capstone or clinical course, and introductory dispute resolution course for every student in addition to traditional skills offerings;
4. One-unit, intensive intra-session courses to broaden students' horizons, offering a variety of topics and perspectives; and
5. An accelerated option allowing students to complete the same rigorous academic requirements in five or six semesters, with a summer or fall start (students who begin in May can complete their degree within two calendar years, with one summer off for a clerkship).

Lawyer as Problem Solver builds on a tradition of experiential learning at Dayton. For example, the School is proud of its outstanding and nationally respected Legal Profession program (LPP), which teaches legal research, critical thinking and writing skills, while emphasizing the ethical responsibilities of lawyers.

The primary features of Lawyer as Problem Solver are designed in part to address the gulf between practicing lawyers and legal education. We seek to prepare our students better for practice without sacrificing a broad foundation in analytical thinking and doctrinal coverage. This is not an easy tension to navigate. Employers often praise Dayton graduates for their solid skills training, ethical judgment and ability to hit the ground running. Through strategic planning efforts, we drew on these perceived strengths to structure revisions to our program of legal education. We learned about the pressures on associates to be profit centers for firms earlier and the lack of mentoring available for many new attorneys. While some employers and bar organizations provide “bridge the gap” training and mentoring, the profession is increasingly seeking more skills training from law schools.

Dayton's new curriculum also builds on the University's Catholic and Marianist tradition of educating “the whole person.” This approach encourages “hands-on” learning because students often learn best when their minds and hearts are

engaged. For law students at Dayton, a “whole person” approach entails externships for every law student, a required clinical or capstone course, a robust Pro Bono Commitment to Community program and reflection on the role of the lawyer in his or her community.

Many faculty members at Dayton have been interested in the role of the lawyer within society, including the ethical dimensions of the lawyer’s function. A critical mass of faculty members has developed problem-based courses providing clinical and service opportunities for students. Ethical issues are integrated into courses far beyond the required Professional Responsibility, including the Introduction to Legal Studies and Professionalism course; intra-sessions devoted to topics such as bankruptcy law, law and the homeless, and end-of-life issues; and in clinical and externship courses. The Lawyer as Problem Solver aims to incorporate that emphasis on the role of the lawyer in coursework in a more comprehensive manner.

For many law students their externship provides their first glimpse of the real practice of law. Externs devote approximately 15 hours per week over a 13-week period to working in the real world under the supervision of a full-time faculty member and an experienced attorney or judge. Perhaps the greatest benefit of the externship is the opportunity it provides students to shadow their field supervisor, to serve a form of apprenticeship. Externships can connect students to areas of interest (e.g., intellectual property). For many students, they provide a chance to serve those underserved by our profession in legal aid or government offices.

Initially, we identified three curricular tracks based on faculty expertise, student interest and employment opportunities in the region: Advocacy and Dispute Resolution, Personal and Transactional Law, and Intellectual Property, Cyberlaw and Creativity. These tracks will undergo refinement as individual faculty members design particular capstones and intra-sessions. Faculty members are currently developing the content and sequencing needed within each track.

The three tracks bring a high degree of integration to the program, allowing students to master interconnections between disciplines in an area of law at a level resembling the work lawyers must do in practice. While students will not be experts in particular areas of law they will gain more depth than offered by survey courses skimming the surface of multiple areas of law without coherence. For example, students interested in real estate can take a capstone course integrating real property, contract, negotiation and related issues. Using realistic documents based upon an actual transaction, students develop a shopping mall.

Capstone and intra-session courses incorporating skills and simulating practice experiences also allow more effective use of specialized adjunct faculty members. Some classes are co-taught so that full-time faculty members work with experienced practitioners. Intra-sessions give students flexibility to sample an area of interest even if they cannot devote time in their schedule for a full 3-unit survey course. Thus far, intra-session courses have covered everything from client interviewing, to criminal sanctions, to human trafficking.

The Skills Experiences intra-session is based upon the medical-school model of requiring every student to evidence at least a basic level of practice skills. All Dayton students in their final year are required to demonstrate their lawyering skills by participating in simulated exercises in which actors will play the role of clients and practicing attorneys act as opposing counsel and senior law partners. To pass, students must demonstrate a satisfactory proficiency in a range of lawyering skills, which include research and writing, interviewing, counseling and negotiation, and other skills. Students who do not earn a grade of “Satisfactory” in a simulated exercise must repeat that exercise until a satisfactory performance is achieved.

National studies show that many students are less engaged with their coursework during the latter half of law school. By emphasizing experiential learning and using a progression of learning, Dayton hopes to promote deeper engagement with academic material throughout law school.

Challenges

We have undertaken major reforms at Dayton. Significant change requires great attention and energy from many people in a community and growing pains are inevitable. Change can entail hardships for individual faculty and staff members as well as for an institution. We must recognize the human cost of change and actively seek ways to reassure and support adaptation.

Our reforms go to questions at the very heart of legal education—questions on which educators hold principled differences of opinion. These differences must be respected. What is the right mix of doctrinal and skills instruction? What methods are appropriate to deliver this education? What is the most effective sequence of courses? What qualities are needed in faculty teaching various types of courses?

Change will always produce some unexpected consequences and careful attention to implementation details is needed. Change of this type also requires extensive deliberation and planning. At Dayton, we engaged in over two years of strategic planning and deliberation before beginning to implement the new curriculum. We must remain open to refinements and improvement, and yet give sufficient opportunity for implementation and assessment of which reforms are most effective.

It is expensive for law schools to provide extensive skills instruction and more individualized student supervision and assessment. While adjuncts and non-tenured, full-time faculty members can provide some of this instruction, accreditation rules may pose barriers and the utilization of staff of differing levels and responsibilities and salaries creates challenges. Teaching more skills provides a great opportunity to use differential staffing, but merits caution about quality, pay, faculty governance, responsibilities, etc.

Rewards

The hard work of faculty and staff has brought the University of Dayton School of Law significant national recognition. For example, in 2006, the School won an International Institute for Conflict Prevention and Resolution award for its “unprecedented focus on problem-solving through the entire curriculum.”

The substantial work and sacrifice required by such reform has also strengthened the sense of pride about the School among various constituencies. The curricular reform has also helped Dayton garner development support from the University and private donors. Some donors admire the willingness to plan for the future and take risks evinced by such reform; others support the nature of particular reforms. More support is needed given the costs of delivering high quality skills instruction.

Finally, Dayton is attracting some highly motivated students. We are providing a solid education with some unique learning opportunities. We are also giving students options—they may start in summer or fall and no matter when they start, they may choose between the accelerated and traditional options. In its initial phase, the summer start option in particular has intrigued an older, more diverse group of students whose credentials compare favorably to those of their fall start counterparts. Many are very focused on their legal studies and career preparation. They have raved about the opportunity provided by the summer start to begin their education in a small-class setting with the opportunity for more individualized instruction.