

To: The Faculty
From: The Education Innovations Committee (Bill Alford, Scott Brewer, Allen Ferrell, Jerry Frug, Elena Kagan, Martha Minow, Todd Rakoff, Al Warren)
Re: Revised Proposal for Upper-Level Curriculum: Programs of Study

Last fall, we presented to the faculty the idea of introducing optional “concentrations” for upper class students in order both to guide students toward greater depth and progression as they move through the three years of law school and to create a tool for better coordination and collaboration between faculty members. We reviewed our ideas in light of faculty discussion, and we return with a modified idea, under which we would develop programs of study to assist students in planning their upper-class years and help faculty members in organizing their teaching programs and collaborating with each other, but would not certify or otherwise give official recognition to a student’s decision to follow any or all of a particular program.

At the faculty meeting last fall, we heard considerable support for (1) the idea of offering students better guidance about how to put together academic programs that promote both depth and breadth and (2) the idea of making it easier for faculty members to collaborate with each other, to coordinate their teaching of upper-level courses in specific areas, and to think through how upper-level courses appropriately relate to the teaching of basic materials. As the academic dean knows, making sure we offer a sensible number and mix of courses, seminars, and workshops – and of basic, intermediate, and capstone work – is a great challenge; people in particular fields have expertise to bring to bear on what should be taught regularly, what should be a prerequisite for what, and what chances for advanced work should be available. And as students frequently tell us, making sense of our existing course catalogue, with its hundreds of courses listed in mostly alphabetic order and with its absence of guidance as to what courses build on what other courses and how to achieve depth as well as breadth of learning is also a great challenge; we should provide greater guidance than we do in how to put together coherent programs responsive to students’ interests and goals. On all this, we think there is broad, although not quite total, consensus.

Beyond this agreement, a number of faculty members criticized the idea of students’ making an official selection, and the school certifying or otherwise recognizing, a particular program of study. The most common ground of objection was that students would feel pressured to elect a business law program of study in order to compete for law firm jobs. In addition, some faculty noted the difficulty of administering student election of programs of study, specifying minimum requirements, and guaranteeing spots in sought-after classes to students who sign up for programs of study, as well as worrying about student gamesmanship in these contexts.

We heard these concerns, and our new approach responds to them, while retaining most of the benefits of our old proposal. In essence, our new approach adopts the suggestion Charles Fried made at our last meeting, to which we think there was broad acquiescence: that is, retain the programs of study, but drop the idea of concentrations. Under this approach, students would not sign up or otherwise identify themselves to HLS

as concentrating in a particular subject. The programs of study would exist, however, to encourage faculty collaboration, facilitate curricular planning, and guide students in the ways discussed above. They would enable groups of faculty members to think through in collective ways the best ways of offering and combining courses and to plan their own teaching programs. And they would serve as pathways through the curriculum for many different kinds of students: those who want to pursue certain broad interests in the course of their law school careers and those who do not want to do so, but still would appreciate a way to navigate our extensive course offerings with a sense of their relationship to different avenues of study and forms of progression.

With the expectation and hope that developing an initial set of programs of will inspire faculty and students to propose others, we think the following list specifies appropriate initial programs of study, and we would encourage faculty experts in each field to frame their respective elements: (1) Law and Government; (2) Law and Business; (3) International and Comparative Law; (4) Law, Science and Technology; and (5) Law and Social Reform. In the future, groups of faculty members could develop programs of study in other fields.

Ideally, each program of study would include

- i) one or more foundational courses: courses offering context, perspective, skills, and introductory material intended for students with no presumed background in the field;
- ii) two or more intermediate courses: courses, including clinical opportunities and courses in other schools and departments, that presume the foundational course background and that offer immersion in either a specific subfield or a particular policy or problem area in order to build knowledge, skill, and approaches;
- iii) one or more capstone opportunities, including seminars, research settings, advanced clinics, and opportunities in other schools and departments, in which students can bring to bear in sophisticated ways the knowledge they have acquired in their prior courses; and
- iv) information about relevant fellowships and other programs devoted to encouraging scholarship, summer opportunities, pro bono work, and connections with the HLS graduate program.

Whether or not a student elects a program of study, we think it helpful to advise each student to take courses offering exposure to a variety of topics and methodologies. We have long recommended that students consider taking at least one course that offers a particular perspective on the legal system or a distinct way of thinking about law. We think we should continue to recommend such courses, whether in legal history, comparative law, law and economics, and jurisprudence and legal theory.

Within the context of a varied selection of courses and a continued appreciation for experimentation and breadth, the development of programs of study has the double virtue of offering guidance to students and encouraging coordination among faculty members. We will be able to give students better and richer advice on courses, clinical work,

research opportunities, and summer work. And we will be able to give faculty new opportunities for coordination and collaboration across broad fields of interest.