

EQUIPOISE

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A state of balance, engagement and well-being in legal education

DECEMBER 2012

EQUIPOISE is the newsletter of the Association of American Law Schools Section on Balance in Legal Education

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AALS SECTION ON BALANCE IN LEGAL EDUCATION

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This newsletter is a forum for the exchange of points of view. Opinions expressed here are not necessarily those of the Section and do not necessarily represent the position of the Association of American Law Schools.

Notes from the Chair

Amy Bushaw, Professor of Law, Lewis & Clark Law School

As I reflect back on the year just passed, the two words that come to mind are gratitude and inspiration. It was an honor and a distinct pleasure to serve as the chair of the Section on Balance in Legal Education this year. I am thankful for the efforts, support and concrete contributions of the wonderful people who have been active in the Section. Some of the activities of the Section this year are detailed elsewhere in this newsletter; many members of our Section have also made profound individual contributions to the issues that most concern our Section. Our Section boasts a broad and diverse membership, one that allows for a rich cross-pollination of ideas and a deep and supportive sense of community. The mission of our Section is to explore avenues to enhance the overall health, well-being and life satisfaction of law students and lawyers. In the process of pursuing this mission, my impression is that we attend to our own health, well-being and life satisfaction as well. In my role of chair, I have observed many members of the Section who find meaning and a sense of accomplishment in their work. Their attitudes, expertise and efforts inspire me and inspire others.

The officers and other members of the Section's executive board deserve special thanks. Our immediate past chair Marjorie Silver, our chair-elect Larry Krieger, and our secretary, Julie Sandine, have been particularly tireless in their pursuit of Section activities. (I note that Julie has graciously agreed to be nominated to serve as chair-elect next year, and we look forward to her long-standing leadership in Section activities ripening into a more formal role.) The members of our relatively large executive board are also remarkably engaged

in the activities of the Section. I extend special recognition and gratitude to Bob Schuwerk and Victor Goode, both of whom will be stepping off the board at the end of this year. I appreciate their many contributions over the last few years, and look forward to their continued interest in the activities of the Section. Calvin Pang continues to provide a steady and inspirational voice, and has contributed to many aspects of Section activities this year. D'lorah Hughes, always energetic, has among other things played a leadership role in bringing our topic calls to fruition. Josh Rosenberg, among his other contributions, will be leading a topic call this spring. Kathy Hessler, a past chair of the Section, continues to serve the Section in myriad ways, and in particular chaired our nominations committee. Nancy Soonpaa has advocated that the Section include the health, well-being and life satisfaction of law school professionals in its mission, as well as that of law students and lawyers. Board members new to the Section this year have brought fresh energy and ideas. Todd Peterson and Corie Rosen will both be presenting in our Section program at the AALS Annual Meeting this year. Courtney Lee, Lyn Entrikin and Marjorie Florestal have played an active role in program planning, and Lyn Entrikin and Jayne Kacer have both served on our nominations committee.

As I complete my term as chair, I note several hopes for the future of the Section.



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Notes from the Chair

Amy Bushaw, Professor of Law,
Lewis & Clark Law School

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As a Section, I hope we continue to remain open, inclusive and non-hierarchical. In my view, the strength of our Section lies in the participation of a broad cross-section of people at differing levels of seniority, who play varying roles in their institutions and are from a range of schools. As we seek to explore the sources of health, well-being and life satisfaction among law students and lawyers, the best ideas will emerge from a discussion involving those who provide services to students, those who teach them in various capacities, and those who have a scholarly interest in the issues at the heart of our Section's mission. I hope we continue to advocate for as much flexibility as practical in AALS procedures to support wide-ranging participation. I also hope that we continue to explore opportunities to "walk the talk." I believe our Section has a role to play in improving the health, well-being and life satisfaction of law school professionals, as well as that of law students and lawyers. In particular, I hope we continue to advocate for the inclusion of opportunities for meditation or other contemplative practices at AALS functions, as well as explore more broadly the sources of, and cures for, imbalance in our own professional lives. We are, for better or worse, role models for our students, and our effectiveness at achieving our mission rests on attending to the example we set for others. Finally, I hope that the membership of the Section will continue to grow, and that word will spread that participation in Section activities is a fruitful route to work towards the betterment of the lives of law students, lawyers and law school professionals alike.



Take Me Back to New Orleans

Improving Student Well-Being Inside and Outside the Classroom

The Section will present an extended Program at the 2013 AALS Annual Meeting in New Orleans on the topic of *Improving Student Well-Being Inside and Outside the Classroom*. The program will provide an opportunity to reimagine legal education so as to alleviate students' well-documented distress, while at the same time to prepare them better to navigate a changing legal marketplace.

During the first portion of the program, speakers will review some of the threats to law student well-being, and will explore institutional responses to some of those threats. Larry Krieger will provide insights into the causes of law student distress, as well as a framework to best allow

students to thrive. Preliminary results from the broad-ranging study Larry is conducting with Ken Sheldon on lawyer well-being (described elsewhere in this newsletter) will be featured. Dr. Ken Brummel-Smith, the Charlotte Edwards Maguire Professor and Chair of the Department of Geriatrics at the Florida State University College of Medicine, will bring perspectives from the medical context. The FSU College of Medicine is a community-based medical school which seeks to train students to practice patient-centered health care, especially through service to elder, rural, minority, and underserved populations. As the school is the first new medical school to be established in this country in recent years, it provides a model of how student- and patient-centered practices might be incorporated into the design of an educational program. Professor Todd Peterson will return to the law school context, and will discuss the design and implementation of a new, multi-faceted program instituted at the George Washington University Law School this fall. The goal of the new program is to foster a happier law school experience



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Take Me Back to New Orleans

Improving Student Well-Being Inside and Outside the Classroom

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for students and contribute to more informed and satisfying career choices.

During the second portion of the program, presenters will demonstrate strategies and techniques to improve student well-being inside the traditional classroom, as well as contribute to a broader range of competencies than traditionally contemplated by legal education. The session will be highly interactive, and will feature demonstrations and remarks by Susan Daicoff, Robin Wellford Slocum, Corie Rosen and Bob Schuwerk. Bob Schuwerk will moderate.

The program promises to be lively, informative and useful. Attendees should walk out of the program with concrete ideas about how they might introduce specific initiatives, strategies or techniques into their own schools, classes or practices. Congratulations to our program chair, Bob Schuwerk, and all of the members of the Section who participated in planning the program for this year's AALS Annual Meeting.

The Section's business meeting is scheduled to occur after the program's completion, in the same location. We will consider our new slate of officers and executive board members. We will also discuss business for the upcoming year, and solicit any ideas you have for directions the Section could be taking. This is also a good time to meet and interact with like-minded colleagues. Everyone is welcome whether new to our activities or not.

We have also planned some informal

social time the evening after the Program and Business Meeting. We'll congregate in the Spirits Bar on the first floor of the Hilton New Orleans Riverside. This is just a pleasant time before dinner to relax, have a drink or snack, meet each other and share ideas. An informal gathering at the AALS Annual Meeting has become somewhat of a tradition for our Section. Please join us this year for conversation and relaxation, and bring along your colleagues, family and friends.

JANUARY 4-7, 2013
2013 AALS ANNUAL MEETING IN
NEW ORLEANS, LOUISIANA
Hilton New Orleans Riverside

FRIDAY, JANUARY 4, 2:00-5:00 P.M.
PROGRAM OF THE SECTION ON
BALANCE IN LEGAL EDUCATION
Improving Student Well-Being Inside
and Outside the Classroom
Grand Ballroom B, First Floor,
Hilton New Orleans Riverside

FRIDAY, JANUARY 4, 5:30-6:30 P.M.
BUSINESS MEETING OF THE
SECTION ON BALANCE IN
LEGAL EDUCATION
Grand Ballroom B, First Floor,
Hilton New Orleans Riverside

FRIDAY, JANUARY 4, 6:30-??? P.M.
INFORMAL SOCIAL GATHERING
Spirits Bar, First Floor,
Hilton New Orleans Riverside

AALS Executive Committee Approves New Section Bylaws

The Section's membership approved new bylaws at the 2012 AALS Annual Meeting in Washington, D.C. We forwarded the new bylaws to the Executive Committee of AALS for its review and approval, and recently received notice that they had (with one minor technical revision) been approved. So

it's official – we are now operating under the new bylaws.

We are pleased with the new bylaws. Throughout the drafting process, we sought to develop bylaws that reflected the values of broad participation, inclusiveness and flexibility.

Preliminary Results from New Study by Larry Krieger and Ken Sheldon

One of the major purposes of the Section on Balance in Legal Education is to promote research into the causes of distress or dissatisfaction among law students and lawyers. Larry Krieger and his collaborator, Dr. Ken Sheldon, have been conducting the largest study of lawyers to date (collecting detailed data from 7500 lawyers in 4 states over the past few years). Larry reports much of their data is in various stages of analysis, and they are working on a number of publications to report different aspects of the results. Larry will provide a very brief summary of major results to be presented during the Balance Section program at the 2013 Annual Meeting in New Orleans, described elsewhere in this newsletter. Larry is moving toward defining a "hierarchy of lawyer needs," which will demonstrate the comparative effects on well-being of personal factors (integrity, relationships, supportive supervision, service motivation and values) and external factors (income, debt, class rank in law school); he notes that it is turning out that the personal factors far outweigh financial and others for a positive life and career experience. Selected other findings flow from this: Public service attorneys (government, public defender, legal services, non-profit) enjoy broadly greater well-being and life satisfaction than private firm lawyers, despite lower pay. The service lawyers also experience slightly greater (but statistically equal) well-being as the minority of private lawyers in the most lucrative positions – large firms, plaintiff's tort work, securities and commercial law, etc., despite strikingly lower pay.

Tune in and catch our program at AALS, where these findings will help to form a framework to consider many progressive classroom and extracurricular practices, both in the context of a new medical school, and at many of our law schools.

Effective Faculty/Student Collaborations and Student Initiatives:

Working Together to Enhance Students' Professional Identity and Personal Integrity

The Section's program at the 2012 AALS Annual Meeting was a resounding success. The program presented a variety of innovative student initiatives and student/faculty collaborations to enhance student wellness, integrity, and professional identity. Julie Sandine moderated the program. Speakers included Kimberly Ambrose, Victor Goode, Mary Dolores Guerra, Scott Rogers, Michele Storms, students Jane Gish, Amanda Leipold and Amy Sanders, and recent graduate Beth Bruno. The session was well-attended, and sparked a lively discussion among participants.

Under the leadership of Marjorie Silver, papers based on some of the remarks were published in the *Touro Law Review*. Marjorie's introduction (Marjorie A. Silver, *Symposium Introduction*:

Humanism Goes to Law School, 28 *Touro L. Rev.* 1141 (2012)) captured many of the remarks made at the program, and in particular detailed initiatives at Vanderbilt University Law School, CUNY School of Law, the University of Miami Law School, Phoenix Law School and the University of Washington School of Law. Marjorie also described some of the initiatives to enhance student wellbeing at her own school, The Touro College Jacob D. Fuchsberg Law Center, as well as some of her own experiences and innovations. Included as an Appendix is Victor Goode's description of implementation of contemplative practices at CUNY School of Law, *Contemplative Practice and the Law, (L)ove in (A)ction with (W)isdom*. Scott Rogers contributed an article which explored in more detail how the



University of Miami School of Law was integrating mindfulness practices into its curriculum and broader program. See Scott L. Rogers, *The Mindful Law School: An Integrative Approach to Transforming Legal Education*, 28 *Touro L. Rev.* 1189 (2012). Gretchen Duhaime, the founder of Practicing on Purpose LLC, also published an article entitled *Practicing on Purpose: Promoting Personal Wellness and Professional Values in Legal Education*, at 28 *Touro L. Rev.* 1207 (2012). The articles are all part of a broader symposium volume that addresses various issues in legal education, many of which are likely to be of interest to members of the Section.

Professor Roger Manus Leads Topic Call on 'Using the Novice Game to Address the Culture of Fear in Law School'

On December 14, 2012, Professor Roger Manus led a topic call on *Using the Novice Game to Address the Culture of Fear in Law School*. Professor Manus is the Director of the Senior Law Clinic at Campbell University School of Law in Raleigh, North Carolina. The novice game is a technique Roger has used to conduct discussions on difficult topics. The game structures a conversation around a format of questions, contemplation, and short answers, and allows the participants to take turns controlling the direction of the conversation. Participants learned more about the specifics of the structure of the game, and had an opportunity to try out the technique to share thoughts on the culture of fear in law school. The resulting discussion was wide-ranging yet remarkably deep. In reflecting on the exercise, several people who participated in the call noted that the technique would be useful in a

variety of contexts, and appeared to be particularly effective in eliciting broad yet non-judgmental participation in the discussion of sensitive issues. Roger has agreed to provide a description of the novice game for the benefit of those who were not able to participate in the call. When available, it will be included either in an upcoming issue of this newsletter or be posted to the Section website.

This call was a continuation of the Section's practice (instituted last year) of sponsoring a series of mini-workshops, where invited guests lead discussions on topics likely to be of interest to members of the Section. Information about the topic discussions are sent to a broad range of AALS Sections and law school professional groups. The discussions are held via conference call, are open to anyone who chooses to participate, and are free of charge. The topic calls provide

an opportunity for new people to become involved in the activities of the Section without an excessive investment of time. Each of the calls has resulted in the exchange of valuable ideas, and in several cases has led to further Section activities and initiatives.

We have planned two additional topic calls for the spring of 2013. Josh Rosenberg will be leading a topic call on effective tools for developing communication skills, relationships and self-awareness, and D'lorah Hughes will discuss introducing "soft skills" to potentially hostile audiences. Details on each of these calls will be forthcoming via the Section announcements listserv.

We plan to continue this tradition in the future, and invite anyone who might be interested in leading a topic call to let any member of the Section's executive board know.

Legal Educators Respond to ABA Journal Article

In a recent book published by the University of Chicago Press, Professor Tamanaha states “law schools are failing abjectly in multiple ways.” (Brian Z. Tamanaha, *Failing Law Schools* ix (U. Chi. Press 2012)). Prof. Tamanaha’s book joins a chorus of articles in the popular and legal press detailing shortcomings in legal education, and describing the plight of current law students and recent law graduates. Notably, in July of 2012, the

ABA Journal featured a cover story entitled *The Pedigree Problem* – an article that suggested that legal employers and law schools alike focus on rankings and other hierarchies to the substantive detriment of the training students receive in law school. (If you missed the ABA Journal article, a copy is available through the journal’s website, www.abajournal.com.) A number of individuals who have been involved in Section activities felt the need

to write to the editors of the ABA Journal, both to highlight some of the points made in the article, and to emphasize the role law schools can and some do play in reducing the sorts of problems raised by the article. Because we think the letter may be of interest to members of the Section generally, we reprint it here for your consideration.

August 8, 2012

RE: The Pedigree Problem

Dear ABA Journal Editors:

Thank you for publishing *The Pedigree Problem* in your July 2012 issue.

We are legal educators from across the country who believe that the article’s premise – that law firms place undue emphasis on a law school’s name when making hiring decisions – is correct and that law schools and the legal profession need to value truer markers of excellence. If we don’t, we allow ourselves to remain trapped by false hierarchies and questionable values that hurt our professional culture and leave personal casualties in their wake. We must pave the way for lawyers to serve their clients well, and in doing so, achieve professional success, meaning, and genuine career satisfaction.

We applaud the authors’ reference to the research of Marjorie Schultz and Sheldon Zedeck who developed a list of twenty-six factors that influence lawyer effectiveness. Most of these factors extend far beyond the cognitive skills that, as confirmed by the Carnegie Foundation for the Advancement of Teaching, continue to be over-emphasized at the expense of other essential skills and characteristics. Law schools are beginning to recognize that education must include these professional and profoundly human

skills, together with an understanding about the sources of life satisfaction – intrinsic motivations and values that stress integrity and service to others.

The “Pedigree Problem” is symptomatic of a deeper one: over the past several decades, our profession has become over-aligned with a misguided value system that focuses on prestige, exclusivity, high income, and other external rewards that research shows will not produce meaning or satisfaction. As legal educators, we have grave concern but believe the problem is correctable.

We appreciate the article’s mention of Carol Dweck’s work on “growth mindset.” This work encourages us to create at our schools the psychological circumstances that help students to grow rather than rely on their current strengths and acquiesce to their perceived weaknesses. Dweck and others highlight the dangers of a frame of mind that values people by category because it avoids opportunities for learning that feel challenging to the learner. In contrast, the growth mindset embraces the willingness to risk setbacks and the vulnerabilities that accompany real improvement. Such a mindset frees us to expand not only our skills and knowledge, but also our aspirations, motivations, and orientation toward a world that needs us. This mindset is also consistent with the human need for personal growth recognized by classic psychology

and with more contemporary findings on the performance and wellness-enhancing effects of growth-oriented values.

Our task as legal educators is to decide how to disabuse law students and lawyers of the persistent belief, documented clearly in *The Pedigree Problem*, that hierarchy is an effective basis for career decisions. We believe that it is time for law schools to educate law students on the negative personal consequences of pursuing a professional life based on notions of a false hierarchy. This would help reduce the depression, substance abuse, and other manifestations of the unhealthy stress that increasingly plagues our profession.

Sincerely yours,

Amy Bushaw (Lewis and Clark)

J. Lyn Entrikin
(University of Arkansas, Little Rock)

Kathy Hessler (Lewis and Clark)

Larry Krieger (Florida State University)

Courtney Lee
(Pacific McGeorge School of Law)

Calvin Pang (University of Hawaii)

Todd Peterson (George Washington)

Corie Rosen (Arizona State University)

Robert Schuerk
(University of Houston)

Marjorie Silver (Touro College)

Congratulations, Bob. We'll Miss You!



Bob Schuwerk has announced that he will retire from the University of Houston law faculty this spring. We take this opportunity

to congratulate Bob on his upcoming retirement, and to formally thank him for his many contributions to the Balance Section specifically and legal education generally.

Bob received his J.D., M.A.T.M. (Masters of Arts in Teaching of Mathematics) and B.S. from the University of Chicago. He served as a law clerk for the Honorable Fred J. Cassibry of the U.S. District Court for the Eastern District of Louisiana, acted as staff counsel for the Illinois Law Enforcement Commission and engaged in complex civil litigation practice before joining the University of Houston Law Center faculty in 1982. In his teaching, Bob has emphasized Professional Responsibility, Personal and Professional Ethics, Criminal Law, Texas Civil Procedure, Administrative Law and Remedies/Class Actions. Among his other scholarly activities and publications, he served as an assistant reporter on the committee that wrote the current *Texas Disciplinary Rules of Professional Conduct*, co-authored a book-length article discussing those rules, and has co-authored a treatise (now in its tenth edition) on Texas attorney tort and disciplinary liability and Texas judicial ethics.

Notably, though, Bob has long been an advocate for the need to humanize legal education. He was involved in early efforts to organize a national conference on that theme. He was a member of the informal “humanizing legal education” board, and participated in petitioning the

AALS for formation of a new Section on Balance in Legal Education. He has served on the Section’s executive board since its inception, and in that role has served many important functions, including being a primary drafter of the Section’s new bylaws and helping to plan many of the Section’s programs to date. In particular, Bob served as the chair of the Section’s committee that planned the upcoming program at the 2013 AALS Annual Meeting. He is the author of the groundbreaking article, *The Law Professor As Fiduciary: What Duties Do We Owe To Our Students?*, 45 S. Tex. L. Rev. 753 (2004), and for many years has offered a seminar on Issues in Legal Education. In his seminar – one of the first such courses to be offered in the United States – students explore a wide range of critiques of legal education as it is offered in American law schools.

Those of us who know Bob value his staunch support of students, his passion for their well-being, and his own sense of responsibility for creating a solution for the problems they face. When Bob steps off the Section’s executive board in January, we will miss his interest in the issues that animate our Section, as well as his self-deprecating humor and essential decency. In the Section’s December board meeting, the members of the board unanimously agreed to consider Bob an honorary “board member emeritus” in perpetuity. Although this is an informal gesture with symbolic content only, we hope Bob will accept it as a measure of our personal affection and respect.

If you plan to attend the Section’s program in New Orleans, please seek out Bob to offer him your own congratulations and best wishes.

Please Keep in Touch

Our Section newsletters only come out sporadically. We occasionally send out announcements through the AALS communications platform, but have not yet made active use of the AALS discussion listserv for our Section. (This is a project we hope to undertake in the upcoming year.) The humanizing legal education listserv, however, is available every day. We often cross-post Section announcements to the humanizing legal education listserv, and topics of interest to the members of our Section feature prominently in the listserv discussions. If you do not yet subscribe to the humanizing legal education listserv, we encourage you to do so. To subscribe, go to <https://lists.fsu.edu/mailman/listinfo/law-legealed> and follow the instructions. If you do subscribe to the listserv, please post your thoughts, questions, insights and accomplishments on a regular basis. You will find you have an appreciative and responsive audience.

Please Become a Member of the Section

If you are not yet a member of the Section on Balance in Legal Education, we encourage you to join. Section membership is open to faculty and professional staff of AALS membership schools; others may join as associate members. If you have access to the AALS website, the easiest way to become a member of the Section is to register there. Otherwise, please contact the AALS National Office at (202) 296-8851 or aals@aals.org, and indicate your interest in joining the Section. If you become a member of the Section, you will automatically receive announcements of Section activities sent through the AALS communications platform. This is the most reliable method to assure that you are aware of upcoming topic calls, programs, newsletters and other initiatives sponsored by the Section. We encourage any member of the Section who would like to become more involved in Section activities to contact any member of the Section’s executive board.

Resources on Balance in Legal Education

If you would like to learn more about some of the issues the Section addresses, our Section websites might be good places to begin. The AALS website hosts a basic Section website. In addition, the Florida State University College of Law hosts a more substantive Section website at http://www.law.fsu.edu/academic_programs/humanizing_lawschool/. This website contains information about the Section itself, including descriptions of its past programs at the AALS Annual Meetings, copies of its past newsletters and information about some of its other activities. The website also gathers links and other resources potentially useful to those concerned with law student and lawyer well-being. In particular, members of the Section have compiled an extensive bibliography of some of the literature related to these issues, and the bibliography resides on the website as well.