



# RAISING THE BAR

A PUBLICATION DEDICATED TO THE EXCHANGE OF EVIDENCE-BASED THINKING ABOUT THE BAR EXAM

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*Editor's Note: All of the content in this issue was submitted prior to May 1 and thus before the killing of George Floyd and the resulting nationwide protests. We at AccessLex and Raising the Bar are deeply committed to combating the inequalities faced by students from historically underrepresented backgrounds in entering law school, thriving during their legal education, and becoming licensed members of the profession – inequalities that echo through our entire legal system. Please [click here](#) for a message from Christopher Chapman, President and CEO of AccessLex Institute.*

## FROM THE DIRECTOR

To say times have changed since the last issue of *Raising the Bar (RTB)* would be one of the grossest understatements imaginable. In this issue, we are focusing largely on distance learning aspects of those changes. In September 2020, I moderated a panel entitled [The Future is Here: Legal Education in a Hybrid World](#), probing panelists to articulate clear visions and paths forward to the law school of 2030. With necessity as this spring's, "mother of invention," the future came ten years early. To see those 2030 dreams become reality, to ensure that law schools of the future thrive as robust legal learning and professional formation centers and scholarly thought-leader communities, to affirm our commitment to training future advocates, counselors, and problem solvers – critical thinkers who will protect and honor the rule of law – we need "2020 vision" now.

A second great understatement would be to simply acknowledge our nation's law professors, law school administrators and staff, bar examiners and test developers, judges, lawyers and law students. You are heroes, and we laud you – everyone on the profession's continuum – from those dreaming of becoming lawyers to those retiring after lifetimes of service. Overnight, you changed teaching and learning; you adapted practices in courts, law offices, and law schools. New laws were passed and new procedures adopted, everywhere, even in the Supreme Court. And, in nonstop floods of posts, papers and webinars, we came together to think through positive solutions to pandemic-related challenges. (See,

[Pandemic-Related Changes in Legal Education and Attorney Licensing – A Community Steps Up.](#)) Further, in calling for and adopting emergency changes, our community demonstrated the best of lawyering qualities: disagreeing respectfully and thoughtfully, in a fact-based manner. Those qualities underpinned the long-held dream I realized when I joined AccessLex and founded [Raising the Bar \(RTB\)](#).

A third understatement would be to say how I am proud to be a part of AccessLex and our unwavering support of the nation's law students and law schools. I blogged about our [Law Student Emergency Relief Fund](#) and would be writing nonstop if I were to note all ongoing efforts to empower future lawyers. (Please visit our [website](#) if you are not familiar with our grant funding, educational, research, and policy initiatives.)

A final understatement would be to say that I *think* we can offer law students superb legal educations in online and hybrid formats. I *know* we can. I taught my first online law school classes nearly twenty years ago. We not only have decades of pre-pandemic boots on the ground (or in the cloud as it were) distance learning expertise, in and out of legal education, to help guide initial improvement cycles, but we will now have an unprecedented opportunity to collect and analyze data going forward. We also have a vast new landscape of critically important anecdotal experience. Knowing, however, that the spring 2020 legal education revolution required *emergency* remote teaching and did not allow for meticulously planned distance learning, we must be extremely careful as we engage in future qualitative and quantitative research to ensure contextually sound findings. Additionally, we must not only thoughtfully implement new practices, but we must carefully assess and continuously improve on all that we do, today and going forward. The future might continue to surprise us; we must be ready.

As times have changed, so too has the format of this *RTB* issue. We are honored to feature Distinguished Commentaries from legal education leaders who share their analysis of bold and

## DISTINGUISHED THINKER COMMENTARIES

thoughtful changes on remote teaching and distance learning, bar exam, and licensing fronts. With in-person conferences on hold, our “Conference Corner” features recordings of sessions and webinars you can listen to online. The issue also includes a range of resources for educators and students to assist as we adapt to what may well be “the new normal.” We hope the feature is informative and thought-provoking.

Thank you for your continued readership. Stay safe and be well!

Sara Berman, Esq.

Director, Programs for Academic and Bar Success



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*Director's Note: This column was written in early April 2020, looking back on pandemic-related changes in the month of March 2020.*

### Distinguished Commentaries on Distance Learning

*We are honored to include the voices of four visionary law school deans as Distinguished Commentators in this issue: Craig M. Boise, Dean of the Syracuse University College of Law; Megan M. Carpenter, Dean of the University of New Hampshire, Franklin Pierce School of Law; Andrew L. Strauss, Dean of the University of Dayton School of Law; and Anthony S. Niedwiecki, President and Dean of Mitchell Hamline School of Law. What do they have in common? They lead the nation’s four law schools currently operating hybrid J.D. programs pursuant to an ABA variance. With law schools across the country taking legal education online literally overnight, we asked these deans to share their expert opinions on how we all can learn from this great national “experiment.” The three deans who responded to specific questions will be featured first, followed by comments from the fourth dean.*

#### **(1) What most surprised you about observing law schools nationwide make the spring 2020 shift to the online model that you embraced some time ago?**

**Dean Boise:** What I found remarkable was just how rapidly online education was adopted as COVID-19 virus infections began to spread and other options for education were foreclosed. There was minimal pushback from those who argue that distance education is inferior. Indeed, once online became our only option, attention immediately shifted to how to make classes as academically robust and rigorous as possible. As the weeks of social distancing dragged on, creativity and innovation began to blossom as faculty leveraged imagination to enhance the experience of their students in the virtual classroom and foster connectivity among students, and between students and faculty outside the virtual classroom. Students themselves embraced the new modality and responded

with virtual gatherings that ranged from student organization meetings to online student elections to law review and other banquets.

**Dean Carpenter:** The traditional model of legal education has been in a process of disruption for some time. There have been significant and fundamental changes to the legal services industry that demand an evolution in education and training. However, higher education has never been quick to innovate. I am frequently approached by deans who ask me: How can you get an online program up and running? How can you get faculty on board? How do you get approval by accreditors? How can you provide parity in student services? In these conversations there is a tacit understanding that the current model of legal education is not working, and that we need to do something different. But the obstacles have seemed daunting to many, if not insurmountable.

What has surprised me this spring is the concrete proof that, from coast to coast, the obstacles are not insurmountable. In a matter of weeks, all of legal education in the United States transitioned to online instruction. We are not just teaching classes online, but we are also operating our libraries, running moot court competitions, hosting admitted students' days, engaging in shared governance, holding office hours, building community. In some of the most challenging times to lead an organization, we are doing it each from our home offices and kitchens and guest rooms. And the sky has not fallen. The parameters have fundamentally changed. The question is no longer, "Can we do this?", but "How should we do this in a way that enhances the education of our students?"

**Dean Strauss:** I think what was most surprising is that every law school in the country could go all online with a little over one week's notice. In my lifetime, there simply has been no precedent for such a rapid and profound change in legal education, nothing even close. After all, our planning to begin our hybrid online J.D. at the University of Dayton School of Law took roughly two years, and we thought that was quite fast.

The other development that I have found surprising is that some of the more traditionally oriented professors (who would never have otherwise considered teaching online) embraced the model. Among them, I have friends who told me of exciting instructional adaptations they developed over the past couple of months. The emergency nature of the public health crisis made producing high quality programming very difficult, and yet some of online's most skeptical professors have come to see certain of the modality's pedagogical benefits.

## **(2) What would be your advice to law schools planning to remain largely online for this coming fall semester?**

**Dean Boise:** I suspect that concern among public health experts about a resurgence of the virus in the fall; the vulnerability of law school students, staff and faculty who are immunocompromised; and people's lingering reluctance to be in large groups will require that for at least some part of the fall semester legal education will be delivered online. If so, law schools must be prepared to provide a much better distance education experience for students than we generally were able to deliver in the extremely abbreviated ramp-up period this spring. This means augmenting the Zoom classroom experience with asynchronous content, formative assessments and creative modules designed to expand student engagement with the material, with faculty and with one another.

**Dean Carpenter:** It's important to shift from a focus on emergency online instruction to the thoughtful and deliberate use of online/hybrid education to promote pedagogical goals, including deep levels of student engagement. And it is critical that we make the distinction between the two.

I would discourage administrators and faculty from thinking about how to replicate the in-class experience online; that is not a recipe for success. Technology can engage students in ways that are different from in-person instruction.

Consider this example: In legal education, professors will often pose hypothetical scenarios for students to analyze. In my in-person classroom, perhaps 2 or 3 students will respond and then I move on, imputing a certain level of knowledge to the rest of the class. This style has certain benefits, including encouraging students to think on their feet. Using online discussion boards to present hypotheticals, on the other hand, achieves different learning objectives that are more inclusive and facilitate development of analytical thinking on an individualized basis. Through discussion boards, each student analyzes a hypothetical; students can't "fall through the cracks." They are able to spend time on a thoughtful response before seeing other responses. They then engage in a deeper deliberative peer-to-peer discussion with their classmates about the problem. The student gets practice in legal analysis and writing, as well. In my personal experience, I find that this tool enables me to uniquely track each student's knowledge and progress over time to target problem areas and see strengths.

**Dean Strauss:** My advice is to plan now. I think students last semester, understanding that their professors had to retool courses on the fly, were much more generous in accepting instructional flaws than they will be in the fall.

At the University of Dayton, we are asking each of our professors to prepare asynchronous (preproduced video) material for one-third of their fall classes. We know from our online hybrid J.D. program that asynchronous classes can further learning if they are well-constructed and require continual student engagement (i.e., by requiring responses to queries or participation in discussion threads). In addition, the exercise of creating asynchronous material, can help professors think through and improve the overall design of their courses. Thus, I think going through this planning process now will enhance the student experience next semester and beyond, even if we return to campus in the fall.

**(3) If because of future virus waves, climate events, or other as yet unknown challenges, law schools must remain**

**flexible enough to offer online and hybrid J.D. programs beyond 2020, how do you suggest convincing the public and future law students that legal education is not only still alive, but is thriving, and will provide a more rewarding, effective and useful education, degree and professional license than ever before?**

**Dean Boise:** The biggest challenge in this regard will be the traditional legal establishment, which has been remarkably resistant to change, even as other professions are rapidly addressing technology-driven shifts in student expectations and demands and embracing the demographically distinct "post-traditional" student. I think that most lawyers, judges and legal educators must believe that hybrid online education can be more "rewarding, effective and useful," before we can convince the public and future law students of that fact. I hope this semester's experience will focus attention on online instruction's potential to add value in a hybrid approach to legal education. Another factor that may drive a more positive perception of online learning is data on academic performance and bar passage rates of students currently enrolled in hybrid online programs. I believe we'll see that students in these programs are just as successful as those in traditional residential programs.

**Dean Carpenter:** Right now is a great time to go to law school, for two reasons. First, lawyers are essential to the operation of civil society. In times of chaos, there are increased numbers of vulnerable populations, and lawyers are uniquely positioned to help. Lawyers will help families through difficult times. They will help bring vaccines to market. They will help small businesses impacted by the virus. They will help draft policies and advise on and interpret legislation. The world needs good lawyers, and in the coming years we will need them more than ever.

Second, the use of technology in legal education has the potential to enrich the learning experience throughout a student's time in law school. Hybrid and online programs have the potential to make a legal education accessible to those who

otherwise would not be able to enroll—they enable access to legal education to diverse populations, including working professionals with families who are not in a position to quit their jobs and enroll full-time. And an increasing focus on specialization within legal education will enable students to develop the skills they want to meet their own professional goals.

**Dean Strauss:** I'm actually quite sanguine about this, because I believe in the potential of online legal education. If online education is well-conceived and executed, if the value is there, the public and future law students will respond favorably. We have found the students in our online hybrid J.D. program to be very satisfied with the quality of the courses they are receiving, and what may surprise people most is the extent to which they report feeling socially connected to their fellow students and their professors.

The emphasis here really needs to be on quality. If schools use online as an opportunity to teach at tremendous scale, so that students don't have an opportunity to meaningfully interact with their professors, online legal education will fail. If we are careful to develop and implement best practices, however, I am very confident of success.

#### **(4) What changes, if any, do you see as needed or desirable in the licensing of new attorneys in an online/hybrid world?**

**Dean Boise:** In my view, we're long overdue for a conversation about how we license lawyers, what kind of examination—if any—should be required, and what level of legal competence we should be trying to measure. As the field of law has expanded dramatically into new areas like healthcare, cybersecurity and privacy, the blockchain, autonomous systems and artificial intelligence, the subjects tested on the bar exam have remained static. What the COVID-19 crisis has revealed is a rigid system that is resistant to rapidly adapting to online testing and contingent licensing needs. Rather than rely on a single test rooted in the expectations for a general practitioner of three decades ago, we should emulate the medical field and seriously consider

a licensing process for the 21st century that allows for phased testing of legal competence and subsequent certifications in specialty and emerging practice areas.

**Dean Carpenter:** Long term, it is time to reconsider licensing models for new attorneys. The bar-alternative program at the University of New Hampshire Franklin Pierce School of Law, for example, produces graduates that have been found to practice at the same level as second- or third-year associates (well beyond "minimal competence"). Just as models of legal education must adapt to change in the legal services industry over time, so should the licensing requirements for new attorneys.

Right now, however, it is critical that states think about ways to make the bar exam accessible to graduates who are differently situated. Graduates are already disadvantaged by entering the job market during this unprecedented time; not being able to take the exam that will qualify them to practice law is an unnecessary hardship and one states should strive to overcome. An online exam with secure administration, for example, would go a long way toward this goal.

**Dean Strauss:** The urgent need now is that we find a way to safely administer the bar exam to the class of 2020 that allows for social distancing or that we provide for some other form of credentialing. As some states have realized, an online bar exam is a viable alternative. Those of us with online hybrid programs have been using remote proctored exams without significant problems. So, we have the experience to know that they can work.

Beyond allowing this year's graduates to get on with their professional lives, I don't believe that the fundamental craft performed by a lawyer online is essentially different than it is in a bricks and mortar environment. It is true that the lawyers of the future will be operating more and more remotely, but the core skills we need to teach, how to think like a lawyer, communicate clearly, be an effective advocate, and interact well with colleagues, will not change.

## Distinguished Commentary from President and Dean Anthony Niedwiecki

During this extremely difficult and unique time, my biggest surprise has been how quickly law schools and the legal profession have adapted to the changes required by the pandemic. For a profession that is generally slow to change and conservative in its approach to everything, this was a huge undertaking. All law schools transitioned to remote teaching using platforms like Zoom within a matter of days and weeks, lawyers began working from home, courts held hearings remotely, and some state bars are looking to administer the bar exam online. Some of these changes may last well beyond the pandemic, and law schools are now primed to respond and adjust to these changes.

As we plan for what may be a dramatically different landscape in legal education and the legal profession, my fear is that many professors will judge online education through the lens of this stressful and forced experience although it does not represent the norm for well-planned and high-quality distance education. The switch to online education this spring was done quickly out of necessity and without the time to focus on the best practices for delivering legal education online. Most professors simply moved their on-campus lectures to an online platform (i.e., Zoom, Microsoft Teams, etc.) with little change in what they do in the classroom. As is true for all online teaching, the professors who were most successful teaching online this spring capitalized on the unique opportunities that distance education presented and adjusted their teaching to overcome any limitations to the online platform they used.

Like Mitchell Hamline School of Law, the law schools that already had hybrid or online programs likely made the transition more easily. The faculty at these schools were less intimidated by the rapid transition to online learning, as they already had experience using online tools to provide a high-quality learning experience. These schools also knew how to provide excellent

student services remotely, develop a sense of community with students who are off campus, and create sophisticated online courses in collaboration with instructional design specialists.

Faculty should likely be prepared to teach online again this fall as most health officials believe that we will need to continue social distancing until a vaccine is developed. The good news is that faculty and schools have more time to adjust their classes and approaches before the fall semester begins. To help prepare for the fall, schools should survey students on what worked and what did not work in the spring semester, and faculty should meet regularly to discuss ways to better teach online.

For example, students may raise concerns that the online synchronous sessions did not seem rigorous enough and the students seemed less engaged. Faculty can address these student concerns by learning from law schools with hybrid programs. These programs have already found ways to develop courses that provide high-quality legal education by using a mix of synchronous on-campus sessions and asynchronous online learning modules. Similarly, faculty can supplement any online fall classes with asynchronous online modules that will make their courses rigorous and engaging. There are a number of online tools to do this, including short video lessons, online quizzes, message boards, among many others. These modules will enhance the students' learning beyond the Zoom sessions and provide feedback to the professor on whether students are mastering the material. The exciting part is that these online modules could then be incorporated into courses when classes are back on campus, which will improve student learning beyond what happens in a strictly on-campus course.

If classes remain online this fall, faculty and law schools will also need to find ways to create a sense of community when so many students are feeling isolated and alone. For example, faculty can open their Zoom classes thirty minutes early for the students to talk among themselves before the instruction began. Professors and

administrators can also hold town hall meetings to engage the community. I even held a virtual “happy hour” with students this spring where we just talked about our lives and how we are dealing with the stress associated with COVID-19.

As we eventually move beyond this crisis, faculty should explore how incorporating online teaching can enhance student learning even after we return to campus. Our current and future students will benefit if we apply the lessons we learned while adjusting to the pandemic that will not only enhance student learning, but prepare our students for a legal profession that may look very different going forward.

## Distinguished Commentary on Professional Identity Formation

*In this issue we are also honored to feature a Distinguished Commentary from Professor Neil W. Hamilton, who is also the co-director of the Holloran Center at the University of St. Thomas School of Law. This piece, largely authored prior to the pandemic, analyzes and provides an ongoing framework for learning that transcends the immediate challenges of the day.*

## Fostering Student Growth Toward Later Stages of Self-Directed/Self-Regulated Learning and Bar Success by Neil W. Hamilton

Both law students and law schools want to increase the probabilities of better academic performance, bar passage, and meaningful post-graduation employment for each student. There are strong empirical data showing both

that student growth toward later stages of self-directed/self-regulated learning (defined below) enhances student academic performance,<sup>1</sup> and that stronger student academic performance in turn correlates with higher probabilities of bar passage.<sup>2</sup> To the degree that online learning may provide lower levels of support and guidance to students than in-person classroom education, self-directed/self-regulated learning skills characterized by students’ skills to plan, manage, and control their learning processes become even more important for student performance.<sup>3</sup> Data also show that legal employers and clients greatly value initiative, ownership, and a proactive commitment to continuous professional development;<sup>4</sup> so a student who can communicate evidence of later stage development on self-directed/self-regulated learning is demonstrating strong value to potential employers.

Both self-directed learning and self-regulated learning are among the most common terms used in higher education with respect to a student’s growth to internalize a commitment to continuous professional development. Self-directed learning emerged from the adult learning literature whereas self-regulated learning developed primarily from the educational psychology literature.<sup>5</sup> Malcolm Knowles defined self-directed learning as “a process by which individuals take the initiative, with or without the assistance of others, in diagnosing their learning needs, formulating learning goals, identifying the human and material resources for learning, choosing and implementing appropriate learning strategies, and evaluating learning outcomes.”<sup>6</sup> Self-regulated

1 Nilson explains, “Research has amassed overwhelming evidence that self-regulated learning enhances student performance and achievement in courses and course units.” LINDA NILSON, CREATING SELF-REGULATED LEARNERS 10-11 (2013). “It has been shown that self-regulated learning is one of the best predictors of academic performance” and “self-regulated learners are more effective learners.” Susanna Lucieer et al., *Self-Regulated Learning and Academic Performance in Medical Education*, 38 MED. TCHR. 585, 586 (2016). Self-regulated activity “has consistently been found to be related to student achievement.” Renee Jansen et al, *Self-Regulated Learning Partially Mediates the Effect of Self-Regulated Learning Interventions on Achievement in Higher Education: A Meta-Analysis*, 28 EDUC. RES. REV. 1, 2 (2019).

2 LINDA F. WIGHTMAN, LAW SCHOOL ADMISSION COUNCIL, LSAC NATIONAL LONGITUDINAL BAR PASSAGE STUDY 37 (1998); Douglas Rush & Hisako Matsuo, *Does Law School Curriculum Affect Bar Examination Passage? An Empirical Analysis of Factors Related to Bar Examination Passage During the Years 2001 Through 2006 at a Midwestern Law School*, 57 J. LEG. EDUC. 224, 232-33 (2007); Katherine A. Austin, Catherine Martin Christopher & Darby Dickerson, *Will I Pass the Bar Exam?: Predicting Student Success Using LSAT Scores and Law School Performance*, 45 HOFSTRA L. REV. 253, 266-68 (2017).

3 Rene Kizilcec et al., *Self-Regulated Learning Strategies Predict Learner Behavior and Goal Attainment in Massive Open Online Courses*, 104 COMPUTERS & EDUC. 18-33 (Jan. 2017).

4 NEIL HAMILTON, ROADMAP: THE LAW STUDENT’S GUIDE TO MEANINGFUL EMPLOYMENT 18-34 (2d ed. 2018).

5 Anthony Artino, Jr. et al., *Self-Regulated Learning in Healthcare Profession Education: Theoretical Perspectives and Research Methods*, in RESEARCHING MEDICAL EDUCATION (ed. J. Cleland and S. Durning) (2015) at 155, 157.

learning “is a multi-dimensional construct that includes a number of self-directed processes that learners use to turn their mental abilities into academic skill and lasting performance.”<sup>7</sup> “[I]t is a set of processes requiring a pro-active learner.”<sup>8</sup>

Table 1 below summarizes the competencies where self-directed learning and self-regulated learning converge.<sup>9</sup>

**Table 1**

Synthesis of the Competencies Where Self-Directed Learning (SDL) and Self-Regulated Learning (SRL) Converge

<b>A STUDENT SHOULD PRO-ACTIVELY:</b>
1. Diagnose and identify learning needs (SDL) or decide what to learn (SRL);
2. Identify resources for learning that meets the student’s needs (SDL) or plan how/when/where to learn (SRL);
3. Identify goals (SDL) or set mastery goals (SRL);
4. Implement the learning plan (SDL and SRL), but SRL goes deeper to include in the learning plan: (a) a cyclical feedback loop that allows the individual to gather information that is used to evaluate the effectiveness of his or her activities and respond to feedback; and (b) self-monitoring to keep track of and evaluate the individual’s behavior, performance and progress; and
5. Evaluate the learning process (SDL and SRL), but SRL goes deeper into determining the cause of the results and planning steps to improve in the future.

SDL also includes both the learner’s commitment to a learning contract and the educator’s role as a facilitator of learning and not primarily as a content source. Note that meta-cognition, or thinking about one’s own thinking including the degree to which individuals monitor, control, and regulate their own cognitive activities, is another term in this family of concepts, but it is normally incorporated under the broader conceptualization of self-regulated learning.<sup>10</sup>

Each student grows toward the Table 1 competencies in stages. Table 2 on the following page is a Holloran Center stage development model (called a Milestone Model) reflecting these stages.<sup>11</sup>

<sup>6</sup> MALCOLM KNOWLES, SELF-DIRECTED LEARNING: A GUIDE FOR LEARNERS AND TEACHERS 18 (1975).

<sup>7</sup> Artino, *supra* note 5 at 155.

<sup>8</sup> Id.

<sup>9</sup> Table 1 and some of the discussion of Table 1 first appeared in Neil Hamilton, *Leadership of Self: Each Student Taking Ownership Over Continuous Professional Development/Self-Directed Learning*, 58 SANTA CLARA L. REV. 567, 578-81 (2018).

<sup>10</sup> Artino, *supra* note 5 at 155.

<sup>11</sup> <https://www.stthomas.edu/media/hollorancenter/pdf/Revisedself-directednessrubricDecember2019.pdf> The working group members were: Rupa Bhandari (Santa Clara), Susan Fine (George Washington) Neil Hamilton (St. Thomas), Nicole Iannarone (Drexel), Kendall Kerew (Georgia State), and Benjamin Madison (Regent).

**Table 2**

## Assessment of Student’s Ownership of Continuous Professional Development (Self-Directedness)

<b>Stage of Self-Directed Learning</b>	<b>Novice Learner (Level 1)</b>	<b>Intermediate Learner (Level 2)</b>	<b>Competent Learner (Level 3)</b>	<b>Exceptional Learner (Level 4)</b>
<b>1. Self-Assesses and Identifies Strengths and Areas for Growth</b> Understands full range of lawyering competencies and diagnoses learning needs	RARELY demonstrates understanding of full range of lawyering competencies and diagnoses learning needs	SOMETIMES demonstrates understanding of full range of lawyering competencies and diagnoses learning needs	OFTEN demonstrates understanding of full range of lawyering competencies and diagnoses learning needs	CONSISTENTLY demonstrates understanding of full range of lawyering competencies and diagnoses learning needs
<b>2. Articulates Goals and Follows a Plan</b> Implements a written professional development plan reflecting goals that are specific, measurable, achievable, relevant and time-bound <sup>12</sup>	RARELY creates and implements a written professional development plan reflecting goals that are specific, measurable, achievable, relevant and time-bound	SOMETIMES creates and implements a written professional development plan reflecting goals that are specific, measurable, achievable, relevant and time-bound	OFTEN creates and implements a written professional development plan reflecting goals that are specific, measurable, achievable, relevant and time-bound	CONSISTENTLY creates and implements a written professional development plan reflecting goals that are specific, measurable, achievable, relevant and time-bound
<b>3. Acquires and Learns from Experience</b> Seeks experiences to develop competencies and meet articulated goals, and seeks and incorporates feedback received during the experiences	RARELY seeks experiences or seeks and incorporates feedback received during the experiences	SOMETIMES seeks experiences and seeks and incorporates feedback received during the experiences	OFTEN seeks experiences and seeks and incorporates feedback received during the experiences	CONSISTENTLY seeks experiences and seeks and incorporates feedback received during the experiences
<b>4. Reflects and Applies Lessons Learned</b> Uses reflective practice <sup>13</sup> to reflect on performance, contemplate lessons learned, identify how to apply lessons learned to improve in the future, and applies those lessons	RARELY uses reflective practice to reflect on performance, contemplate lessons learned, identify how to apply lessons learned to improve in the future, and applies those lessons	SOMETIMES uses reflective practice to reflect on performance, contemplate lessons learned, identify how to apply lessons learned to improve in the future, and applies those lessons	OFTEN uses reflective practice to reflect on performance, contemplate lessons learned, identify how to apply lessons learned to improve in the future, and applies those lessons	CONSISTENTLY uses reflective practice to reflect on performance, contemplate lessons learned, identify how to apply lessons learned to improve in the future, and applies those lessons

A law school wanting to increase the probability of better academic performance, bar passage, and meaningful post-graduation employment for each student would require each student to: (1) self-assess using Table 2; (2) create, implement, and seek feedback on a written professional development plan; and (3) regularly debrief the

student’s plan with a faculty or staff coach who facilitates the student’s learning. The coach can suggest specific learning strategies to improve the student’s learning skills<sup>14</sup> and also assess the student’s stage of development on Table 2. These plans and assessments could be accumulated in a portfolio for each student.

<sup>12</sup> Goals that exhibit these factors are referred to as SMART Goals: Specific—clear goals including what, why, and how; Measurable—including a clear method for evaluation of progress; Achievable—including obstacles and realistic solutions; Relevant—including connection to core values; and Time-bound—including a clear timeline of steps.

<sup>13</sup> Reflective practice requires learners to: focus on their own performance (what?); consider multiple perspectives, including their own, and contemplate lessons learned (so what?); and identify how to apply lessons learned to improve in the future (now what?).

<sup>14</sup> For example, see the learning strategies outlined in Louis Schulze, *Using Science to Build Better Learners: One School’s Successful Efforts to Raise its Bar Passage Rates in an Era of Decline*, 68 J. LEGAL EDUC. 230 (2019).

# RE-IMAGINING THE BAR EXAM AND OTHER PATHS TO LICENSURE

## Lawyers Justice Corps: One Path to Licensure during the Pandemic

*The Collaboratory on Legal Education and Licensing for Practice* is a group of scholars who have studied and written about the bar exam and licensing for many years. Collaboratory members write as individual scholars; their views do not necessarily represent those of their respective institutions.

As jurisdictions struggle to respond to challenges posed by the July 2020 bar exam, one promising approach is to license lawyers who successfully complete one year of legal work for a public service program. A Lawyers Justice Corps would build on the Volunteers in Service to America (“VISTA”) program. VISTA was founded in 1965 as an anti-poverty program. Often referred to as the domestic Peace Corps, it was incorporated into AmeriCorps in 1993. From its inception, it provided an opportunity for lawyers (usually new graduates) to work in legal services programs, which were and remain notoriously underfunded. VISTA became an important source of new lawyers committed to doing poverty law. It offered very modest stipends, but most VISTA “volunteers” were eventually absorbed into full-paying staff positions.

At a time when it is impossible to predict with any certainty when 2020 law school graduates can be licensed through the traditional bar exam, creating a pathway to licensure via public service holds great appeal. First, it addresses the growing need for legal services to the poor, a perennial problem and one likely to be exacerbated during and in the aftermath of the pandemic, as families face evictions, foreclosures, loss of employment, and other disaster related problems.

Second, it provides a pathway for licensure to those willing to commit to public service for one year. At the end of one year, lawyers would be

licensed to practice in the jurisdiction where they performed their service, upon certification by a supervising lawyer of successful completion and compliance with the state rules of professional conduct. Participants would have to undergo ordinary character and fitness review but would not have to take a traditional bar exam.

This type of apprenticeship model would actually be a superior measure of minimal competence because it would serve as a performance test of the lawyer’s knowledge, skills and values as applied to real life clients. States could complement the apprenticeship by requiring participants to participate in a specified number of training or CLE hours. Some public service programs already provide that training or encourage their new attorneys to attend local and national programs. The Justice Corps itself could develop some of its own training programs or link Corps members to particularly promising opportunities.

Unlike the VISTA/AmeriCorps program, participants in the Lawyers Justice Corps would be paid by the legal services organization as an entry-level staff person. The economic recovery from the COVID-19 crisis might result in expanded national or state funding of legal services. Even in the absence of new funds, law school graduates with job offers in public service would benefit because they would not have to interrupt their service to study and take a bar exam, nor would they incur the thousands of dollars of fees spent on bar preparation. Most important, clients would benefit from immediate and uninterrupted legal service. Positions could also be sponsored/funded through bar association foundations, philanthropic foundations, philanthropy from individuals, corporations and firms, and through any available public funding sources. This is a situation where a small amount can go a long way for communities and for individuals.

Jurisdictions could determine what qualifies as public service based on their goals for equal access to justice and the unmet needs of low-income individuals and underrepresented groups they face.

## PERSPECTIVES, ADVICE AND TIPS

Jurisdictions adopting this proposal would need to expand their supervised practice rule, which typically covers law students and recent graduates awaiting bar exam results. Many jurisdictions are already rewriting their rules for supervised practice, spurred by the imperative of permitting law graduates to practice while they await licensure. This proposal, however, is not about provisional licensing. Rather, it provides an independent pathway to licensure upon successful completion of one year of public service.

Please email [RTB@accesslex.org](mailto:RTB@accesslex.org) with your input on re-imagining the bar exam and lawyer licensing for future RTB issues.

### Will the Bar Exam Accommodate Me During a Pandemic?: The Impact of COVID-19 on Accommodations

*Brittany L. Raposa, Esq. is a professor and Associate Director of Bar Support at Roger Williams University School of Law.*

Many of us who work in the world of law school academic success and bar exam preparation know that getting accommodations on the bar exam can be difficult. Bar exam applicants sometimes have to jump through extensive hoops to show that they are entitled to the reasonable accommodations they received in law school and prior to law school. Now, we are adding another hurdle for these applicants: the impact of a global pandemic.

The impact of COVID-19 on recent graduates and future bar exam applicants is vast. Their futures are put on hold, they are losing job opportunities, they are suffering financially, and their study spaces and plans have drastically changed. However, little has been discussed on how the pandemic impacts the bar exam accommodations process. Title III of the Americans with Disabilities Act (ADA) requires professional licensing exams to be offered in a manner “accessible” to individuals with disabilities.<sup>1</sup> An accessible exam is one that is “selected and administered to best ensure that, when the examination is administered to an individual with a disability...the examination results accurately reflect the individual’s aptitude or achievement level or whatever other factor the examination purports to measure, rather than reflecting the individual’s impaired sensory, manual, or speaking skills.”<sup>2</sup>

How does COVID-19 impact bar exam accommodations? This article outlines two key issues that impact bar exam accommodations that jurisdictions and law school professionals must consider.

<sup>1</sup> 41 USC § 12189.  
<sup>2</sup> 28 CFR § 36.309(b)(1)(i).

## BAR SUCCESS PROGRAM PROFILES

### Succeeding on the Bar Exam and in the Profession Starts with Feeling Celebrated, Even During the Global Pandemic

*Jeffrey A. Dodge is the Associate Dean for Academic and Student Services at Penn State Dickinson Law. For more information on the success of Operation Realizing the Dream, contact him at [jad6742@psu.edu](mailto:jad6742@psu.edu).*

The COVID-19 global health pandemic forced institutions across the country to cancel in-person commencement ceremonies and other celebratory events recognizing the class of 2020. Until mid-March 2020, Penn State Dickinson Law planned to award diplomas to its graduates during a traditional commencement ceremony. While the pandemic dishearteningly forced us to cancel these celebrations, Dickinson Law's administration, faculty and staff seized the opportunity to creatively and compassionately plan alternative strategies to recognize its graduates. In response, Operation Realizing the Dream was born.

Co-chaired and developed by Dean Danielle M. Conway and Associate Dean of Academic and Student Services Jeffrey A. Dodge, Operation Realizing the Dream is a robust initiative designed to celebrate and support the class of 2020. The primary focus in developing the initiative was to deploy resources, programs and services that directly target the changed landscape that our students are experiencing in the award of their degrees, preparation for the bar exam, and their professional transition to becoming licensed attorneys. In short, the program is committed to helping them realize the dreams that brought them to law school in the first place, even during these challenging times.

In assessing the various tactics of Operation Realizing the Dream, Dickinson Law focused on the academic, personal, financial, wellbeing, and professional needs of the class of 2020.

**1. Limited Access to Records.** Bar exam accommodation applications require detailed documentation of a student's disability and medical support for the accommodations request. Typically, the requesting applicants need to either show a history of accommodations or, in the alternative, recent documentation detailing their disability and its correlation with the need for accommodations. Obtaining recent documentation, or new testing, is going to be extremely difficult for applicants at this time due to social distancing restrictions and new rules placed on medical facilities to ensure the safety of patients and staff. Applicants may also have a difficult time obtaining a history of their accommodations due to nation-wide university and school closures. Therefore, jurisdictions must be lenient with relying on older records, especially for documented disabilities that are permanent, which includes mental health disabilities such as ADD, ADHD, and anxiety.

**2. Expanding the Scope of Accommodations.** With the amount of takers who sit for the summer bar exam, the scope of accommodation requests is likely to expand due to the threat of COVID-19. Applicants with underlying health conditions are likely to request accommodations to be in a smaller room with a smaller number of applicants. For example, should we begin to advise our students who have underlying health conditions, such as severe asthma, heart complications, or diabetes, to request accommodations for a room with limited applicants to lessen their possible exposure to the virus? Jurisdictions and law school professionals now must discuss what appropriate accommodations are in light of a pandemic.

Although many other issues may arise with respect to requesting bar exam accommodations and students with accommodations generally, these two are at the forefront when we are advising students during the application process. In this time of crisis, we have to advocate for our accommodated students to promote not only their success, but also their safety.

To celebrate the individual and collective achievements of the class of 2020, Dickinson Law has committed to personal delivery of diplomas when conditions permit. Graduates can sign up for individual and small group diploma presentation ceremonies on campus or, for those who are unable to return to campus, a faculty member or administrator will travel to the graduate's new hometown to award the diploma. Doing our best to properly celebrate the achievements of the class of 2020 is integral to propelling them into success on the bar exam and in the legal profession. This class should not feel forgotten nor unsupported.

Determining that graduates have the necessary resources to succeed after graduation is another goal of Operation Realizing the Dream. Dickinson Law is offering graduates an enhanced supplemental bar program, including additional substance and skills development through individualized feedback; enrollment in a multistate bar exam prep course; and increased and extended access to Law Library bar exam success resources. In addition, during the uncertainty over the spring the Law School tracked the status of summer bar exams and communicated updates individually to each graduating student. The graduating students consistently expressed how supported they felt through these efforts as it also gave them an opportunity to receive advising in the process.

In furtherance of our bar and professional success, Dickinson Law alumni are also lending support as part of a new bar exam buddy/professional mentor program. Graduates of the class of 2020 were paired with graduates of the last 15 years who will offer support on preparing for and taking the bar exam and transitioning into the legal profession. In order to offer relatable advice based on similar experiences, the Law School focused on recruiting as many alumni who graduated during the recent recession to serve as mentors.

In addition, the class of 2020 received expanded counseling and programming from the Career Services Office and faculty support through

letters of recommendation and references, including decanal advocacy for diploma privilege and/or temporary licensure practice options in Pennsylvania. Modified health and wellness programming to allow for remote participation as well as increased in-person and tele-counseling mental health services will be offered through fall 2020. The class of 2020 will also receive additional financial support before they graduate, including increased financial aid budgets, and access to grants and emergency loans. In the spring, graduates were consulted individually as needs arose and plans were developed to ensure they graduated with the least financial instability possible. Finally, Dickinson Law is offering to support graduates with the hotel costs associated with taking a bar exam. Graduates who complete 85% of their commercial bar preparation course ten days before the exam will receive up to \$300 reimbursed for two nights at a hotel during the bar exam.

During the uncertainty of the pandemic, Dickinson Law sought to launch efforts to meaningfully help the class of 2020 move forward with the confidence and security they needed to successfully navigate what lied ahead. Operation Realizing the Dream helped our graduates through a multifaceted approach that we hope supports bar exam and professional success in the future.

## ORGANIZATION UPDATES

We are grateful to the ABA Commission on Lawyers Assistance Programs (CoLAP) Law School Committee and the committee's current Chair, Janet Stearns, Dean of Students and Lecturer at the University of Miami School of Law, for this update on character and fitness applications across the states.

*Following the important article by Judy Perry Martinez in the [last issue](#) of *Raising the Bar*, we are pleased to announce the following updates:*

On February 24, 2020 New York State Chief Judge Janet DiFiore announced in her State of the Judiciary Address the decision to remove Question 34 from its character and fitness application, and "focus on disclosure of behavior and conduct that is relevant to a candidate's fitness to practice law."

On March 18, 2020, the Michigan Supreme Court issued an order removing two questions from its character and fitness application that made specific reference to treatment or counseling for mental, emotional or nervous conditions. Michigan will replace those questions with Question 29 from the NCBE model questions.

On April 8, 2020, the Indiana Supreme Court issued an order eliminating Question 24 from its character and fitness application which required a response to "any condition or impairment" that might impact the ability to practice law. Chief Justice Loretta Rush wrote a powerful letter to graduating law students urging them to be "healthy and happy students who become healthy, happy lawyers."

The CoLAP Law School Committee continues to monitor and advocate for reform in other states that still have character & fitness questions that are over-reaching as to mental health and substance use. Our goal remains to support our students in seeking appropriate self-help

strategies and removing the stigma associated with treatment and services. If you are interested in further information, please contact University of Miami Law School Dean of Students Janet Stearns, [jstearns@law.miami.edu](mailto:jstearns@law.miami.edu) or Washington College of Law Associate Dean of Student Affairs David Jaffe, [djaffe@wcl.american.edu](mailto:djaffe@wcl.american.edu).

Please email [RTB@accesslex.org](mailto:RTB@accesslex.org) with bar-related updates from your organization.

## CONFERENCE CORNER

While we typically feature upcoming conferences here with sessions related to academic and bar success, in this issue we are including both upcoming conferences and those that recently took place and had recorded sessions:

- [CALLcon2020 - Pandemic + Legal Education + Tech](#) (CALL, June 3–5)
- [LR&W Online Teaching Excellence Conference](#) (William & Mary Law School, June 18–19)
- [SEALS 2020 Annual Conference](#) (Southeastern Association of Law Schools, July 30–Aug. 5)
- [Designing the Law Student Experience in Blended Learning](#) (Mitchell Hamline School of Law, Sept. 24–26)
- [Lawyering Skills in the Doctrinal Classroom](#) (University of North Dakota School of Law, Oct. 2–3)
- [Online & Hybrid Learning Pedagogy: Toward Defining Best Practices in Legal Education](#) (University of Denver Sturm College of Law, recorded sessions from 2019)

Please email [RTB@accesslex.org](mailto:RTB@accesslex.org) about upcoming bar-related conferences and conferences with bar exam-related sessions that may interest *Raising the Bar* readers.

# PUBLICATIONS AND POSTS

Below are but some of the many recent related publications and posts. There are far too many to list comprehensively, so we recommend as well important content on various legal education listservs (ASP, LRW, Associate Deans, Deans, Law Librarians, etc.); on the [Law School Academic Support blog](#), the [Best Practices for Legal Education blog](#), [TaxProf Blog](#); and on social media, including the Facebook group *Pandemic Pedagogy: Law Teaching in a Time of COVID-19*.

## Selected Publications

- Sara Berman, Gregory Brandes, Megan Carpenter, Andrew Strauss, *Secure Online High Stakes Testing: A Serious Alternative as Legal Education Moves Online* (2020), <https://ssrn.com/abstract=3567894>
- [Collaboratory on Legal Education and Licensing for Practice](#), *The Bar Exam and the COVID-19 Pandemic: The Need for Immediate Action*, OHIO ST. PUB. L. WORKING PAPER NO. 537 (2020), <https://ssrn.com/abstract=3559060>
- Rachel Croskery-Roberts, *Ten Years In: A Critical View of the Past, Present, and Future of Skills Education at UC Irvine Law School*, 10 U.C. IRVINE L. REV. 469 (2020), <https://heinonline.org/HOL/P?h=hein.journals/ucirvlre10&i=477>
- Joan W. Howarth, *What Law Must Lawyers Know?*, 19 CONN. PUB. INT. L.J. 1 (2019), <https://ssrn.com/abstract=3569922>
- Robert R. Kuehn, *Refuting the False Trope on Clinical Courses and Bar Passage*, WASH. U. IN ST. LOUIS LEGAL STUD. RESEARCH PAPER (2020), <https://dx.doi.org/10.2139/ssrn.3518079>
- Jaime Alison Lee, *From Socrates to Selfies: Legal Education and the Metacognitive Revolution*, 12 DREXEL L. REV. 227 (2020), <https://heinonline.org/HOL/P?h=hein.journals/drexel12&i=243>
- Jacqueline D. Lipton, *Distance Legal Education: Lessons from the Virtual Classroom*, 60 IDEA 71 (2020), <https://heinonline.org/HOL/P?h=hein.journals/idea60&i=77>
- Michelina Lucia, *Trial by Surprise: When Character and Fitness Investigations Violate the ADA and Create Dangerous Lawyers*, 38 LAW & INEQ. 205 (2020), <https://heinonline.org/HOL/P?h=hein.journals/lieq38&i=209>
- Agnieszka McPeak, *Asynchronous Online Law School Teaching: A Few Observations* (2020), <https://dx.doi.org/10.2139/ssrn.3553094>
- Chance Meyer, *Law Schools Need Improvement Science, Now More Than Ever*, 51 SYLLABUS (2020), [https://www.americanbar.org/groups/legal\\_education/publications/syllabus\\_home/volume-51-2019-2020/syllabus-spring-2020-51-3/law-schools-need-improvement-science/](https://www.americanbar.org/groups/legal_education/publications/syllabus_home/volume-51-2019-2020/syllabus-spring-2020-51-3/law-schools-need-improvement-science/)
- NCBE, *Bar Admissions During the COVID-19 Pandemic: Evaluating Options for the Class of 2020*, B. EXAMINER (2020), <https://thebarexaminer.org/article/web-only/bar-admissions-during-the-covid-19-pandemic>
- Margaret Ryznar, *What Works in Online Teaching*, ST. LOUIS U. L.J. (forthcoming 2021), <https://dx.doi.org/10.2139/ssrn.3570086>
- David I. C. Thomson, *Online Learning and the Future of Legal Education*, SYRACUSE L. REV. (forthcoming), U. DENVER LEGAL STUD. RESEARCH PAPER NO. 20-01 (2020), <https://ssrn.com/abstract=3515416>

## RESOURCES FOR LEGAL EDUCATORS AND LAW STUDENTS

### Selected Posts and Podcasts

- Claudia Angelos, Eileen Kaufman, Deborah Jones Merritt & Patricia E. Salkin, [INSIGHT: New York’s Bar Exam Changes Are Misguided—Here’s a New Proposal](#), BLOOMBERG LAW (May 7, 2020)
- Sara Berman & Neil Hamilton, [Fifteen Simple Ways \(“low hanging fruit”\) for Law Professors to Integrate Professional Formation and Development into Online Classrooms](#), BEST PRACTICES FOR LEGAL EDUC. (Apr. 20, 2020)
- John Lande, [The Coronavirus Crisis Provides an Opportunity to Adopt Better Systems for Licensing Lawyers than the Bar Exam](#), BEST PRACTICES FOR LEGAL EDUC. (Apr. 27, 2020) (May 7, 2020)

Please email [RTB@accesslex.org](mailto:RTB@accesslex.org) with recent and forthcoming bar-related publications, posts, and podcasts to be included in future issues of *Raising the Bar*.

Below are selected resources for information on pandemic-related changes and challenges with respect to bar exams, emergency remote teaching, and other areas to assist law students and faculty advising students as they navigate the tough times ahead. Also listed are resources that regularly appear in *Raising the Bar*, such as grants and scholarships, libguides, and updates on the AccessLex Bar Success Resource Collection.

### Distance Learning Resources

- [AccessLex Distance Learning Resources](#)
- [CALI Resources for Law Faculty on Remote Teaching Due To Coronavirus](#)

### Pandemic Related Resources on the Bar Exam

- [NCBE](#) The NCBE’s website includes pandemic related updates and resources, stating:

NCBE COVID-19 UPDATES: NCBE continues to monitor the coronavirus (COVID-19) situation closely. The health and safety of bar applicants and of our employees and volunteers are of paramount importance to us. We will continue to update our COVID-19 pages as new information becomes available.

### Important Resources

- *Jurisdiction announcements about changes regarding the July 2020 bar exam:* [July 2020 Bar Exam: Jurisdiction Information](#)
- *Past NCBE updates:* [Past NCBE COVID-19 Updates](#)
- *Answers to frequently asked questions:* [NCBE COVID-19 FAQs](#)
- *NCBE’s white paper:* [Bar Admissions During the COVID-19 Pandemic: Evaluating Options for the Class of 2020](#)

- o [Barcovid19.org—The Collaboratory on Legal Education and Licensing for Practice](https://barcovid19.org), a group of scholars who study and write about admission to law practice, has created a website tracking responses to the COVID-19 pandemic related to lawyer licensing. The site, [barcovid19.org](https://barcovid19.org), offers updates on exam status and explores the pros and cons of alternatives to in-person bar exams. Those options include [postponing the exam](#), [creating an online version of the exam that would be administered remotely](#), [establishing a diploma privilege](#), [adopting a “diploma plus” privilege](#), [licensing candidates through supervised practice](#), and [creating a Lawyers Justice Corps](#) that would license lawyers after one year of legal work for a public service organization. For more information on the last option, please see the related article “Lawyers Justice Corps: One Path to Licensure during the Pandemic,” in this issue of *Raising the Bar*. The Barcovid19 website also discusses state rules that liberalize [pre-licensing law practice](#), noting both advantages and drawbacks of these temporary licenses. The site complements all of these analyses with key background information discussing [public health perspectives](#), the [health risks of in-person bar exams](#), [COVID-19 legal needs](#), [impacts on applicants](#), and insights drawn from the [Model Rules of Professional Conduct](#). Separate pages report [NCBE updates](#), [information from jurisdictions](#), [student and new lawyer perspectives](#), and [links to relevant op-eds, blog posts, and articles](#). [Barcovid19.org](https://barcovid19.org) is an organic website. The authors update it frequently and welcome ideas from readers. If you have information related to any of the above topics, proposals for new ways to approach licensing during the pandemic, or insights

on any of the issues discussed on the website, please feel free to send your thoughts to [BARCOVID19@gmail.com](mailto:BARCOVID19@gmail.com).

- [AccessLex Resource Collections: Bar Success Collection](#)
- [LibGuides](#)

## Resources for Students

- [ABA Coronavirus Resources for Students](#)
- [ABA COVID-19 Bar Examination and Admission Changes](#)
- [Bar and Other Selected Law Student Scholarships](#)
- [ABA Scholarships and Financial Aid](#)
- [ABA Bar Information for Applicants with Disabilities](#)
- [ABA Grants for Law Students](#)
- [CALI Skills Lessons](#)

## Grant Opportunities for Legal Educators and Researchers

- [AccessLex Grant Programs](#)
- [American Association of Law Libraries \(AALL\)](#)

Please email [RTB@accesslex.org](mailto:RTB@accesslex.org) with information about resources for faculty and students in your jurisdiction.

## ANNOUNCEMENTS/ IN MEMORIAM

This Spring we lost a number of law faculty who will be dearly missed, including, among others, [Professor Nancy Sabol](#).

## SPECIAL FEATURE: DISTANCE LEARNING QUESTIONNAIRE FINDINGS

AccessLex is undertaking a comprehensive, multi-phase study of distance education among law schools. As part of the study's initial information gathering phase, questions were posed to a number of law schools who were operating significant components of J.D. programs in a distance learning format prior to the COVID-19 crisis. Responses received to date appear below. We hope these reflections will assist legal education stakeholders, including law faculty and administrators grappling with critical decisions regarding online teaching and learning in law schools this fall.

Please contact us by email at [RTB@accesslex.org](mailto:RTB@accesslex.org), as soon as possible, if your school wishes to participate in future phases of distance education research.

## CONTINUING THE CONVERSATION

In future issues we will feature and profile the interventions that have been shown to be effective in mitigating the barriers that were featured in last fall's issue of *Raising the Bar*. Stay tuned!

[Click here to subscribe to future issues of \*Raising the Bar\*.](#)



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# DISTANCE LEARNING QUESTIONNAIRE FINDINGS

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## Introduction

Distance learning is now a central component of the law school curriculum. The COVID-19 pandemic forced law schools to engage in emergency remote teaching after in-person instruction became too dangerous. As a result, nearly every law school is now engaging in some form of distance learning, at least temporarily. Fortunately, sophisticated models exist for both synchronous and asynchronous online learning. And online delivery of the J.D. curriculum is not brand new to legal education. There are hundreds of practicing lawyers today who earned their law degrees through programs that were delivered in significant part online. Just prior to the sudden, temporary shift from in-person instruction in the spring of 2020, there were four law schools that were operating under variances from ABA rules restricting the number of J.D. credit-hours that could be delivered online, and other non-ABA law schools have had online J.D. programs for some time.

AccessLex Institute® is committed to supporting evidence-based studies of distance learning in legal education. AccessLex funded the first assessment of Mitchell-Hamline's Hybrid J.D., the first such program of its kind

among ABA law schools. Since then, the organization has supported many efforts to explore and develop best practices relating to distance learning in legal education.

As part of that commitment, AccessLex is undertaking a comprehensive, multi-phase study of distance learning in law schools. This brief captures just a snapshot of the first phase, which consists of gathering and publishing information about distance learning J.D. programs that were in existence prior to the COVID-19 crisis. Here, six law schools describe the scope, form and function of the distance and hybrid learning components of their J.D. programs. The goal of this document in its current form, and as it grows with the addition of information from other law schools, is to help contribute to broad awareness of good practices for distance J.D. education, especially as many law schools are making first attempts to navigate this space.

If you have any questions or if you would like your school included in future stages of the study, please email Fletcher Hiigel, AccessLex Librarian, at [fhiigel@accesslex.org](mailto:fhiigel@accesslex.org).

# Law Schools with Hybrid J.D. Programs under an ABA Variance



## MITCHELL HAMLIN SCHOOL OF LAW

### **1) Describe your school's online or hybrid J.D. program, including whether your program has a distinct mission, focus area or target student population.**

The essential features of Mitchell Hamline School of Law's blended learning program are rooted in the school's history and were born as a part of the core mission of the law school. Mitchell Hamline's origins date back to 1900. For many years, the school's character was shaped by its long history as a night law school, serving working people, immigrants, and people with family obligations. Together with this mission of providing access to legal education was the school's commitment to practical legal education. Long known regionally as the "lawyers' law school," Mitchell Hamline was a pioneer in skills education.

Introduced in 2015 as the hybrid J.D. program, the Mitchell Hamline blended learning program's design is informed by these two features of the school. Mitchell Hamline chose an asynchronous model with a four-year curriculum to provide maximum flexibility for students who fit the school's traditional profile. Mitchell Hamline designed the

face-to-face instructional time in block sessions for an intense, complex, and integrated program that incorporates many of the characteristics of actual law practice. The key design features of Mitchell Hamline's blended learning program are dictated by the school's mission of providing flexible and rigorous practical legal education.

Currently, approximately half of Mitchell Hamline's 1,200 students are enrolled in its blended learning program. The students come from every state as well as several other countries.

### **2) Describe the key aspects of your online or hybrid J.D. courses:**

a) Describe basics such as the LMS, how many students are in the online or hybrid courses at a time, etc.

Mitchell Hamline's blended learning program successfully transitioned from Blackboard to Canvas for its learning management system. The school decided to pilot Canvas for all 1Ls (i.e., both the blended learning program and brick-and-mortar program 1Ls) in the fall 2017 term. In summer 2018, the school fully transitioned

all courses onto Canvas. The school also has implemented new learning technologies such as Zoom conference call software for office hours and Panopto video recording software for prerecorded lectures.

The enrollment cap of each course varies, depending on the type of course (skills, doctrinal, or seminar). Mitchell Hamline's typical online or blended course has 50–96 students enrolled, whereas some skills courses are limited to 48 students to accommodate more interactivity. Seminars are capped at 20 students, so professors can provide substantial feedback on the papers or other work product of each of the students.

b) Describe synchronous portions of classes (core and elective courses) including which broadcasting tools are used and any in-class assistance to faculty (e.g., technology partners, tech support and TAs).

Using Zoom, Mitchell Hamline professors conduct an optional synchronous office hour each week. The sessions are recorded and posted onto Canvas for any student unable to attend. For required courses, office hours tend to be guided, which means the professor brings and covers supplementary material. In upper-level courses, office hours tend to take the traditional form of a question-and-answer session.

The in-person components of our blended courses are also conducted synchronously. The first and third semesters of the program begin with an intensive on-campus synchronous preparation week. The first-semester preparation week includes an introduction to legal doctrine and skills, and helps students build a learning community with the faculty. Additionally, students receive instruction in case briefing, self-regulated learning, legal reasoning, and educational technology. In the third-semester preparation week, students receive six days of instruction in civil dispute resolution, evidence, and constitutional law liberties, and they also receive information on externships, career and professional development, curricular specializations, and cocurricular activities.

Each semester culminates with an intensive, synchronous on-campus capstone week, usually in the twelfth or thirteenth week, during which students apply the foundational doctrine and skills they have learned online. All capstone weeks include fifty-six hours of instruction. The capstone weeks include a combination of class-specific meetings and experiential simulations that integrate the three core courses in which students are enrolled during the semester. Each capstone week culminates in a complex simulation that lasts two to three days and incorporates the doctrine and skills from that semester's courses.

c) Describe the asynchronous portions of your online and hybrid courses, including any learning, tracking and assessment tools.

Our blended learning program is primarily an asynchronous program. The faculty, in tandem with the instructional designers, developed each course through a "backward design," competency-driven process. Each course is framed by a formal statement of course competencies and sub-competencies. Each of the twelve or thirteen weekly online modules builds on these competencies and contains expressly stated objectives, along with weekly narrative summaries, studies (e.g., readings, tutorials, videos), one or two interactive discussion boards, and one or two written assignments. During the online weeks, students learn the foundational doctrine and skills for each course.

Students receive feedback on all discussion-board posts and assignments from the full-time course professor and adjunct faculty members — expert practitioners who assist the full-time faculty in providing timely and valuable feedback. There is a 24:1 student-to-adjunct-faculty ratio in each doctrinal course, and a 12:1 student-to-adjunct-faculty ratio in each skills course. Full-time and adjunct faculty members evaluate assignments and discussion-board posts with rubrics tied to course competencies and sub-competencies. This method enables the faculty to assess student learning in each of the course competencies.

d) Describe the role of other experts in course and program development, such as instructional designers, assessment experts, etc.

Mitchell Hamline has created five instructional design positions and hired experts in online course design to assist the faculty with the development of their blended and online courses. These individuals have expertise in curriculum development and online learning. They have partnered with the faculty to create a course template for courses in the program as well as an online resource community for the faculty. The school employs one remediation specialist, who is responsible for helping ensure the online content is accessible. The school also has two academic technologists who lead the Learning Technologies Lab, which focuses on course-building, video production and editing, and online course-room quality assurance. Lastly, Mitchell Hamline has two learning management specialists. These individuals answer questions from faculty and staff about the online platform, Canvas. In 2017, because of the increased student demand for technical assistance, Mitchell Hamline increased the hours of support to include weekends and evenings.

**3) Describe the on-campus, residential portions of your online or hybrid J.D. program. Please note how these will be adapted to a completely online setting if students are not able to come to campus to participate.**

Mitchell Hamline's blended learning program has two different, on-campus, residential portions: 1) a "preparation week or weekend" that takes place at the beginning of the first four semesters (we are adding preparation weekends in semesters two and four in the 2020–2021 school year) and 2) a "capstone week" that takes place toward the end of every semester.

The preparation weeks at the beginning of the first and third semesters last six days (Monday–Saturday). The preparation weekends at the beginning of the second and fourth semesters continue for three days (Friday–Sunday). The first-semester preparation week includes an

introduction to legal doctrine and critical skills; students also begin their coursework in torts, criminal law, and legal writing. In the third-semester preparation week, students receive six days of instruction in that semester's courses, and they also receive information on externships, career and professional development, curricular specializations, and cocurricular activities. In the two shorter preparation weekends in semesters two and four, students receive in-class instruction balancing lecture, class-wide and small-group discussions, and short interactive exercises that introduce them to the courses for that semester.

Capstone weeks, on the other hand, take place toward the end of the semester and require students to apply the foundational doctrine and skills they learned online earlier in the semester. The capstone weeks for the first four semesters include fifty-six hours of instruction. A faculty capstone-week director develops the capstone week schedule in conjunction with the full-time faculty teaching that semester. The capstone weeks include a combination of class-specific meetings and experiential simulations that integrate the three core courses in which students are enrolled during the semester. Each capstone week culminates in a complex simulation that lasts two to three days and incorporates the doctrine and skills from that semester's courses. The first-semester capstone week ends with a three-day settlement negotiation, the second semester with a complex lease negotiation, the third semester with oral arguments, and the fourth semester with a jury trial. Because the students in semesters five through eight choose their own courses from a menu of numerous blended and fully online options, those capstone weeks are offered as individual blocks of time during the week, and still include a combination of classroom instruction and interactive exercises within each individual course.

**4) Describe training for faculty on how to deliver online content effectively, noting who conducts the training, the length of the training and any ongoing support for faculty.**

Prior to the start of the semester, faculty who teach courses in the blended learning program are assigned an instructional designer to help develop their courses. The instructional designer conducts an initial design meeting lasting approximately one hour to review the backward design process, course competencies, educational best practices, technology considerations specific to the course, the general course template, and a timeline for course development. Following the initial design meeting, periodic check-in meetings between the instructional designer and each faculty member occur so that feedback and training are ongoing throughout the course development process.

In addition to one-on-one consultations with each faculty member, instructional designers also conduct training sessions or webinars throughout the year to provide additional opportunities for faculty to learn about effective online content delivery. These training sessions generally take place about three times per semester, last approximately ninety minutes, and focus on topics such as technology use, how to create accessible documents, or best practices for teaching online.

Beyond the process of training for full-time faculty members, the blended learning and instructional design teams host adjunct training sessions prior to the start of each semester. These sessions last 2–3 hours and cover topics such as blended learning policies, best practices for teaching online, communicating with students, and how to use the learning management system.

### **5) Describe how your hybrid/online students participate from a distance in co-curricular and extracurricular activities:**

a) Describe how journals, moot court, student organizations and the like are offered online.

Mitchell Hamline works diligently to ensure that blended-learning program students are granted the same opportunities as brick-and-mortar program students. All blended learning students can participate in all three journals the school offers — *Cybaris*, an intellectual property law review; the *Mitchell Hamline Law Review*;

and the *Journal of Public Policy and Practice*. Thirteen blended-learning program students are participating in various roles as assistant editors, managing editors, editor-in-chief, and staff contributors in a publication this academic year. This year's editor-in-chief of the *Mitchell Hamline Law Review* is a blended learning student who lives outside St. Louis, Missouri. Meetings are held in a remote format, allowing students across the country to participate, and all work can be done remotely with online technologies.

Several students have participated in moot-court competitions. Information for competitions is sent out early to allow students the opportunity to sign up for tryouts, which are made available via Zoom for students outside of Minnesota. Practices are held remotely and synchronously via Zoom, with most partners not meeting in-person until the competition. Several moot-court teams comprised of blended learning students have gone on to place highly in their respective competitions. Finally, the Student Bar Association created two blended-learning program representative positions for each cohort, to ensure that students can fully participate in the Mitchell Hamline community and have their voices heard. Meetings are available by telephone or Zoom for students who cannot attend in person. Several student organizations have followed suit, with many blended learning students holding leadership positions in those organizations.

b) Describe how online externships and clinics are conducted.

In contrast to the brick-and-mortar-program students who complete their externships locally, blended-learning program students usually complete their externships in their cities and states of residence. Interested students complete an online proposal form and indicate their site of interest, supervising attorney, and number of credits to be earned. Career Services staff call the student's proposed supervising attorney to vet the site, and once the site is successfully vetted the student is enrolled in the externship course and assigned a faculty supervisor. In addition to completing the field work at their externship

sites and logging their externship hours in an online database, blended learning students complete coursework and meet with their faculty supervisors via phone or Zoom.

Additionally, blended learning students have an opportunity to participate in several clinics and register the same way they would for a course. The work varies from clinic to clinic, and clinic supervisors utilize daily or weekly emails, phone calls, and Zoom meetings to keep connected with the students.

**6) Describe how student support services (e.g., academic support, law library services, career services, financial aid) are provided to online/hybrid students.**

*Library Services:* The Warren E. Burger Library provides support to the blended-learning program students through phone, email, and live chat during regular reference hours, and to students who live close enough to visit the library in person throughout the semester. Librarians are available on Saturdays to accommodate writing and research assignments due on Saturday nights. Moreover, recognizing that the blended learning students may need to work during hours when the reference desk is not staffed, the library also offers reference appointments on request.

Blended learning students may borrow materials from the library (the library mail system circulates books directly to students) and can participate fully in interlibrary loan services for both books and articles. The library has purchased multiple copies of study aids for the courses taught in the program. All students have access to Westlaw, Lexis, and Bloomberg, in addition to all of the library's subscription databases.

The blended learning curriculum has been developed so that students will be able to complete all coursework in legal research using materials and services available through the library. Librarians will also offer to introduce students to law libraries in their home area on request.

*Academic Excellence:* Mitchell Hamline has partnered with the education company Kaplan

to deliver an integrated bar readiness program, which includes materials, assessments, and curriculum enhancements to prepare students for the bar examination in all jurisdictions. This initiative was spearheaded by the dean of academic excellence and is being implemented by the office of academic excellence in cooperation with the faculty and administration. The Academic Excellence Office has designed three bar examination preparation courses for blended-learning program students: Bar Primer, Bar Strategies: MPT, and Bar Strategies: MEE and MBE. These courses are mandatory for students with under a 2.8 GPA and are highly recommended for other students.

The Academic Excellence Office has also designed a bar preparation program titled "Ahead of the Curve." Graduates who participate in this free program receive valuable resources, one-on-one bar tutoring, a commercial bar preparation timeline, and enrollment in a commercial bar-review course.

*Career and Professional Development:* The Career and Professional Development Office has developed a comprehensive plan for serving the many blended learning students who are midcareer professionals from diverse fields. In their first semester, blended learning students are assigned to a career and professional development counselor, who is their point-of-contact for career planning and transition guidance during their time at Mitchell Hamline. Students may meet with their counselor one-on-one and in small group settings upon request. These meetings can take place in person or via Zoom, Skype, or other remote means. Students are particularly encouraged to meet in person with their career counselor during the preparation and capstone weeks.

The Career and Professional Development Office also coordinates targeted programming for the blended learning students while they are on campus during preparation and capstone weeks. During these sessions, there are discussions

about professional ethics in the law school and legal community, career exploration with alumni, career goal setting, career transitions, and more.

*Student Services:* The blended learning team employs two assistant directors who are responsible for advising current students and facilitating the administrative logistics of the program. They answer a wide range of questions, including graduation requirements, financial aid, and wellness concerns.

**7) Describe any training or other resources that have been provided to your traditional J.D. program students who have been required to transition to online learning due to COVID-19.**

The dean of students contacted all on-campus students with important information and updates regarding the transition to online classes. The information provided to students included details on (1) maintaining regularly scheduled class times, (2) how to log into the learning management system (Canvas) to find Zoom links for virtual class sessions, and (3) technical information about using Zoom (accessing Zoom accounts, hardware requirements for audio/video capabilities, and how to participate in practice meetings).

Staff from the instructional design, multimedia, and information technology departments established two main means to provide ongoing support and resources for all students, faculty, and staff. First, Mitchell Hamline created a webpage on the school's website with instructions and tutorials for using the technology tools. These were a combination of resources created in-house by our staff and externally created tutorials, such as those from Zoom's Help Center.

Second, Mitchell Hamline established an email address dedicated to responding to inquiries from faculty, staff, and students during the transition. Instructional design, multimedia, and information technology staff closely monitored incoming messages to respond to individual questions and troubleshoot issues. Staff committed to responding within 15 minutes during normal business hours to

be able to address immediate and unexpected technology issues. The inbox was also monitored by staff working evening and weekend hours.

**8) Please describe the extent to which your institution's prior experience with distance learning has helped ease the transition to online learning by traditional J.D. program students. What challenges (if any) has your institution faced adapting its distance learning techniques to the traditional J.D. program during the COVID-19 pandemic?**

Mitchell Hamline's prior experience with distance learning helped to ease the transition to online learning in three important ways. First, Mitchell Hamline had a robust infrastructure of educational technology support to help the transition to online teaching. Staff were able to draw on their expertise to expand our use of Zoom and Panopto, to avoid some of the cybersecurity issues by fully integrating these tools into our LMS platform, and to provide both group training and individualized support to faculty members unfamiliar with these technologies. Second, Mitchell Hamline understood the importance to students of creating a uniform and predictable structure for their online learning. The school created institutional protocols for the faculty to follow in moving their classes online, such as requiring synchronous Zoom class meetings at the regularly scheduled class time, even if some asynchronous material was also being utilized. Finally, the experience that many of our faculty members had in building our blended learning courses provided invaluable mentorship to those faculty who were less familiar with the instructional technologies and enhanced the faculty culture of experimentation and collaboration.

The greatest challenge Mitchell Hamline faced was that our online teaching in the blended learning program has been largely asynchronous. Faculty and staff needed to learn the technology of synchronous online teaching. Our faculty were eager to share their knowledge and learn new things together, and our educational technology team provided outstanding support.

**9) Please provide any insights you may have about the role of online and distance J.D. education going forward.**

Law schools have largely turned to remote, synchronous teaching and learning during the COVID-19 pandemic. Using tools such as Zoom and Google Hangouts, faculties have attempted to replicate the in-class experience virtually. Distance-education courses, or blended learning programs, by contrast, require a careful balancing between asynchronous and synchronous instruction. Asynchronous instruction extends access (e.g., by not requiring students to be online at certain times each week), requires weekly learning outcomes and formative assessments, and enables all students to participate weekly (e.g., through learning activities such as discussion boards). Additionally, blended learning involves a set of choices that identifies learning that can best take place online in a distance-education format and learning that can best take place in an in-person format.

Synchronous, remote instruction is only one tool available to a faculty teaching distance-education courses, whether it is a part of a blended learning program. To the extent that law schools choose to offer additional distance-education coursework, they need to be wary of equating the instruction that took place during the COVID-19 pandemic with distance education. Blended learning, or distance education, requires much more course planning, a variety of technological tools that are chosen to match the faculty member's learning objectives, frequent formative and summative assessments, and a commitment to student access.

**10) Please provide any words of wisdom, tips or encouragement you may have for law schools that have been forced into the online education space by the crisis.**

As law schools move into the online or blended learning education space, faculty, staff, and administrators must remember the value of communicating with students asynchronously and synchronously. Both means of communication have a place and purpose, and the distance

educator's challenge is to determine what teaching is best delivered through each medium. Distance-based education requires more — not fewer — opportunities for faculty and student connection, and those points of connection require more intentional planning, consideration, and thoughtful delivery.

Faculty, staff, and administrators must also plan for the challenges that distance-based education presents: the challenges that educators ordinarily face in the classroom grow exponentially in the absence of face-to-face communication. We must communicate remotely with individuals who have different needs, perspectives, cultural orientations, and access levels. Educators must create virtual classrooms that include and value all individuals without neutralizing their differences, but instead build upon those differences to strengthen the virtual classroom environment and discussions.



# SYRACUSE UNIVERSITY COLLEGE OF LAW

## **1) Describe your school's online or hybrid J.D. program, including whether your program has a distinct mission, focus area or target student population.**

Syracuse University College of Law's JDinteractive Program is an ABA-approved hybrid J.D. program designed to make law school accessible to talented students for whom a residential law degree program is not practicable because of work or family commitments. The program combines real-time, live online class sessions with self-paced instruction, on-campus courses, and experiential learning opportunities. A distinctive feature of the program is that the majority of instruction time is live, real-time instruction, with students and professors interacting with one another as they do in traditional residential J.D. programs.

## **2) Describe the key aspects of your online or hybrid J.D. courses:**

a) Describe basics such as the LMS, how many students are in the online or hybrid courses at a time, etc.

Our program is deliberately small — we currently take no more than 65 students per year. We also keep live sections of classes small — typically between 20 and 30 students — because we believe this facilitates active student engagement. At this class size, all students can see one another and the professor simultaneously, and participate in classroom discussions and Socratic dialogue just as they might in a residential classroom.

b) Describe synchronous portions of classes (core and elective courses) including which broadcasting tools are used and any in-class assistance to faculty (e.g., technology partners, tech support and TAs).

The central feature of each online course is synchronous class sessions. In every online class, at least 50% of the course is conducted in real time allowing faculty and students to dynamically and spontaneously engage with one another as they would in a residential classroom. Faculty receive extensive training before teaching live online, and live IT support is available if faculty run into any issues. These classes are almost all taught by our full-time faculty, in addition to a

few experienced faculty hired specifically for this purpose (e.g., a leading member of our emeriti faculty hired on a part-time basis).

To allow for high-quality, seamless interactions in real time, our live sessions are conducted using Zoom, a software environment that provides both videoconferencing capabilities and a wide range of tools that allow faculty to shape their virtual classrooms to fit their teaching styles and pedagogical aims.

c) Describe the asynchronous portions of your online and hybrid courses, including any learning, tracking and assessment tools.

Each online course has an asynchronous component that constitutes not more than half of class time. These asynchronous lessons are typically developed by our full-time faculty and primarily by tenured members of our faculty. The asynchronous course sessions represent an opportunity not simply to replicate what happens in a residential classroom (although this is feasible), but also a chance to create learning experiences that would not be possible in a physical classroom including ones that allow for rapid feedback and formative assessment.

Asynchronous class sessions use a variety of formats. The range and types of asynchronous material our faculty have created include enriched lectures, Socratic dialogues, roundtable discussions, and hypothetical exercises among others. Notably, a single course might use all of the formats, thus creating a rich set of learning experiences that work for a wide range of learning styles. Regardless of the format of the asynchronous session, each includes highly interactive embedded exercises that require students to actively engage with the material they are being asked to learn. This can be as simple as a multiple-choice question or as complex as an essay response. Professors determine what happens after a student answers a question. Multiple choice and short answer questions can be validated immediately. Questions calling for more intricate answers can be individually reviewed by faculty, reviewed by peers on

a discussion board, or reviewed by students themselves based on a model answer provided by faculty.

d) Describe the role of other experts in course and program development, such as instructional designers, assessment experts, etc.

Our faculty work closely with Syracuse University's instructional design team to design and build the asynchronous portions of their online classes. Faculty also receive support and training from our Faculty Director for Online Education and Associate Dean for Online Education, who are both experienced professors who have themselves built and taught online courses.

**3) Describe the on-campus, residential portions of your online or hybrid J.D. program. Please note how these will be adapted to a completely online setting if students are not able to come to campus to participate.**

Residential courses are central to the design of the JDi program. Students are required to complete six residential courses during the course of the program. These courses ensure opportunities for real-time interaction, as well as an opportunity for students to strengthen relationships with one another, with faculty, and with students in the residential program.

The courses vary in purpose, topics and nature. The first course is designed to provide a strong foundation for students' legal studies, including the legal processes, common law system, and techniques for understanding and studying the law. The second, third and fourth residential courses are skills-focused courses. The last two required residencies are specialized elective courses that provide students with a "deep dive" into a specialized field of legal practice from an expert in the field.

At the current time, students must attend residential courses in person, and cannot opt to do them from a remote location. We anticipate that we may need to delay offering certain residential courses

due to the COVID-19 pandemic; this is, obviously, an unfolding situation and we are working to proactively plan for different possibilities.

#### **4) Describe training for faculty on how to deliver online content effectively, noting who conducts the training, the length of the training and any ongoing support for faculty.**

To enable faculty to teach successfully in this new environment, both teaching support and technical support have been provided to every faculty member teaching in the program.

Faculty developing asynchronous class sessions receive support both from College of Law faculty who are experienced in course build and from Syracuse University's in-house instructional design experts housed at University College. This teaching support helps faculty members think through the relationship between the asynchronous class sessions and synchronous class sessions. Indeed, each faculty member creating asynchronous class sessions has engaged in lesson planning for the parallel synchronous class sessions to ensure that the two types of class sessions complement one another in order to achieve the desired learning outcomes.

Faculty members also are provided with ample teaching support to enable them to successfully adapt their teaching to the live, online format. Each faculty member teaching synchronously has completed training on the use of the Zoom videoconferencing system well in advance of his or her first live class. In addition, each teacher is provided with one-on-one teaching mentoring from a professor who has successfully taught online in the past. Staff are also available to help professors practice teaching in this new space.

#### **5) Describe how your hybrid/online students participate from a distance in co-curricular and extracurricular activities**

a) Describe how journals, moot court, student organizations and the like are offered online.

Our Office of Student Affairs staff and JDi Program Coordinator have worked closely with our student organizations to teach them how to use technology to create meetings and events that

are fully accessible to both online and residential students. Thus, it is now routine for student organizations meeting on-campus to have a videoconference line open during their meetings so that JDi students can join.

JDi students have enthusiastically seized on opportunities to participate in student organizations along with their residential peers. JDi students are actively participating in a variety of student organizations including the Student Bar Association; the Veterans Issues, Support Initiative and Outreach Network (VISION); the Latin American Law Students Association (LALSA); the Entertainment and Sports Law Society; and the Corporate Law Society among others. In addition, this spring, our first cohort of JDi students is in the process of applying for membership on our law review and journals.

b) Describe how online externships and clinics are conducted.

All JDi students have the opportunity to enroll in a nine-credit externship. The externship consists of six credits of placement and three credits of wrap-around seminar. Students placed in cities in which we have in-person seminars have the option of participating in the in-person seminar alongside students in our residential J.D. program. Students working in other cities may enroll in an online seminar led by a faculty member.

#### **6) Describe how student support services (e.g., academic support, law library services, career services, financial aid) are provided to online/hybrid students.**

Student support is a critical component of our law school and to the long-term success of our students. We have invested heavily in student support for students in both our residential and online programs. The Office of Student Affairs has a full-time staff dedicated to providing academic counseling, student support, professional development opportunities and guidance, and an array of programming to support students during their law school education. Our programming

currently includes, among other things, a student mentor program, academic tutoring, and bar readiness programming.

Our Career Services Office has adapted its delivery of services to provide quality career and professional development services to JDi students. Our counselors are available to meet one-on-one with all students on Zoom. Such sessions can be used to address individual questions as well as to provide individualized career coaching.

Group programming is also made available live, online, as well as recorded and posted online for future reference. For example, during this academic year, the Office of Career Services staff held live webinars on Zoom to introduce JDi students to its services, and the Symplicity system, which is used to connect with prospective employers. They also used Zoom to conduct interactive sessions on such topics as career readiness and diverse careers in law, which were recorded and made available to students unable to attend due to career, family and other obligations.

In a similar way, our Office of Financial Aid has adapted its services to meet the needs of the JDi students. Most of the Financial Aid counseling is done on a one-to-one basis and staff find working in a virtual office works to connect with students and help them navigate the financial aid process and understand their options.

JDi students have full access to the law library and to the Syracuse University library system. Library reference and instruction services, library materials and the print collection are available to JDi students. Reference librarians use the virtual classroom to facilitate face-to-face reference inquiries and instruction to individuals and small groups, and they are also available for email and telephone inquiries. Library materials including databases, online research tools, bibliographic information, indexing and cataloging are available to all student through the online library catalog. Lastly, students can access most of the library's print collection

through electronic document delivery with the help of our librarians. Where electronic delivery is not possible, staff is able to locate materials at a local library, provide physical delivery of the material or use its inter-library loan system.

**7) Describe any training or other resources that have been provided to your traditional J.D. program students who have been required to transition to online learning due to COVID-19.**

Our faculty and staff have also been providing active support to residential students to help them transition online. This has included creating a website that serves as a central clearinghouse for student support resources. Syracuse University has created an online central bank of continuity resources that our students can access. In addition, our staff have used their experience making events accessible online for JDi students to bring a wide variety of extracurricular programming online. For example, our Career Services Office is running online webinars and mentoring events and the Director of Our Office of Student Affairs holds regular events that provide a social outlet for students and a way to check in.

We are proud that our JDi students came forward to provide support to their residential colleagues transitioning to online learning. Most notably, the JDBeyond, a student organization founded by JDi students, and its student leaders organized four information sessions before online instruction started for their residential classmates. The students shared their experience with online learning, provided their insight into best practices for students, and answered questions.

We are also fortunate that many of our residential students had familiarity with using Zoom videoconferencing tools because they had already used them to connect with their JDi classmates for student organization meetings and events, as well as College of Law programming.

**8) Please describe the extent to which your institution's prior experience with distance learning has helped ease the transition to online learning by traditional J.D. program students. What challenges (if any) has your institution faced adapting its distance learning techniques to the traditional J.D. program during the COVID-19 pandemic?**

Our experience building and operating the JDinteractive program allowed us to temporarily transition our residential program to online learning in a more seamless and complete way than would otherwise have been possible. In terms of classes, faculty members were provided with training on how to teach online from colleagues who had taught in the JDi program. Faculty also had the opportunity to practice online teaching with the staff members.

Our experience with the JDi program also meant we understood that bringing law school online meant more than simply bringing classes online. The fact that we already provided student support services online to JDi students meant we could use the systems we had developed to do that to now benefit all students.

**9) Please provide any insights you may have about the role of online and distance J.D. education going forward.**

Online education has the potential to expand access to legal education for talented students for whom it would otherwise not be practicable. By providing opportunity for legal education to professionals embedded in other sectors, it may also train lawyers who are more sensitive to and knowledgeable about the sectors they represent. In addition, online education has the potential to address the gap between where lawyers are located and where clients are that need them. More on these points, as well as the Faculty Director of Online Education's personal views on the role and impact of online education going forward, can be found in an

article forthcoming in the Syracuse Law Review and in an article that appeared in the New York State Bar Association Journal.

**10) Please provide any words of wisdom, tips or encouragement you may have for law schools that have been forced into the online education space by the crisis.**

In response to COVID-19, law schools have worked expeditiously to bring classes online. However, as our experience building and operating the JDi program has taught us, making law school available online means a lot more than simply making law classes available online. It also means bringing online all the wrap-around services and support that students need. If residential classes do not resume in the fall, students will expect more than simply classes.



# UNIVERSITY OF DAYTON SCHOOL OF LAW

## **1) Describe your school's online or hybrid J.D. program, including whether your program has a distinct mission, focus area or target student population.**

University of Dayton School of Law's Hybrid J.D. Program ("Program") operates under one of the five variances granted by the American Bar Association to operate a fully online program. The Program seeks to enroll students whose personal circumstances make distance education a necessity. Our primary goal in offering a part-time hybrid J.D. program is to serve an unrepresented or underrepresented cohort of potential law students and to deliver the same quality legal education to them through distance learning as experienced by the students on-campus in the traditional J.D. program. The Program allows law school to become a possibility for these students, along with others whose job and family responsibility make the added flexibility of such a program an essential feature of attending law school. Our Program builds on – and improves upon – the continuing success of part-time legal education by incorporating state-of-the-art technology to deliver legal doctrine,

practice skills, and bar preparation strategies to the part-time student cohort who otherwise may be unable to pursue a legal career.

## **2) Describe the key aspects of your online or hybrid J.D. courses:**

a) Describe basics such as the LMS, how many students are in the online or hybrid courses at a time, etc.

The Program incorporates a sophisticated and unique delivery system, through our partnership with online production manager and service provider 2U, Inc., to offer web-based content delivered through a variety of customized pedagogical methodologies. There are three main components of the majority of the courses in the Program (60 of the 90 credits):

- Synchronous instruction (50% of the instructional minutes);
- Intensive on-campus instruction (50% of the instructional minutes), labelled Get REAL (Relevant Experience & Applied Learning) weeks, and

- Asynchronous instruction (a structured approach to a significant portion of out-of-class student work required under ABA Standard 310(b)(1)).

Under the variance, the Program's curriculum offers 30 purely online hours permitted by revised Standard 306(e). These courses are identical in structure to the other 60 hours that have the three components except they do not have the Get REAL week component and the full instructional minutes are made up of 50% asynchronous coursework and 50% synchronous coursework. Under the variance, only 50 students can be admitted per year. Currently, the Program is in its second semester with 18 students in the inaugural cohort. For larger cohorts, we would not have more than 25 students in a section.

**b) Describe synchronous portions of classes (core and elective courses) including which broadcasting tools are used and any in-class assistance to faculty (e.g., technology partners, tech support and TAs).**

For 50% of the instruction time for each course, students meet with their faculty member in a virtual classroom via Zoom in real time and communicate with each other just as they would in a physical classroom on-campus. Students and the faculty member log onto the platform at the scheduled time and use a variety of available technological tools, including one that allows the faculty member to break the class down into breakout groups and one that allows instant polling. Everyone is visible at all times, via a thumbnail video of each person, our service provider, 2U, is responsible for providing all of the necessary support for training faculty on the platform and its features prior to the commencement of the semester, as well as providing support by attending the first several Zoom sessions. Following the first several weeks, live support remains available via live chat, email, or phone.

**c) Describe the asynchronous portions of your online and hybrid courses, including any learning, tracking and assessment tools.**

Minutes equaling the synchronous instructional minutes are built into the asynchronous content. This component coupled with traditional readings and other assignments builds the students' knowledge and understanding of the law. In essence, the asynchronous coursework allows us to "flip the classroom." The asynchronous content is not limited to lecture-style format. Faculty incorporate assessments, group work (by which the students in the group set their own time to interact), and/or problem solving into the asynchronous content.

One feature of the asynchronous content is the use of "round tables," wherein the faculty member engages in a Socratic dialogue with two individuals in a video recording. The individuals are current or former law students who are hired for this purpose. During the course of the questioning, the faculty member will pose a question to the camera, asking the students watching the video to record a video of their answer to the question or to write out their answer. Only after the students have submitted their answers in the LMS will they be able to see their classmates' responses and to restart the video and see how the individuals with the faculty member responded as well as the faculty member's assessment. This practice provides a simulated Socratic experience; however, instead of the traditional Socratic dialogue where only the questioned student is required to answer the question, now every student must respond.

**d) Describe the role of other experts in course and program development, such as instructional designers, assessment experts, etc.**

UDSL has partnered with 2U, as our service provider, who in addition to hosting the Program on its LMS, also provides faculty training and support. For the design of a course in the Program, a faculty member undergoes eight to ten months of devoted course development. First, the faculty member is assigned a course strategist from 2U, who engages in high-level strategy sessions with the faculty member discussing learning outcomes and goals for the course. Once the learning outcomes are identified, the faculty member

decides the appropriate evidence for evaluating student progress on the learning outcomes. Once those decisions are made, the faculty member is assigned a course designer from 2U, who provides advice about the possible assessments that can be used to provide the evidence of student progress. The course designer works with the faculty member to chart the course, week by week, and built out the asynchronous components into the LMS. The course developer, who is an expert in online course design, helps the faculty member decide which methodologies are best suited for teaching certain content—specifically what topics would be better suited for synchronous sessions, asynchronous coursework, or on-campus sessions. The faculty member works with her assigned course designer until the course is completely charted, meeting weekly with the course designer. Once the course is charted into the LMS, the faculty member works with the course designer and a video producer to design and schedule the asynchronous video content for the course. Videos can include lecture-style format, round-table format (simulated Socratic dialogue), or creative videos (mock client interviews, oral arguments, etc.). Once the video content is designed, the faculty member travels to the 2U studios in Arlington, Virginia to tape the videos in their professional quality studio.

**3) Describe the on-campus, residential portions of your online or hybrid J.D. program. Please note how these will be adapted to a completely online setting if students are not able to come to campus to participate.**

The on-campus component of the Program, entitled Get REAL (Relevant Experience & Applied Learning) weeks, requires students to convene with their class on UDSL’s campus for one week per term. Under the variance, the Program’s curriculum offers 30 purely online credit hours permitted by ABA Standard 306(e). These courses do not include a Get REAL week component; their instructional minutes are comprised of 50% synchronous instructional minutes and 50% asynchronous coursework.

The other 60 credit hours of the Program include a Get REAL week component, which along with the 50% of the synchronous instructional minutes (and equal minutes devoted to asynchronous instruction — a structured approach to a significant portion of out-of-class student work required under ABA Standard 310(b)(1)), equals the other 50% of the instructional minutes. The Get REAL weeks provide the students with the opportunity to reinforce the knowledge and skills obtained in the asynchronous and synchronous content and apply them to hypothetical cases in a simulated legal environment. Additionally, the Get REAL weeks allow faculty to integrate legal doctrine by melding courses the students are taking in a particular semester.

Because of the pandemic, UDSL requested an emergency modification to the variance, to allow it to recharacterize the allocation of course minutes during Get REAL week with the suspension of in-person classes. While we met the ABA classroom required minutes by counting all asynchronous and synchronous minutes, nevertheless, we believed that the core material we planned to cover in the Get REAL week was important to meeting our own learning objectives. We, therefore, proposed to convert our Get REAL week to a virtual format, by reengineering the week to provide a mix of synchronous and asynchronous content. Specifically, the reformulated Get REAL week includes one-third of these minutes via synchronous sessions and two-thirds via asynchronous coursework. The Get REAL week for Spring 2020 and Summer 2020 operate under this modification.

**4) Describe training for faculty on how to deliver online content effectively, noting who conducts the training, the length of the training and any ongoing support for faculty.**

As noted in the response to 2d, our partner, 2U, provides intensive training for the faculty. In terms of the online support, faculty and students have 24/7/365 access to the technical support from 2U via phone, email, and live chat. Technical

staff from 2U monitor the first several weeks of every synchronous session, attending each session and providing live assistance as needed.

### **5) Describe how your hybrid/online students participate from a distance in co-curricular and extracurricular activities**

a) Describe how journals, moot court, student organizations and the like are offered online.

UDSL is committed to providing substantially similar co-curricular experiences for students in the Program. Just as in the residential program, students in the Program can participate in Law Review, Moot Court, Mock Trial, and all student organizations. For Law Review, students will be invited to participate in the same manner as residential students. They will earn the same amount of credits and perform the same tasks, including writing an article for publication and participating in the publication process through book pulls and editing. Similarly, students will be invited to participate in Moot Court in the same manner as the residential students, following their participation in the school's Walter H. Rice Memorial Moot Court Competition. They will participate in teams with residential students and travel to competitions. However, because the Program is only in its second semester, participation in either organization will not occur until later in the curriculum (after the 5<sup>th</sup> semester for Law Review and after the 7<sup>th</sup> semester for Moot Court).

Regarding other student organizations, students in the Program are able to fully participate in any student organization via Zoom meetings. After the second semester, students in the Program elected their own class president and secretary.

b) Describe how online externships and clinics are conducted.

Each student in the Program is required to take either a clinic or externship in the final semester of the Program. The externship will be offered via the Program's Externship course. The Externship course is a semester-long placement with a court, government office or agency, public interest

organization, law firm, or business, and the placement can be in the geographic location where the student resides (i.e., not in Dayton). A hybrid student will consult with the Director of the Externship Program to find and to select a placement. This process is not unusual as many of our full-time, residential J.D. students take their Externship course during the summer in proximity to their hometowns.

For the clinics, we are currently exploring the use of a simulated clinic course and/or an online alternative dispute resolution clinic. We are not currently considering a traditional live clinic because of the restrictions on student licensing, which varies by state.

### **6) Describe how student support services (e.g., academic support, law library services, career services, financial aid) are provided to online/hybrid students.**

UDSL is committed to providing the exact same student support services for students in the Program as our residential students, including career services counseling and support, as well as financial aid. Regarding financial aid, admitted students are reviewed and awarded scholarships and are also eligible for financial aid (loans) exactly like the residential students. Our staff counsels prospective and current students about financial aid via email and phone.

Regarding academic support, UDSL's Academic Success Program offers a broad range of support services to students enrolled in the Program. Before the start of first semester classes, students complete the Introduction to the Study of Law modules to help prepare them for the law school classroom. During the first two terms, students also participate in the Learning Communities program, a non-credit graduation requirement. Learning Communities builds on the skills, knowledge, and social connections introduced in the Orientation and Introduction to the Study of Law programs, as well as the first-year academic curriculum, to maximize students' academic success in law school and to develop professional attributes. Under the supervision of

the Academic Success Program faculty, upper-level students serve as peer mentors and role models of student leadership, academic success, legal professionalism, and the values of the UDSL community.

Academic Success faculty directly support Hybrid J.D. students through the for-credit curriculum and one-on-one web-based conferences. This support begins with the one-credit Learning Skills Lab course for all students in the first semester and continues with the Elements of Legal Analysis course in the fourth semester, the Remedies course in the seventh semester, and the Advanced Legal Analysis course in the ninth semester, for students whose cumulative GPA indicates they need additional support and skill-building. All members of the Academic Success team maintain online scheduling systems to allow students to conveniently schedule individual appointments, including evening and weekend availability to meet the unique scheduling needs of Hybrid J.D. students. Students also must participate in the GRASP (Graduated Reinforcement, Retention, and Study) Program, if they receive a C+ or below in certain bar-tested courses. The GRASP Program provides online, asynchronous instructional modules designed in partnership with Themis, which are self-guided and self-paced so that students can focus on the particular areas that are most useful to them, without detracting from students' ongoing for-credit coursework.

As for library services, the Library's collection development has focused on digital materials (in addition to comprehensive subscription databases such as Lexis, Westlaw, and Bloomberg) that are accessible to distance students on the same terms as to residential students. We hold significant collections through the Lexis Digital Library, CALL, West Academic, Elgar, Quimbee, Wolters Kluwer, and Gale (Making of Modern Law). All three library faculty members participate in sessions during the first semester Get Real Week, providing instruction sessions on access to and use of subscription databases and services; print resources, free online resources; and library resources in the areas where the students reside.

Library faculty members have also established a virtual library through Isidore, the University's LMS. This is a work in progress, but the site provides introductions to individual library faculty members, with contact information; sections on access to and use of the various information resources that are available to students; and a discussion forum for questions and comments about information resources and such academic activities as Law Review and Moot Court. The site also includes references to law faculty members who have volunteered to serve as mentors and the biographies provided by those faculty members.

### **7) Describe any training or other resources that have been provided to your traditional J.D. program students who have been required to transition to online learning due to COVID-19.**

Our experiences with the Program allowed us to anticipate the most significant challenges our residential students might face: 1) lack of access to the required technology; and 2) fears relating to their ability to transition to this new system of learning. As soon as the decision to go online was made, the Dean of Students sent an electronic questionnaire to every student asking whether the student had access to the technology needed for Zoom classes (i.e., a computer, a camera, and a strong internet connection) and whether the student had any issues/concerns about the transition. Fortunately, we had a week of Spring Break before classes were to resume, which gave us time to reach out individually to students who needed help in making the transition. Students found the early contact on our part to be reassuring — they knew that we had a plan in place — and that help was available.

Over the break, both the Dean of Students and the Associate Dean for Academic Affairs reached out via email with guidance and tips relating to online learning generally and our Zoom classes in particular. An example email is attached. We provided students with the attached Zoom Quick Start Guide that walked them step-by-step through the key tasks they would be asked to undertake. We also strongly encouraged students

to “play” with Zoom before classes began and to take advantage of the tutorials on the Zoom website. Aside from the occasional dropped internet connection, students reported absolutely no problems with attending classes via Zoom.

**8) Please describe the extent to which your institution’s prior experience with distance learning has helped ease the transition to online learning by traditional J.D. program students. What challenges (if any) has your institution faced adapting its distance learning techniques to the traditional J.D. program during the COVID-19 pandemic?**

The transition to a fully online format was fairly smooth for our residential program because, in large part, we understand what it takes to provide a quality online program, incorporating both synchronous and asynchronous content: time and training, neither of which we had in the crisis situation of Spring 2020. Therefore, we decided that all class sessions would be held at their regularly scheduled day and time via Zoom; all instructional minutes would be met by live synchronous class sessions. As part of the transition, as noted in response to Question 7, we made sure that all students had the capacity and resources to engage in online learning. Furthermore, we surveyed faculty to ensure they had the technology needed to teach remotely via Zoom. We provided multiple faculty trainings on Zoom to full-time faculty as well as adjuncts and offered a teaching assistant for any faculty member or adjunct who requested one. The teaching assistant could assist the faculty member by scheduling the Zoom classes and sending out the invitations to the sessions, hosting the Zoom meeting, taking attendance at the meeting, and attending every Zoom class session, so that the faculty member could focus on teaching the class instead of focusing on the technology. We completed Spring semester classes and experienced no major issues in the transition: students experienced the same legal education as they would have in the traditional classroom and potentially even an improved experience because on Zoom (especially when the default

is set to enlarge the speaker’s picture) everyone can plainly see and hear everyone else when they speak.

For the Summer 2020 semester, all classes will also be held online. Because we had more time to plan, we decided to use the courses developed for the hybrid Program for the incoming residential Summer-start cohort. Faculty teaching in upper-level courses will hold synchronous class sessions at a regularly scheduled day and time, which will equal the full instructional minutes.

The only challenge we faced was the issue regarding final exams. In lieu of doing a synchronous exam period with students taking a proctored timed exam, the faculty opted to use take-home 24-hour exams to accommodate student issues during the pandemic. Outside of this difference, the Spring 2020 semester was almost exactly as it would have been in the traditional semester on ground.

**9) Please provide any insights you may have about the role of online and distance J.D. education going forward.**

Online legal education is likely here to stay even after law schools reopen to residential students. Under the current ABA Standards (which already allow law schools to provide a full one-third of their instructional minutes fully online), following the public health crisis, law schools would have had to revert to their pre-COVID-19 residential style of education. However, in an extraordinary coincidence, on March 6, less than a week before the mass suspension of in-person classes, the ABA issued a previously planned proposal to eliminate its long-standing prohibition on online J.D. programs. It is not certain that this proposal will go into effect; however, if it does, the nature of American legal education will be changed forever. While currently only four ABA-accredited law schools are operating a fully online J.D. program under a variance, many other law schools will start to experiment with online education. Based on the mass movement to online education in the Spring 2020, it is likely that faculty and students alike will see the benefits

from online education. Online education makes a legal education accessible to students who cannot attend law school because of geographic restrictions and/or family and work obligations.

In addition to improving access to legal education, online education has the ability to engage all students all the time. In synchronous classes, students cannot hide in the back of the class nor behind a computer screen. Additionally, asynchronous classes, following best practices, can be highly engaging and interactive. Furthermore, the asynchronous format has the ability to address the major flaw of the Socratic dialogue, where only one student at a time is engaged with the legal doctrine and the faculty member. If done well, asynchronous classes can actively engage every student all the time. While most faculty did not have the ability or time to produce quality asynchronous classes in the Spring 2020 semester, by sampling the online medium, they will come to appreciate conceptually the potential power of the asynchronous dimension specifically and online education generally.

**10) Please provide any words of wisdom, tips or encouragement you may have for law schools that have been forced into the online education space by the crisis.**

Online education can, and in some instances does, provide a superior legal education than that of the traditional residential program. With sufficient time and training, which was not afforded law schools nor their faculty during this public health crisis, faculty can create courses, which engage all of the students all of the time with highly interactive asynchronous content and weekly synchronous sessions.



# UNIVERSITY OF NEW HAMPSHIRE, FRANKLIN PIERCE SCHOOL OF LAW

## **1) Describe your school's online or hybrid J.D. program, including whether your program has a distinct mission, focus area or target student population.**

The University of New Hampshire Franklin Pierce School of Law offers a Hybrid J.D. in Intellectual Property, Technology, and Information Law. Our mission is to produce the next generation of attorneys equipped with the legal knowledge to lead the modern innovation economy. Our target population is working professionals who bring experience in IP or tech with them into the classroom. We are reversing the law school-student relationship: rather than students moving to Concord, NH for a top IP program, we are smashing through brick-and-mortar to bring our world-renowned IP faculty, and our global network, to students wherever they are.

## **2) Describe the key aspects of your online or hybrid J.D. courses:**

a) Describe basics such as the LMS, how many students are in the online or hybrid courses at a time, etc.

Our inaugural cohort of 45 students is together in lecture-style doctrinal courses, and also broken up into smaller groups of 10 or 20 for workshop-style courses like Legal Writing and Analysis. The students routinely engage in individual and small-group interaction with their professors. Teaching Assistants are assigned to all first-year courses. We work with iLaw as a technology provider, and they use D2L (Desire 2 Learn) as a Learning Management System.

b) Describe synchronous portions of classes (core and elective courses) including which broadcasting tools are used and any in-class assistance to faculty (e.g., technology partners, tech support and TAs).

We use video conferencing technology (Zoom) to teach the synchronous components of our classes. To foster small group discussions or exercises, our instructors use breakout rooms. Our technology provider (iLaw) provides 24/7 tech support for our program, including in-class tech assistance to faculty doing synchronous sessions. UNH Franklin Pierce Law IT staff continues to support faculty for their tech needs that may be related

to synchronous instruction but aren't focused on this instruction (for example, trouble-shooting a laptop). Faculty also have TAs to assist in Zoom room creation, classroom recording, class recording management, and individualized help on class assignments.

c) Describe the asynchronous portions of your online and hybrid courses, including any learning, tracking and assessment tools.

For any course that will have asynchronous components, we build the entire course asynchronously so we effectively have a "playlist" of all course content. This approach offers our faculty flexibility to then determine, for any administration of a course that will have both asynchronous and synchronous (remote or residential), which modules should be pulled out for synchronous instruction.

A student support specialist from iLaw works with the Hybrid J.D. Program Coordinator at UNH Franklin Pierce to track student participation so that the Coordinator can offer proactive, individualized advising to any students who begin to exhibit attendance or participation challenges. Weekly assignments and assessments vary within and between courses and take the form of quizzes, midterms, final exams, discussion boards, written assignments, and group projects.

d) Describe the role of other experts in course and program development, such as instructional designers, assessment experts, etc.

We team up with expert course designers through iLaw to facilitate the builds of asynchronous classes. (For remote synchronous classes, iLaw provides tech support and a course site to house information.) Starting nine months prior to the launch date of new a class, our full-time faculty work closely with the instructional design team to translate the classroom into a digital format that maintains the integrity of the program and parity with our residential J.D. by recording lectures, building questions, and related tools.

**3) Describe the on-campus, residential portions of your online or hybrid J.D.**

**program. Please note how these will be adapted to a completely online setting if students are not able to come to campus to participate.**

Our Hybrid J.D. brings students from across the U.S. to Concord, NH only four times a year. These residential immersion periods take place twice in the fall semester, once in the spring, and once in the summer. Immersion periods range from 4-5 days, depending on the semester's schedule of courses and other activities (such as networking events). Immersion days are action packed, both in and out of the classroom. We arrange for room blocks at area hotels and host community-building events on campus, in Concord, and across New Hampshire to facilitate connections within the Hybrid student cohort and between the residential and Hybrid students.

This past semester, spring 2020, our immersion period was scheduled for March 20<sup>th</sup>-23<sup>rd</sup>. Due to the COVID-19 pandemic, our campus moved from in-person instruction to fully remote instruction on March 16<sup>th</sup>. For the Hybrid J.D., we moved the full immersion weekend to remote synchronous learning. Understanding that our students were now facing a myriad of unknowns with childcare and employment, and recognizing that synchronous lectures were not bound to the constraints of the weekend like residential instruction would be, we spread out some lectures to ensuing weeks. This contingency arrangement allowed students the flexibility to take care of themselves and their families while also completing a rigorous series of legal education.

Moving forward, we are planning for in-person residential immersion periods but have contingency plans in place for a number of scenarios should that not be possible due to the pandemic.

**4) Describe training for faculty on how to deliver online content effectively, noting who conducts the training, the length of the training and any ongoing support for faculty.**

Our faculty are at the heart of building and delivering content in our online classrooms, just

as they are in our residential classrooms. In the process of working with the instructional design team at iLaw, our faculty learn how to take existing lectures and turn them into interactive online lessons. Throughout the academic year, our Teaching Effectiveness Committee and other UNH colleagues (such as through the university's Center for Excellence and Innovation in Teaching and Learning), offer programming for faculty on how to teach effectively online, how to assess student learning online, and how faculty roles differ between in-person to online instruction.

Faculty have ongoing technology support with our in-house IT experts at UNH Law for general academic tech issues, like troubleshooting laptops. They also have 24/7 access to tech support through iLaw, with trained staff who can assist with any issues related specifically to the Hybrid courses through the D2L platform. The University also offers ongoing trainings on distance education technologies (beyond D2L) like Zoom and Microsoft Teams that faculty can elect to take.

## **5) Describe how your hybrid/online students participate from a distance in co-curricular and extracurricular activities**

a) Describe how journals, moot court, student organizations and the like are offered online.

Our Hybrid J.D. students participate on equal footing in our law journals, moot court, and student organizations, with tailoring as needed to meet the structure and focus of the Hybrid Program. For moot court, Hybrid students participate in the competitions aligned with their course of study, including Constitutional Law, Patent Law, and Trademark Law. Our Law Review journal invites Hybrid J.D. students to apply to be editors, just as it does with residential students. There is a distinction in the logistics but not the content of the competition: we ship hard-to-find texts to our main campus library for use by residential students but, for Hybrid students, we identify nearby libraries that can participate in an interlibrary loan.

Student organizations like the Student Bar Association hold elections for our residential and Hybrid students alike. We have two representatives elected to the Student Bar Association out of each class. The dozens of other student organizations promote Hybrid participation by including inclusive language in their outreach to advertise to both Hybrid and residential students. For groups that may struggle with bridging the gap between residential and Hybrid cohorts, the Hybrid J.D. Program Coordinator can support their build of a strategic vision for their organization.

b) Describe how online externships and clinics are conducted.

Our inaugural Hybrid cohort will begin their 2L year in fall 2020, so Hybrid students have not yet participated in our clinics or Legal Residencies (externships). The directors of these programs have developed plans for including Hybrid students in our IP clinics and offering IP-focused residencies nationwide, for which we already have a strong network in place. Classroom components of clinic and Legal Residencies work will be offered online to Hybrid students, and Hybrid students can do clinic case-work remotely, just as much law practice is done today.

## **6) Describe how student support services (e.g., academic support, law library services, career services, financial aid) are provided to online/hybrid students.**

The UNH Franklin Pierce Law Library, which is home to the only academic IP law library in the U.S., has been moving toward increased digitized collections for the 21<sup>st</sup> century. Hybrid students enjoy easy access to digitized library materials and can also access hard copy materials as needed, as well as reference librarian remote office hours. Our Academic Success Program (ASP) hosts weekly workshops at 9 pm ET so students across the country can participate after their normal work hours. These workshops are hosted by our Associate Dean of Administration who directs the Academic Success Program. We also have a dedicated

adjunct faculty member in the Academic Success Program who offers remote, one on one work sessions to every Hybrid student who wants to work on skill-building for success in law school classes and on law school exams.

Our Career Services team kicks off its relationship with our Hybrid students by teaching the Legal Profession course (1 credit) required for all 1L students (residential and Hybrid). The Legal Profession course begins with student interviews so that the course content can be tailored to the variety of professional experiences that our Hybrid students bring to the table. Career Services also plays an integral role in supporting our students individually as they move forward with advancing in their current professional roles or transitioning to new ones as they gain law school experience and, ultimately, their J.D.s. Our financial aid office is available via phone and email to all Hybrid students just as it is to our residential J.D.s. Students who need financial counseling can connect one on one with our Financial Aid team.

**7) Describe any training or other resources that have been provided to your traditional J.D. program students who have been required to transition to online learning due to COVID-19.**

Our residential J.D. students were remarkably resilient in our transition to remote learning during the pandemic. Zoom tutorials and IT support were available through our in-house IT experts. We surveyed students in the days prior to campus closure to ensure all students had access to the hardware and Internet connection necessary for remote learning. Those who did not received individualized support from us in the form of loaning laptops, providing access to local hotspots (including a new one we set up in our parking lot for socially-distanced, convenient access) and, in emergency circumstances, funding for increased Internet speed.

We have also consistently and enthusiastically encouraged students to stay in close dialogue with us about how the transition was going.

Opportunities for dialogue included weekly Zoom coffee chats with the Dean and other staff and faculty and individual appointments with the Assistant Dean for Students. Survey-level feedback was solicited at the conclusion of the Spring 2020 semester to gauge the effects of the transition. Our student body showed great proficiency with technology, so student issues were far and few in between.

**8) Please describe the extent to which your institution's prior experience with distance learning has helped ease the transition to online learning by traditional J.D. program students. What challenges (if any) has your institution faced adapting its distance learning techniques to the traditional J.D. program during the COVID-19 pandemic?**

Through our development and roll-out of the Hybrid J.D., we have been engaged in comprehensive, rigorous assessment and use of digital technologies for remote legal education. We have been able to transfer that knowledge-base to deploy smooth, effective contingency operations during the pandemic. Notably, our IT experts were well versed in training faculty on the use of new technologies since they had been working with our faculty teaching in the Hybrid Program for over a year on how to use video conferencing, break-out rooms, and other software to create meaningful online learning. With several of our full-time faculty already experienced in using these tools, the cultural shift to remote learning was smooth. Faculty were able to consult with other faculty about experiences, hardships, and successes related to online teaching.

From a student experience perspective, we already had a repertoire of strategies we use to keep students engaged and feeling like part of the community even if they are hundreds of miles from campus. We hosted weekly digital socializing events like movie nights, scheduled yoga and workouts, and opportunities to share photos and videos of our new workplaces

and colleagues — mostly pets and children. From experience with working with our Hybrid J.D. students, our Assistant Dean of Students was well prepared to keep connections strong between our newly remote students who found themselves apart from their residential campus home-base. Our most significant challenge in student life was determining how best to streamline and consolidate communications from campus so that students could get the critical, time-sensitive information they needed about contingency operations without getting email burnout. We reduced student email fatigue by collating information that would have gone out in waves into one central message, as well as fostering direct student to student communication (including for student organizations) to the most effective digital channels.

**9) Please provide any insights you may have about the role of online and distance J.D. education going forward.**

Now more than ever, it is crucial to unbundle legal education so that we as educators can reach students where they are and deliver education in a manner that fits their personal and professional lives. Distance J.D. education gives students the ability to break through geographic barriers that previously prevented them from achieving their goals, and it gives law schools greater ability to draw on experts from around the world as guest lecturers and adjunct professors in online classes. By offering a top-notch legal education in IP with few residential requirements, we are delighted to be building a virtuous circle: using the new and emerging digital technologies that IP attorneys have helped build to train the next generation of IP attorneys who will in turn build the next wave of digital technologies that will support education, law, and other crucial institutions.

**10) Please provide any words of wisdom, tips or encouragement you may have for law schools that have been forced into the online education space by the crisis.**

It is important to keep in mind that emergency remote operations are distinct from strategic

and thoughtful online pedagogy. Be open to a transformed school and workplace where every new question, from a student or a colleague, might be an “issue of first impression” (as lawyers are fond of saying!). Comfort with the unknown is important for every new program, but it becomes mission-critical in a distance education. Do not try to replicate your brick-and-mortar classroom experience online; rather, think about how technology can facilitate learning objectives in new ways.

# Law School Using Online Courses as a Supplement to a Traditional Program



## NOVA SOUTHEASTERN UNIVERSITY, SHEPARD BROAD COLLEGE OF LAW

### **1) Describe your school's online or hybrid J.D. program, including whether your program has a distinct mission, focus area or target student population.**

The NSU Shepard Broad College of Law used online and hybrid courses as a small supplement to the J.D. curriculum. (It adopted online much more extensively for MS and LLM programs.) Although the students are permitted to take the maximum number of credits permitted under the ABA rules, the offerings were much less expansive, and only available in elective courses. The exception was an online alternative course for the students in a long-distance field placement.

### **2) Describe the key aspects of your online or hybrid J.D. courses:**

a) Describe basics such as the LMS, how many students are in the online or hybrid courses at a time, etc.

NSU adopted Canvas as the primary LMS, though some faculty continue to use TWEN or Lexis products. No online offerings are available in the first year, and very few recommended

courses have online options. Although there are no restrictions on the number of online credits available per semester, the offerings are generally limited to relatively few courses in any given semester. NSU also has over 60 required credits, so the number of elective credits is also quite small.

b) Describe synchronous portions of classes (core and elective courses) including which broadcasting tools are used and any in-class assistance to faculty (e.g., technology partners, tech support and TAs).

Prior to the COVID-19 crisis, there were not obligations in the J.D. program, but faculty were generally expected to follow the MS policies. These included mandatory, synchronous sessions every other week, generally running one hour each. No additional TAs were provided and no course development stipends were offered. In addition to university tech support, the law school employed an instructional designer who primarily served as trainer and guide.

c) Describe the asynchronous portions of your online and hybrid courses, including any learning, tracking and assessment tools.

Canvas has many online tracking components, but the usage was at the discretion of the faculty members. Courses had required weekly graded assignments or graded discussion boards.

d) Describe the role of other experts in course and program development, such as instructional designers, assessment experts, etc.

There was little formal support. Through the standardized templates developed in the MS program, the J.D. courses tend to follow a similar model, but each online faculty member designed his or her own teaching experience. This ranged from the same online contact minutes as a face to face class in one course, to a nearly asynchronous experience in another.

**3) Describe the on-campus, residential portions of your online or hybrid J.D. program. Please note how these will be adapted to a completely online setting if students are not able to come to campus to participate.**

The residential portion of the J.D. courses represented very traditional, Socratic teaching in many of the required courses, with some faculty using more problem-based instruction and group work. Faculty used hybrid teaching units primarily to manage scheduling conflicts, with few courses being designed to fully integrate online learning with classroom instruction.

**4) Describe training for faculty on how to deliver online content effectively, noting who conducts the training, the length of the training and any ongoing support for faculty.**

The law school instructional designer regular holds training sessions and provides one-on-one assistance to design each course. The university also offers online sessions and workshops, though these are not heavily used by the law

faculty. Each workshop has been recorded and added to an instruction course available to full-time and adjunct faculty through Canvas.

**5) Describe how your hybrid/online students participate from a distance in co-curricular and extracurricular activities**

a) Describe how journals, moot court, student organizations and the like are offered online.

NSU had not, prior to the Coronavirus offered J.D. students opportunities to participate.

b) Describe how online externships and clinics are conducted.

NSU had not, prior to the Coronavirus offered J.D. students opportunities to participate.

**6) Describe how student support services (e.g., academic support, law library services, career services, financial aid) are provided to online/hybrid students.**

The law library and career services often provided services to students through email, phone, portals, and online chat. The other departments did not offer those services.

**7) Describe any training or other resources that have been provided to your traditional J.D. program students who have been required to transition to online learning due to COVID-19.**

We had multiple systems of training and the sharing of resources. First, our Instructional Designer immediately took the lead in holding in person training sessions regarding Canvas, Zoom and best practices, as long as we were able to physically be together. Once that became no longer possible, the university OIIT program took over with remote training opportunities reinforcing and expanding on these subjects.

Once the initial round of technology training had brought faculty up to speed, the training turned to online teaching best practices and creative tips and help in furthering good teaching. These were shared by our Learning Center at

the University, as well as organically throughout the faculty, who received them through blogs, emails and other participation in forums.

**8) Please describe the extent to which your institution's prior experience with distance learning has helped ease the transition to online learning by traditional J.D. program students. What challenges (if any) has your institution faced adapting its distance learning techniques to the traditional J.D. program during the COVID-19 pandemic?**

Being an institution that had extensive training in distance learning, we had two things that assisted us in a quick transition. First, because we use Canvas for our distance learning courses, we had transitioned the method of communication for all faculty and all courses to canvas for out of classroom information. Therefore, each J.D. course already had a Canvas "shell" created and in use for announcements, handouts and the like. This technologically facilitated the transition very quickly.

Second, because our distance learning program is so large, we frequently use J.D. faculty to teach in it, and as such, more than half our faculty had experience in teaching in an online course in some way, and could serve as peer mentors to those less experienced.

**9) Please provide any insights you may have about the role of online and distance J.D. education going forward.**

Good distance learning does not try to imitate and replicate in person learning — it has features that when properly used, are uniquely beneficial to students. Good online education needs to leverage these and not just do exactly what would have been done in an in-person classroom.

**10) Please provide any words of wisdom, tips or encouragement you may have for law schools that have been forced into the online education space by the crisis.**

There need to be adjustments in the roles of both faculty and students — much attention has been given to training faculty to teach online, but students need to learn how to learn online just as much as faculty need to learn to teach online. Neither group can expect the other to be perfect immediately but need to work together.

# Fully Online Law School



## ST. FRANCIS SCHOOL OF LAW

### **1) Describe your school's online or hybrid J.D. program, including whether your program has a distinct mission, focus area or target student population.**

St. Francis School of Law conducts its part-time, fully online J.D. program with the mission: "To produce graduates who are capable of practicing law immediately upon graduation through an accessible, high quality program that emphasizes practical professional skills." In application, this means St. Francis serves professionals – often with other graduate degrees and careers in those areas of study – who want to make the leap to a law practice related to those areas or enhance career opportunities in their field by the addition of legal knowledge. A very typical student would be a mid-career health care professional seeking to move into health care administration, or a law practice related to health care (e.g., representing the disabled.)

### **2) Describe the key aspects of your online or hybrid J.D. courses:**

a) Describe basics such as the LMS, how many students are in the online or hybrid courses at a time, etc.

St. Francis delivers a practical, rich law school curriculum and experience online, using the Canvas learning management system (LMS) and WebEx for its live class sessions. Canvas, from Instructure, Inc., is the most widely respected learning management system (LMS) among prominent online schools and programs. St. Francis has its own "instance" of Canvas, meaning that the learning environment can be fully customized for law school use, not constrained by university requirements. Canvas is a modern, cloud-based teaching and learning tool that provides a number of features that enhance St. Francis' student (and teacher) experience, including:

- A fully supported single version with rolling update
- Efficient grading tool

- Paths for integration with other products, including more effortless integration with RPNow proctoring, audio and video systems, and online classroom tool
- 24x7 support with LMS experts and a robust community of resource

The Canvas Dashboard gives students and faculty instant access to their courses and a run-down of upcoming tasks, activities, classes, and assignments. Various other screens provide profile and customization, calendar, communication, and help options.

St. Francis delivers a very personal learning experience. Class sizes are limited, and student faculty ratios are highly favorable to individualized learning. WebEx, from Cisco Systems, Inc., is used for live classes in the St. Francis curriculum. Students meet with faculty and other students in live, synchronous classes at least two times per week using the WebEx platform. WebEx is also used for student, staff, faculty, and community ("town hall") meetings, and some students use it, and other cloud-based conferencing apps (e.g., Zoom) for study groups. WebEx provides two-way video and audio, text chat, live presentations (e.g., PowerPoint), application sharing (e.g., browsers, YouTube, etc.), multiple simultaneous whiteboards, class recording to the cloud, and other features. Live classes are archived for review anytime by students (and the Faculty Developer and Professor for development purposes). For enterprise administrators, WebEx provides centralized scheduling and meeting controls, cloud recording transfer, user account management, and other features.

b) Describe synchronous portions of classes (core and elective courses) including which broadcasting tools are used and any in-class assistance to faculty (e.g., technology partners, tech support and TAs).

c) Describe the asynchronous portions of your online and hybrid courses, including any learning, tracking and assessment tools.

*(Answer to 2 b. and c. combined:)*

St. Francis uses a hybrid online learning methodology in which live online classes (synchronous) combine with real-time assessments and practices (timed quizzes, writing assignments, and exams), near-real-time learning experiences (graded discussions) and asynchronous learning activities – all supported by instructor and peer feedback – to deliver a rich, blended, practical, and carefully assessed learning experience for the students.

KEY SYNCHRONOUS COMPONENTS	KEY ASYNCHRONOUS COMPONENTS
<ul style="list-style-type: none"> <li>• Live face-to-face, voice-to-voice for all students and professor (video participation is required)</li> <li>• Socratic method questioning and discussion (students are called on)</li> <li>• Live classes attendance and participation tracking and grading for credit</li> <li>• PowerPoint and document display</li> <li>• Application sharing (e.g., Lexis)</li> <li>• Simultaneous text communication between students and the professor, class-wide or privately</li> <li>• Multiple views (slides, application, whiteboard, chat, roster, professor, student, class)</li> <li>• Hand raising signals professor that students have a question</li> <li>• Live classes are recorded and available for review</li> </ul>	<ul style="list-style-type: none"> <li>• Discussions by the course community, guided by the professor</li> <li>• Weekly graded timed writing practice</li> <li>• Weekly graded multiple-choice quizzes</li> <li>• Graded practical skills assignments for students in the upper level</li> <li>• Proctored and timed exam</li> <li>• Feedback from professors on all assignments via rubrics/comment</li> <li>• Immediate feedback on quizzes; feedback in a few days on other assignment</li> <li>• Projects and practical learning experiences embedded in many doctrinal course</li> <li>• Dedicated skills training course</li> <li>• Course improvement via learning outcomes analysis and feedback from students via end-of-course survey</li> </ul>

Learning on St. Francis platforms can have significant advantages over learning in live, physical classrooms. In St. Francis courses, students get a very specific and orderly schedule for all study and assessment tasks. (Like many of these things, this can be done in the physical classroom, but tragically often is not.) Students know exactly what is expected of them, for example, on what to prepare for class or how to meet expectations on an assignment (because assessment rubrics are standardized and published in advance). Students are accountable for weekly learning – there is no chance to slack off for the entire course and then catch up at the end – though they can move through assignments at a pace and order that fits their learning style, because they have multiple learning activities on the topics in each seminar. They can store and retrieve all their work (from anywhere, via mobile applications of Canvas and WebEx), setup and use course calendars and planning tools to keep their studies on track, and reach out and receive timely answers from their professor, all in one central place. They get prompt or even immediate feedback on many types of practice exercises (including some peer feedback in Discussions). Perhaps most importantly, they can always know “where they stand” in terms of

both learning and grades, because courses are built to provide multiple frequent, low-stakes assessments, graded promptly, with developmental feedback.

In WebEx live classes, all students can see and hear the professor and each other, interact live in real time, and contribute to whiteboard work, presentations, chat discussions, and other activities. Professors use Socratic method to call on students. Class sizes are limited to 15 students to assure regular and substantive contribution by all students. Class recording makes it easy for students to review class activities, lectures, and materials as desired. Students and the professor can communicate in text contemporaneously with the lecture or other class activity, as when the professor wants to get an answer to a question from all students. Professors can conduct live polls using third party tools that they link through application sharing. Professors (or students) can show videos, share drafting and other work product, work in groups, and in general, replicate almost all experiences of live physical classroom settings, if desired (all from an inexpensive laptop computer in the comfort and privacy of home). Students with disabilities have the use of built-in assistive tools, like magnification, screen readers,

class archives, and closed captioning (which can be implemented when a student is accommodated in that way). Unlike the live, physical classroom, where these items must be implemented manually with great distraction to other students, online students are all able to benefit from them – for example, class archives – if desired.

Well-designed courses, delivered on modern learning management systems, remove most of the guesswork and frustration that confounds law students in many less-organized law school courses. Research suggests this method of learning is at least as efficacious, if not more so, than traditional law school courses.

**d) Describe the role of other experts in course and program development, such as instructional designers, assessment experts, etc.**

Curriculum improvement is a high priority and ongoing process at St. Francis, which continues to research and adopt best practice for online legal education. First year courses receive constant attention, and all courses have been revised multiple times to improve teaching of particular topics (e.g., strict products liability), replace outdated teaching materials, and update the exams and examples used in the course. For and since the adoption of Canvas in July 2018, the school reviewed every single one of its courses, using services of instructional design, subject matter experts from among and beyond the faculty, and the Dean (who is an expert on law school assessment). These reviews entailed re-considering the learning objectives, reviewing, and if necessary, revising, the learning activities (including the formative assessments), and checking, and if needed revising, the learning support materials (e.g., Instructor resources and slides used in class). The school manages its curriculum centrally and expects to continually improve delivery of learning outcomes through application of data and research-based best practices to course and learning design decisions.

**3) Describe the on-campus, residential portions of your online or hybrid J.D. program. Please note how these will be**

**adapted to a completely online setting if students are not able to come to campus to participate.**

St. Francis School of Law conducts a fully online J.D. program with traditional J.D. learning outcomes, courses, materials, and faculty. There are no required on-campus courses in this program, which operates under the authority of the State Bar of California as a registered unaccredited law school. St. Francis School of Law is presently seeking accreditation, under regulations recently issued by the State of California permitting, for the first time, state accreditation of fully online J.D. programs. St. Francis is not, and cannot be, ABA approved. ABA Standards for Approval of Law Schools continue to limit the amount of distance learning permissible in ABA-approved J.D. programs despite research and experience suggesting the same or better efficacy can be attained through online learning.

**4) Describe training for faculty on how to deliver online content effectively, noting who conducts the training, the length of the training and any ongoing support for faculty.**

The St. Francis School of Law J.D. program is quite traditional in the sense that much of the instruction occurs in live classroom settings, just delivered at a distance using web conferencing systems. Faculty members conduct traditional Socratic or dialogue-based live instruction, assigning cases or problems, calling on individuals to engage in dialogue, assigning groups to discuss a topic, etc. – exactly as they would do in an in-person setting. Thus, faculty training for the live instruction portion of the J.D. curriculum differs from faculty training for live instruction in an in-person setting only in the addition of training on the particular technology platform used for the live classes (WebEx). St. Francis usually engages only experienced law teachers as adjuncts. When it has a new teacher to train, classroom management, engagement and organization, and other teaching skills are addressed in addition to the technology platform training.

The other major portion of instruction delivery is formative assessment and the feedback given on

student work. Students typically complete three to four assignments per week, on most of which faculty members: 1) grade from a rubric; 2) provide a sample of superior performance (e.g., on a writing assignment, a model answer); and 3) offer developmental feedback on the student's work or performance. These formative assessments may be group discussions on a topic, drafting documents responding to a real-world scenario, other performances in a simulation (such as an oral argument), responding to bar-exam style writing assignments or multiple choice questions, and many others. All are graded according to one of several rubrics, and feedback expectations focus on application to additional situations, issue spotting, client communication and relationships, ethics, and other knowledge and skill development considerations.

Training is conducted by the Dean (in a small school such as this one, the Dean does many things directly), the Faculty Developer, and occasionally by the Director of Academic Excellence. The school's Community and Professional Development course, hosted on the learning management system (Canvas), includes many resources for orientation of new faculty members and for just-in-time training (such as technical resources on using Canvas features).

## **5) Describe how your hybrid/online students participate from a distance in co-curricular and extracurricular activities**

a) Describe how journals, moot court, student organizations and the like are offered online.

A small school, serving only part-time, adult learners, St. Francis offers primarily individual, rather than group, activities. As is common with traditional night programs in residential law schools, expectations and opportunities for adult learners must be adjusted because they have jobs, busy lives, family care responsibilities, and schedules that prevent them from participating in traditional extracurricular offerings. As a result, the law school does not have traditional journals, student bar association activities (e.g., pizza parties), and the like. Advanced writing and legal scholarship training are offered through LAW 920 Independent Study, which is directly and

individually faculty mentored. Oral advocacy and moot court skills training are features of several courses, including the traditional appellate brief arguments in the LAW 871 Advanced Legal Writing course required of all students, the LAW 901 Civil Trial Advocacy and LAW 902 Criminal Trial Advocacy electives, and others. The school has a plan for supporting a competitive moot court, should teams of interested, available, and qualified students be identified, but that has not, thus far occurred.

b) Describe how online externships and clinics are conducted.

St. Francis does not presently conduct a traditional clinical program, though it has one in development. It does conduct experiential learning in many courses, and offers externship opportunities that are part of the distance learning curriculum. Participants in LAW 950 Legal Externship work in a law-related setting under the supervision of an approved attorney supervisor. They complete study logs evidencing the hours spent in various non-classroom activities, and a reflection on the externship experience, which may include artifacts of the work product produced by the student during the externship. The faculty member or law firm supervising the externship completes an evaluation of the extern that includes the number of hours of supervision and the types of activities required of the extern. These are reviewed by the faculty member supervising the externship, who also meets with the supervisor and extern periodically through the course of the externship.

The LAW 950 Legal Externship course, completed by the student while on externship, includes the assignments described above as regular course assignments, and is graded by the supervising faculty member. The course may be taken only once, for 4 quarter units of credit.

## **6) Describe how student support services (e.g., academic support, law library services, career services, financial aid) are provided to online/hybrid students.**

Visit any university campus and the emerging model for delivering central services (like bursar and financial aid) to law students at St. Francis is obvious. If possible, graduate students everywhere

forego in-person interactions for equally qualitative asynchronous and synchronous interactions – in fact, online service are preferred by many students to waiting rooms, appointments, lines, and other inconveniences we used to accept with in-person service models. Busy students want to place a call or send a message and have timely, qualitative responses unless – better still – they can accomplish the function completely by self-service online at any time of day or night, from anywhere.

St. Francis delivers academic support online and through its Director of Academic Excellence, who is a full-time faculty member with that additional role and course release. At any time, in this small school, this faculty member will have between 4 and 10 advisees, working on progress, content, and skills in weekly telephone or WebEx appointments. Online resources, such as extra practice materials, are provided through the learning management system, and performance data collected by that system allows better insights to be used in developing custom learning and remediation plans and in conversations with each student advisee.

Law librarian services are provided through the same asynchronous and synchronous online service model used for central services, since the law library itself is online (Lexis Advance and other resources). The St. Francis Librarian answers research questions, helps with training for new students, supports faculty, and maintains the online library collections.

Finally, career services are provided both by self-service, with a series of educational seminars and materials on legal careers available asynchronously to students, and traditionally, with a central career services officer available to provide individual mentoring on the job hunt process. Since most St. Francis students are non-traditional aged, Career Services supports career transition rather than career entry for most St. Francis students, and in this the Dean and other faculty members frequently provide support, services, and contacts for students and graduates, as anywhere.

## **7) Describe any training or other resources that have been provided to your traditional**

## **J.D. program students who have been required to transition to online learning due to COVID-19.**

Students in distance learning programs become accustomed to interacting with the school, curriculum, faculty, and each other very quickly, in our experience. While St. Francis did not have to provide any training to students transitionally in relation to the COVID-19 pandemic, it regularly orients new students to life as a distance learner. These students are, in the main, not “digital natives” and come with wide ranging levels of experience with technology. Some even have limited recent experience with higher education, having completed their degrees many years ago.

The core issues for Orientation related to distance learning are: 1) comfort with websites and common office applications; 2) facility with the learning management system and live classroom platform; 3) getting used to the rhythm of weekly seminars with identified learning objectives and frequent, low-stakes formative assessment; 4) learning how to contribute to quality interactions of the kind expected in law school classes, using the school’s online learning tools and systems; and 5) orienting to the school’s culture of high performance, frequent demonstration of performance, and collegial, cooperative growth and development.

## **8) Please describe the extent to which your institution’s prior experience with distance learning has helped ease the transition to online learning by traditional J.D. program students. What challenges (if any) has your institution faced adapting its distance learning techniques to the traditional J.D. program during the COVID-19 pandemic?**

St. Francis School of Law was fortunate to experience limited disruption resulting from the pandemic crisis. Experts in online legal education, St. Francis has, for nearly a decade, operated an exceedingly high quality fully online J.D. program under state rules permitting such programs to serve Californians and those who desire a license to practice law in California. Thus, everything from handling admissions files through curriculum and

course design to secure remote proctoring of exams was already implemented online. The school has, of course, responded to impacts on individuals, both students and staff, as a result of the pandemic, but no major structural or operational changes have been required. Even grading, which has caused enormous strife at many law schools, has been simplified by St. Francis's curricular design model of multiple, frequent, low-stakes assessment (instead of a single high stakes final exam at the end of the course). Integrated formative assessment means the final exam is a lesser part of the overall grade, and that students essentially know where they stand, grade-wise, throughout the course. This greatly relieves pressure on students and eases demands for Pass/Fail grading systems.

**9) Please provide any insights you may have about the role of online and distance J.D. education going forward.**

Interactions in the well-conducted live online classroom lack nothing in terms of content and quality when compared to their in-person counterparts once students are oriented to participating in them and faculty are trained in conducting them. The rigor is just as great – and more widely experienced because there is nowhere to hide in a recorded class model, as used at St. Francis. Video and audio put each person on the spot – quite intimately – when called on, and students take their preparation responsibilities correspondingly seriously, if the right classroom culture is nurtured.

While live online classes comprise a sizable percentage of well-designed distance learning, there are opportunities to spend instructional time on other activities just as meaningful educationally. Modern learning platforms (e.g., Canvas) provide easy means of conducting asynchronous learning activities such as quizzing, discussions, writing assignments, presentation assignment, and other simulations that enhance the attainment of learning outcomes in very manageable and measurable ways. Initial content development can be resource-intensive, but high-quality curriculum elements increasingly available from specialty publishers can make this affordable. The main thing to understand when designing is

that quality learning takes place in **doing**, whether by dialogue participation in class or by any other demand for/demonstration of performance.

All this is simply to say that distance learning in legal education is here to stay, for a growing number of schools, programs and courses at schools, faculty, and students. The hegemony of fixed-facility, in-person legal education is declining. Educationally, there is no reason to desire a move back to a rigid in-person model of instruction, as no research suggests this is broadly preferable to a distance education or hybrid teaching model. Distance learning techniques will continue to enhance fixed-facility, in-person courses in both traditional and hybrid learning models because they **work** and are **in demand** by a growing segment of the market.

**10) Please provide any words of wisdom, tips or encouragement you may have for law schools that have been forced into the online education space by the crisis.**

Embrace it! This is the moment when legal education, of necessity, opens its eyes more widely to a world that has existed efficaciously across higher education for at least two decades. Schools should “never let a good crisis go to waste.” The opportunity for adapting the J.D. program to meet the needs of an ever-more-digital student body should not be lost.

Just one example to illustrate: data collection, and data-driven decision-making, afforded by well-designed distance learning directly and measurably improves a program of legal education. Online learning, particularly well-designed curricula with multiple assessment points, provides deep and rich user performance and quality improvement data for designers (faculty and administration), teachers, and program evaluators. For the students, it provides a richer learning experience, full of practical applications and immediate feedback, that speeds acculturation to the ways and mores of the legal profession and makes the education feel more relevant. In any transition to online learning, the design should anticipate the opportunity to continuously improve curricula and teaching through the use of outcomes assessment data readily available through these systems.