

Building External Consensus: Alumni, Professional Organizations, and the Practicing Bar

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Introduction

In the plenary session, the speakers introduced the idea of reaching out to organizations and institutions outside the academy for assistance in reforming the curriculum. This breakout group session followed up on this idea by exploring the types of external entities that might be enlisted, the types of help these entities might provide, and techniques for seeking such assistance. The meeting took the form of a group brainstorming session, in which the participants shared techniques they have used and reacted to each other's experiences and ideas.²

Reaching Out to Alumni

The group began its discussion of external entities by focusing on an outside group that is part of the broader law school community: alumni. The moderator asked participants to talk about experiences they have had in obtaining feedback from alumni and enlisting the aid of alumni in curricular reform.

Sophie Sparrow talked about "friend raising" in addition to traditional fund raising: going to the bar, alumni, and lawyers in the community to get advice. People are generally flattered to be asked for advice, and they are very willing to give it. Questions like "What did you learn from law school?" and "What advice can you give me?" are good starter questions. It is important to

1. © Randy Hertz 2002. All rights reserved. Professor Hertz teaches in New York University's Capital Defender Clinic and Juvenile Rights Clinic. He worked previously at the Public Defender Service for the District of Columbia. He writes in the areas of criminal and juvenile justice, and he is a co-author of *Federal Habeas Corpus Law and Practice* and the *Trial Manual for Defense Attorneys in Juvenile Court*. Professor Hertz is the editor-in-chief of the *Clinical Law Review* and a member of the Council of the ABA's Section of Legal Education and Admissions to the Bar. In the past he served as a consultant to the MacCrate Task Force, as a reporter for the Wahl Commission, and as the chair of the AALS Standing Committee on Clinical Legal Education.

2. The reporters for this breakout group were Professors Steven D. Schwinn & Randy Hertz.

follow up and maintain contact with these individuals, e.g., via e-mail. Professor Sparrow said that when she asks for advice from lawyers in the community, they tell her that they value law school courses where there is no dichotomy between skills and doctrine, e.g., a first-year contracts course in which contract doctrine is taught alongside contract drafting.

Deborah Schmedemann said that she invites selected lawyers to go to lunch and gets ideas about different practice areas. As a result, these lawyers feel stronger ties to the law school. These lawyers have stressed face-to-face communication skills in legal education and value oral communication skills. They also stressed the need to help students understand their own personalities because certain personality types are sometimes better suited to certain practice areas.

Greg Munro said that he keeps close contact with alumni of his law school and uses them in professional development, in skills courses, and in a board of advisors. Alumni readily help out because it is an honor; but they ask for monetary compensation eventually. Professor Munro runs all kinds of ideas by his board of advisors. In 1980, his school surveyed all Montana and Idaho lawyers to ask for advice. The lawyers responded that they are seen as community leaders, and thus law students need community leadership skills. As a result, the school changed its curriculum to integrate skills and doctrine.

Jan Levine said that the law school invites hundreds of alumni to judge moot court, and about seventy actually judge. This is an excellent public relations tool for the law school's writing program. It increases the chances of students getting employment offers, and it motivates the students to perform better. The alumni get a "window" into the law school; new alumni can contribute their time (because they do not have much money to donate), which gets them in the habit of giving back to the school; and the alumni reinforce the lessons of the legal writing class.

Calvin Pang added that alumni at his school are so pleased to participate in moot court competitions that they often contribute financially to the school after the competition.

Enlisting the Bench and the Bar as Participants in Moot Court Competitions, Simulations, and Other Types of Law School Instruction

Following up on Jan Levine's and Calvin Pang's comments about involving alumni in moot court competitions, the group embarked upon a broader exploration of the roles that judges and practicing attorneys can play in law school courses and other forms of instruction.

Stephanie Vaughan said that she puts together a "real world" panel in which outside attorneys, clerks, and judges come to campus to talk about their real world practice and how what they learned in school translates to practice.

Karin Ciano mentioned that she uses outside attorneys to judge oral arguments and brief writing in the second semester. Students go to chambers

or law offices to present their arguments in a competition for the entire first year class. She also uses intensive outreach, letters of invitation, and frequent follow up to recruit outside attorneys. Her students are extremely enthusiastic to go off campus to argue, but even on campus it is important to interact with attorneys outside the law school. Attorneys' and judges' responses have been very positive.

Richard Neumann asked if we are getting an honest appraisal of our students' skills through moot court competitions. He referenced Judge Kozinski.³ He asked if we know what standards outside attorneys and judges are using when they evaluate our students. Professor Neumann emphasized the need for a dialogue with the bench and bar to set consistent standards, and he asked if we in academia use higher standards than the bench and bar do. He suggested that we need empirical research to help develop standards of performance.

Andrea McArdle described the N.Y.U. Lawyering Program's use of judges and practicing lawyers to play the role of judges in simulation exercises for first-year students. She said that if judges have a context, they can make a better assessment of students. Professor McArdle suggested asking the bench and bar to communicate about the importance of upper-level writing and more rigorous writing experiences throughout law school.

Deborah Schmedemann said that her program uses practicing lawyers to teach, and therefore she knows what practitioners think of students' skills.

Greg Munro suggested getting faculty members and bar representatives to brainstorm standards and performance criteria for particular skills. This gets the bar on board with what the school is doing.

Ben Bratman commented that if the dean and faculty hear outsiders say good things, they are confident that the writing program is going well.

Jan Levine said that alumni report that since the writing program changed a couple years ago, it has improved. He also suggested asking judges to directly tell the dean about the improved skills of students.

Randy Hertz said that local bar associations are a great way for faculty members to get to know the bench and bar, hear their views about the work that the law schools are doing, and seek their aid. He noted that the judges and lawyers who participate in N.Y.U.'s Lawyering Program often praise the work of the first-year students. Yet, the bench and bar often have been critical of the skills that new graduates have at the point when they enter practice. He suggested that the local bench and bar can be enlisted in strengthening the overall educational continuum for new members of the profession. For example, in New York, the Chief Justice of the state's high court appointed a MacCrate-like commission to issue a report on the state's continuum of professional education. In addition, many firms would like to have clinicians and legal writing professors play a role in training their associates.

3. Alex Kozinski, *In Praise of Moot Court—Not!*, 97 Colum. L. Rev. 178 (1997).

Suzanne Rabe said that she recently started a legal writing group with her local bar association. She invited practitioners, e.g., appellate attorneys, to the first meeting; and the group now holds regular monthly meetings with invited speakers. This group created good will among the bar, local law firms, and her school. Professor Rabe mentioned that she recently switched to using the *ALWD Citation Manual*. She and the students love it. She invited groups of judges to her school for lunches to talk about changes to the legal writing program and asked their advice. She also talked about the *ALWD Citation Manual* and thus generated support for it.

Terri LeClercq expressed some concern because some faculty members at her school are not members of the state bar. She called the state bar president to ask for help getting legal writing professors at Texas schools on state bar committees. Almost all of the legal writing professors wanted to join a committee.

Eric Easton said that he and Susan Hankin were invited to give a program on writing to senior Maryland judges. The judges were extremely appreciative, and this helped develop good relations with the bench.

Reaching Out to Other Types of External Organizations

Jan Levine raised the idea of reaching out to another group of external influence: West and other publishers. Professor Levine said that publishers have been influential in funding individual projects at schools. He cited, as an example of publisher collaboration, the *ALWD Citation Manual*, published by Aspen Law & Business, and the support of West both for the first conference that led to the formation of ALWD and for this very conference.

Jevne Kloeber of West said that she would like to hear more of our ideas. She thinks that casebook publishing is a place where publishers can help integrate skills and doctrine, for example, by asking authors to include actual documents (e.g., pleadings) in the casebooks. West's new bankruptcy casebook uses this model. Ms. Kloeber also suggested bringing in outside experts, judges, alumni, and using West's TWEN.

Mary Beth Beazley asked if clinicians and legal writing faculty are on the editorial board for West and other publishers. Professor Beazley said that including clinicians and legal writing faculty on editorial boards would say something to the professors' schools.

Grace Tonner suggested that casebook authors should be asked to use an integrated approach.

Grace Wigal said that she uses TWEN for her course pages. She posts pictures of legal writing professors on her TWEN page to make them look more like other faculty members at her school.

Randy Hertz suggested that West and other publishers could sponsor more conferences and publish the proceedings of those conferences. He said that the *Clinical Law Review* would be very interested in publishing more pieces on legal writing.

Richard Neumann added that it is a joy to publish in the *Clinical Law Review* because it is a peer-edited journal. Value is therefore added through the editing process.

Randy Hertz added that publishing in the *Clinical Law Review* gives authors an audience that has a particular interest in reading and talking about pedagogy.

Funding

The group then turned its attention to the practical impediment of funding and explored ways to obtain the necessary funds for developing and implementing innovative approaches to legal writing and related aspects of law school instruction.

Grace Tonner talked about a separate endowment she created for legal writing. Her dean started the writing program at her school, and it was an important part of his goals as dean. The dean asked Professor Tonner to meet with alumni about changes in the writing program. She said in exchange she would like an endowment for legal writing. Professor Tonner is now starting a new fundraising campaign with the development department. She says that legal writing is an easy sell. Currently she is receiving smaller gifts, but her program is growing. This approach of using a separate endowment is difficult, because the dean would prefer unrestricted funds. Professor Tonner also suggested attempting to use funds from other programs, e.g., alternative dispute resolution, that have not used their funds. Professor Tonner can do this because she has an ADR component to her legal writing program.

Terri LeClercq mentioned that an endowment supplements her salary.

Grace Tonner said that she received gifts from alumni to honor an alumnus who was a mentor in his law firm. These gifts go to the best senior student judges in awards of about \$500. This helps with recruiting student judges. In addition, many adjuncts are alumni, and many are donors. They love to talk to legal writing professors, deliver guest lectures, and otherwise get involved in the legal writing program.

Darby Dickerson added that adjuncts in a legal writing program can donate their salaries back to the school. Law firms are eager to give scholarships to students; and she has received funds for moot court and appellate advocacy competitions. Professor Dickerson also stated that in exchange for donations, firms sometimes like faculty members to give professional development lectures to their members.

Jan Levine said that legal writing professors do not need another responsibility raising money. He asked how clinicians address the issue of hard money and soft money donations.

Randy Hertz said that his school is exploring clinical fellowships to help with teaching. He said this also helps revive thinking about what students need in their education. Professor Hertz wondered if fundraising might be an area of collaboration between clinicians and legal writing professors.

Collaborations Between Legal Writing Teachers and Clinical Teachers

The group followed up the initial comments about collaborations between legal writing teachers and clinical teachers by focusing in more detail on the relationship between these groups.

Grace Tonner said that clinicians at her school have been supportive. Professor Tonner works with clinicians often. For example, she works to infuse legal ethics through first-year legal writing, and clinicians work to infuse ethics in the upper-level.

Terri Pollman suggested asking the clinicians what they need from first-year legal writing courses to help prepare students for upper-level clinics.

Randy Hertz suggested sponsoring joint conferences with clinicians and legal writing professors on applied legal theory.

Sophie Sparrow said that legal writing professors can be resources for clinicians to develop diagnostic tools for legal writing.

Marilyn Walter said that the focus on legal writing can be reduced if legal writing professors are called upon to engage in other activities or if the curriculum is expanded to include other non-writing topics.

Eric Easton suggested that legal writing programs could donate one legal writing professor to the clinics to be a clinical writing specialist or coach.

Conclusion

Randy Hertz concluded the session by observing that the participants' comments have identified a number of productive strategies for accomplishing the conference's central goal of "erasing lines." He pointed out that the session had generated ideas for erasing lines between the teaching of skills and doctrine, between clinical teaching and legal writing instruction, and between the law school and the broader community of the bench and practicing bar. Through approaches of this sort, he said, we can increase our effectiveness as teachers and better reach our students.