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Preparing for Service: A Template for 21st Century Legal Education

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Preparing for Service: A Template for 21st Century Legal Education

Michael J. Madison*

I. Introduction

In May 2013, a group of faculty members at the School of Law at the University of Pittsburgh (Pitt Law) was constituted as a Task Force and charged by the Dean with investigating innovation and reform and revision of the program of Pitt Law in general. I was appointed its chair. We adopted a name – the Innovation Task Force (ITF, or simply the Task Force). The Task Force took the Dean’s charge in its broadest possible terms, as encompassing the opportunity to sketch a vision for the future of the school, its students, and its graduates.

Roughly one year later, we produced a report that documented observations, recommendations, and proposals across the complete range of the law school’s program. Quite apart from what has since happened or may happen at our law school, we believe that our process and product may hold wider interest for legal educators elsewhere and possibly even for innovators and leaders in higher education generally.

Anecdotally, we know that as a group of law professors charged with developing proposals for “innovation in legal education,” we were hardly alone. Law schools, other professional schools, and colleges and universities of all shapes and sizes face a dizzying array of organizational, financial, demographic, and programmatic challenges, and the country (perhaps even the world) is abuzz with faculty and administrative activity trying to address them. “Innovation” holds enormous promise but is no cure-all; in fact, one of our central if unstated conclusions is that innovation in its own right is no simple solution, and the absence of innovation is not alone the problem. Rather, to borrow a phrase, “the models are broken, the models are broken,”¹ and what is needed – and what we describe below – is innovation that produces a conceptual and practical foundation for education

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¹ See Allen Newell, *Response: The models are broken! The models are broken!*, 47 U. PITT. L. REV. 1023 (1986). The late Professor Newell, a leading computer scientist, was commenting on the likelihood that conventional patent law concepts could be applied usefully to the relatively new domain of computer programming. He wrote that his title evoked either Paul Revere (“The British are coming! The British are coming!”) or Chicken Little (“The sky is falling! The sky is falling!”). In either case, he was “sounding a call to arms—to do what it takes to banish the confusion and to make a new set of concepts to replace the old.” *Id.* at 1023-24.

that addresses the needs and goals of contemporary society. Articulating that foundation takes imagination. Implementing it takes courage.

II. Process

Academics, like many people, dread the idea of “strategic planning,” which connotes consultants, jargon, wasted hours in meetings, and little useful output to show for it all. Yet in framing its work, our Task Force borrowed some strategic planning concepts, and we pursued them to what we believe was and is a meaningful and productive outcome. Among those concepts was and is the mantra, sometimes associated with Dwight Eisenhower’s leadership of the Allied forces during World War II, that “it’s not the plan, it’s the planning.”² Our process mattered and matters enormously, not only in terms of arriving at a useful outcome, but also in terms of building on that outcome effectively as times and conditions change further.

A. Research

The Task Force met with the full-time faculty of the school, one-on-one, in small groups, and in large groups; with the adjunct faculty, likewise in a variety of settings and combinations; with current students, with alumni, with the school’s Board of Visitors, and with law school staff. We solicited suggestions in group meetings and in one-on-one conversations. We reviewed in depth the extensive and growing literature on changes to higher education, changes to the legal profession, and changes to legal education, to other professional education, and to higher education in general. We also reviewed a great deal of management literature, particularly literature on strategic planning and change management. Two members of the Task Force (Madison and Sinsheimer) attended the annual conference produced by Educating Tomorrow’s Lawyers (ETL), a legal education reform initiative supported by the Institute for the Advancement of the American Legal Systems (IAALS) at the University of Denver. One member (Madison) is a Fellow of ETL and participates year-round in conversations about the future of law schools.

² The pithiest version of the quotation is: “In preparing for battle, I have always found that plans are useless but planning is indispensable,” *quoted in* RICHARD NIXON, *SIX CRISES* (1962). Eisenhower also wrote: “I tell this story to illustrate the truth of the statement I heard long ago in the Army: *Plans are worthless, but planning is everything.* There is a very great distinction because when you are planning for an emergency you must start with this one thing: the very definition of ‘emergency’ is that it is unexpected, therefore it is not going to happen the way you are planning.” PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES, DWIGHT D. EISENHOWER, 1957, NATIONAL ARCHIVES AND RECORDS SERVICE, GOVERNMENT PRINTING OFFICE, at 818 (from a speech to the National Defense Executive Reserve Conference in Washington, D.C., Nov. 14, 1957).

B. Distillation

The Task Force worked simultaneously “back to front” and “front to back.” “Front to back,” we started with “competencies” literature on expected outcomes for law graduates and tried to design curricular and other program innovations that would improve our law school’s ability to deliver those competencies. But we recognized from the beginning that this approach was likely to be incomplete and potentially ineffective, so we also worked “back to front,” compiling an extensive inventory of “big ideas” (and some more modest “middle-sized” and “small-sized” ideas), program innovations that faculty members individually (or sometimes in small groups) advocated for as part of their own, possibly idiosyncratic visions of what the law school should teach and what the law school should do. We added our own ideas, too, from both “front to back” and “back to front” points of view.

In addition to the Task Force’s outreach efforts, we met roughly once per month to review and distill the information into a working template of a proposed program, guided by the instinct that we ought to produce something more than a list of ideas, large and small, for eventual faculty consideration. We aimed to shape those ideas into a comprehensive vision of what the law school should do.

At the end of the year, we returned a lengthy report to the Dean and to the full faculty.

C. Product

Most of the Task Force’s report is reproduced below in slightly modified form.³ The report offers a number of recommendations to the Dean and faculty of our law school, sorting those recommendations into items concerning the curriculum of the school as a whole, items concerning organization and teaching of individual programs and courses, and items concerning administration of the school.⁴

III. The Conceptual Framework

A full statement of our premises appears at the end of this paper under the heading “Working Assumptions.” That material can be reduced for now to the

³ The charge to the Task Force included some items specific to Pitt Law that are not relevant to the broader review and set of outcomes that the Task Force produced. Those are omitted from this paper. Also omitted are certain specific references to details of the academic program at Pitt Law and to the workings of the school’s governance processes beyond what are necessary to introduce this paper. In many places, references to Pitt Law have been edited to refer to “the law school,” to facilitate possible transposition of ideas from this report into other law school settings.

⁴ Not every recommendation represents novelty or innovation relative to legal education as a whole. Obviously, the Task Force was building on Pitt Law’s current programmatic baseline.

following. In every case, we believe that adoption, implementation, execution, and assessment of our recommendations should be guided by this standard:

Does it inspire?

Does the proposal inspire the faculty and the staff of the law school to serve the interests, needs, and goals of our students and graduates in achieving personal and professional success in the changing legal services marketplace? Does it inspire students to change themselves and change their clients and communities? Does it inspire students to learn and to explore ways that they can develop the capabilities to build careers and apply their training to improve communities?

With that preliminary statement, we turn to:

THE BIG IDEA

We believe that it is important to capture the entirety of what we are after in a single, comprehensive, inspiring idea. Simplicity and synthesis bring power.

We propose that the entirety of the school's program be captured substantively, organizationally, and programmatically by the following broad concept:

Preparing for Service

This phrase means that our graduates are headed to careers in *service*. Service must be defined broadly and inclusively. Our graduates may serve clients, communities, governments, those in need, and/or society as a whole. Service, in our estimation, is a necessary defining attribute of what it means to be a member of the legal profession. Our law school – like almost every law school – is directed essentially to preparing its graduates to serve. Over a career and over a lifetime, our graduates will serve in a host of different places, times, and ways.

Preparing for service entails, in part, a host of mostly traditional or typical activities: Learning substantive law. Learning how to analyze problems critically and how to communicate analyses and solutions effectively and persuasively to a variety of audiences, including legal decisionmakers. Learning the ethical frameworks that govern lawyers and others actors in this and other legal systems.

Preparing for service also entails in part, some novel, even transformative activities:

It means organizing professional preparation in a thoughtful, sequential manner, so that activities, skills, and knowledge that are part of a first year of learning are applied and built upon systematically in a second year, and the work

of the second year is foundational to a third year, resulting in graduates who are prepared to serve.

It means bringing the experiences of service intentionally into the learning environment, so that students prepare for service by engaging in forms of service.

It means equipping students from the beginning of their time at the law school with tools, skills, and forms of knowledge necessary to thrive as professionals and as people, not only as practicing lawyers. This includes social skills and emotional skills as elements of professional and personal identity, as well as cognitive and “practical lawyering” skills.

We do not challenge the foundational point that our law school exists to train students in law and/or as lawyers. We believe that this framework, even as it might be modified by the revisions that we propose below, does not adequately capture and advance the sense of purpose and ambition that ought to inform the school and its communities. “Preparing for Service” at once is bigger than that framework and serves as a more concrete guide to what, precisely, the law school and its faculty and staff should do. Our graduates should emerge from law school “service-ready,” rather than merely “practice-ready.”

We put “Preparing for Service” into practice by working from this conceptual idea to increasingly concrete descriptions of what kind of law school and what sort of programs could prepare law graduates for service in the 21st century. What follows is a sketch that builds from “Preparing for Service” to a set of more concrete programmatic *themes*, from there to a set of *attributes* that should define the law school’s program, to a series of *methods* to be used in building and implementing that program and its parts, and finally to specific *programmatic recommendations and innovations*. For brevity and simplicity, we refer to this as a *hierarchy of goals*. It can be illustrated this way:

THE BIG IDEA → THEMES → ATTRIBUTES → METHODS → PROGRAMS

This hierarchy describes how “Preparing for Service” can pervade and infuse all that we are as an institution and as individuals within it. It provides a framework that allows anyone – student, faculty member, graduate, member of the legal profession – to relate and justify specific programmatic innovations (at the most concrete end of the hierarchy) in terms of a well-constructed argument grounded in the school’s central mission (at the most general end of the hierarchy). Nothing in the hierarchy requires that each and every thing that the school does be well-supported in the specifics of every “higher” level, or that every element of every “higher” level be implemented throughout every feature of the school’s specific programs and courses. It is a framework, rather than a straightjacket.

The framework can be visualized in the following table. The itemized listings in the right-hand column are described in greater detail in the next sections.

THE BIG IDEA	PREPARING FOR SERVICE
Themes	Legal Literacy Professional Identity Cognitive and Communication Skill Professional and Personal Intelligences
Attributes	Accountability Transparency Progressivity, Coordination, Integration, and Transferability Relevance Individualization
Methods	Contextualized Problem Solving Experiential Learning Opportunities to Build Expertise Resource Flexibility Professional Connectedness Formative Feedback
Programs	Recommendations Concerning Curricular Development Recommendations Concerning Individual Instruction Recommendations Concerning Administration of the Law School

A. Themes

1. Legal literacy
2. Professional identity
3. Cognitive and communication skill
4. Professional and personal intelligences

These are dimensions of our students' and our graduates' identities as new lawyers who are "prepared for service."

1. **Legal literacy.** This includes knowing the content of the law, including history, purposes, structure, and doctrinal details. It includes possessing basic and elementary skills needed to apply doctrinal and structural knowledge of the law in practice.

2. **Professional identity.** This includes understanding the professional and ethical frameworks that govern the legal profession and its individual members. It includes understanding the obligations associated with the agency and fiduciary concepts that define the lawyer/client relationship. It includes understanding the role of law and lawyers in history and society.

3. **Cognitive and communication skill.** This includes possessing the analytic skills traditionally associated with the phrase "thinking like a lawyer." It includes knowing how to communicate effectively in writing and in person, in a broad variety of settings, and with a broad variety of media, and with colleagues, clients, adversaries, decisionmakers, and policymakers.

4. **Professional and personal intelligences.** This includes understanding one's own personal attributes (including cognitive and emotional strengths and weaknesses) and understanding those attributes in others and in social contexts. This includes motivation, responsibility, professionalism, empathy, and self-awareness.

B. Attributes

1. Accountability
2. Transparency
3. Progressivity, coordination, integration, and transferability
4. Relevance
5. Individualization

These are dimensions of the law school program that are designed to promote and produce new lawyers who have the identities described in the section on "Themes" and who are "prepared to serve."

1. **Accountability.** The law school and its faculty should hold themselves accountable for determining whether its programmatic goals are being achieved and should hold our students accountable for achieving the things that the law school sets as its educational goals. The law school program should be defined in both respects by a culture of rigor.

2. **Transparency.** The law school and its faculty should be explicit in describing to students and other audiences and constituencies why it is we are doing and teaching what we do. A culture of openness fosters innovation.

3. **Progressivity, coordination, integration, and transferability.** The law school's program should be designed purposefully to promote the transferability of substantive knowledge and professional skills across different domains of practice, by integrating or coordinating wherever possible the goals and outcomes that are the foci of different courses or academic experiences and by building educational experiences explicitly and progressively on foundations supplied in previous education experiences.

4. **Relevance.** The law school's program should be designed to be flexible in preparing new lawyers to serve in the contemporary legal profession and legal services industry. This includes acknowledging the changing nature of modern dispute resolution, which focuses less and less on classic or traditional adversarial advocacy. This includes acknowledging the growing role of technology in shaping how legal information and legal services are delivered. This includes respecting the continuation of at least some forms of "custom" practice, individual lawyers working with individual clients.

5. **Individualization.** The law school's program should be oriented to teaching and learning on a student-by-student basis, so that each individual new graduate is "prepared to serve."

C. Methods

1. Problem solving in context
2. Experiential learning
3. Opportunities to build expertise
4. Resource flexibility
5. Professional connectedness
6. Formative feedback

These are pedagogical methods and strategies for course, program, and curriculum design that are directed to implementing the "attributes" described in

the preceding section. Those “attributes” are designed to produce new lawyers, defined by the “themes” described at the outset, who are “prepared to serve.”

1. **Problem solving in context.** Classic intellectual frameworks for teaching and learning (typified by the question, “what are the parties’ rights and obligations in this dispute?”) should remain valued and should be supplemented with frameworks for problem solving in context that value and incorporate a broad range of influences and variables, including economics, sociology, history, statistics, and psychology as well as formal law. Training in context should matter both at the level of the individual problem and dispute and at the level of theory, policy, and positive law.

2. **Experiential learning.** Classroom and casebook learning should be blended as much as possible with participating in the practices associated with law. These experiences should include not only law clinics operated by the law school but also classroom-based simulations, internships, externships, and extracurricular opportunities to work with institutional and individual partners.⁵

3. **Opportunities to build expertise.** Students should continue to have opportunities systematically to develop subject matter, disciplinary, and domain-specific knowledge. Existing certificate and concentration programs offer examples of how this may be accomplished. Opportunities to develop expertise may be captured in other organizational forms, including joint degrees and partnerships with post-graduate legal incubators and accelerators.

4. **Resource flexibility.** Organizational and bureaucratic structures should be examined for opportunities to support faculty who wish to engage in team-teaching, to introduce writing or simulation or other experiential components in podium- and exam-based courses, or to innovate pedagogically in additional ways. This may include avoiding “the credit hour” and “the course” as mandatory and exclusive measures of teaching responsibility.

5. **Professional connectedness.** The law school should continue to emphasize opportunities for building professional connections among students and practitioners, alumni, and other legal professionals into courses, programs, and the curriculum. In this context, the purpose of connectedness is professional identity formation as well as career development.

⁵ The Task Force was aware of but was not prompted in its thinking by emerging efforts to require experiential learning in law schools in connection with accreditation requirements adopted by the American Bar Association Section of Legal Education and under discussion by the State Bar of California, among other organizations.

6. Formative feedback. The law school should support faculty efforts to implement assessment methods other than the traditional end-of-semester exam as a single assessment.

IV. Programmatic Recommendations

We divide our recommendations into three parts:

- A. **Recommendations Concerning Curricular Development**, which is the largest section of this Report, dealing with both general suggestions regarding the design of the law school's academic program and specific proposals for faculty consideration.
- B. **Recommendations Concerning Individual Instruction**, suggestions directed to individual faculty members who might opt to innovate within their own courses or programs.
- C. **Recommendations Concerning Administration of the Law School**, suggestions for consideration by the faculty and/or the Dean that go beyond the specifics of the school's academic program and its curriculum.

A. Recommendations Concerning Curricular Development

First we review and recommend a set of broad curricular priorities aligned with the overall "Preparing for Service" framework of this paper. This provides an outline within which specific proposals may be advanced now and in the future; it includes both "infrastructure recommendations" (section 1 below) and a curricular overview (section 2 below). Second we propose specific curricular innovations, consistent with these priorities. These proposals are summarized within the narrative below (sections 3, 4, and 5, addressing the first, second, and third years of the JD program, respectively) but are also highlighted separately (section 6). We recommend that each of these be submitted to the faculty for consideration and possible adoption via existing faculty governance processes.

1. The Curriculum in Broad Outline: Infrastructure Recommendations

Before making specific recommendations, we recommend in general that the faculty emphasize a handful of key themes throughout the program with respect to both teaching and learning. These themes are broadly consistent with the current program's focus on legal literacy, or substantive legal knowledge and practical skills development. They connect that focus to the broader goal of preparing our

students for service by (among other things) highlighting opportunities for students to develop their professional identities and providing students with opportunities to learn to serve while, at the same time, students learn the content of the law.

a. Focus on Competencies:

The Task Force recommends that the faculty develop a taxonomy of personal, social, and professional “competencies” and match them with individual courses, requiring that any course that claims to meet a “competency” requirement meets agreed-upon standards as to how the course accomplishes that goal. That taxonomy need not be drawn from scratch. The law school already endorses a documented set of learning outcomes for the JD program as a whole, and there is a large literature on competencies for lawyers to draw on, although much of that literature is keyed to the needs of that part of the profession that delivers custom services to individual clients. The faculty should make explicit that “being,” “doing,” and “knowing” are equal in stature. High on this list of competencies would be knowledge of several substantive legal domains and lawyering skills and writing and communication skills of various sorts. The list should include additional competencies that are not so narrowly tailored, including tools now included under the heading “emotional intelligence,” leadership, collaboration, and teamwork. The faculty could require that students complete a certain number of courses that generate “competencies” credits of certain kinds.

Implementation of this focus could take many forms. For example, a course coding scheme could be added to the registration database that would permit faculty on a voluntary basis to label their courses with “tags” that are linked to different competencies. A course on tax law could have tags that include “tax,” “business,” “core,” “entrepreneurship,” “legal writing,” and “innovation concentration,” among others. (These are similar to modern Twitter or Facebook hashtags.) Tags could relate to specific knowledge- or skills-based “pathways,” “concentrations,” “certificates,” “competencies” and/or to “lawyering,” for example. In addition, the law school could use those tags to design “clusters” of courses that students organize on their own by selecting courses with all relevant “tags.” Students could use the tags to design their own curricula and to satisfy various requirements. An initial universe of tags would have to be created, but we anticipate that the system would evolve and perhaps grow with use.

b. Create a Comprehensive Legal Writing Curriculum:

Specifically as to legal writing, the Task Force recommends that the faculty revise the current set of requirements (Legal Writing and Analysis in the first year, plus upper-level writing requirements) to encourage students to distribute those experiences more evenly over their three years of law school. The faculty may also

wish to consider requiring distribution of student writing across a specified range of writing genres (research, advocacy, and transactional among them).

c. Offer Opportunities to Partner:

The Task Force recommends that the faculty highlight functional interdisciplinarity (law and ..., e.g., “society,” “business,” “economics,” “science,” etc.) where that interdisciplinarity is present in course and program offerings, with the goal of preparing students to work professionally in cross-disciplinary settings. The law school should intentionally build out a menu of related courses to cross-list with other University of Pittsburgh and Carnegie Mellon University⁶ schools and departments and continue to invest strategically in joint degree programs. This would encourage and build on partnerships within and across the law school and both universities. The Task Force does not offer a recommendation regarding whether the law school should embrace interdisciplinarity as a strategic goal but does recommend that where interdisciplinarity is part of a program or a course, the law school highlight that fact as part of advancing students’ preparing to serve.

d. Offer Opportunities to Specialize:

The law school should offer appropriate opportunities to specialize during the JD program as a way for graduates to signal commitment to a field in addition to permitting graduates to demonstrate mastery. The law school should develop a published list of practice specializations and corresponding groupings of courses, programs, and experiential and extracurricular opportunities, perhaps within the context of existing concentrations, certificates, and/or pathways but not limited to them or by them.

Task Force members disagreed among themselves regarding the virtues and drawbacks of encouraging disciplinary specialization by JD students.

e. Highlight Outcomes:

As a matter of best practices, the law school and individual faculty members should document intended student outcomes at the level of each individual course (“By the end of this course, each student will be able to do X, or will know X ...”), at the level of the program (“By completing this concentration, each student will be able to do Y, or will know Y ...”), at the level of the academic year (“By completing the first year at Pitt Law, each student will be able to do Z, or will know Z ...”), and at the level of the full degree program. The faculty may adopt a graduation requirement that requires that each student demonstrate achievement of those

⁶ Carnegie Mellon University (CMU) is located in the Oakland neighborhood of Pittsburgh, adjacent to the University of Pittsburgh. Its campus is roughly one-half mile from the Pitt Law building. CMU does not operate a law school.

outcomes, although the Task Force makes no specific recommendation on this point. Evidence in each instance might consist of a portfolio of student work, certification by an individual faculty member with respect to a particular student, a comprehensive exam, or some other means.

f. Hold Faculty Accountable:

The faculty should hold itself accountable for innovation in pedagogy and course content, with the goal of ensuring that individual course and program offerings and the law school program as a whole remain relevant and consistent with the goal of preparing graduates for service. The Dean might likewise adopt measures to hold faculty accountable. Accountability measures should focus on positive (reward-oriented) accountability for individual faculty members, rather than punitive (failure-oriented) accountability.

g. Manage the Curriculum:

The faculty should undertake a periodic comprehensive, strategic review of the course catalog, course design, and methods of assessing effective teaching. Questions should include: What are the right course topics? What courses should be taught when? How should courses be grouped and sequenced? Future proposals for new courses should be justified explicitly in terms of how they advance one or more strategic goals for the school (innovative teaching, career development/placement for students, and/or areas of substantive focus, for example). The point here would not be to raise the substantive bar for adding new courses but to influence course and curriculum development indirectly, by requiring that these goals be made explicit.

h. Use Flexible Teaching Loads:

The law school should investigate changing accounting for faculty effort. So long as ample time is reserved for the production of scholarship by tenured and tenure-stream faculty, and so long as mechanisms are in place for ensuring equity, course loads and credit loads need not be standardized across all full-time faculty, as they are now. Alternative resource management schemes might include banking of courses and/or credit hours, changing the credit hours assigned to a course in proportion to the number and type of assessed assignments for students, full credit for collaborative teaching, and incentives/rewards to encourage team teaching, collaboration, cross-listing courses, cross-unit teaching, and adding assessed activities for students.

i. Expand Reviews of Teaching:

The faculty should expand the scope of teaching reviews of junior faculty and adjunct faculty so that the reviewer explicitly considers course design,

assessment methods, readings and other assignments, and identification of outcomes and success in reaching those outcomes, in addition to classroom pedagogy. Evaluation of teaching should be consistent with ensuring that every course and program at the law school advances our students' preparation for service.

j. Prepare Graduates for Careers in Law-related Professions and Roles as well as in Law Practice:

The faculty should build preparing for service in so-called "alternative" careers (which are increasingly "mainstream" careers) into course and program design. The law school should devote administrative resources to supporting students in a diverse range of career aspirations. This serves the needs and goals of our students and graduates and the needs and interests of the legal profession and the related legal services industry.

k. Know What We Know:

Many faculty members are already experimenting with new pedagogies, forms of assessment, and substantive teaching and learning. Those innovations should be documented, inventoried, and promoted to students, graduates, and the bar, as well as being made accessible as models for other faculty. In part we want the world to know what is going on; in part we want to gather better data (even if anecdotal data) regarding what is working in the current curriculum.

l. Reward and Add More Support for Existing and Emerging Innovation of Value:

The best way to build a culture of innovation is to recognize and reward innovation as it emerges.

2. Curriculum structure – Overview of the Three Year JD Program

a. Identify Macro Outcomes:

The law school should be explicit that the first year leads to identified outcomes (including substantive knowledge, practical skills, and elements of professional identity, each of which we would have to specify) that produce success in the second year (requiring additional specification), and that the second year leads to identified outcomes that produce success in the third year. The law school's current set of Student Learning Outcomes (SLOs) could continue to provide the end-point for the three-year JD program, and/or could be used to reverse-engineer SLOs for the 1L and 2L year, and/or could be used as starting points for higher-order/more conceptual or lower-order/more specific outcomes at each stage. At the end of the third year, the law school should expect mastery of specified things that

are captured in the phrase “prepared to serve.” The entirety of this structure should lead to identified outcomes that produce success upon graduation (passing the bar) and beyond (beginning a professional career).

b. Start with a Broader Sense of Fundamentals and Build Progressively to Mastery:

The first year should focus on “fundamental” skills and knowledge. “Skills” could and should extend well beyond the standard “legal research, reasoning, and writing” skills that are now the skills focus of the first year. (See below for more specific recommendations regarding the first year.) The second year should focus on consolidating those skills, applying the skills and that knowledge in specialized domains, and incorporating experiential learning (as defined broadly, below). The third year should focus on applying the teaching and learning of the first two years in one or more experiential settings. Looking at this sequence in reverse, the experiential opportunities of the third year should explicitly state that they depend on (and require) that certain competencies be acquired and demonstrated at the conclusions of years 1 and 2.

c. Anticipate and Prevent Conflicts:

In principle this overall structure is consistent with the law school’s existing menu of certificates and concentrations, with its commitment to various joint degree programs, and with its offering non-JD degree programs (LLM, MSL, SJD). Care should be taken throughout, however, to avoid introducing unanticipated organizational or conceptual conflicts.

3. The First Year in More Detail: Specific Proposals

Rather than mandate the introduction of any innovation across the board, the Task Force recommends that the structure of the first year be revised to accommodate innovations supported by faculty members who volunteer to lead their development and to expect that those innovations will be reviewed periodically and revised or extended and expanded as appropriate.

a. Offer a First year Small Section as a Laboratory for Course and Teaching Innovation:

The Task Force proposes that a single small section (20-25 students) be created within the first year class and that the curriculum and pedagogy for this group serve as a “laboratory” for programmatic innovation, particularly within the first year as a whole, in order to enable the law school to address service-related and professional identity-related topics beginning in the first year. The Task Force refers to this as a “lab section,” although the faculty and administration of the law school could and should consider an appropriate and perhaps better formal name

for it. The lab section would be a context where the law school's existing focus on legal literacy (substantive legal knowledge) and core legal writing skills could be expanded in ways that highlight the goal of preparing all of our students to serve in diverse professional environments. The balance of the first year class would be divided into two large sections and would be assigned the existing required first year curriculum.

The content of the curriculum for the lab section would be grounded in (and therefore substitute for) the current required "classic" first year subjects, so that students enrolled in this section would be deemed to have completed those subjects for purposes of satisfying graduation requirements. The content of the lab section curriculum would also displace the separate legal writing and analysis curriculum for section students. Students enrolled in the lab section would not complete eight separate courses.

The teaching would be handled in a coordinated (and to some extent integrated fashion) by a team of four or five volunteer faculty members, drawn from every part of the current teaching faculty (and possibly including student or recent graduate teaching assistants and/or teaching fellows) who would teach the entirety of the curriculum, including skills development (including legal writing and analysis) and identity formation, as well as substantive law.

Identifying or selecting students to participate would require some careful additional thought. Student selection matters critically to effective evaluation of the program. Students might be invited to volunteer, or might be randomly assigned to the section, or might be given the opportunity to opt out of possible assignment.

We anticipate that the results of the "lab section" innovation should be evaluated for their potential to benefit every student in the law school. "Lab section" teaching strategies and successes might be exported to other courses and programs, even while the "lab section" remains as-is; the "lab section" mode of teaching might be expanded to more of the first year or otherwise. Other options might be identified.

The intended outcomes for the program would be documented in advance; the teaching faculty would report progress periodically to the full faculty; and the entire program would be evaluated critically after no less than some fixed period of time, likely three to four years, and then renewed, modified, and/or expanded.

This proposal could be adopted in tandem with the first year elective proposal (below) or independently of it. The Task Force believes that the first year elective proposal should be implemented even if the lab section proposal is not adopted and that the lab section proposal should be implemented even if the first year elective proposal is not adopted.

b. Offer a First Year Elective:⁷

The Task Force proposes that first year students be offered the option of taking one three-credit elective course in the Spring semester in addition to their required courses. This option would be offered to all first year students. Students would have the option of taking an elective or not taking an elective.

The number and types of elective courses to be offered would depend on faculty members who volunteer either to design original courses (whether solely for first year students or for combinations of first year students and upper level students) or to add first year students to existing upper level elective courses that are suited to that treatment. These courses might be taught by solo teachers and/or by teams. We anticipate that between 3 and 5 elective courses would be offered to first year students.

Students who enroll in an elective would complete 17 credits in their Spring semester; students who do not take an elective would complete 14 credits.

The Task Force does not propose that any specific course content be offered as a first year elective, or that any particular pedagogy be employed. We hope that volunteer faculty would seek to find ways to introduce training in various lawyering skills, including writing, fact investigation, counseling, negotiating, witness examination, and problem-solving, and/or also to introduce alternative modes of student assessment and student self-assessment. Any faculty members who want to offer “lawyering competency” training and/or otherwise innovate in content or pedagogy as part of an existing mandatory first year course would be encouraged to do so, as they are welcome to do currently.

We anticipate that the elective portion of the first year might provide an opportunity to introduce one or more areas of focus with respect to professional and personal intelligences, such as leadership development, business training, and organizational awareness and training.

The long-term vision underlying adoption of the proposal should include using some or all of these electives to illustrate the strengths and weaknesses of different models of integrating lawyering skills, including legal writing and analysis, into “substantive” or “doctrinal” first year courses. Future outcomes might include, possibly, the eventual abolition of the distinction between “substantive” and “skills” courses.

At the option of the volunteer faculty, these elective courses might involve team teaching, but there is no specific expectation regarding the composition of

⁷ Pitt Law currently does not offer first-year students that ability to enroll in any elective courses.

teaching teams or pedagogy. Classroom, clinical, legal writing, and adjunct faculty could each comprise and/or be parts of teaching teams.

Any new content added to the first year, whether as an elective course or as an added “skills” or other non-traditional component to an existing mandatory course, should be subject to appropriate review and assessment by full-time faculty members. The review should go beyond what has been traditional “classroom observation” and should include critique of the mode of team-teaching, of assessment methods, of proposed readings and activities, and of student self-assessment.

4. The Second Year in More Detail: Specific Proposals

a. Build on Strength:

The Task Force believes that the second year is a real strength of the school in terms of pedagogical and curricular innovation and relevance, but that those strengths are not as well-known as they could or should be. The Task Force recommends that the law school take steps to identify and highlight existing innovation in this area and to encourage more of it.

b. Develop a Required Experiential Learning Progression:

The Task Force proposes that the faculty require that each student complete at least two “significant” “experiences” or experiential learning opportunities across the two upper level years. (“Significant” could be defined by credit hours or by category of experience or in some other way.) Experiences during the second year would be presumptively more likely to be classroom-based; experiences during the third year would be presumptively more likely to be live client or field-based. The purpose of expanding the experiential learning concept across both second and third years is to implement the idea of progressivity, from acquiring skills and knowledge during the first year to using those skills and knowledge in supervised settings during the second year to putting those skills and knowledge to “live” use in the third year. The scheme parallels the enhanced legal writing progression proposed below.

As part of this proposal, the Task Force recommends that the faculty identify and highlight experiential learning opportunities in the second year and foundations in the second year for experiential learning in the third year. Experiential learning opportunities play two related roles in the second year curriculum. In part they provide, in their own right, important preparation for students who are searching for summer positions between their second and third years of law school. Necessarily this involves a broad definition of “experiential learning,” involving classroom-based exercises and role-playing as well as live-

client, team-based, and simulation-based activity. In part they provide important foundations for more advanced and sophisticated experiential learning opportunities to come during the third year. To the greatest extent possible, experiential learning opportunities in the second year should be keyed explicitly to building on learning outcomes for the first year and to the serving the needs of students in the third year.

On-site opportunities for which academic credit is granted (whether paid or unpaid) should be structured to ensure that they are directly associated with faculty-supervised learning. The law school may use this theme to drive interest in the Semester in DC program,⁸ pro bono engagement by students, and other “specialization” programs.

The Task Force anticipates that this requirement would provide opportunities for “classroom” and “academic” faculty to build experiential learning dimensions into their courses and programs.

c. Restructure the Legal Writing Curriculum:

The Task Force proposes revising the upper level writing requirements (the Upper Level Writing Requirement and the “W” requirement⁹) to require students to complete at least one writing experience during their second year. For many students, this will result in completing one writing experience during the second year and one during the third year. It is possible that some students would devote so much of their third year to experiential learning opportunities that do not satisfy at least one of the upper level writing requirements that those students would need to complete all of their writing requirements during the second year. Relatedly, the law school should encourage development of a greater variety of legal writing opportunities for students, even given the diversity that is present already.

d. Offer a Revised Legal Profession Curriculum:

The Task Force proposes restructuring the legal profession curriculum to require second-year students to enroll in a Legal Profession course satisfying the ABA’s professional responsibility requirement¹⁰ and to schedule all of those courses during the Fall semester. A separate course focused on preparation for the

⁸ Pitt Law offers its JD students the ability to spend a semester in Washington, DC, serving an externship and studying under the supervision of a full-time faculty member located there.

⁹ Pitt Law currently requires upper level JD students to complete both a standard long research paper (the Upper Level Writing Requirement) and, in addition, at least one course designated “W” in the course catalog, meaning a course in which professional writing constitutes a substantial portion of the assessed course content.

¹⁰ ABA Standard 303(a)(1). *See*

http://www.americanbar.org/groups/legal_education/resources/standards.html.

Multistate Professional Responsibility Examination (MPRE) would be offered as a Spring elective for second or third year students.

The Task Force believes that clustering Legal Profession courses in this way both would prepare students effectively to engage in the upper-level experiential learning sequence proposed above and would provide a foundation for discussion of law and ethics topics throughout other law school courses and experiences.

A Legal Profession elective course offered only to first year students might be offered during the Spring semester. An MPRE preparation course might be offered in additional semesters.

The Task Force discussed some possible extensions of this Legal Profession proposal but does not propose them. Each of the courses referred to in the first paragraph above might be titled “Legal Profession,” with a colon and secondary text following that title to indicate its specific content and/or any sequencing or progressive character related to those courses.

5. The Third Year in More Detail:

The Task Force believes that the third year is likely of greatest value to the goal of preparing students to serve if it is viewed primarily as

- an opportunity for experiential learning, in clinics, externships, and practicums, and in pro bono public service and even in extracurricular settings facilitated by the law school;
- an opportunity for students to develop mastery of particular skills and/or subjects that advance their interest in being prepared to serve. (Those opportunities may or may not relate to existing certificate or concentration programs and may, for example, involve additional legal writing opportunities.);
- an opportunity for students to elect to prepare to take a bar exam.

Those objectives may overlap.

The Task Force emphasizes that its proposal regarding experiential learning spans the second and third years and that its proposal regarding the legal writing curriculum also spans the second and third years.

a. Graduates Should Be Prepared for Service:

The faculty should develop and implement a way to assess and confirm, *on a student-by-student basis*, that each graduating student of the law school is “prepared for service.” In some respects this idea reflects the basic proposition that we as teachers should hold ourselves accountable for the work that we do. In some

respects this idea reflects the proposition that no law school should graduate students into the world of service who are not, in fact, capable of delivering competent services.

The Task Force discussed a number of ways to implement this idea but did not agree on a best method, and it does not offer a proposal on this point. Possibilities include:

- “Confirmatory” experiences, assessments, or certifications for each student, possibly at the end of each year, or at the end of the second year, or just prior to graduation, much like what medical schools do periodically.
- An assessment or endorsement or a “sponsorship” as a condition of graduation by a specific faculty member and/or advisor (or by some group or committee that is specific to each student), who certifies that the student is prepared for service.
- Some kind of portfolio evaluation, which might be part of either of the first two options.

Any option presents a number of practical and policy choices. In some respect, the Task Force recognizes that this level of certification or assessment might be redundant, if the law school truly adopts and applies a culture of individualized teaching and assessment throughout the JD program that is geared to preparing each student to serve.

The Task Force returns this question to the faculty and Dean for further discussion.

6. Summary: Proposals for Faculty Adoption

Actionable items described above are summarized as a list of proposals here, in abbreviated form.

a. First Year Elective Courses:

The Task Force proposes that the faculty permit students to take one elective course during the Spring of their first year. This would be elective both in the sense that students might opt to take or not to take such a course during that semester, and in the sense that students who opt to take an elective course would be able to choose one from several possible options. All first year students would be given the elective option.

b. Experiential Learning Progression:

The Task Force proposes that the faculty require that each student complete at least two “significant” “experiences” across their two upper level years.

(“Significant” could be defined by credit hours or by category of experience or in some other way.) Experiences during the second year would be presumptively more likely to be classroom-based; experiences during the third year would be presumptively more likely to be live client or field-based.

c. Restructured Legal Writing Requirements:

The Task Force proposes that the faculty revise the upper level writing requirements such that students would have to distribute satisfying those requirements across their second year and third year. For many students, this will result in completing one writing experience during the second year and one during the third year. It is possible that some students would plan to devote so much of their third year to experiential learning opportunities that do not satisfy at least one of the upper level writing requirements that those students would need to complete all of their writing requirements during the second year.

d. Legal Profession Curriculum:

The Task Force proposes restructuring the Legal Profession curriculum to require second-year students to enroll in a Legal Profession course satisfying the ABA’s requirement and to schedule all of those courses during the Fall semester. A separate course focused on preparation for the MPRE would be offered as a Spring elective for second or third year students.

B. Recommendations Concerning Individual Instruction

To advance the goal of preparing each and every student for service, the Task Force urges individual faculty members to consider adopting any and all of the following strategies in their courses and programs:

1. Use Team-based Teaching and Learning:

This would include collaborative teaching with colleagues from the law school, from other Pitt units, and from other Pittsburgh-area universities.

2. Use Classroom-based Experiential Teaching and Learning:

This would include simulations, case studies, and participatory student exercises, complementing clinical education, externships, internships, and other live client-based education.

3. Assess Students Using Methods in Addition to or as Alternatives to End-of-semester Exams:

Additional assessment methods may consist primarily of formative assessment directed to oral presentation and advocacy skills, persuasive writing

skills, and professional identity formation as parts and parcel of the idea of “preparing to serve.” The faculty might consider revision of paper requirements for independent study and seminar papers that satisfy the Upper Level Writing requirement. Lots of additional forms of assessment are available and offer a range of benefits in terms of measuring student performance during the semester, including mid-term exams, short papers, oral exams, and team-based projects. This Task Force urges that every course and seminar include at least two graded assessments. One of those could be a final exam.

4. Explore Questions Regarding Lawyers’ Roles, and Explore Service Opportunities for Students:

In principle either or both of these approaches could be implemented with respect to the subject matter of any course or program.

5. Adopt Express Professionalism Standards:

These could relate to class performance and participation with respect not only to mandatory attendance, preparation, and technology use but also to classroom demeanor and timeliness.

C. Recommendations Concerning Administration of the Law School

The Task Force offers the following recommendations regarding administration of the Law School. These are organizational strategies that may be implemented without a formal vote of the full faculty and have an overarching goal of creating and sustaining a culture that values innovation designed to prepare our students, and each of them, for service. The Task Force suggests that the Dean consult with the faculty in appropriate ways with respect to moving forward with any of these recommendations.

The Task Force is mindful of the fact that any organizational change implies some expense and therefore involves careful consideration of the law school’s priorities.

1. Make Innovation an Institutional and Cultural Priority:

To ensure that the faculty remain focused on innovation and adaptation, to put “Preparing to Serve” into practice, and to identify curricula, programs, courses, and pedagogy that support our goal of assuring mastery by each graduate, the Task Force recommends that some institutional role or repository of the Task Force’s current mission be created and maintained.

The Task Force does not share a view regarding the best way to accomplish this.

At least one member of the Task Force recommends appointing a member of the full faculty to a position of responsibility in connection with implementing and monitoring the success of innovative courses and programs for teaching and learning. This person might be assigned a title, such as “Associate Dean for Innovation” or “Chief Innovation Officer.” A handful of other law schools have appointed an “Associate Dean for Experiential Learning.” The position would be a fixed term (perhaps three years). Its mission would be to catalyze a culture of innovation and impact by the faculty and staff in teaching and other forms of program development and execution.

The position would include a budget that could be used not only to support conferences and guest speakers but also to support individual faculty interested in developing new courses and/or new teaching methods and materials and/or otherwise participating in legal education innovation programs whether at Pitt or elsewhere. This position would supervise periodic review of all teaching and curricular innovations introduced following this plan, by working with colleagues to develop and apply appropriate standards.

At least one member of the Task Force recommends, instead, institutionalizing the Task Force as a faculty committee and charging that committee with the tasks described above with respect to a particular appointee.

2. Use Incentives, Coupled with Accountability:

The Task Force recommends that the law school offer summer stipends for proposals for teaching innovation on a par with summer stipends for scholarly innovation and that it consider offering other resources (release time, modified teaching loads, exemption from service, fellowship funds) to incentivize and reward teaching innovation, including (but not limited to) teaching innovation in the area of experiential learning. Any new incentive program should be accompanied by standards and stipulations regarding accountability. That means, for example, that the recipient could be required to account to the Dean periodically for his or her use of the funds, and that the results to be supported by the funds (new courses, new materials, new collaborations, and so forth) could be demonstrated and delivered by date or dates specified in the original grant. Recipients would have to codify their innovations in some shareable way either by publishing a summary or presenting their innovation to the full faculty, or both.

3. Leverage the Concept of “Preparing for Service” Throughout the Law School:

The Task Force recommends that the entire law school, not only the faculty, be engaged in preparing our students for service. Using existing resources (the Director of Administration and staff relationships; the Annual Review process), the

law school could promote the several related cultures implicated in this Report: a culture of service, a culture of innovation, a culture of assessment and accountability, a culture of community (that is, shared vision), and a culture of recognition and reward. Techniques used to advance that idea might also be used to advance similar concepts often associated with successful organizations, such as a culture of excellence and a culture of gratitude.

4. Communicate:

The Task Force recommends that the law school capture and publicly advance a vision of the law school and its faculty and students — as ambitious, accountable impact-oriented innovators supporting our students’ preparation for service – through Admissions, Alumni Relations and Development, Career Services, and community partnerships. This would be coordinated through a Director of Marketing and Communications but could be as innovative and up-to-date in style and execution as the substantive content itself.

5. Coach:

The Task Force recommends that the law school create a corps of alumni partners who coach/mentor each and every one of our law students. Some senior alumni recognize this as an updated version of classic “preceptorship” programming. But the coaching would focus as much on life skills and maturity as on professional skills. “Coaching” and “mentoring” could be done informally, on a one-to-one basis, and/or in structured groups, as exemplified by Harvard Law School’s “Reading Group” program and the “Society Program” at the University of Texas School of Law.

6. Publish:

The Task Force recommends that the law school support innovative models of publishing and procurement of teaching materials. Because access to innovative course materials is a barrier to teaching innovation, the law school could borrow custom publishing resources (such as Print on Demand services) from the University of Pittsburgh’s University Library System, to facilitate materials development. Online services are emerging to facilitate inexpensive, custom-designed, online development of both materials to support “standard” law school courses (such as Torts and Civil Procedure) and “novel” law school courses (such as interdisciplinary or specialized courses).

7. Leverage Technology and Teaching Resources Flexibly:

The Task Force recommends that the law school provide resource innovation that supports preparing our students for service. Possible approaches include:

- Outfitting classrooms – particularly small classrooms – with commercial technology that supports virtual collaboration with other schools and organizations. Collaboration could take one or more of the following forms: (i) course offerings co-taught by faculty at other schools in the US and/or outside the US; (ii) course offerings to include students at other schools in the US and/or outside the US; (iii) scholarly and/or other extracurricular events and activities with colleagues and/or students from other schools. As much as possible relevant software should be procured from open access / open source sources, in order to reduce costs.
- Providing financial incentives to faculty who want to use technology to create wholly or partly “flipped” classrooms. As always, incentives should be coupled with accountability mechanisms.
- Creating a “faculty support team” of law school staff members to serve the technology needs of all faculty teaching at the law school, including adjunct faculty. This would be something like an in-house “Geek Squad.”

8. Strategically Integrate Centers and Institutes:

The Task Force recommends that the law school consider prioritizing strategic alignment of centers, institutes, and other specialized programs (concentrations, joint degrees, other professional and non-professional degrees, and the Semester in DC program) with the overall law school program, with the condition that affirmative and strategic support by the school, and continued programmatic autonomy, comes with the expectation that marketing, communications, and administration of the centers will be coordinated with those of the law school as a whole and its core commitment to preparing each student for service. All recipients of law school support need to be “rowing in the same direction.”

9. Leverage the Law Library:

The Task Force recommends that the law school encourage the law library to master and train students in the emerging technologies of the legal services industry, supplementing its traditional role in providing access to legal information. Some emerging commentary suggests that the traditional law library is no longer as useful to the mission of a law school as it has traditionally been. Our law library can build on its existing service orientation and can add new value to the mission

of the law school by inventing new roles for itself focused on preparing our students for service.

10. Leverage Career Services:

The Task Force recommends that the law school consider changes to the structure, purpose, and mission of the Office of Professional and Career Development that increases the ability of that office to offer customized job search and placement support to each and every law student and to advance the law school's goal of developing each student's professional identity and preparing each student for service in a heterogeneous legal services market. One option might be to move toward something resembling a "concierge"-style system along the lines of those now being adopted by business schools, because of the increasingly heterogeneous market for MBA graduates.

D. Proposals and Themes Considered but Not Included in This Report

This Report specifically and purposefully omits certain things that have been much discussed in the literature in general and that were mentioned in at least some of the conversations that formed parts of the research of the Task Force. We note them here to confirm that the Task Force does not prioritize them as specific recommendations at this time. If resources to support any or all of these become available in the future, each of them may be pursued by the School in ways that are consistent with this Report.

1. Post-JD Incubators and/or Pre- or Post-JD "Captive" Law Firms or Incubators:

The Task Force believes that there should be explicit conceptual space in the law school's program for entrepreneurial efforts by faculty to develop "incubator" programs that would serve students preparing to graduate and/or recent graduates, and for related partnerships between the law school and local practitioner, business, and service communities, to the extent that they align with the school's overall "preparing for service" program.

2. Capstone Courses:

The focus of this Report is to guide students to experiential opportunities during their third year as much as possible. If a so-called capstone course is part of a three-year sequence leading in some specific (i.e., identified) sense to "service-readiness," then the course should be included in the curriculum.

3. Pro Bono Service:

A dedicated pro bono coordinator and/or pro bono recognition program would be consistent with this Report. A coordinator position could be added easily if the faculty and Dean determine that resources should be allocated to such a position.

4. Revenue-generating Programs:

The Task Force determined that this topic is too broad and open-ended to justify including a full examination here. Four obvious ideas would be (i) so-called “concierge” executive education programs; (ii) non-professional certification curricula, perhaps in partnership with other University of Pittsburgh units; (iii) more aggressive use of so-called “3+3” programs, in partnership with units at the University of Pittsburgh; and (iv) opportunities to develop special-purpose applications or versions of the existing MSL program.

In all cases, revenue-generating programs should be evaluated and implemented in ways that provides spillover benefits to the JD experience, in terms of substantive programming aligned with the “preparing for service” theme as well as in terms of revenue.

V. The Task Force’s Working Assumptions

The literature on the state of legal education and the legal profession today is extensive, detailed, and concrete. It contains a lot of critiques, ideas, and forecasts, many of them inconsistent in their particulars. But in broad outline, a handful of key, shared themes can be discerned. The Task Force began its work with those themes in mind.

We set those themes out here, framing them in terms of law schools and legal education in general. The Task Force believes that each of them applies specifically to Pitt Law.

A. Everything is changing.

What we have known for generations as the “legal profession” is evolving into the broader domain of the “legal services industry.” Professional norms, values, and discipline will remain invaluable to law students and graduates in the future, but the proportion of new graduates who build careers as practicing lawyers who serve clients is likely to fall and to continue to fall, and the proportion of new graduates who use their knowledge and training in other ways, in government, business, not-for-profit service, and otherwise, is likely to increase and to continue to increase. The pace and direction of change cannot be predicted with any confidence. The risk that change will be rapid and fundamental is considerable.

B. What law schools are, and what law schools do, is changing, too.

Law schools have competition. Not only do law schools compete with each other, but law schools compete with business schools and with the idea that college graduates need not attend professional school at all in order to build successful careers. Competition of both types is likely to get more intense. That situation presents fundamental questions regarding the mission of each law school and the roles of its faculty in advancing that mission through curriculum and other programs.

C. The economic structure of legal education is changing.

Many American law schools have been funded primarily by student tuition. As applications and enrollment drop, and with uncertainty as to whether or when they might rebound, structural deficits in operating budgets are exposed. Revenue falls; expenses remain nearly constant. It is not clear how long parent universities, alumni donors, and other potential supporters of a law school will be willing to underwrite the operations of law schools that simply maintain the status quo.

D. Innovation and programmatic change must be compelling, even inspiring, to students, alumni, and other potential law school partners.

Looking ahead, few people will want to attend a law school, to donate money to a law school (as an outside supporter), or to support a law school financially (as an inside, university-based supporter), unless there is a distinctive and compelling justification for that decision. Law schools need stories of inspirational impact and change. That relates to changes within law school and to changes among students and graduates, all leading to changes in the broader world. Inspirational change requires more than tweaking a program to create a specialty area, to reinforce skills development, to broaden or narrow the scope of the substantive knowledge conveyed, or to market the existing program more effectively. Inspirational change begins with a shared set of values and purposes and makes its way to implementation and execution by full participation of every member of the community in the things that the community believes must be done. The assumption that “we are doing everything that we can” must be replaced, via the development and application of huge doses of imagination, by the assumption that “we will do everything that we are inspired to do.” If a law school and its faculty and students are truly inspired, then the marketers and storytellers will have plenty of material to work with.

E. Every student must succeed.

The current, default structure of most law school curricula, programs, and courses is mass production. We teach to large groups of students and evaluate them

often on end-of-semester exams, imposing a curve to sort stronger from weaker students but rarely pausing to ensure that each and every student has achieved mastery of relevant concepts and skills. That premise should change. We must assure mastery by each and every student. In doing that, we should not assume that our current program and teaching methods optimally serve any of our students, even if many of them transition successfully into the legal profession. A minority of law school graduates do not succeed, either because they are not prepared adequately to pass the bar exam or because they do not have the skills needed to secure professional employment and build a career, or both. Yet we do not know precisely what works well and should be emphasized, and what might work better. To figure out what form of education best serves every single student, law schools need to find ways to build a culture of continuous innovation into their programs. To paraphrase President Dwight Eisenhower, who was asked about his plan for the Allies in the European theater in World War II, the point of thinking critically about law schools is not the plan itself. It's the planning, that is, creating a culture of ambition and adaptation in pursuit of our overarching goal.

F. Start small, and build on success.

The last 15 years of research in management and organizational change teaches that building durable, effective organizational change means building around “disruptors,” “champions,” and “change agents,” individual and small group innovators who push the proverbial envelope of accepted behavior in an organization and model success for the larger group. The typical alternative, designing a plan that includes all stakeholders and respects all interests, then implementing the plan and hoping that it succeeds, is in fact not a proven model. Cultural change is critical, but culture must grow organically rather than be imposed from the top. “Norm entrepreneurship” from the bottom up should be welcome.