

NEW YORK UNIVERSITY SCHOOL OF LAW
BOARD OF TRUSTEES STRATEGY COMMITTEE
REPORT AND RECOMMENDATIONS
October 5, 2012

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I. Introduction

In May 2011, Anthony Welters, the Chair of the New York University School of Law Board of Trustees, and Dean Richard Revesz convened a Strategy Committee of the Board to explore how potential changes in the legal profession, particularly in the business model of large law firms, might affect the Law School. The Strategy Committee has been chaired by Trustee Evan Chesler '75, presiding partner of Cravath, Swaine & Moore, and includes several trustees who are partners at major law firms and general counsel at large publicly traded companies and asset management firms, among others, who are deeply familiar with both the market for legal services and the hiring needs of legal providers (see Appendix for list of members). The Strategy Committee's goal has been to think about how to design the most effective 21st century legal education, and to recommend what the Law School should do to continue to attract the very best students, prepare them for success in practice (and related fields), and make them the most attractive candidates to employers.

The Strategy Committee has met several times over the course of the year, and consulted with members of the faculty and administration, who in turn surveyed faculty, students, alumni, and employers. The Committee also has considered the research that was done by an outside consulting firm, Peterson Skolnick & Dodge, and the findings of past strategic planning initiatives undertaken by the Law School, including the Dean's Strategic Council, which convened leading members of the Board as well as alumni engaged in all walks of the profession, and a subsequent strategic planning process that identified areas of strategic priority to enhance the education the Law School provides its students.

Lawyers today practice in an increasingly competitive, globalized arena where multi-dimensional problems require complex solutions. Students need a broad set of abilities to be prepared to respond to the impact of globalization, budget pressures, and changing client demands. The Committee agrees that the Law School should not shift its core mission, as firms will continue to look for the same strong skills, knowledge, and ethics training that NYU currently provides its students. But it recommends that the Law School introduce changes that would distinguish its graduates over the long run, making them as versatile and efficient as possible, so that they can succeed at the highest levels in a more challenging environment.

The Committee focused on recommendations that would respond to the needs of leading employers, including proposals to enhance global fluency and the ability to function effectively in a globalized world; to foster a deeper understanding of the pervasive role of government in the private and public sectors; to offer professional pathways that prepare students to operate in a world that demands increased specialization; to provide insight into the complexity of the business and financial issues that clients face; and to train collaborative problem solvers who are able to function effectively in teams and are prepared to lead those teams.

The Strategy Committee's final recommendations are described below. They include a number of components, some already under development, that will be launched in the 2013-14 academic year. The most significant proposals are intended to redefine the third year so it becomes a more meaningful and valuable part of a student's professional training. Observers have long raised questions about the utility of the final year of law school, and the rising cost of law school has raised commentary about the value of the 3L year to the student and prospective employers.¹ Committee members believe that the third year can be enhanced to offer students programs for focused study and skill development that can enhance the market appeal of their J.D. While not foreclosing the exploration of structural alternatives to the current three-year approach, the recommended changes will increase the value of the 3L year.

Among the recommended initiatives is an NYU Law School Semester Study Abroad Program in Buenos Aires, Paris, or Shanghai that will combine a strong classroom experience with internships in the region and opportunities for language training. As part of the Law School's new International Immersion Program, this overseas experience will help prepare students for global legal practice. The Committee also recommends greater focus on the role of government in the private sector through a third-year clinic in Washington D.C. Global Legal Practice and Government Lawyering are two of several new "Professional Pathways" that the Law School will offer to 3L students as they prepare to transition to legal practice (or other careers). These faculty-designed pathways in areas of demand in the marketplace will make the 3L year more meaningful for many students by allowing them to delve more deeply into a particular area of the law, signaling a level of commitment and giving them additional expertise that employers will appreciate. Additional recommendations for measures to be incorporated throughout the three-years of the J.D. program include curricular enhancements to develop business and financial literacy, and new programming and instruction to build leadership and collaboration skills.

II. Global Fluency

Recommendation

Offer a third-year study-and-practice-abroad semester that serves as the culmination of an integrated, multi-year International Immersion Program aimed at preparing students for global legal practice.

Rationale

The increasingly global nature of law practice, in areas ranging from climate change to commerce and war crimes to taxes, demands lawyers able to work across jurisdictional

¹ SEE JOSE A. CABRANES, LEGAL EDUCATION TODAY AND TOMORROW (REMARKS AT THE ANNUAL LUNCHEON OF THE AALS, JANUARY 6, 2012).

and cultural boundaries. And, despite English being one of the world's dominant languages, knowledge of local languages is more critical as more litigation, M&A work, and other transactions take associates all over the world and require them to deal with regulators and local counsel in foreign jurisdictions. Existing study-abroad programs offered by law schools (including NYU), offer valuable opportunities for study of foreign law, but NYU Law School can improve on current offerings – and distinguish itself and its graduates – by developing a more ambitious, integrated program that combines language training, cultural education, and foreign practice opportunity (through internships and clinics) with formal course study in other countries. NYU Law School faculty, working in collaboration with overseas partners, are well positioned to design a program that will prepare students for global legal practice.

Background and Next Steps

The Law School pioneered the concept of the “global law school” well before any of its peers, defining a framework for global legal education. Thanks to the aggressive and visionary investment the Law School made in founding the Hauser Global Law School Program in 1994, it now has the leading program in the country with an exceptional array of globally-oriented curricular offerings, a full-time faculty that is truly international, a Global Visitors program that draws top scholars from around the world to its campus, and an LL.M. program that brings top talent from around the world, particularly via the “Hauser Scholars” program.

In its initial years, the Hauser Global Law School Program focused on bringing the world to New York, recruiting faculty and research fellows from around the world to bring a global perspective to the Law School's classrooms and enrich its intellectual community. In recent years the Law School has extended the Hauser Program to bring NYU to the world through programs and partnerships with law schools and research institutes abroad, as well as through international conferences and workshops involving its faculty and students. In May 2007, the Law School launched NYU@NUS, its LL.M. program in Singapore, in partnership with the National University of Singapore. NYU Law School has entered into exchange agreements with 15 schools that allow students to study around the globe in locations such as Amsterdam, Beijing, and Sao Paulo, among others.

The Law School also offers several clinics with global dimensions including the long-standing International Human Rights Clinic, and a new Global Justice Clinic through which students have already done significant work in Haiti and Nepal, among other countries. This year will mark the launch of two new clinics with a global element. The first, the International Organizations Clinic, will assign students to work with international organizations, some of which are based in New York City, so they can better understand the role and functioning of these organizations and further develop the lawyering skills that are necessary in the practice of international law. Second, through the Constitutional Transitions Clinic, run by the new Constitutional Transitions Center in partnership with the Cairo office of International Institute for Democracy and Electoral Assistance (IDEA), students will provide “back office,” real-time research support to constitutional advisors in the field.

The Law School has numerous research centers and institutes, many of which are internationally focused, that afford opportunities for students to work on collaborative research projects with faculty and visiting fellows from around the globe, and do meaningful work in their third year. Each year the Law School also places more than 50 students in summer and post-graduate internships in other countries and with international organizations.

In response to the recommendations of the Strategy Committee, the faculty has designed a study-abroad option that will enable students in their 3L year to study in programs established and administered by the Law School in significant cities in Europe, Latin America, and Asia, and get an in-depth experience of the law, culture, and economy of those regions. Although the Law School currently offers 15 exchange programs with other schools, as mentioned above, it does not have control over the courses our students can take or the ability to tailor the academic content of the program to maximize the substantive value for our students. As a result, only a small number of students take advantage of the exchange programs, and the range of their experience varies. This new program will go far beyond the traditional study-abroad options available at many law schools because the classroom experience will be complemented by internships in the region with law firms, non-governmental organizations (NGOs), and other institutions, study tours, and opportunities for language training. The customized curriculum will combine theoretical and practical learning with clinical and transactional courses. These experiences will enable students to develop linguistic capacity and cultural awareness, as well as a deep understanding of the major economic and political issues in each location, preparing students for global legal practice.

The sites for these programs will be Buenos Aires, Paris, and Shanghai. Law School faculty are currently designing the curriculum and recruiting the faculty in each region. A practice component will be provided through a clinic or regionally-focused transactional “deals” course, aimed at giving students an advanced understanding of both public interest and private sector practice in each region, as well as concrete training that will serve them throughout their careers. It is currently anticipated that each program will accommodate between 15 and 25 NYU J.D. students for a semester. In order to enrich the experience of the participating NYU students, classes will, to the extent feasible, include students from the region.

The study-abroad sites will be located where NYU (the University) currently has academic programs and associated infrastructure (Buenos Aires and Paris), or, in the case of Shanghai, is in the process of building a campus. At each site, NYU has (or will have) excellent facilities and professional administrative infrastructure, and is willing and able to incorporate any proposed Law School programming. NYU has made an important investment in building the infrastructure needed to be the Global Network University, and this initiative importantly leverages the advantage of being affiliated with that effort. The Law School’s program in Singapore has also given us invaluable experience in what is required to provide an academic program overseas.

The semester study-abroad experience for 3Ls will be the most important element of a broader new International Immersion Program that will include other components, including language training during law school (on a non-credit basis), specialized 1L summer internships abroad, and opportunities to connect with foreign-trained LL.M. alumni for career advice and networking opportunities. The faculty voted to approve the semester abroad proposal at their last meeting in May, and the Law School is seeking approval from the American Bar Association to launch the program in Spring 2014.

III. Role of Government

Recommendation

Offer an intensive Washington, D.C.-based study-and-practice program for 3L students with particular interest in understanding the role of government.

Rationale

The dichotomy that law schools have traditionally drawn between public law and private law is highly misleading. Virtually all legal arrangements are affected by government regulation, and the business model of many companies depends heavily on government actions and programs, such as tax preferences, loan guarantees, import restrictions, export incentives, and differential regulation applied to their competitors. The continued rise of global regulatory bodies, as well as the development of a regulatory state in key emerging economies, makes a sophisticated understanding of the interplay between domestic, regional, and transnational legal norms and structures increasingly important. The Law School can continue its role as a leader and innovator in legal education by offering a program of intensive study and practical training in the role of government that is relevant to multiple career paths.

Background and Next Steps

NYU Law was among the first to create a 1L course exploring the Administrative and Regulatory State, now called "Legislation and the Regulatory State" (LRS). LRS provides an overview of the process by which legislation is created, interpreted and implemented, including the constitutional rules governing the relations between the actors responsible for enacting and administering statutes.

More recently, in 2010, the Law School developed an Administrative and Regulatory State Clinic to teach students how to advocate effectively before administrative agencies and to improve the quality of government decision-making in the fields of administrative law, economics, and public policy. The clinic focuses on practice before federal administrative agencies to help students develop a set of core administrative lawyering skills. Fieldwork in the clinic provides opportunities for students to gain skills in

collaborative problem-solving, effective communication of legal issues and strategies, working with non-legal experts, and relationship building.

In addition, the Law School has been able to attract leading public figures to teach its students and share a sophisticated understanding of the intersection between law and government across a range of areas in the classroom. Students are able to take courses from experienced practitioners, including Neil Barofsky '95, former Special Inspector General of the Troubled Asset Relief Program (TARP), on the government response to the financial crisis; former White House Counsel Robert Bauer, on law and the electoral process and on presidential power, and C. Boyden Gray, on energy policy; former New Jersey Attorney General Anne Milgram '96 on human trafficking; Judge Douglas Ginsburg of the U.S. Court of Appeals for the D.C. Circuit (and a former administrator of the White House Office of Information and Regulatory Affairs (OIRA)) and Sally Katzen, also a former OIRA administrator, who teach the required first-year Legislation and the Regulatory State course as well as specialized seminars; and Judge Arthur J. Gonzalez (LL.M. '90), who presided over the Enron, WorldCom, and Chrysler bankruptcies as Chief Judge of the United States Bankruptcy Court for the Southern District of New York and teaches bankruptcy law. The Law School has also hired as full-time faculty some of the nation's leading public law scholars, including two who founded the burgeoning field of law and democracy. One of the newest members of the faculty, David Kamin '09, is an expert in public finance who, until this summer, served as Special Assistant to the President for economic policy, and is currently teaching a seminar on federal budget policy as well as income taxation.

In 2011, the Law School launched the Frank J. Guarini Leaders in Government Service Institute to provide structured support for students interested in leadership roles in all levels of government as well as at think tanks and policy organizations. The Institute builds on the success of the Guarini Government Summer series, which was created in 2009 for NYU Law School students spending their summers in Washington, D.C. in order to promote leadership and government service. Through the Law School's Public Interest Law Center, some 435 students receive summer grants each year to gain valuable professional experience in public service settings in the United States and abroad. As a result of these efforts, since 2008, the Law School has tripled the number of graduates securing positions in the federal government, including competitive positions in the Honors Programs at the Departments of Justice, State, Housing and Urban Development, Energy, and Transportation, among numerous other agencies.

In the 2013-14 academic year, the Law School will introduce a 14-credit "Legislative, Administrative, and Governmental Lawyering Clinic" that will consist of a full semester for 3L students in Washington, D.C. Students will do fieldwork in government agencies four days a week for eight credits, in addition to taking six classroom credits and writing a paper supervised by Washington-based or New York-based faculty. The focus of the clinic, which will be run by Sally Katzen, will be on the legislative process and administrative law, as students explore in depth the role and skills of the government lawyer, and consider how, as private lawyers, they would interact with government regulation.

Although the focus will be Washington D.C. and hence the federal government, both the processes studied and the skills learned will be readily transferable to state, and even local government decision-making, and relevant to a broad range of practice. The fieldwork component will place students in a variety of federal agencies.

IV. Professional Pathways

Recommendation

Allow 3L students to develop specialized knowledge and training by electing to follow “professional pathways” in areas of important demand in the marketplace.

Rationale

A J.D. has long been viewed as a generalist degree, and graduates have typically specialized during their initial years of practice. But the changing economics of law practice is making it harder for law firms to devote time to training entry-level attorneys. Government and non-profit employers also have limited resources for training. While there is a tension between the market demand for specialized skills and the professional flexibility enjoyed by generalists, the two do not have to be mutually exclusive. The Law School can continue to teach thought leadership and generalist skills to enable graduates to provide counsel on a wide range of problems, but it should also provide students with a platform on which to build a specialty. By offering faculty-designed “professional pathways,” the Law School will make the 3L year more meaningful for many students and let them signal a level of commitment and develop expertise that employers will appreciate.

Background and Next Steps

The Law School has developed the leading group of scholars among the top schools in a number of legal areas. Since 2002, NYU Law School has increased the size of its full-time faculty by 31%, appointing 44 new professors who have expanded the breadth and depth of the Law School curriculum. It has also fostered a graduate school model, under which faculty collaborate with students as colleagues, co-authoring books and articles, and setting up the opportunity to do meaningful work in the third year.

In several areas the faculty’s depth allows the Law School to complement traditional courses and seminars with a rich array of simulation courses and fieldwork clinics that provide many opportunities for students to develop the wide variety of skills they need for the practice of law, including litigation and courtroom advocacy, legal and policy advocacy outside of the courtroom, and transactional legal skills. Students can choose from a wide range of clinics that will enable them to master particular substantive areas of law while

learning specific skills suited to different practice arenas. The Law School offers litigation clinics in both civil and criminal law that work equally well to foster deep understanding about the interaction of substantive law with procedural and evidentiary rules, fact development, and legal and practical problem-solving, as well as non-litigation lawyering clinical experiences that develop policy analysis and advocacy skills.

Another way that the Law School provides students with the opportunity to do focused professional work during law school and take a “deep dive” in a substantive area of interest is through its many centers and institutes, interdisciplinary ventures that link the important research and scholarly projects of its faculty and students to the real world of policy. During the last decade, the Law School has established twelve new centers and institutes that shape the public discourse surrounding issues such as national and international security in the post 9/11 environment; land use, real estate, housing, and urban affairs; and civil liberties and human rights. Students work together as colleagues with faculty members and professional researchers on salient legal issues with important public policy implications.

The Law School will now create a structure for its curricular offerings that will help students to make the transition to legal practice or other careers by identifying a range of what are being called “professional pathways.” These pathways will offer students the opportunity to develop a specialty in an area of interest even before they graduate from law school, so that they can come to the job market with practical skills and experience as well as a deep, substantive understanding of their chosen field. Pathways will consist of a collection of courses, seminars, simulation courses, clinics, and capstone experiences that are designed to help students prepare for their chosen career area and make them highly competitive in the job market for that field.

The plan is to begin with a group of eight professional pathways, and then phase in others in successive years. For the initial wave of pathways, eight fields of study have been identified in which there is strong demand among students and the market, and in which the Law School already has robust substantive law and clinical offerings and elaborate networks of connections within the field. The eight initial professional pathways to be offered are Law and Business; Global Legal Practice; Litigation and Dispute Resolution; Tax; Intellectual Property; Criminal Practice; Government Lawyering; and Academic Careers. Each pathway will be overseen by a faculty advisor, who will guide students in acquiring the mix of knowledge and skills needed to advance in their chosen field. Students will take either a clinic or transactional class to get a practical understanding of the law in their pathway, and complete a capstone project that includes an internship and a research paper, a mix of fieldwork and scholarship.

Each professional pathway will also provide these communities of law students with specialized programming and advising. Students will be paired with an alumnus-mentor, an accomplished lawyer active in the field, so that they have both a role model and a direct line to an experienced professional working in the area.

V. Business and Financial Literacy

Recommendation

Increase instruction for J.D. candidates at all levels to assure basic business and financial literacy.

Rationale

A large proportion of lawyers in a broad range of practice settings encounter business and financial issues, yet law schools have long lagged in assuring that their graduates have a basic grounding in these areas. NYU Law School graduates who are comfortable with basic statistics, can read a balance sheet, and understand concepts such as discounted value, will be more attractive to employers and more helpful to their clients.

Background and Next Steps

NYU Law School has already done much in this area. As an outgrowth of prior strategic planning initiatives, the Law School developed the Mitchell Jacobson Leadership Program in Law and Business in 2005 to meet the growing demand in the market for professionals with both legal and business skills, and to better capitalize on its relationship with the Stern School of Business and its location in the world's commercial and financial capital. While many law schools offer a deals or transactions course, most offer just one, whereas the Law School offers at least five different courses a year, on various topics. The Jacobson Program's deals courses, branded "The Law and Business of..." Bankruptcy, Microfinance, Corporate Transactions, and Financial Institutions, among other topics, are co-taught by faculty from the Law School and the Business School to students in both schools, and draw on the expertise of dozens of the renowned dealmakers of our day, leveraging the comparative advantage of being in New York City.

The Jacobson Program also created a Business Transactions clinic to provide students with hands-on experience working on transactional and governance projects for nonprofit clients. These intense, in-depth experiences give students a valuable understanding of how legal and business skills intersect in the real world, teach collaborative skills, and prepare students for careers not only as lawyers, but also as corporate leaders and entrepreneurs.

Now, to ensure that all students get some exposure to basic quantitative skills, the Law School plans to introduce a module on business and financial literacy in the Lawyering Program, which is taken by all 1L students. The module, taught by Jacobson Law and Business faculty, will set out essential business and finance concepts that all students should know and connect those skills to an exercise that allows them to apply what they have learned. The Law School will also introduce a course in the upper years that will provide an introduction to basic concepts in business, statistics, accounting, and quantitative analysis. This would be in addition to the Accounting for Lawyers and

Corporate Finance courses that the School has long offered and has tailored for law school students. The Law School will encourage more students to take these courses, underscoring their significance to many areas of law practice.

VI. Leadership and Collaboration

Recommendation

Increase training in leadership and collaboration at all levels for all J.D. candidates.

Rationale

Lawyers in our society routinely become managers and leaders of organizations, yet law schools offer little training in leadership and collaboration. By offering instruction in the personal and professional skills needed to lead, NYU Law School will better equip its graduates to assume top positions and to perform well in them.

Background and Next Steps

Some leadership skills are introduced in the current Lawyering Program, which complements the theoretical, doctrinal courses offered in the 1L curriculum. Throughout the 1L year, Lawyering students collaborate in small teams, evaluate their own performance and that of others, and develop interpersonal communication skills while learning to solve problems and acquire professional judgment. In addition, for 2L and 3L students, the Law School offers a variety of simulation courses, clinics, and seminars that involve collaborative learning.

To ensure that students have the skills identified as essential to leadership, the Law School plans to take five steps. First, the Law School will introduce a Leadership Speakers series, similar to the Leaders in Public Interest Series that has long been the centerpiece of the Law School's renowned Public Interest Law Center. The new "Conversations with Leaders" series will feature a Q&A with lawyers from various sectors to share their insights about leadership.

Second, the Law School will participate in the creation of a new advanced certificate program in leadership for select students in the professional schools. The program, currently being designed by Melody Barnes, the new Vice Provost for Global Student Leadership Initiatives at NYU and former Assistant to President Barack Obama and Director of the White House Domestic Policy Council, would involve select students from the Law School, the Wagner School of Public Service, the Stern School of Business, and the Medical School. Students would learn about contemporary leadership theory and be exposed to specific content on leadership challenges, strategies and frameworks. The program would culminate in a cross-professional team based capstone project.

The Law School also plans to develop subject-area seminars that focus on the exercise of leadership, similar to the Guarini seminar that was recently created to explore themes of leadership in public service. The Jacobson Program is currently designing a “Corporate Crisis” seminar in collaboration with the Stern School of Business that will use factually rich hypotheticals (such as the BP-Deepwater Horizon oil spill) to explore leadership challenges.

Fourth, the Law School will pilot Emotional Intelligence training with a subset of students who are members of existing scholarship programs that emphasize leadership, including the AnBryce Scholarship Program and the Mitchell Jacobson Leadership in Law and Business Scholarship Program. Students will participate in a specialized program developed to provide students with a framework for developing their emotional intelligence skills.

Last, the Law School will institutionalize a Peer Leadership Program based on the existing student mentoring now offered through the Lawyering Program, already a small setting of 30 students per class. Each section currently has three Teaching Assistants who serve as mentors, helping students to navigate law school, think about their careers, and begin networking. Students in the program will receive formal training in self-assessment, coaching, and emotional intelligence in order to develop their own authentic leadership style.

VII. Conclusion

This is a watershed moment for law schools and the legal profession. In recent years, legal education has faced greater scrutiny from practitioners (and their clients) and more critical press coverage, as the law firm market softened and competition for jobs heightened. Law schools have come under attack, facing claims that they are inadequately preparing young lawyers for practice. And while law firms will continue to provide some of the training for first year associates, law schools are increasingly being expected to close the gap between the traditional law school experience—in which students learn how to “think” like a lawyer before going to firms to learn to be a lawyer—and the current demands of the marketplace.

NYU School of Law has long been teaching students to “be” lawyers, and for decades, has taken a leadership role in introducing changes that have redefined legal education: its Lawyering and Clinical and Advocacy Programs, interdisciplinary colloquia, and early recognition that law has an increasingly global dimension to which all students should be exposed in the classroom have all served as models for other schools. The Law School was singled out in a recent, highly influential study of legal education by the Carnegie Foundation for the Advancement of Teaching,² for its successes in integrating theory with

² WILLIAM M. SULLIVAN ET AL, EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 38–43, 58, 99, 119, 179–80, 197 (2007).

practice, and providing students with coordinated, conceptually-coherent building-block learning. Indeed, the Carnegie Foundation described NYU School of Law as a “laboratory for the testing of theories about how best to train legal professionals who are at once scholarly, competent, and ethically committed.”³ In light of the recent turmoil in the legal profession, particularly in the business model of large law firms, the Law School has concluded that the time is again ripe for change and it is the right institution to set a new standard for legal education. The Strategy Committee’s set of recommendations will help better prepare students for success in practice (and related fields), and to ensure that they have the skill sets that are most needed by employers across sectors.

³ *Id.* 42.

Appendix

The Strategy Committee of the New York University School of Law Board of Trustees

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