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From the Managing Director:
Optimizing the Law School Curriculum for the 21st Century

Barry A. Currier
Managing Director of Accreditation and Legal Education

J.D. programs are not likely to expand.\(^1\) If anything, the discussion is about reducing the number of credits required for graduation and shortening the period of study. Yet, there is consistent and persistent conversation about courses or general topics that should be added to what the ABA Standards require. Within the framework of the J.D. degree, what courses or topics should be required by the ABA Standards? Beyond the Standards’ basic requirements, what more, and how much more should schools choose to require? What is the optimal curriculum for schools to require within an 83-90 credit program that stretches over 2+ years? If something new should be added and it is not likely that will be accomplished by increasing the number of units needed to graduate, what will be given up?

Currently, the ABA Standards require only ten credits.\(^2\) Nothing in the Standards requires, specifically, courses in contracts, property, criminal law, torts, or civil procedure, though most schools require them in some form or fashion. Many law schools require more than 10 credits, including credits for some of these basic 1L courses. The more prescriptive the Standards are with respect to the curriculum, however, the less space there is for a law school to design a program that best suits its graduates and markets.

The ABA law school world is more than 200 law schools with widely varying missions, resources, and opportunities. That is a good thing – there are lots of different needs to be served. However, the accreditation standards, including the curricular requirements, apply across the board to all law schools. Requirements that might be appropriate for some schools are not appropriate or necessary for all. Limiting the curricular requirements of the Standards gives each school room to design a course of study that serves it and its students best. Outside of the standards directly related to curriculum, other standards\(^3\) do the work of assuring that a school designs its curriculum to not only serve its mission, but also its students and the public. At the end of the day, the Council has resisted, wisely in my view, making the curricular standards more and more prescriptive, in the face of suggestions to the contrary.

Beyond what the Standards should require of all law schools, questions remain about how a law school should best use the discretionary credits required for its J.D.\(^4\) Law school today is a lot different (and better!) than it was decades ago. It is not the case that the parent or grandparent who went to law school back in the day would notice no differences in the

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\(^1\) The ABA Standards require a minimum of 83 credits and 24 months of study. See Standard 311. Schools may require more credits, and most do. Only 6 law schools require the minimum, and more than two-thirds of the ABA-approved law schools require 88 or more credits.

\(^2\) See ABA Standard 303(a). They are two writing experiences, two credits of professional responsibility, and six credits of experiential learning. Standard 303(a)(2) requires no particular number of credits for the writing experiences, so it could be as few as 1 credit each.

\(^3\) These include but are not limited to Standards 315 (program assessment) and 316 (bar passage).

\(^4\) The difference between the units required for the J.D. graduation and the 10 units the Standards specifically require. Some of those discretionary units will be required by the school, leaving space for “electives” chosen by the students.
course of study or student experience of that person’s child or grandchild attending law school today. That said, it remains the case that the course of study in most law schools continues to be dominated by the study of doctrine.

There is nothing wrong with learning a lot of law in law school; that is fundamental. The question is whether, given competing demands, the substantive law portion of a J.D. program, should recede or be reimagined to make room for other worthy matters, as the practice of law and law graduates’ opportunities evolve. While not an exhaustive list, other worthy matters would include more practice skills (e.g., litigation, negotiation, mediation, interviewing, and counseling); professional skills (e.g., law office management, professional identity, working collaboratively, and understanding the legal services marketplace); technology skills (e.g., how technology is changing the way in which legal services will be delivered to clients and the public, what those legal tech businesses are, and how to work with them); and the increasingly urgent matter of wellness for the individual and the profession.

There is more law to learn, but the law school envelope is not likely to expand to provide more time to learn it. And, there are lots of other matters that a J.D. program needs to address these days. From the Section’s perspective, we need to consider the following questions. How shall we reorganize what we require of every law school’s program in the Standards, given the differences among the schools? If minimizing what the Standards require maximizes flexibility for law schools with varying missions, resources, and opportunities for their graduates, what more should the Standards include to assure the Council and, thereby, courts and the public, that law schools are using that flexibility in appropriate ways that merit a school’s continuing accreditation? For law schools, how should they revise and restructure their J.D. program to most wisely use the limited amount of time they have to prepare their particular students for meaningful and satisfying careers, as lawyers or otherwise.
**Section Spotlight: Upcoming Workshops, Annual Report, and Nominations**

**Erin Ruehrwein**  
Section Director

**2020 New Deans’ Workshop, Deans’ Workshop, and Law School Development Conference**  
The Section will host its workshops for New Deans and Deans, along with its Law School Development Conference the week of June 15 at the Marriott St. Louis Grand in St. Louis, MO. The specific dates of each workshop can be found on the [Section’s Events page](#). Please watch for more information regarding registration to be posted soon.

**Annual Report**  
The Section’s 2018-2019 Annual Report is [now available](#). The *Annual Report* includes reports from the Section’s staff and leadership, and covers other topics including accreditation, site visits, enrollment statistics, Section activities, special events, and more.

Visit the [Annual Publications Archive](#) webpage to view past editions.

**Nominations Sought for Council, Kutak Award, and ABA Presidential Appointments**  
Later in this newsletter, you will find announcements for nominations sought for the 2020-21 Council, 2020 Kutak Award, and 2020-21 ABA presidential appointments. With the deadlines fast approaching, I encourage you to read more about these opportunities and to submit a nomination.

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From the Classroom to the Presidency: Legal Educators Tapped to Run the Campus

Patricia E. Salkin
Provost
Graduate and Professional Divisions
Touro College

The number of lawyers appointed as college and university presidents has more than doubled in each decade of the last three, with a staggering 159 lawyers appointed in the last half of the 2010s. Though I examined this point in my recent piece in the Washington Post, this trend deserves further explanation – especially considering that for 90 years, from 1900 to 1989, fewer than 1% of all college presidents were lawyers.

Historically, the typical path to the college presidency began with a position as a faculty member. From there one was promoted to department chair or dean, followed by an appointment as provost or another senior leadership post in the central administration. Since lawyer presidents often do not follow this path, it is important to consider the pipeline of law professors that has swelled over the last three decades. With more law professors – and more academic administrative positions within law schools, such as associate deans for newer departments like academic affairs, student affairs, research and scholarship, experiential education and diversity and inclusion – more law professors have gained experience in the administrative realm. This makes them more viable candidates for deanships and for positions like those of provost or vice president.

The chart below shows the number of lawyer presidents with prior academic experience. While the number has doubled in each of the last three decades, there is a growing trend, albeit with small numbers, of lawyer presidents emerging entirely from outside the academy. There are a number of lawyer presidents whose prior academic experience does not come from a law school, but rather from another discipline such as business and public administration, or from administrative experience, like serving as vice president for a university department or as general counsel to a college or university.
Why Law Professors Make Good Choices for Campus Presidencies

The next chart illustrates the number of lawyer presidents who previously held appointments as law professors.
A growing number of law professors are skipping over the traditional step of becoming law deans prior to becoming provosts or presidents. This is not surprising, however, since many law professors make attractive and competitive candidates for the role of campus leader. After all, many of the doctrinal fields taught and studied by law faculty are essential to the skillset of effective presidents.

For example, in today’s higher education climate, lawyers with backgrounds in mergers and acquisitions may be desirable for schools that hope to grow by strategically acquiring or merging with other schools. Administrative law, constitutional law, state and local government law, tax law and policy, and other federalism courses are good background for the public policy skills that college presidents need to garner public sector economic support for the campus and higher education in general. They also provide an excellent background for the growing field of compliance issues on campuses. Alternative dispute resolution, mediation, and team-based problem-solving skills are important for resolving conflicts between various campus stakeholders, and for bringing campus constituencies together. Likewise, trial advocacy skills can come in handy to help frame the campus narrative in compelling ways for donors, prospective students, alumni, and other influencers. So too, could trusts and estates be useful when making the case for various forms of planned giving. Faculty who teach in the contracts,
corporate, and business law fields bring a sense of financial acumen and business entrepreneurship essential for the successful president, and labor law faculty can offer unique perspectives in the areas of human resource management, harassment prevention, safety, and appropriate accommodations. Faculty in real estate can be valuable for campuses in need of further development or redevelopment. Lastly, the required course and national examination in ethics and professionalism contributes to a sense of professional responsibility in lawyers that is transferrable to the campus leaders who must be people of high integrity.

There is also no doubt that the rise of the regulatory state has had a major impact on the business of higher education. Today, the National Association of College and University Counsel’s website lists, among other things, the following categories of cases and developments for campus general counsel: accreditation, authorizations & Higher Education Act; athletics and sports; campus police, safety, and crisis management; compliance and risk management; constitutional issues; contracts; discrimination, accommodation & diversity; ethics; faculty & staff; general counsel; governance; immigration and international activities; intellectual property; investigations; real property, facilities and construction; sexual misconduct and other campus violence; students; tax; and technology. Presidents with legal training may be able to more easily navigate the morass of statutes, regulations and case law to effectively work with campus counsel to ensure appropriate preventive law strategies and responses to daily challenges.

Law Deans as a Pathway to the Presidency

The last chart, below, shows the number of law deans who were appointed as a college or university president. It is interesting to compare these numbers to those in the chart above, and to note that more college presidents were formerly law professors and not law deans. This is surprising given the wider breadth of administrative experience and exposure to campus-wide issues that law deans enjoy.

Most often, law deans are selected from the law faculty, including faculty who have assumed great administrative responsibility. Law deans offer additional skills for the presidency. For example, most law deans have proven track records in the areas of fundraising and philanthropy. Furthermore, law deans operate in an environment of shared governance with the faculty, an excellent training ground for shared governance practices throughout the campus. Deans are also part of the chief academic officer’s leadership cabinet, responsible for development and for overseeing a sizable budget, and often part of the formulation and implementation of significant campus policies and strategic direction. This preparation can be invaluable to a new college president.
Influencers and Appointing Authority

It stands to reason that, with more college and universities including law schools within their portfolio, more law faculty and administrators are likely tapped to serve on presidential search committees. While the job of the search committee is to identify, screen, and recommend candidates, it is the governing board that has ultimate responsibility for the appointment. According to the 2015 survey of the composition of college and university governing boards published by the Association on Governing Boards in 2016, the biggest change by percentage of independent college board members was for those members with business backgrounds which rose from 47.9% in 1997 to 54.9% in 2015. Board members with other professional service (which would include lawyers) also increased, from 16.7% in 1997 to 21.8% in 2015. Since more lawyers are helping to select the future of campus leadership, it stands to reason that more lawyers and legal educators are accepted as viable candidates, and more are being selected to assume these top campus leadership spots.
Conclusion

Based on the data from the last thirty years, it is likely that by 2029, lawyers will account for 300 to 400 presidents – or more than 10% of all sitting presidents. While there will always be “non-traditional” presidents, similar to the non-traditional law deans who are selected from outside of the academy, the data still proves that the overwhelming majority of college and university presidents who are lawyers come from legal education. This will continue to be a career path for professors and law school administrators who desire to serve the larger campus community and a broader higher education constituency.

*This research is part of the author’s dissertation for her PhD in Creativity from the University of the Arts.*
Nominating Committee Seeks Names for 2020-2021 Council Slate

The Section's Nominating Committee invites suggestions for at-large positions on the 2020-2021 Council of the Section of Legal Education and Admissions to the Bar. There are five such positions, each for a three-year term. Three of these positions are currently occupied by members eligible to be re-elected to a second term, one being a public member. Additionally, there are two leadership positions to be filled, chair-elect and vice chair, each for a one-year term. Nominees are sought in the categories of judges, academics, practitioners, and public members.

Nominations are requested by no later than the close of business on Friday, March 13, 2020.

The slate of Section officers and Council members will be presented for election at the Section's business meeting during the ABA Annual Meeting in Chicago in August.

The deadline for nominations is March 13, 2020. All nominations must be submitted through the online Council Nominations process.

2019-2020 Nominating Committee

Chair:
Maureen A. O’Rourke
Dean Emerita and Professor
Boston University School of Law

Paul G. Mahoney
Professor
University of Virginia School of Law

David A. Brennen
Dean and Professor
University of Kentucky College of Law

Cynthia E. Nance
Dean Emeritus and Professor
University of Arkansas School of Law

Susan L. Kay
Associate Dean for Clinical Affairs and Professor
Vanderbilt University Law School

Daniel B. Rodriguez
Dean Emeritus and Professor
Northwestern Pritzker School of Law

Jeffrey Lewis
Dean Emeritus and Professor
Saint Louis University School of Law

The Honorable Mary R. Russell
Judge
Supreme Court of Missouri

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Nominations Sought for 2020 Kutak Award

Nominations are sought for the 2020 Robert J. Kutak Award. Established in 1985 by the Section and the national Kutak Rock law firm, the award honors an individual who has made significant contributions to the collaboration of the academy, the bench, and the bar. The award is in memory of Mr. Kutak, a distinguished Omaha lawyer, champion of legal reform, and advocate for legal education.

Nominations can be mailed to:

Kutak Award Committee  
Attention: Carl Brambrink  
Director of Operations  
American Bar Association  
Section of Legal Education and Admissions to the Bar  
321 N. Clark Street  
Chicago, IL 60654

or sent via email to carl.brambrink@americanbar.org.

The deadline for submitting nominations is March 13, 2020.

The 2020 Kutak Award will be presented at a reception during the May 2020 Council Meeting in Chicago. For more information about Robert J. Kutak and the list of past recipients, visit the Kutak Award page.
Presidential Committee Appointments Process – Nominations Due February 21, 2020

The ABA presidential committee appointments process for the Association year beginning September 1, 2020, is now open. The ABA has approximately 100 standing and special committees, commissions, and task forces focused on the Association’s core goals of: 1) serving our members; 2) improving the profession; 3) eliminating bias and enhancing diversity; and 4) advancing the rule of law.

Each year, terms expire for approximately one-third of the committee members. To submit a nomination, visit the online application found at http://ambar.org/appointments. We invite you to self-nominate or nominate someone else. The website will include a list of committees along with links to more information about each entity. Recommendations must be received by February 21, 2020 for consideration. Please note that ABA membership is required for service on ABA entities. The only exception is membership on commissions where non-lawyer experts are allowed to serve. Applicants can join the ABA by visiting https://www.americanbar.org/membership.

In furtherance of ABA Goal III and in partnership with the ABA Diversity and Inclusion Center, we particularly encourage our members from diverse backgrounds to consider applying for a presidential appointment. You may also voluntarily complete the following Goal III Presidential Appointments Form. The form collects information (e.g. your name, demographic information etc.) that the Diversity and Inclusion Center will include on a diverse presidential nominee list that it will support and share with the Appointments Committee to strengthen your nomination. Any questions about the Goal III Presidential Appointments Form can be sent to Safaya.Fawzi@americanbar.org.

Please note that providing the requested demographic information is voluntary and, per ABA’s Privacy Policy, is deemed “sensitive personally identifiable information” that will not be included in membership directories or registration lists, or otherwise be shared publicly. It will only be shared with the ABA Appointments Committee to help facilitate increased diversity and inclusion for FY 2020-21 Presidential Appointments.

If you have any questions about the committees, the appointments process, or what serving on a committee entails, please contact Danielle Norwood, 312.988.5122, in the Office of the President.