

# Ready, or not?

## Reports say nation's law students are underprepared to work as attorneys

BY RHEA HIRSHMAN

As the old saying goes, the way to Carnegie Hall is “practice, practice, practice.” According to many lawyers, judges and legal scholars, that directive could be applied to the nation’s law schools: while their graduates may be well-versed in the academics of law, many leave school without the skills they need to function as working attorneys.

Two reports released within the past year—“Educating Lawyers: Preparing for the Profession of Law,” issued by the Carnegie Foundation for the Advancement of Teaching, and “Best Practices for Legal Education,” published by the Clinical Legal Education Association—investigate how American law schools prepare students for the day-to-day work of lawyering.

“The reports sound similar themes: schools do well at teaching students to ‘think like lawyers,’ but there is concern that too many are graduating inadequately prepared to be lawyers,” says Dean Brad Saxton.

In fact, an excerpt from the Carnegie report states: “Unlike other professional education, most notably medical school, legal education typically pays relatively little attention to direct training in professional practice. The result is to prolong and reinforce the habits of thinking like a student rather than an apprentice practitioner, conveying the impression that lawyers are more like competitive scholars than attorneys engaged with the problems of clients.

The CLEA report notes: “In the history of legal education in the United States, there is no record of any concerted effort to consider what new lawyers should know or be able to do on their first day in practice or to design a program of instruction to achieve those goals.”

These concerns are not new. Saxton cites the widely disseminated 1992 MacCrate Report (issued by the American Bar Association and named for its chief author, Robert MacCrate). It called for legal education that gives at least as much weight to skills—research,

problem solving, factual investigation, communication, counseling, negotiation, litigation and alternative dispute resolution procedures, organization and management of legal work, and recognizing and resolving ethical dilemmas—as to doctrine, theory and rhetoric.

All three reports advocate methodologies and curricula that would bridge the gap between the law school experience and the practice of law. Carolyn Kaas, associate professor of law, director of the Legal Clinic and co-director of the school’s Center on Dispute Resolution, says, “Schools have been graduating students without the tools they need to solve legal problems when they walk into their first jobs; we are relying on working professionals to teach new lawyers.”



Kaas, who was CLEA's president when its report was commissioned in 2001 and now co-chairs the implementation committee, notes also, "When legal education shifted to a university model in the late 19th century, we lost some positive aspects of the old apprenticeship model."

Legal clinics and externships can help provide important experience. At Quinnipiac, more than 83 percent of 2007 graduates took at least one externship or clinic (seven clinics are available, in specialties ranging from health law to taxes), although they are not required. While schools may offer in-class simulations, Kaas says many law students graduate never having talked with clients or been in a courtroom. "Imagine having your appendix removed by someone who had discussed surgery but never seen an appendectomy performed!"

While clinics and externships are valuable tools, there has been resistance to implementing them at some schools. Saxton cites a combination of factors identified in the reports. "First is the inclination of institutions to resist change. Second, many schools have some faculty who haven't practiced much or recently. Can they effectively educate for practice? How do we integrate clinical

faculty, whose work with students is so time-intensive that they may not produce as much scholarship?"

Saxton also points out that as legal education becomes more costly, "There is appropriate consternation about student debt loads. Programs like clinics, with low student-faculty ratios, are more expensive than large lectures."

Even as she advocates for clinical education, Kaas emphasizes that what is needed, and what the reports call for, is not simply "stapling legal clinics onto each campus," but "a problem-solving orientation in every class. How do you talk to distraught clients? How does anger or fear impair the cognition of a witness? What are appropriate alternatives to litigation? How do you handle conflicts of interest?"

In the wake of the reports and of his recent membership on the Connecticut Bar Association's Task Force on the Future of the Legal Profession, Saxton has appointed a Quinnipiac committee to study the three reports and make recommendations.

Kaas, who will serve on that committee, says that, at the same time, work will proceed on implementing the CLEA recommendations. This will include pairing clinical and non-clinical faculty to speak at schools and conferences.

"One of the more provocative recommendations is to change the way law schools measure 'outcomes'—what the students are learning, and whether the teaching is effective. The reports suggest that law schools often rely too much on the students' performance on one exam at the end of a course," Kaas said.

Quinnipiac is reviewing its curriculum in light of the recommendations in the reports, but Kaas thinks students here have an advantage. "Our students can design their study with a balance between doctrinal and lawyering course offerings, and there is a strong foundation of doctrinal training upon which every student can build."

She also noted that each student has the opportunity to enroll in a clinic or an externship, adding that most law schools do not have enough clinical programs available for the entire student body. Quinnipiac School of Law's six concentrations offer the option of deeper study in a particular area as well.

"We all want our students to learn the law," she says, "but we also want them to learn how to use it."

Professor Carolyn Kaas with students in the legal clinic.

