Some Ideas for Preparing Law Students for Real-World Practice

Prof. John Lande

University of Missouri School of Law

Today's Conversation

- I plan a conversation between colleagues rather than a lecture

- Focus on two topics
  - LEAPS ideas for teaching more about "practical problem-solving"
  - Using simulations more often

Premises for Today's Conversation

- There is a need to increase practical skill training
- This is a HUGE topic we can't fully cover today
- This is a sensitive topic touching feelings and identity of most faculty

Working Together and Appreciating Each Other

- Important to appreciate colleagues focusing on producing scholarship and teaching doctrine
  - Their work is – and will continue to be – important
- Important to appreciate colleagues focusing on teaching skills and librarians
  - They often feel under-valued, vulnerable, and/or invisible
- Reform process involves very difficult conversations
  - Use techniques in "Difficult Conversations" book

The "Curse of Coverage"
(The Elephant in the Room)

- Phrase from Barbara Glesner Fines
- **Dilemma for most faculty trying to provide most possible instruction with limited time**
- "Mile wide, inch deep" instruction
- Challenge grows as doctrine mushrooms
- How much do students learn and retain?
- Hidden messages about what is important or not

LEAPS

- Legal Education, ADR, and Problem-Solving Project of ABA Section of Dispute Resolution (leaps.uoregon.edu)
- Incorporate more "practical problem solving" (PPS)
  - Interpersonal skills
  - General lawyering skills (eg, interviewing, factual and legal research, writing, analyzing options)
  - Dispute resolution
  - Professionalism

Barriers to Teaching More PPS

- "Not role of law school or doctrinal courses"
- "I don't have the practical experience"
- "I don't have the time"
- "This won't help students pass the bar"
- "I can't assess students' learning of PPS"
- "Students will resist"
- "It's too difficult logistically"

Some LEAPS Suggestions
(which you may already do)

- Shift <u>some</u> hypos from appellate argument to client counseling or negotiation

- Focus on problems instead of only cases & doctrine

- Use some simulations inside or outside class

- Videos / guest speakers

- Informally collaborate with colleagues

- Get advice from LEAPS consultants - civ pro, clinics, contracts, criminal, family, labor and employment, prof. responsibility, property, torts

Overcoming Barriers

- If you are interested but think, "Yeah, but …"

- … see detailed suggestions on LEAPS website

Simulations

- Taking step beyond <u>thinking and talking</u> about law

- Students **act** in lawyer's role (or related roles)

- Assumes outcomes not based solely on law & facts

- … also affected by moves of independent actors, eg

  - Clients

  - Counterpart lawyers

  - Mediators

  - Judges

Simulations in Law School
(not necessarily long or complex)

- Litigation activities, eg,
  - Interviewing and counseling clients
  - Conducting depositions
  - Trying cases
  - Making appellate arguments
- "Alternative" dispute resolution
  - Negotiation
  - Mediation
  - Arbitration

What Simulations Do You Use?

- What works well with your simulations?

- What are the challenges with them?

Simulations in Doctrinal Courses

- Consider teaching goals and mix of teaching methods
- Can be in class or outside class
- Can be short
- Can integrate learning at end of unit or course
- Need not be graded
- Can use 1-page assessment sheets
- Ask about "aha" moments
- May reduce some coverage ... consider your priorities

Multi-Stage Simulations

- Obviously more ambitious
- Example: possible stages in negotiation
  - Conduct initial client interview
  - Develop relationship with counterpart lawyer
  - Plan negotiation process
  - Conduct factual investigation / legal research
  - Prepare client for negotiation
  - Conduct final negotiation
  - Draft settlement agreement

Potential Benefits

- Greater identification with legal roles

- More realistic interactions

- Sharper focus on discrete elements in process

- Deal with more complex issues

- See connections between stages

- **Increased and deeper learning**

  - **Consider what students will retain**