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# Curriculum Mapping: Bringing Evidence-Based Frameworks to Legal Education

Debra Moss Curtis
*Nova Southeastern University - Shepard Broad Law Center,* vollweiler@nova.edu

David M. Moss

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# CURRICULUM MAPPING: BRINGING EVIDENCE-BASED FRAMEWORKS TO LEGAL EDUCATION

DEBRA MOSS CURTIS*
DAVID M. MOSS**

## I.      INTRODUCTION

In 2007, the faculty at Nova Southeastern University, Shepard Broad Law Center (NSU) approved a project for the Curriculum Committee designed to provide the law school with an evidence-based framework for considering curriculum enhancements and revisions. This article is designed to document the extended process in which the law school is engaged, and establish a framework for other schools that may wish to initiate their own curriculum project with the explicit aim of enhancing and aligning their curriculum and thus improve the learning and teaching of the law.

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    *    Debra Moss Curtis is a Professor of Law at Nova Southeastern University Shepard Broad Law Center, where she teaches Contracts, UCC: Sales, UCC: Secured Transactions, and Law Office Management Workshop. This pilot project was conducted jointly with Professors Ron Brown and Douglas Donoho of the Shepard Broad Law Center, and this article, detailing the process, would not be possible without their hard work on the project. Thanks also go to Professor Michael Flynn, who originally brought the idea of curriculum mapping to the curriculum committee.
    **    Dr. David M. Moss is an Associate Professor of Curriculum and Instruction at the University of Connecticut's Neag School of Education. His professional areas of expertise include curriculum studies and research-based educational reform. He specializes in international and environmental education and serves as a consultant for numerous institutions and organizations.

The idea for curriculum mapping came to NSU through a faculty member who had seen a "curriculum map" for a K-5 school. Such a "map" was an end result—a document laying out the topics and skills that students would be learning at the school across the years, and how they interacted. He brought the idea to the law school with the notion that we could create such a document for our own curriculum, and use it as a resource for both faculty and students to better understand the sequence and relationship of and among courses.

Committee members began researching and investigating curriculum mapping. As we soon discovered, curriculum mapping is a process, not an end result.[1] After two years of dedicated effort, we are a faculty actively engaged in thinking about and documenting our curriculum, while collaborating in ways that we had only imagined could happen. Although we consider our work far from finished, we already have benefited greatly from having undertaken this process through improved communication, and greater attention to our teaching. This article tells our story while instructing others who may wish to engage in such a substantial evidence-based curricular process.

Part II of this article describes the curriculum mapping process as it is used in education generally. Part III discusses curriculum reform in the law school arena. Part IV of this article discusses our project—first the student survey process of the curriculum mapping project, then the faculty survey process, then the data collection and analysis process in which we engaged. Part V offers our conclusions and recommendations.

## II. CURRICULUM MAPPING

Curriculum mapping is a coordinated effort conducted by faculty members to better understand the scope and sequence of their own curriculum with the explicit outcome of engaging in a coordinated and evidence-based reform process.[2] It is a process by which education professionals "document their own curriculum, then share and examine each other's curriculums for gaps, overlaps, redundancies and new learning, creating a coherent, consistent curriculum within and across schools that is ultimately aligned to stan-

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1. "Mapping is a verb. It is active," according to Heidi Hayes Jacobs. JANET A. HALE, A GUIDE TO CURRICULUM MAPPING: PLANNING, IMPLEMENTING, AND SUSTAINING THE PROCESS, at xv (2008) [hereinafter HALE, A GUIDE TO CURRICULUM MAPPING].

2. *See* Fenwick W. English, *Curriculum Mapping*, 37 EDUC. LEADERSHIP 558, 558 (1980).

dards and responsive to student data and other . . . initiatives."[3]  One purpose of mapping is that "[s]tudents should know where they are going, why they are going there, and what is required of them to get there."[4]

The idea of mapping a curriculum was popularized by Fenwick English in the 1980s as a "reality-based" documentation of the curricular content that is actually taught, and matching it against the prescribed assessments.[5]  In the next decade, Heidi Hayes Jacobs enlarged and expounded on that idea, and proposed a multi-phase process for accomplishing the mapping process.[6]  In this multi-phase process, the first question to consider when undertaking such a project is, "what is curriculum?"[7]  It has been suggested that "curriculum is developed from any material a teacher refers to or uses to decide what to teach, when to teach it, and how much of it to teach," which may include textbooks, state and national guidelines, administrative directives, and personal experiences, among others.[8]  In examining curriculum, when these varying resources and the use of them are not documented or shared in meaningful ways by teachers, the result can be an experience by students that is less than optimal.[9]

The reality across many areas of education, including higher education, is that faculty often holds little or no direct knowledge of what *others* are actually teaching in their courses, coupled with a poor sense of the curriculum in its entirety.[10]  Even among faculty within a given specialty area, or who teach different sections of the same course, these gaps can be significant.[11]  When little or no data about what is actually being taught in classrooms is available, one of two things may result—either schools defensively project the image of being in lockstep with regard to curriculum across the institution, or schools become overly loose in terms of monitoring their curriculum such that there is little or no understanding of what is really going on in the classroom.[12]  A big-picture understanding of a student's journey

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3.  SUSAN UDELHOFEN, KEYS TO CURRICULUM MAPPING: STRATEGIES AND TOOLS TO MAKE IT WORK, at xviii (2005).

4.  Oklahoma State Department of Education, Curriculum Mapping, http://sde.state.ok.us/Curriculum/CurriculumDiv/CurrilumMap/default.html (last visited Feb. 21, 2010).

5.  UDELHOFEN, *supra* note 3, at xviii.

6.  *Id.*

7.  *Id.*

8.  *Id.* at xviii–xix.

9.  *Id.* at xix.

10.  *See* HEIDI HAYES JACOBS, MAPPING THE BIG PICTURE: INTEGRATING CURRICULUM & ASSESSMENT K–12 3 (1997).

11.  *See* DAVID M. MOSS & HELEN A. MARX, A REPORT ON THE ALIGNMENT AND ASSESSMENT OF THE CA4 DIVERSITY AND MULTICULTURAL LEARNING OBJECTIVES OF THE GENERAL EDUCATION CURRICULUM 14 (2009).

12.  JACOBS, *supra* note 10, at 3.

through the educational process is a necessary part of providing that educa-tion.[13] Curriculum committees that are charged with the review and approval process for new courses sometimes may lose sight of the details underpin-ning the curriculum, and thus are limited in their ability to ensure a well-sequenced and coherent curriculum.[14]

Historically, curriculum mapping has focused on externally monitoring what actually was being taught within a given curriculum and ensuring that instructors were spending the appropriate amount of "time on task."[15] By contrast, *contemporary* curriculum mapping projects, such as the one piloted at the law school, are designed to generate authentic data regarding what students actually experience—as opposed to what is merely planned for in the syllabus—with the aim of generating faculty consensus around a well articulated set of learning outcomes.[16]

A curriculum map may be useful to a faculty for many reasons, includ-ing helping teachers to understand what is taught throughout a program, coordinating interdisciplinary units, serving as a "venue for fostering conver-sation about curriculum" among faculty, helping students find the connec-tions between subjects in a curriculum, and helping teachers to reflect upon their own teaching.[17] For example, regarding the substance of courses, a curriculum map resulting from this data will enable a faculty to understand when a particular doctrine is actually taught, how it is taught, and if taught more than once, in what sequence. This information then allows the faculty to determine whether instructional changes are warranted to meet the broader learning goals.

Other fields have used outcome assessment planning and mapping in their curriculum building. The Accreditation Counsel for Graduate Medical Education (ACGME) has an outcome project in which assessing the pro-gram's actual accomplishments is used as a core measurement in evaluating the curriculum.[18] The National Council for Accreditation of Teacher Educa-tion (NCATE) makes use of extensive self-study requirements centered around a university's core curriculum, and governs performance-based state licensing for teachers as well as board certification of accomplished teach-

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13.  *Id.*
14.  English, *supra* note 2, at 558.
15.  *Id.*
16.  *Id.* at 558–59.
17.  Curriculum Mapping, What Is It? A Practical Explanation from Least Tern (July 2003), http://www.leasttern.com/workshops/Mapping/WhatIsCurricMapping.ppt.pdf [herei-nafter Curriculum Mapping, What Is It?].
18.  The ACGME Outcome Project: An Introduction, http://www.acgme.org/outcome/project/OPintrorev1_7-05.ppt (last visited Feb. 21, 2010).

ers.[19] At the institutional level, the Harvard School of Dental Medicine has developed a problem-based approach in which concepts are mastered through group discussion and analysis of real patient cases,[20] and their curriculum map demonstrates an interdisciplinary approach to professional training.[21]

By mapping the actual *delivered* curriculum, the law school faculty then may engage in what is commonly referred to as a "backward curriculum design initiative."[22] That is, the resulting maps of key courses and program areas will enable the faculty to evaluate, based on data, what we are teaching across the curriculum, and if desired, plan for courses and experiences which will result in an improved learning experience for all law candidates.[23] By "using data-driven evidence rather than 'verbal claims,'" an accurate assessment can be made.[24]

This process has been described as "backward" in that it mandates goals to be firmly set, then evidence is considered (assessment) *prior* to any specific activities or experiences being finalized.[25] Such an approach is ironically quite forward-thinking and consistent with the current research on curriculum design and reform.[26] Such an approach holds the greatest potential for an evidence-driven curriculum where accountability is transparent and all stakeholders are involved.[27]

Curriculum mapping is at its essence a process—a process of collecting and analyzing data that identifies the core content and assessments used in curriculum for subject areas—with the purpose of improving communication and instruction throughout the curriculum.[28] According to Heidi Hayes Ja-

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19. National Council for Accreditation of Teacher Education (NCATE), NCATE's Role in a Quality Assurance System for the Teaching Profession, http://www.ncate.org/public/ncatrole.asp?ch=1 (last visited Feb. 21, 2010).

20. Harvard School of Dental Medicine, Curriculum Overview and Organization, http://www.hsdm.harvard.edu/index.php/academics/dmd/curriculum_overview_and_organizat ion (last visited Feb. 21, 2010).

21. Harvard School of Dental Medicine, Curriculum Map (June 15, 2005).

22. GRANT WIGGINS & JAY MCTIGHE, UNDERSTANDING BY DESIGN 14 (2d ed. 2005) (emphasis added).

23. *See id.* at 14–15.

24. HALE, A GUIDE TO CURRICULUM MAPPING, *supra* note 1, at 3 (quotations added).

25. *See* WIGGINS & MCTIGHE, *supra* note 22, at 14–15 (emphasis added).

26. *See id.*

27. *See id.* at 15.

28. Curriculum Mapping, What Is It?, *supra* note 17. Least Tern is a consulting firm of two educators who state:

> We believe in the change that computers and other technologies brings [sic] to education. We do not believe that this change means the extinction of the educational values that can be called "traditional." Rather, we believe that a traditional education is enriched by technology tools and by the wealth of resources available on the Internet. We do, however, believe that change

cobs, author of *Mapping the Big Picture*, there are seven phases for curriculum mapping.[29] In phase one, teachers collect the data, including the processes and skills emphasizing the content of concepts and topics and the products/performances of the assessments.[30] This process will be described fully in Section IV, as it comprises the bulk of the pilot curriculum mapping project at NSU Law to date, and has already produced extremely useful information for the law school.

Once this basic set of knowledge is gathered, phase two is a "first read-through" of colleagues' curricula and a basic editing and comprehension by faculty of what is being taught to their shared students.[31] From there, phases three and four are "mixed group" reviews of the data, with such groups first including people who generally do not work together, followed by a large group review of the data by the entire faculty.[32] The purposes of these phases are "reporting out," gathering commentary, and professional development.[33] It is not a judgmental process regarding the persons involved or the successes of individual faculty.[34] Making this process non-judgmental may be held with a pre-determined process to set the stage for this often complex interaction, with roles assigned to various faculty to keep participants on task, such as being a recorder, timekeeper, or facilitator.[35] Such roles can help keep the procedure running smoothly, ensure all stakeholders are engaged in the process, and focus on sharing, not evaluating information.[36]

One question that is frequently asked about curriculum mapping is, "what are we going to do with the information?" Such a question may be asked out of uncertainty as to the purpose of the project, out of wariness for a perceived need for change, or perhaps from the desire to make changes. The data collected from a curriculum map allows the stakeholders in the school's curriculum to take a variety of avenues with the information—from making no changes at all to making drastic changes. It is important for faculty to

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requires a rebirth of the adventure of learning and an affirmation that learning is a process of guided discovery. It is our hope that we can help teachers to become energetic, empowered, restless users of classroom laptops and other technologies. We offer our knowledge and help inexpensively and to small groups, focusing upon a core of "learning for teaching" content that can be immediately used in the classroom.

Least Tern, About Least Tern, http://www.leasttern.com/WhoAre.html#why (last visited Feb. 21, 2010).

29. JACOBS, *supra* note 10, at 7.
30. *Id.* at 8.
31. *Id.* at 10–11.
32. *Id.* at 12–13.
33. *See id.*
34. *See* UDELHOFEN, *supra* note 3, at xviii.
35. *See id.* at 40, 43.
36. *See id.* at 43.

remember that they have this range of decision-making power—and a wide variety in between.

These first four phases set the stage for the final decision making phases.[37] In phase five, faculty actually start to determine what changes, if any, need to be made based on the evidence presented.[38] For example, there may be some "glaring" elements of the curriculum that are unnecessary repetitions or areas of omission of coverage that the faculty can spot and revise immediately. It is important to note though that this "low hanging fruit" approach is not the end.[39] This stage is followed up with phase six, which is determining potential curricular changes that will "require long-term research and development."[40] In this phase, there might be a longer, studied consideration of integrating courses, interdisciplinary work or larger changes in the structure that will require more research.[41] By going through the mapping program through this phase, a curriculum committee can lead a faculty through the examination of their curriculum through evidence-based work, rather than on the mere notions of faculty who may, or may not, call for change based on personal experiences alone without a broader perspective on the entire curriculum.[42]

The last phase in curriculum mapping is perhaps the most daunting in terms of resources and commitment to ongoing improvements in the curriculum—continuing the cycle of curriculum review.[43] A school should set up an appropriate cycle in which the process will reboot to ensure that faculty and students remain on the cutting edge of curriculum innovation based upon the most current data.[44]

It is also important to note that for some schools, the curriculum map may serve only as an information source for faculty members.[45] An effective educator must know extensive information about the students, including how to build on what students already know, and being able to prepare them for where they will be heading.[46] Even if mapping is used for this basic purpose of bringing faculty members up to speed on what is happening in their program, that is progress in terms of benefits for their students.[47] However,

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37. *See* JACOBS, *supra* note 10, at 8–13.
38. *Id.* at 13–14.
39. *Id.*
40. *Id.* at 14.
41. *See id.* at 14–15.
42. *See* JACOBS, *supra* note 10, at 14–15.
43. *See id.* at 15.
44. *See id.* at 15–16.
45. *See id.* at 17.
46. *Id.*
47. *See* JACOBS, *supra* note 10, at 17.

educators may choose to take the process further, through phases five and six.[48]

An additional area for reform may be to identify possibilities to integrate disciplines.[49] As Jacobs states, "merging concepts from two or more disciplines can make for a powerful and lasting learning experience."[50] Mapping can serve as a tool for effectuating that integration, to whatever degree faculty members choose.[51]

Another area in which mapping may be useful is to ensure that assessments of students are aligned with the goals set for student learning.[52] Through mapping, assessments and learning can be correlated and checked to see that what is taught is assessed, and vice versa.[53]

A final use of mapping is to help ensure that what is being taught to students is timely and up-to-date.[54] As faculty members review and share their maps, they may incorporate the other practices—of seeking gaps and eliminating unnecessary repetitions—to cull outdated materials or find opportunities to incorporate new materials in the field.[55]

It is important to note that all of these potential applications of the mapping process are within the discretion of faculty members. Rather than imposing some form of external control or mandate on faculty members, mapping can empower faculty to gain a more comprehensive and rich understanding of what actually happens in their schools and how best to deliver their curriculum to their students.

## III. LAW SCHOOL CURRICULUM REFORM TODAY

This article is not meant to provide a comprehensive summary of those important changes and works, but merely to place our project into the context of the voice of legal education curriculum reform today. It is well-documented that, as a whole, law school curricula has been dominated by the Harvard model set out by Dean Langdell and that, for many years, few schools deviated from such a program.[56] This case study model was the vast-

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48. *Id.* at 13–15.
49. *Id.* at 20.
50. *Id.*
51. *Id.*
52. JACOBS, *supra* note 10, at 22.
53. *Id.* at 23.
54. *Id.*
55. *See id.*
56. Mary Brigid McManamon, *The History of the Civil Procedure Course: A Study in Evolving Pedagogy*, 30 ARIZ. ST. L.J. 397, 399–400 (1998).

ly dominant force in legal education.[57]    However, since the 1960s, most schools have made some changes, incorporating more legal writing and clinical programs, as well as other changes.[58]  Many scholars today still believe that the law school educational program has not yet reached the level of reform needed.[59]

In recent years, however, the idea of revising legal education has gained significant momentum.  Many attribute the opening of the gateway to curriculum re-examination to the ABA task force created MacCrate Report, which in 1992, recommended a variety of changes to legal education to ensure that schools were producing competent, ethical lawyers.[60]  Although it was certainly not the first or only call for reform of curricula, it made one of the largest impacts on the profession.[61]  At its core were "ten fundamental lawyering skills and four professional values" which the report asserted should be acquired by new lawyers, as well as urging an opening of the dialogue about law school curriculum and what is being taught.[62]

Since the time of the MacCrate report, a few more works have had a significant impact on discussions of curriculum in legal education.  One such resource, *Best Practices for Legal Education*, was developed from a Clinical Legal Education Association project in 2001, and has become a source of great discussion among faculties.[63]  "This book provides a vision of what legal education might become if legal educators step back and consider how they can most effectively prepare students for practice."[64]  The book draws on resources, such as *Educating Lawyers* from the Carnegie Foundation for the Advancement of Teaching, and has been instrumental in re-opening many of the doors into curriculum examination initiated by the MacCrate

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57.  *Id.* at 400.
58.  Gary S. Laser, *Educating for Professional Competence in the Twenty-First Century: Educational Reform at Chicago-Kent College of Law*, 68 CHI.-KENT L. REV. 243, 274 (1992).
59.  *Id.* at 276.
60.  Russell Engler, *From 10 to 20: A Guide to Utilizing the MacCrate Report Over the Next Decade*, 23 PACE L. REV. 519, 519 (2003).  The 414 page report was issued by the American Bar Association's Section of Legal Education and Admissions to the Bar, but the task force was chaired by Robert MacCrate.  Russell Engler, *The MacCrate Report Turns 10: Assessing Its Impact and Identifying Gaps We Should Seek to Narrow*, 8 CLINICAL L. REV. 109, 113 (2001) [hereinafter Engler, *The MacCrate Report Turns 10*].  It is through his name that the report is commonly known.
61.  See John C. Weistart, *The Law School Curriculum: The Process of Reform*, 1987 DUKE L.J. 317 (1987) for a detailed discussion of the curriculum reform agenda to date.
62.  Engler, *The MacCrate Report Turns 10*, *supra* note 60, at 113.
63.  *See generally* ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION (2007).
64.  *Id.* at 1.

Report.[65] Another such resource is *Transforming Legal Education*, which is a "critical inquiry into the identity and possibilities of legal education, and an exploration of alternatives to our current theories and practices of teaching and learning the law."[66] This work advocates, among other points of view, interdisciplinary approaches to reimagining the potential for legal education.[67]

Law reviews have published articles urging the reform of legal education or reflecting on this history. For example, in 2001, one author contended that the mainstream law school curricula did not pay sufficient attention to "cultural and transnational dimensions" of the law, while offering proposals to make some of those changes.[68] Another author offers a demonstration of "what rhetorical study can offer to the study of law."[69]

A current initiative from the ABA Section on Legal Education has considered outcome measures as a tool in the accreditation process.[70] In July, 2008, a *Report of the Outcome Measures Committee* was published, the result of a charge to "determine whether and how we can use output measures, other than bar passage and job placement, in the accreditation process."[71] The committee gathered information about approaches used by other accrediting agencies and also examined the law schools' approaches.[72] Ultimately, the report made the recommendation that the ABA accreditation standards should be reexamined and reframed to "reduce their reliance on input measures and instead adopt a greater and more overt reliance on outcome measures."[73] That is, evidence should be paramount in the process.

Outcome measures in this context mean judging the accreditation of law schools by concentrating on "whether the law school has fulfilled its goals of imparting certain types of knowledge and enabling students to attain certain types of capacities, as well as achieving whatever other specific mission(s) the law school has adopted."[74] This is in contrast to the current system,

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65. *Id.*; *see also* WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007).

66. PAUL MAHARG, TRANSFORMING LEGAL EDUCATION: LEARNING AND TEACHING THE LAW IN THE EARLY TWENTY-FIRST CENTURY, at ix (2007).

67. *See id.* at 14.

68. Mark L. Jones, *Fundamental Dimensions of Law and Legal Education: A Theoretical Framework*, 26 OKLA. CITY U. L. REV. 547, 550–51, 559 (2001).

69. Marianne Constable, *On the (Legal) Study Methods of Our Time: Vico Redux*, 83 CHI.-KENT L. REV. 1303, 1305 (2008).

70. *See* Catherine L. Carpenter et al., *Report of the Outcome Measures Committee*, 2008 A.B.A. SEC. LEGAL EDUC. & ADMISSIONS TO THE B. 1.

71. *Id.*

72. *Id.*

73. *Id.*

74. *Id.* at 3.

which some maintain is paying too close attention to what resources a law schools are investing in to achieve their goals.[75] An outcome-oriented approach would alter standards such as Standard 302, which addresses the areas of learning in which a law school should engage.[76] Such a change in the process by which law schools are evaluated for their accreditation certainly would have an impact on the curriculum and affect the delivery of it at any school.

Another program, the Institute for Law Teaching and Learning, which is co-sponsored by the law schools at Washburn University and Gonzaga University, has as one of its goals "student-centered curriculum reform."[77] It offers resources, consulting, and workshops to assist law schools in working on their curricula.[78]

One such resource available to schools on the website is its "Chart of Legal Education Reform," documenting law schools and their proposed or adopted reforms.[79] Sixty-one schools are listed as engaging in some type of curriculum reform, ranging from integrating 1L courses, to expanding legal writing, to creating special programs to address certain skills.[80] It is likely that not all law schools have reported for inclusion in this chart, so more instances of reform may be occurring, such as the one currently at NSU Law.

In March 2009, the Legal Education Analysis and Reform Network (LEARN) report was sent to all deans.[81] The LEARN is comprised of ten law schools working with the Carnegie Foundation for the Advancement of Teaching to "promote thoughtful innovation in law school curriculum, pedagogy and assessment."[82] The schools' involvement began with working

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75. *See* Carpenter et al., *supra* note 70, at 3.

76. *Id.* at 18. Ten other professional areas of learning were evaluated, including "allopathic and osteopathic medicine, dentistry, veterinary medicine, pharmacy, psychology, teaching, engineering, accounting, and architecture," and all accrediting bodies for these areas apply standards based on outcome measures. *Id.* at 20. For example, the ABA has added a rule regarding the relationship between the bar-passage rate of the student body and accreditation. *Id.* at 16.

77. Institute    for    Law    Teaching    and    Learning,    Mission    of    the    Institute, http://lawteaching.org/about/ (last visited Feb. 21, 2010).

78. *Id.*

79. *Id.*

80. *Id.*

81. *See* Posting of Mary Lynch to Breaking News: LEARN Report Sent to all Deans, http://bestpracticeslegaled.albanylawblogs.org/2009/03/06/breaking-news-learn-report-sent-to-all-deans/ (Mar. 6, 2009) [hereinafter Posting of Mary Lynch].

82. LEARN:    LEGAL EDUCATION ANALYSIS AND REFORM NETWORK, GENERAL DESCRIPTION OF PLANNED PROJECTS 2009–2010, at 10, http://www.law.stanford.edu/display/images/dynamic/events_media/LEARN_030509_lr.pdf (last visited Feb. 21, 2010) [hereinafter LEARN: GENERAL DESCRIPTION OF PLANNED PROJECTS 2009–2010]. The law schools are

groups formed at an initial planning meeting.[83] The first working group was charged with examining ways that LEARN could help law schools nationwide examine their curricula for expansion to a wider variety of subjects and learning environments.[84] The second group looked at means to communicate reforms to faculty members nationwide, while the third was charged with "examining the role that assessment plays in legal education."[85] As a result, the groups have proposed projects for themselves that will help encourage the process of curricula reform nationwide.[86]

The following is the list of proposed LEARN projects:[87]

1. "LEARN will generate and disseminate a report on law schools' efforts to implement curricular and pedagogical reform."

2. "LEARN will create a website with a rich collection of teaching resources."

3. "LEARN will conduct small teaching seminars and workshops for law teachers."

4. "LEARN will design and operate a summer institute on law teaching."

5. "LEARN will promote and facilitate rounds about teaching."

6. "LEARN will coordinate collaboration in course development and teaching."

7. "LEARN will create a network for institutional leaders."

8. "LEARN will assess the use of interactive classroom technology."

9. "LEARN will assess the use of periodic written assignments and/or examinations."

10. "LEARN will assess the use of monitored wiki-postings and list-servs."

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"CUNY Law School, Georgetown Law School, Harvard Law School, Indiana University School of Law (Bloomington), New York University School of Law, Southwestern Law School, Stanford Law School, University of Dayton School of Law, University of New Mexico Law School, and Vanderbilt University Law School." *Id.* The report acknowledged that other law schools are involved in curriculum reform and expressed the hope that the network would grow. *Id.*

83.  Posting of Mary Lynch, *supra* note 81.

84.  LEARN: GENERAL DESCRIPTION OF PLANNED PROJECTS 2009–2010, *supra* note 82, at 10.

85.  *Id.* at 10–11.

86.  *Id.* at 11.

87.  LEARN: GENERAL DESCRIPTION OF PLANNED PROJECTS 2009–2010, *supra* note 82, at 14–25.

11. "LEARN will assess the modifications to the end-of-term letter or number grade."

12. "LEARN will assess the use and assessment of simulations."

13. "LEARN will assess alternatives to the traditional bar examination."

It is clear that LEARN has a dynamic and ambitious plan to bring innovation, reform, and discussion of curriculum to law schools nationwide. NSU plans to bring its curriculum-mapping project to this dialogue.

In August 2009, the Southeastern Association of Law Schools held its annual meeting.[88] On one conference day, a workshop entitled "Curriculum Reform Workshop," included panels dedicated to the third year, the first year, coordinating curriculum reform and legal scholarship, and bringing a global perspective to curricular reform.[89] Representatives from several schools shared the innovations and the struggles to reach these new programs at their institutions.[90] For example, Dean Van Zandt of Northwestern University College of Law highlighted their accelerated two-year J.D. program, while Dean Smolla of Washington and Lee Law School discussed in detail their new third-year, practice-based program.[91] The informal discussion on these topics had a repeated theme—that the law school curriculum has been stagnant, but that it has begun to change, and that many faculties find this conversation of change difficult. In addition, while some schools discussed interviewing focus groups or otherwise seeking some factual reason for making changes, other representatives admitted that many decisions about which courses were taught and when they were taught were largely based on anecdotal evidence, personnel, seniority, market forces, or other reasons.[92]

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88. Southeastern Association of Law Schools, 62nd Annual Meeting, August 2–8, 2009 at the Ritz Carlton, Palm Beach, Florida, Conference Program, *available at* http://sealslawschools.org/wp-content/uploads/2010/02/2009-program.pdf[hereinafter SEALS, Annual Meeting].

89. *Id.*

90. *See id.*

91. *Id.*; David Van Zandt & Michelle Greene, Op. Ed., *Stress Core Competencies*, NAT'L L.J., July 7, 2008, at 1. Some schools presenting curricular changes or talking about them were Mercer Law School, Emory Law School, Indiana University School of Law (Bloomington), Maurer School of Law, Elon Law School, and Loyola University, New Orleans College of Law. *See* SEALS, Annual Meeting, *supra* note 88.

92. SEALS, Annual Meeting, *supra* note 88.

The dean of Northwestern University College of Law proposed that there were differing approaches to change in the legal curriculum.[93] The first was that faculties add new or change substantive courses.[94] The second was that they add or change more technical, clinical, or experiential courses.[95] The third was that law schools have worked with delivery innovations.[96] The fourth was that curriculum change has focused on competencies.[97] The two major areas in which most participants on the panels and the audience reported change were in adding courses in practical education and professionalism.[98] But Professor Steven Friedland of Elon Law School, noted that changes in law school curriculum have been "nibbling around the edges," and urged law faculties to communicate more with each other to consider what model of legal education could really work in an institution.[99]

Ours is not the only law school to engage in curriculum mapping.[100] At that same 2009 SEALS conference, the Charlotte School of Law presented information on its own curriculum mapping project, during a session on "Measuring Educational Quality."[101] They demonstrated their educational outcomes and discussed their project.[102] In 2007, the Charlotte School of Law faculty committed to the principles set forth in the Carnegie and Best Practices Reports, and then decided to build their curriculum based upon the educational outcomes necessary to accomplish the law school's mission—to produce practice-ready lawyers.[103] After working through these outcomes and skills, they are now analyzing their results to determine what changes may be made to ensure that their curriculum delivers these outcomes.

Our project is certainly not the only one focusing on studying and rethinking the law school curriculum, and several initiatives are discussed here. However, what we believe makes our project distinctive is that we are advo-

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93.  Dean David Van Zandt, Northwestern Univ. Sch. of Law, Speaker at the Southeastern Association of Law Schools, Annual Meeting, What to Do with the Third Year (Aug. 4, 2009).

94.  *Id.*

95.  *See id.*

96.  *See id.*

97.  *See id.*

98.  *See* SEALS, Annual Meeting, *supra* note 88.

99.  Professor Steve Friedland, Elon Univ. Sch. of Law, Speaker at the Southeastern Association of Law Schools, Annual Meeting, Invigorating the First Year and Other Required Courses (Aug. 4, 2009).

100.  *See* SEALS, Annual Meeting, *supra* note 88; *see also* Jerry Parkinson, *Law School News*, 30 WYO. LAW, Oct. 2007, at 41.

101.  *See* SEALS, Annual Meeting, *supra* note 88.

102.  *Id.*

103.  *See* Charlotte School of Law, Academics, http://www.charlottelaw.edu/academics/default.asp?PageID=25 (last visited Feb. 21, 2010).

cating and detailing for others, a process for schools to use an evidenced-based analysis of a curriculum, without having a specific reform agenda.[104] We are currently evaluating our curriculum to see what students are actually, in reality (and not on paper) experiencing—and will use that knowledge in our future curriculum planning.

## IV.  THE PROJECT AT NSU LAW

As stated, the NSU Law project did not arise because we were dedicated to curriculum reform per se—such a statement would imply that we were committed to making changes and were seeking a tool that would accomplish them. Instead, we were seeking curriculum evaluation, or self-reflection. As discussed earlier, we were formally led to the idea of curriculum mapping through working with a consultant who specializes in curriculum and instruction. After our initial research into curriculum mapping revealed the intricacies of such a process, we quickly realized we were in over our heads and decided to hire a consultant.[105]

We then learned that the first real step in a successful curriculum mapping project may require a shift in perception and understanding of curriculum by those who teach it.[106] Like many other law schools, many of our faculty held two common ideas about curriculum—first, what one teaches in one's classroom is private and a matter of academic freedom, as long as it is within generally accepted bounds, and second, owing to the model set out by Christopher Langdell, certain law courses were stagnant beings that should remain the same throughout the years.[107] However, a curriculum mapping process requires a change in these perceptions, and the understanding both that what went on in our classrooms should become public so that we all can learn from it, and that all courses, no matter how historical the subject matter, can and should be part of an ever-changing process.[108]

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104.  Other law schools may be engaging in curriculum mapping efforts, but our process is quite detailed and moving quickly. *See* Parkinson, *supra* note 100, at 41. The authors note that there is much literature calling for or proposing law school reforms in curriculum, however, these appear all to be based on theories and suppositions, rather than evidence-based mapping.

105.  Several such consultants exist and are available to schools. *See* Curriculum Mapping, http://www.curriculummapping101.com/Curriculum_Mapping.html (last visited Feb. 21, 2010). Law schools should consider that as mapping is new to legal education, any consultant with which you work must be interested in being flexible and learning new methods for the process to accommodate differences in the curriculum.

106.  UDELHOFEN, *supra* note 3, at 9.

107.  *Id.* at 9–10.

108.  *See id.*

Personally knowing a faculty member in the Department of Curriculum and Instruction at the nationally ranked Neag School of Education at the University of Connecticut made getting started easier at NSU Law. After speaking with our consultant, who laid out the process and what it would involve, the next step was to approach our dean and ask for funding for such a project. Using information provided by the consultant, along with a plan of what we would accomplish at the Law Center and a proposed budget, the dean agreed to fund the cost of the consultant to get our project off the ground.

The consultant, Dr. David M. Moss, arrived at the Law Center in January 2008. The two faculty members heading the project met with Dr. Moss for nearly two full days, getting a crash course on the world of curriculum mapping, including goals, procedures, and a new vocabulary. Most of the second day was spent setting specific tasks by which our faculty could proceed.

It became clear that our main focus would be to establish a baseline dataset upon which informed curriculum decisions could be rendered. The data collection would have three components and would be updated annually. The first component of the data was the development and implementation of a survey designed for recent law school graduates. The second component of the data was to come from a faculty survey by which we could evaluate our own thoughts and beliefs about our curriculum. The third, and by far the most time-consuming and labor-intensive, was the curriculum mapping— documenting—initiative. We decided that academic year 2008–2009 would be a pilot year—to "test drive" both surveys and have a small group of faculty work through the process of documenting the curriculum and resolve a process by which larger numbers of faculty could join in with relative ease to bring the project faculty-wide.

When these data sources—the student survey, faculty survey and documenting—are taken together, this curriculum mapping initiative is a start to offer the faculty the evidence required to decide whether it wants to revise and enhance the law school curriculum from a "best practices" perspective.

## A. *Surveys*

Through our initial meetings, we discovered that surveying our students and faculty was an important part of understanding our curriculum. Yearly questioning of graduates is a common practice in the education field to help determine whether established programmatic goals were accomplished from

the perspectives of both faculty and students.[109] Our surveys were created in an educationally sound process. Throughout the spring of 2008, we generated possible questions for both students and faculty, considering what information we might find useful. Each set of questions was then separately sent to our consultant who, in conjunction with his graduate students and colleagues studying curricular design, evaluated the questions for face validity, educational usefulness, and made edits and suggestions. In the summer, we first administered the student survey, followed by the faculty survey in the fall.

At that point we had a "pilot" or draft survey. For the student survey, we selected approximately ten third-year students—about to be graduates—and recent graduates, and sent them the survey. We asked them to answer it as they would if it were sent to them in its final version, and to separately comment on the questions by highlighting anything they found confusing or repetitive, or noting information that they thought or wished would be asked of them. After sharing these results with our consultant, reviewing all responses, and making clarifications, the student survey was ready for implementation. Next, we repeated this process with the faculty survey. We used additional members of the curriculum committee to provide feedback on the faculty survey, and through this extended commenting process, produced a final survey ready for dissemination to the entire faculty.

### 1.    Student Survey

An integral element of any curriculum reform initiative is data derived from student input. Such student input, in combination with our data, can help us devise our goals by which we evaluate our documenting data. This survey was implemented in August 2008, immediately following the July iteration of the bar exam. The survey was administered online, on a voluntary basis to our recent class of graduates only. It was primarily designed to uncover the strengths and weaknesses of the curriculum from a student perspective. The instrument was a combination of open-response and fixed-response questions.

The survey was designed to reveal candidate background data, their level of satisfaction with various law school experiences, their confidence in their abilities in different areas of professional practice, their level of preparation for the bar exam, and their future professional plans. For example, one set of questions specifically dealt with the use of technology in courses at the law school. The aggregate responses from this section of the survey

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109.   *See, e.g.*, NEAG SCH. OF EDUC., U CONN. 2007–2008 ANNUAL REPORT 122 (2008).

will be critical in helping faculty consider ways in which technology should be implemented in our curriculum.

It is anticipated that the survey will be administered to graduates on a regular basis to establish trends over time as a routine element of the curriculum mapping efforts ongoing at the law school.

Although the committee requested that we administer the survey through an independent commercial website,[110] we were required by our university administration to use the university's polling platform, Opinio. Although we had excellent support from our in-house contact, the site experienced multiple problems, from not being available online the day we were to receive a demonstration, to producing a collection of raw data—rather than a report—that needed quite a bit of editing to be presentable.

Recent graduates were contacted by e-mail in June 2008, alerting them of the survey's existence and asking them to complete it in August 2008 after the completion of the Bar exam. In August 2008, recent graduates were contacted with the link to the survey, and were given an explanation of the purpose of the survey. Two weeks later, we resent the link, with a reminder of the survey and of the anonymous nature of the information gathering. After one more reminder early in the fall semester, we had enough information to assemble a report.

We sent the survey to 256 recent graduates. When we closed the data, we had 131 stored responses to the survey, including 89 completed responses, meaning that some students began the survey but only completed portions of it. Thus the partial completion rate was 51% and the full completion rate was 34.7%. While not ideal, it is statistically significant enough for us to examine the data. We attribute our completion rate to several factors:

1. Students have not been frequently surveyed at NSU Law. At some institutions, all students are surveyed yearly, creating a culture of feedback in which the students expect to participate.

2. Because the platform for completing the survey was an "NSU" platform rather than that of an outside entity, there may have been some concern about the anonymity of the responses.

3. Unlike many institutions, we did not offer any outside incentive to complete the survey.[111] Many institutions invest a small amount of money in giving a prize—such as an iPod or gift cards—for which all participants may register and have a chance at winning.

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110. The cost for a year's subscription for unlimited surveying was approximately $300.

111. *See* Allan H. Church, *Estimating the Effect of Incentives on Mail Survey Response Rates: A Meta-Analysis*, 57 PUB. OPINION Q. 62, 63 (1993).

We uncovered some general themes from polling our students. First, we determined that most of our students described themselves as "moderately" or "very" satisfied with all areas of their law school experience regarding learning, such as the overall learning environment, quality and relationship with faculty, and the amount that they learned. This information told us that with a generally satisfied student body, decisions about curricular change should be refining and probably not sweeping.

Another discovery we made through the poll was that a majority of students reported that they were getting similar messages from various faculty they encountered about the curriculum. We asked students whether the messages about the curriculum that they received from faculty they encountered throughout their law school careers, relating to difficulty of coursework, importance of the Bar exam, and importance of ethics, among other areas, were different or similar. The reporting that students were getting a fairly consistent message helped us shape our upcoming faculty survey, as we went into that process with the understanding that we seem to have a faculty actively engaged in our curriculum. This evidence-based gathering of information was far more useful to us than trying to guess what the impact of the faculty on students could possibly be.

A further area in which we queried students was on their beliefs of how prepared and confident they were after graduation regarding specific skills taught throughout the curriculum, such as communicating verbally or in writing to a variety of audiences. We hope to be able to use this feedback as we administer more iterations of this survey and bring the curriculum discussion to the faculty on a larger scale.

One last set of data collected was regarding students' beliefs in how the law center prepared them for the bar exam. As bar passage rates have become the topic of discussion and concern among law schools, this information can be very useful, when combined with the mapping, if the faculty chooses to consider specific revisions to these core courses in the future.

## 2. Faculty Survey

The law school faculty survey was designed to reveal various perspectives on the curriculum by those who are charged with implementing it. This source of data may often be overlooked in a curriculum mapping project, but was believed to be essential to provide the law school with a snapshot of our collective experiences and beliefs about fundamental curricular and instructional issues in order to help us set our goals by which we could evaluate data collected through the mapping. As noted, working with an external consultant, the survey was created and piloted in the summer of 2008 and implemented in the fall of 2008.

The instrument was a combination of open-response and fixed-response questions. Primarily designed to uncover our faculty's knowledge, attitudes, and behaviors regarding issues underpinning the design and implementation of the curriculum, the survey also sought to uncover how faculty allocate their professional time, their overall vision for the trajectory for the law school, and their beliefs about the relative importance regarding the educational mission of the law school.

Fifty-three faculty members responded to the survey, a response rate of approximately ninety-five percent. For this survey, we used a commercial web-based survey platform via the curriculum consultant, SurveyMonkey.com.[112] While the platform produced data that was easier to use for reporting, we experienced some technical problems as faculty members tried to enter certain kinds of data, such as fractions of hours spent on an event, in response to a question that asked for a time commitment. The following is some information regarding our faculty responses. Not every respondent answered every question, as is reflected in the data below.

These questions were designed to reveal a variety of interests, experiences, and attitudes. NSU Law has always informally designated itself as a "teaching" school—a place where faculty members heavily concentrated on, and are proud of, their focus on instructional design and teaching. The responses to the survey supported that assertion, as we discovered that as a whole, our faculty members dedicate the majority of their time to teaching activities, whether in the classroom or preparing for teaching. This scenario was encouraging for proceeding with the documenting step, as we knew we had a faculty engaged in the curriculum.

Second, the specific questions on curriculum gave us a picture of a faculty who are not hungering for radical change, but who are open to discussing reasons why they might consider a change. A majority of respondents agreed in some way that the curriculum currently met the needs of our students, however, paradoxically, also believed that the curriculum needed improvement. Interpreting these conflicting signals led us to the conclusion that the faculty believes our curriculum is solid, but that it could be better, which is a positive frame of mind when undertaking a mapping project.

Lastly, because it was so important to head into a curriculum mapping project with a cooperative and energetic faculty, one measure we wanted to take was the overall feeling of the faculty. The survey generally showed us enthusiasm and interest in being a part of a program that was doing good things for students, and that was encouraging for the project to forge ahead.

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112.   SurveyMonkey, http://www.surveymonkey.com/ (last visited Feb. 21, 2010).

B.    *Curriculum Mapping (Documenting) Pilot*

With the stage set, the curriculum committee decided to begin the data collection process of documenting the curriculum of the law school. However, as getting a law faculty on the same page has often been compared to "herding cats," we decided that before we involved fifty-plus academics in a joint activity, we wanted to "test run" the documenting of a law school curriculum. In addition, resources have advised that one specific discipline should be selected to start the mapping process, rather than attempting all areas at once.[113] Programs starting curriculum mapping should be aware of several potential pitfalls of the process. These include the fact that curriculum mapping is a time-consuming task involving a lot of hard work, that many faculty may not have clearly defined goals that they can articulate, that many faculty may not be interested in the process, and even that teachers within the same subject may not use the same vocabulary describing their subject taught.[114] These and other concerns were part of the reason we chose to pilot the program, to work through some of these issues, so that we could present to our faculty a real picture of how to accomplish this task.

For the fall of 2008, we planned a pilot mapping effort—a one-semester "proof of concept" trial period which would potentially lead to a full-scale project across key areas of the law school. Two sections of Contracts courses and one section of Torts courses served as the context for the pilot study in the fall of 2008.

The documenting effort that we were piloting used the first several phases from Jacobs, designed to unfold at three levels.[115] The first level to which we committed had individual instructors completing a "time sheet" following each class.[116] This timesheet is called the *CourseMap* process and is designed to be *reflective* but *not analytical.* This form was designed to capture the actual delivery of curriculum on a class-by-class basis, as opposed to the *intended* curriculum as outlined in the course syllabus. Such a distinction is essential to produce an accurate database of knowledge, skills, and habits of mind explicitly taught within the context of course work at the law school. Schools also may make a projection map or pacing guide, which

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113.    *See* HALE, A GUIDE TO CURRICULUM MAPPING, *supra* note 1, at 113.
114.    *See* Curriculum Mapping, What Is It?, *supra* note 17.
115.    *See* JACOBS, *supra* note 10.
116.    *See infra* Appendix A, B.

is a tool that projects what will be covered in the future in a program, but a curriculum map, at its heart, is a record of implemented instruction.[117]

The second level of the mapping pilot is the generation of *Micro-Maps*.[118] These maps are generated by faculty working together in a given specialty area. The first stage in creating *MicroMaps* is to analyze the *CourseMaps* from the entire semester with an eye toward identifying any inconsistencies and deviations from the intended syllabus. Faculty are not encouraged to "correct" or alter the differences between the *CourseMaps* and syllabus at this point, but rather merely document them, if they exist.

Next in this level, faculty from a given program area come together to discuss their documenting with the explicit aim of identifying and updating their learning goals for the course or courses in the specialty area. As we had two Contracts sections but only one Torts section, we continued through the next steps with our Contracts *CourseMaps*. For purposes of this pilot, we used the substantive Contracts law as tested on the bar exam as our learning goals/guide for the course. We analyzed our course maps together to see if any differences in coverage existed between the two sections of Contracts taught, and also to see the two sections' alignment with the Florida and Multistate Boards of Bar Examiners' testing areas. While we did use this bar exam testing outline as our goal by which to analyze our course map, it is important to understand that a faculty member or group of faculty members teaching any particular course could set their *own* goals for course coverage and analyze their course maps on that framework.

No matter where or how the goals were set, this stage of analysis is full of discussion and analysis by the faculty teaching that course who participated in the documentation. While our groups of faculty teaching the same courses have met in the past, the discussions were freeform. By comparison, in these sessions, our experiences documenting gave us hard data by which to productively discuss the similarities and differences in our courses on the same topic. Rather than merely an anecdotal sharing, the group creation of a *MicroMap* guided the discussion, as we used evidence of actual teaching practices that we gathered in the *CourseMap*. When done on a large scale, the very process of collectively generating a *MicroMap* will offer some faculty the first complete and accurate look at their own curriculum as it is actually delivered.

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117. *See* Curriculum Mapping, Curriculum Mapping Model, http://www.curriculum mapping101.com/Curriculum_Mapping.html#Curriculum%20Mapping%20Model (last visited Feb. 21, 2010).

118. *See infra* Appendix C.

It is important to note that "similar courses" for purposes of faculty discussion could be either "horizontal" or "vertical" within the curriculum.[119] For example, in the field of Contracts, horizontal analysis may include all faculty who are teaching first-year Contracts, and a vertical analysis may include all faculty who are teaching first-year contacts, UCC: Sales, Remedies, and any other courses, in which data revealed that they shared common doctrine. Horizontal discussions may be useful in a law school environment, to keep professors teaching the same groundwork courses, apprised of what students are building in their first level of education, while vertical alignment can be very helpful to allow teachers to assess what substantive material or skills were taught in previous courses in which students were enrolled, and make informed decisions about whether such material needed to be reviewed or whether such repetition was unnecessary.[120] In other words, the opportunities are plentiful for faculty to group and regroup to analyze what and how information is taught to their common groups of students.

Such a *MicroMap* marked the end of the pilot project, and a point at which a larger-scale faculty participation was ready to be considered. A full-blown mapping project at the law school would involve the third, and final, level of curricular review once each specialty area completed their work at the *MicroMap* level. Representatives from the various specialty areas could come together to generate a *MacroMap* for the entire school. Such a document would offer a year-by-year perspective on the law school curriculum in its entirety. It would tell the unique curricular story of the law school while offering faculty, administrators, technology support staff, and others an evidence-supported position from which informed decisions could be made about our curriculum. For example, with a working knowledge of the actual curriculum in year one and newly refined objectives, faculty could plan for learning outcomes in subsequent course work and clinic experiences to support those core concepts and ensure students receive the knowledge, skills, and experiences in a coherent and well articulated fashion aligned with best practices in legal education. Such a process would allow our faculty to work as a coordinated body of professionals working toward a public and well documented set of program goals consistent with the best practices of legal education today.

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119. *See* Teaching Today, A Curriculum Mapping Primer, http://teachingtoday.glencoe. com/howtoarticles/a-curriculum-mapping-primer (last visited Feb. 21, 2010).

120. *Id.*

## C.   *Fall 2008 Experiences*

With the general understanding of curriculum mapping, and after specific training and planning for the process, we began our pilot program in fall 2008. Three professors teaching two different courses—two Contracts, one Torts—completed course maps during the semester and, through trial and error, worked out a system for efficient documentation of time within the law course framework. This accomplishment was time consuming, frustrating, and yet, ultimately rewarding. We began with the concept that, as lawyers, we were all familiar with the "time sheet" process.

The first step was that we set up a timesheet to document what and how we taught in our classrooms.[121] The original timesheet we created had five columns.[122] The first was for time spent on an activity. We originally decided to keep "lawyer-like" timesheets, dividing hours into tenths—by documenting in six minute increments, like many of us had done in law firms. The problem we immediately encountered was that we had different definitions of what an "hour" was in the classroom—for some of us, we taught in one seventy-five minute block, with breaks or straight through; for others, we taught in two-hour blocks, some with breaks and some straight through; for others, a fifty minute class was an entire "hour." Because we could not agree that sixty minutes was a true "hour," we quickly abandoned this method in favor of just reporting the absolute number of minutes spent on an activity or subject, rather than fractions of an hour.

The second column we created was a place to list different teaching activities in the classroom via an activity code. This list of "activities" grew throughout the pilot program, as we lived through the documenting process and realized that our initial brainstorm of codes did not begin to cover what it was we actually did in the classroom. Our list of codes *initially* included the following:

ADM — Administrative matters relating to the class such as meeting time, etc.;

LEC — Lecturing law;

SM — Time spent leading one or more students in discussion or synthesis of statutory or case law through questions;

PRP — Professor reviewing practice problems; and

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121.   Our initial timesheet and our final product from the Fall 2008 pilot are included in this article as Appendix A and B.

122.   *See infra* Appendix A.

SPP   — Students independently working on review/practice prob-
          lems.[123]

But eventually, by the *end* of the fall pilot, it became the following list:

L    — Lecture;
SD   — Socratic dialogue;
SP   — Student presentation;
SLA— Simulated lawyering activity; and
GA   — Group activity, i.e., students doing something in groups.[124]

The next column we created in the original timesheet was a place for a "Classroom Tool Code." A classroom tool was our idea of a way to document if we used any technology in the classroom, so that we could track what that use was, including both higher-tech, such as PowerPoint, video, internet, as well as low-tech, such as merely writing on the whiteboard, which in many law classes is not even used. Our list evolved to the following:

WB   — White board;
PP   — PowerPoint or similar presentation tool;
IC   — Interactive computer activity; and
TV   — Use of television, or computer, to show clip, movie or the like,
          i.e., not interactive by means of technology.[125]

The next columns we used to document our teaching evolved through the piloting of the program. Originally, we only captured the subject matter taught, but through the discussion and feedback process we had as we were completing the documenting pilot, part-way through the semester we added a column called "Skills Being Taught." We decided, after reflection, that not all time spent in the classroom was exclusively dedicated to covering a certain amount of substantive material, but rather to help impart certain skills to students, that it was important to document this coverage as well as the traditional substantive matters, and that more than one skill could be covered at once. Our list was as follows:

CA   — Case analysis;
PS   — Problem solving;
OA   — Oral advocacy;

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123.  *Id.*
124.  *See infra* Appendix B.
125.  *See infra* Appendix B.

LW   — Legal writing;
DD   — Document drafting;
S    — Synthesis of the law from cases;
ST   — Use and interpretation of statutes;
LS   — Litigation skills;
N    — Negotiation;
I    — Interviewing;
MCT— Multiple choice test-taking;
ETT — Essay test-taking; and
BEP — Bar exam preparation.

For some of us, this column required the most thought into what we actually were doing in the classroom. As we set the goal of completing these timesheets, almost immediately upon exiting the classroom, it was very easy to think back and remember that you covered a certain portion of the syllabus or the casebook. However, thinking about what *skill* students were learning really required a careful consideration of the classroom time spent. We found this to be one of the most valuable parts of the documenting as we were thinking about our teaching on more than one level. We found that even thinking about documenting skills that students learned in the classroom made us more aware of this aspect of education, and encouraged us to ensure that we were working with our students on skills as well as substantive coverage. We all believe that our students benefitted from our heightened awareness.

As for covering the subject matter, we decided that rather than either writing the subject matter in our own words—which may or may not coincide among teachers on topics—or trying to evolve our own common language of a subject matter, that we would use an objective, outside list of topics from the course to unify what we covered in our documenting. For example, in Contracts, both of the professors piloting the program began the course with formation of contracts. However, if we tried to use our own language, one of us might describe an entire four-week unit as "formation," while another might break it down to "mutual assent" and "offer and acceptance;" even further, to "offer" and then separately "acceptance;" or even further, to "acceptance by conduct" or "bilateral acceptance." The permutations were too great to attempt to control. As both professors taught from the same book, we also considered using the book's table of contents as a guide, but we were concerned with the implications for the future, should the mapping project be utilized by the entire faculty, including others who may use other textbooks for the same subject. We did not want to tie the documenting project to a lexicon from which one or more professors would be excluded.

We finally settled on using the topic of subjects from the Multistate Bar Examiners' outline. This list had several benefits and drawbacks. The first benefit was that it was universal—not only could all Contracts teachers eventually use this outline, but it also could be a resource that, as the program grew, other faculty in other subject areas might draw on. Our colleague piloting the Torts documenting also drew on the Multistate Examiners' outline, with success. The second benefit to using this outline was that the list of topics was comprehensive for the course. There were few, if any, topics we encountered, and that we taught, which were not on the bar list. However, there were some drawbacks to this list. First, the outline of topics and our foci did not always match up. Places where we might have wanted more detail in subtopics were grouped together, while in other places in the outline, there were extensive subdivisions of topics that were not relevant to us. In addition, sometimes the terms used in describing parts of the law were not identical to the terms we used in our classroom; however, that in itself was part of our educational process of working together.

The list of topics, as per the bar examiners' outline, is included in Appendix A and Appendix B, as we used them in our timesheets. The subject matter documenting became perhaps the easiest part of the course. We used the outline numbering to quickly drop in the code of the subject matter, again, keeping the list as part of our timesheet template for easy referral.

The last column we created was a free written space for any additional information that we wanted to include. Sometimes this space was used for further subdividing topics when the subject matter code did not allow us to clarify exactly what it is that we taught. Other times, we made additional notes about what we did, just to have the clearest record of our time spent in the classroom.

Once we had finished our timesheets for the semester (one per class), we had our own individual *CourseMaps*, and were ready to begin the next phase. Through various sessions together, we took our two *CourseMaps* for the Contracts courses and tried our hand at creating a *MicroMap*—a product demonstrating the consistencies and inconsistencies between the individual products. While this tool, in a more widespread project, would ultimately be used as the basis of analysis by a group of faculty members to evaluate what is taught and how it is taught,[126] we had no plans to carry it through that far with the pilot. At this stage, we were simply creating the *MicroMaps* to see what method might work for us in the law school environment and what information we obtained from their creation. We created a week-by-week *Mi-*

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126. *See* UDELHOFEN, *supra* note 3, at 53–54.

*croMap* through the first several weeks of the course, and the result for week one is presented in Appendix C.

To create this *MicroMap*, first we combined our timesheets onto one form, in a week-by-week format. To do that, we listed each professor (in this pilot, only two) one after another using the same template from our original forms; but here, using a different color to enter the information for *each* professor on the same form, so that we had a one-glance snapshot of each week's activities—what the coverage of skills and content was for each professor during the same time period—a detailed picture of how we had each spent the minutes allotted to us in the Contracts classroom each week. We completed four weeks' worth of these week-by-week combinations before determining that this was a feasible and useful process. We also determined that we could easily add more professors by extending the chart and adding additional font colors.

From that point, we decided to further summarize the material and see in what ways we could analyze it to get additional levels of understanding of what was happening in the contracts classrooms across the sections piloted. One useful format we developed was a person-by-person accounting only by substantive coverage, included here in Appendix D. We found this summary of coverage, using the original codes by which we did timekeeping, useful and easily expandable for when others participated by merely adding columns to the right, including each additional faculty member. A quick glance at this document—which we only prepared through the first four weeks— told us what was being taught in multiple classrooms in our first-year contracts program. We completed a similarly formatted map for the skills taught and found that equally as useful.

At this point, we felt confident that our methodology was sound, and that the information we produced had the potential to be very useful in facilitating faculty discussions. When these exercises were complete, we truly felt that we had accomplished a great deal by piloting this program. Our goal was to work through the program so that we could present curriculum mapping to the faculty, demonstrate what it is and how it works, and, as a direct result of piloting the program, tangibly demonstrate that documenting courses was something that could be done.

Such results did not come completely without effort or challenge. The first hurdle we crossed was merely remembering to complete the time sheets as quickly as possible. Anyone who has tried to document the time spent on a work project can appreciate that the sooner you document your time, the more accurate the timesheet. However, it was not always possible to complete them immediately. First, right after class is the time many students ask questions or seek your time. Second, one professor ended class at noon and had another class immediately again at 1:00 pm. In that hour, it was difficult

to remember to complete the timesheet among the other things that needed to be done. Another professor taught at night, and when the class was completed at the end of a very long day, staying longer to think about a timesheet often was not possible.

Another difficulty was that we were constantly monitoring our timesheet and methodology, and adjusting it from the appearance in Appendix A to the last product we used in Appendix B. We had dozens of conversations weekly about our timesheets and made small adjustments—sometimes adding as little as one code each week—and evaluating how these changes worked out. This process made us very glad that we completed a pilot. Having forty or more faculty members involved in working out the methodology would have been problematic on two levels.[127] First, it would have been difficult to come to a meaningful resolution of issues with so much potential input.[128] Second, and probably more important, it could have been very discouraging to a large group of faculty, many of whom might have been resistant to the program, to be constantly changing the process as they were undergoing it.[129] Instead of a potentially confusing ever changing task, when speaking with the faculty, we could now present a procedure for mapping that we could demonstrate worked, increasing confidence in the project. Another reason that the pilot was challenging but ultimately rewarding, was the complication in trying to produce a *MicroMap* for the first time, faced with pages of timesheets and an uncertainty as to how to combine them. As this was our first experience in creating a *MicroMap*, it was far easier to leap to this next phase with only two *CourseMaps*, and through trial and error produce a format that seemed useful. Had we struggled with more than two *CourseMaps*, this process surely would have been more complicated to complete.

## D.   *Taking the Program to the Next Level*

Once our pilot of documenting for the fall semester was complete, we decided to take two steps to further the program. The first was to continue the pilot through the next semester, implementing the lessons learned from fall, and expanding it to a few new faculty members who were all teaching Property.[130] This continuation of documenting on a smaller scale would assist us in ensuring that what we had accomplished in the fall could work for

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127.   *See* UDELHOFEN, *supra* note 3, at 23, 25.

128.   *See id.*

129.   *See id.*

130.   One professor from the Contracts pilot also taught Property and led the continuation of the pilot.

other courses, as well as bring other faculty members on board to the experience.

The second step was to present curriculum mapping to the entire faculty, which we did on April 1, 2009, via a lunchtime presentation. The presentation had several parts. First, before the actual presentation, and with the help of our consultant, we prepared a written summary of curriculum mapping and distributed it to the faculty to read in preparation for the presentation. This summary included both a basic introduction to curriculum mapping and an explanation of what we had been doing through our surveys and fall pilot.

For the presentation, the two faculty members who had spearheaded the pilot presented curriculum mapping to the remainder of the faculty, using a combination of PowerPoint slides, lecturing, and handouts. One item that we left out of the presentation was the results of our surveys. We were concerned that the results would become the focus of the discussion rather than the idea of curriculum mapping as a whole, and getting the faculty interested in the documenting process on a larger scale. The results of the survey were distributed electronically after the program.

After we presented our information, we opened up the floor to questions and concerns. One significant concern by some faculty members was the potential evaluation of faculty members based on the information they revealed in the documenting process. The concern generally of those faculty members under contracts which needed to be renewed, or of untenured faculty members, was that the information they provided about what they teach and how they teach it could be used "against" them in their renewal or tenuring process. If other faculty members disapproved of their coverage or methods, they may consciously or unconsciously include what they learned through documenting to make such judgments about contracts or promotions.

Such concerns are not new and have been addressed by those in the field.[131] It is clear that this type of tension and potential embarrassment must be resolved in order for the process to be successful.[132] These concerns come in the context of understanding the overall relationship of teachers regarding working together on curriculum.[133] The different types of relationships that teachers' work related behaviors regarding what sharing encompasses have been documented.[134] The first is "parallel play" relationships in which teachers function next to each other but do not share, nor wish to share, what they

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131.  *See* UDELHOFEN, *supra* note 3, at 23.
132.  *See id.*
133.  HALE, A GUIDE TO CURRICULUM MAPPING, *supra* note 1, at 8.
134.  *Id.*

are doing with their colleagues.[135]   We found heading into our mapping project that this scenario describes many law faculty, even those teaching the same subjects.  A second type of teacher relationship is "adversarial," where teachers purposefully withhold information from each other, even though it might be damaging to the student progress.[136]  While we hope that we do not have that situation on the faculty, the competitive nature of a promotion could very well breed this type of behavior, thus leading to such concerns.

A third type, a "congenial" relationship among teachers, is one that is "friendly on the surface," teachers interacting in superficially positive ways, but not critically examining what they do or why.[137]  This situation can also describe a great deal of law faculty, and may also be fueled by the peer-review process that we have in place in the law faculty.  If you are only sharing positive pieces of your work, your colleagues only can judge you on that shared information.  This may be a disincentive for many junior faculty members to share their teaching on a critical level.  But ultimately, our goal is to instead have "collegial" relationships among our faculty.  This type of relationship is evidenced by teachers working together to advance *everyone's* performance, with faculty "willing to sacrifice and learn anew" to improve students' learning.[138]

To reach this collegial stage, it is crucial that when critically examining the curriculum, teachers focus on facts and data, and not on judging what is in the data collection based on personalities, personal beliefs, or personnel evaluation criteria.[139]  Our dean was present at our mapping presentation and strongly expressed that the information collected was not to be part of the faculty review or renewal process.  Despite that assurance, there were lingering concerns that while a policy could be set to control that sentiment formally, it could not be controlled from being used informally.

A second concern by the faculty was the amount of time needed to document courses.  It is documented that "curriculum mapping requires more time and effort during the first few years of implementation than in later years when mapping becomes established and embedded in the academic and social cultures."[140]  Each of the faculty members involved in the fall and spring semesters piloting were quick to reassure colleagues that while remembering to complete the timesheet was occasionally an obstacle, the actual completion of it was neither difficult nor time consuming.  Each profes-

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135.   *Id.*
136.   *Id.*
137.   *Id.*
138.   HALE, A GUIDE TO CURRICULUM MAPPING, *supra* note 1, at 8.
139.   UDELHOFEN, *supra* note 3, at 40.
140.   HALE, A GUIDE TO CURRICULUM MAPPING, *supra* note 1, at 250.

sor involved in the project independently concluded that while the first few took a little longer, it took approximately five minutes to complete the time-sheet after becoming familiar with the codes.

To ensure a smooth transition to a full faculty mapping project, it is important that we help the faculty fully understand why they are completing this project. Teachers need to see that mapping can help improve student learning, and thus can help with their own teaching.[141] This knowledge and understanding needs to happen early in the process to ensure success.[142] An action plan for how the project is going to play out over a set period of time can help to accomplish that goal.[143]

One additional stumbling block that we encountered was the fact that while curriculum mapping software has been strongly recommended, it appears that most is designed for the K–12 or undergraduate platforms.[144] To date, we have developed our own charts and forms to complete our *Course-Maps* and *MicroMaps*. The next big step will be, when we have a significant enough number of *MicroMaps*, to begin creating *MacroMaps*. We will need to regroup as a pilot or committee in order to decide how to accomplish that step.

After the presentation to the faculty, no formal decision or vote was taken on the project, but with the dean's support and encouragement, the project is going forward in the fall. At this point, the project will include the professors from all sections of the three non-writing courses in first year—Contracts, Torts, and Criminal Law. Two of the three courses are taught by faculty who have piloted the program, and will be leading their colleagues through it. Others from the pilot program will assist the professors in the third class.

V.  CONCLUSIONS

Curriculum mapping is an important tool and process to help a faculty both to understand what they really do in their teaching, and to give them evidence to help decide if they want to or need to make changes to make their program as a whole the best that it can be. During our presentation, one faculty member in support of the program analogized it to a "system analysis" of our program and encouraged everyone to participate.

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141.  *Id.* at 252.
142.  *See id.*
143.  *Id.*
144.  *See* UDELHOFEN, *supra* note 3, at 28, 58–59.

In addition, curriculum mapping is an empowering tool, helping all teachers be leaders in the curriculum they deliver.[145]  Because all teachers are potentially leaders, they can look to each other to solve any problems together as a team, rather than delegating that task.[146]

We believe that engaging in curriculum mapping will help us in a variety of ways, some of which have already have been accomplished.  Our first goal, which we believe has been accomplished, was to open a dialogue about our curriculum.  Before we started this project, we had an informal faculty gathering in which we talked about whether to change the first-year curriculum.  There were conflicting ideas about whether to change—from there being no reason to change to wanting to change—but for a variety of different reasons.  What we did not have, we discovered, was a great deal of conversation about what we were really doing in that first-year curriculum and what we really wanted to accomplish.  We believe curriculum mapping has effectively started that conversation.

Second, we believe we are joining the growing community of legal educators who believe that a law school curriculum is not a static thing, dictated by its own model of precedent.  We believe that we have demonstrated how a tool used in other areas of education can be used effectively in legal education to help support the voice of reform with evidence-driven data.

In the future, we anticipate that curriculum mapping will help to continue this curriculum conversation, by providing evidence of where we are, and by serving as a tool for analysis to help us determine where we want to go— if we want to go.  We are in for a long process of self discovery, but we are now confident that we have taken steps to provide ourselves with the process we need to succeed.

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145.  HALE, A GUIDE TO CURRICULUM MAPPING, *supra* note 1, at 1.
146.  *Id.*

APPENDIX A
INITIAL TIMESHEET IN PILOT PROGRAM FALL 2008

Curriculum Mapping Timesheet
Course:   Contracts
Professor:   Brown
Semester:   Fall 2008

Date:  8/14/08
Class Number   1   of out   27

| TIME CODE | ACTIVITY CODE | CLASSROOM TOOL CODE | SUBJECT MATTER DISCUSSED | ADDITIONAL DESCRIPTION OF CLASSROOM ACTIVITY DURING THIS TIME |
|---|---|---|---|---|
| 50 min | Sm | None | I. A. Formation of Contracts - Mutual Assent | Case analysis of first case |
| 50 min | ADM | None | Introduction to law school and to this course | Reviewed syllabus, rules, goals, methods and role of students and professor in this course |

Curriculum Mapping Timesheet Codes

Time Codes:  Division by Quarters of hour
.25, .5, .75, or 1 hour

Activity Codes: Choose the code which most closely describes the classroom activity for that time period

ADM =   Administrative Matters relating to the class such as meeting time, etc.

LEC =   Lecturing Law

SM =   Time spent leading one or more students in discussion or synthesis of statutory or case law through questions

PRP =   Professor reviewing practice problems

SPP =   Students Independently working on review/practice problems

<u>Classroom Tool Codes:</u> Choose the code(s) for which classroom technology used during that time period

WB  =  Whiteboard
PP  =  Powerpoint
DVD =  DVD or video or other multimedia

<u>Subject Codes</u>

I.    Formation of contracts
      A. Mutual assent
         1. Offer and acceptance
         2. Mistake, misunderstanding, misrepresentation, nondisclosure, confidential relationship, fraud, undue influence, and duress
         3. Problems of communication and "battle of the forms"
         4. Indefiniteness or absence of terms
      B. Capacity to contract
      C. Illegality, unconscionability, and public policy
      D. Implied-in-fact contract and quasi-contract
      E. "Pre-contract" obligations based on detrimental reliance
      F. Express and implied warranties in sale-of goods contracts
II.   Consideration
      A. Bargain and exchange
      B. "Adequacy" of consideration: mutuality of obligation, implied promises, and disproportionate exchanges
      C. Modern substitutes for bargain: "moral obligation," detrimental reliance, and statutory substitutes
      D. Modification of contracts: preexisting duties
      E. Compromise and settlement of claims
III.  Third-party beneficiary contracts
      A. Intended beneficiaries
      B. Incidental beneficiaries
      C. Impairment or extinguishment of third-party rights by contract modification or mutual rescission
      D. Enforcement by the promise
IV.   Assignment of rights and delegation of duties
V.    Statutes of frauds
VI.   Parol evidence and interpretation
VII.  Conditions
      A. Express
      B. Constructive
         1. Conditions of exchange: excuse or suspension by material breach
         2. Immaterial breach and substantial performance
         3. Independent covenants
         4. Constructive conditions of nonprevention, non-hindrance, and affirmative cooperation
      C. Obligations of good faith and fair dealing in performance and enforcement of contracts
      D. Suspension or excuse of conditions by waiver, election, or estoppel
      E. Prospective inability to perform: effect on other party
VIII. Remedies

APPENDIX B
FINAL FALL 2008 PILOT TIMESHEET

Curriculum Mapping Timesheet (version 4)
Course: Contracts
Professor:  Ron Brown
Semester: Fall 2008

Date: 12/2/08
Class Number  27  of out  26  (an optional extra class)

| 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|
| TIME (MINUTES) | TEACHING METHOD | CLASSROOM TOOL | SKILL BEING TAUGHT | SUBJECT MATTER | ADDITIONAL DESCRIPTION OF CLASSROOM ACTIVITY |
| 100 | SD | WB + paper handout with multiple choice questions | MCT | Review touching on most topics | Sample multiple choice exam questions were used to teach test-taking skills and review course material |

Explanatory CODES and notes:

Column 2. *Teaching Method*
    L    – Lecture
    SD  – Socratic dialogue
    SP   – Student presentation
    SLA – Simulated lawyering activity
    GA  – Group activity, i.e., students doing something in groups

Column 3. *Classroom Tool*
    WB  – White Board
    PP   – powerpoint or similar presentation tool
    IC   – interactive computer activity
    TV   – use of television (or computer) to show clip, movie or the like, i.e., not interactive by means of technology.

Column 4. *Skill Being Taught* (more than one simultaneously is ok)

CA  – Case analysis
PS  – Problem solving
OA  – Oral advocacy
LW  – Legal writing
DD  – Document drafting
S   – Synthesis of the law from cases
ST  – Use and interpretation of statutes
LS  – Litigation skills
N   – Negotiation
I   – Interviewing
MCT – Multiple Choice Test-taking
ETT – Essay Test-Taking
BEP – Bar exam preparation

Column 5. *Subject Matter*

Reference will be to outline of subject matter by indicating the numbers & letters of the section, e.g., I.B.2

Subject matter outline of CONTRACTS

I.  Formation of contracts
    A.  Mutual assent
        1. Offer and acceptance
        2. Mistake, misunderstanding, misrepresentation, nondisclosure, confidential relationship, fraud, undue influence, and duress
        3. Problems of communication and "battle of the forms"
        4. Indefiniteness or absence of terms
    B.  Capacity to contract
    C.  Illegality, unconscionability, and public policy
    D.  Implied-in-fact contract and quasi-contract
    E.  "Pre-contract" obligations based on detrimental reliance
    F.  Express and implied warranties in sale-of goods contracts

II. Consideration
    A.  Bargain and exchange
    B.  "Adequacy" of consideration: mutuality of obligation, implied promises, and disproportionate exchanges
    C.  Modern substitutes for bargain: "moral obligation," detrimental reliance, and statutory substitutes
    D.  Modification of contracts: preexisting duties
    E.  Compromise and settlement of claims

III. Third-party beneficiary contracts
    A.  Intended beneficiaries
    B.  Incidental beneficiaries

C.  Impairment or extinguishment of third-party rights by contract modification or mutual rescission
D.  Enforcement by the promise

IV.  Assignment of rights and delegation of duties
V.  Statutes of frauds
VI.  Parol evidence and interpretation
VII.  Conditions
A.  Express
B.  Constructive
1.  Conditions of exchange: excuse or suspension by material breach
2.  Immaterial breach and substantial performance
3.  Independent covenants
4.  Constructive conditions of nonprevention, non-hindrance, and affirmative cooperation
C.  Obligations of good faith and fair dealing in performance and enforcement of contracts
D.  Suspension or excuse of conditions by waiver, election, or estoppel
E.  Prospective inability to perform: effect on other party
VIII.  Remedies
A.  Total and partial breach of contract
B.  Anticipatory repudiation
C.  Election of substantive rights and remedies
D.  Specific performance; injunction against breach; declaratory judgment
E.  Rescission and reformation
F.  Measure of damages in major types of contract and breach
G.  Consequential damages: causation, certainty, and foreseeability
H.  Liquidated damages and penalties
I.  Restitutionary and reliance recoveries
J.  Remedial rights of defaulting parties
K.  Avoidable consequences and mitigation of damages
IX.  Impossibility of performance and frustration of purpose
X.  Discharge of contractual duties

APPENDIX C
WEEK BY WEEK MICROMAP

*Week-by-Week MicroMap*
*Program Area: Contracts*

| WEEK # | NUMBER OF MINUTES | SUBJECT MATTERS | ACTIVITY CODE | CLASSROOM TOOL CODE | ADDITIONAL DESCRIPTION |
|---|---|---|---|---|---|
| 1 | *55*<br>*50*<br>*110* | ---<br>*I.A*<br>*I.A.1* | *LEC*<br>*SM*<br>*SM* | ---<br>*WB*<br>*WB; DVD* | *Overview of Course and Administrative Requirements Mutual Assent Offer and Acceptance* |
| | 50<br>50<br>120 | ---<br>I.A.<br>IA1 | ADM<br>SM<br>SM | ---<br>---<br>WB | Introduction to Law school and Contracts Mutual Assent Mutual Assent, Offer and Acceptance, gap fillers, precedents, procedure |

*DMC*
RBB

APPENDIX D
SUBSTANTIVE COVERAGE MICROMAP

Curriculum Mapping
Fall 2008
Pilot Substantive Coverage

| SUBJECT CODE | RBB (MINUTES) | DMC (MINUTES) |
|---|---|---|
| Introduction to Contracts and Course | 50 | 55 |
| I.  Formation of contracts<br>   A.  Mutual assent | 50 | 50 |
| I.  Formation of contracts<br>   A.  Mutual assent<br>      1.  Offer and acceptance | 590 | 350 |
| I.  Formation of contracts<br>   A.  Mutual assent<br>      3.  Problems of communication<br>         and "battle of the forms" | 50 | 20 |
| I.  Formation of contracts<br>   A.  Mutual assent<br>      4.  Indefiniteness or absence of<br>         terms | 40 | 80 |
| II. Consideration<br>   A.  Bargain and exchange | 70 | 45 |
| II. Consideration<br>   B.  "Adequacy" of consideration:<br>      mutuality of obligation, implied<br>      promises, and disproportionate<br>      exchanges | 0 | 50 |
| II. Consideration<br>   C.  Modern substitutes for bargain:<br>      "moral obligation," detrimental<br>      reliance, and statutory substitutes | 210 | 100 |
| II. Consideration<br>   D.  Modification of<br>      contracts: preexisting duties | 50 | 35 |