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Pathways, Integration, and Sequencing the Curriculum

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**Pathways, Integration, and Sequencing the
Curriculum**

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CHAPTER 3: RETHINKING THE CURRICULUM

SECTION B: Pathways, Integration, and Sequencing the Curriculum

By Deborah Maranville with Cynthia Batt¹

1. Introduction

Law school course offerings have proliferated in recent decades. This development reflects the addition of specialized doctrinal courses,² a growing emphasis on interdisciplinary knowledge, and the incorporation of practice-oriented courses. From the perspective of the individual student, an expanded curriculum may create exciting educational opportunities while posing trade-offs between a generalist education and specialization. Law schools face two key challenges. First, they must structure the curriculum so that the experiences of individual law students have some coherence, or, if you will, seem integrated. Second they must incorporate the full range of what the CARNEGIE REPORT³ referred to as the apprenticeships of formal knowledge, professional skill, and identity and purpose and what the MACCRATE REPORT⁴ and BEST PRACTICES FOR LEGAL EDUCATION⁵ previously articulated as knowledge, skills, and values.

This section discusses three approaches – not mutually exclusive – to structuring the law school curriculum. One way to strive for that goal is through course advising with *structured pathways* through the curriculum and *concentrations*. A second approach is to *integrate the curriculum*: connect the individual courses that a student takes, both those taken concurrently and across the years the student is enrolled in law school. The objective is that students have a sense that the learning in the various courses relates to and reinforces the learning in others. A third approach is to engage in a particular type of integration: *sequence the curriculum* by structuring offerings from introductory to intermediate to advanced, so that later classes build on the concepts and skills learned in earlier ones.⁶

Although scattered integration and sequencing efforts date back decades, empirical research is not available to definitively confirm their status as best practices. Further experimentation with integration and sequencing is warranted as a best practice.

¹ Readers for this chapter were Russell Engler, Jeff Giddings, Rocky Cabagnet, and Judith Welch Wegner.

² Often referred to somewhat pejoratively as “boutique” courses, specialized courses can reflect either the expansion of regulation throughout the economy and the polity, increasing specialization of law practice, or practices of allowing faculty to pursue their own research interests.

³ William M. Sullivan, et al., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007) [hereinafter CARNEGIE REPORT].

⁴ *Report of The Task Force on Law Schools and the Profession: Narrowing the Gap* [hereinafter MACCRATE REPORT], ABA Section on Legal Education and Admission to the Bar (1992).

⁵ ROY STUCKEY AND OTHERS, BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (2007) [hereinafter BEST PRACTICES].

⁶ Some people find it helpful to think of sequencing as involving one temporal dimension – perhaps envisioned vertically and of integration as involving two dimensions, both a horizontal one and the vertical, sequencing one.

2. Providing Curricular Pathways and Concentrations.

One approach to curriculum structuring is to build defined pathways through the curriculum, using internet advising, or concentration tracks.⁷ As many schools have discovered, the internet can be a platform for providing detailed course advising information. Pathways can integrate career and course advising and provide recommended courses for students pursuing different careers.⁸ Pathways are moving toward the status of a best practice.

Concentrations have proliferated in recent years. These programs foreground a key question. To what extent should law schools be preparing students with a generalist education versus a specialized one? If well designed, concentrations can require some degree of breadth while immersing students more deeply in one field. That depth may well promote more effective learning, even for students who do not end up practicing in that field. To date, evidence is lacking that employers favor students who complete such programs, but tracks can provide useful course advice, even for students who do not complete them.

3. Providing an Integrated Curriculum⁹

Curricular integration has become something of a buzzword, but “integration” is rarely well, or consistently, defined and can refer to differing aspects of legal education.¹⁰ For instance, individual teachers can integrate doctrine, skills, and theoretical perspectives within an individual course. Schools can consciously allocate exposure to certain skills or other content to specific courses, or teachers, to ensure that the overall curriculum, and perhaps the individual student’s experience, includes the desired range of content.¹¹ A curriculum may be integrated by both individual teachers and the institution through consciously creating connections among different courses. This discussion focuses on the last of these.

Connections across courses can be individual faculty driven, for instance with faculty members reinforcing students’ learning by cross-referencing doctrine, skills, or values addressed in other courses that the student is taking contemporaneously, or may take later in law school. Alternatively, connections can be administratively driven. For instance, courses that resonate with each other can be scheduled in the same term in non-conflicting time slots and students can be encouraged, or even required, to enroll in them contemporaneously. This reinforcement can, of course, result from students’ individual course selections, perhaps facilitated by the institution

⁷ Schools create concentrations through tracks, certificate programs, and other methods.

⁸ William Mitchell led the way with its *Pathways to the Profession of Law*TM, WM. MITCHELL COLL. OF LAW, <http://web.wmitchell.edu/pathways/>, archived at <http://perma.cc/NQ72-3P45>. Other well-developed pathways include Stanford’s *SLS Navigator: Curricula & Careers*, STANFORD LAW SCH., <http://slsnavigator.law.stanford.edu/>, archived at <http://perma.cc/5KVK-AGZ5>. NYU’s *Academics and Pathways*, NYU SCH. OF LAW, <http://www.law.nyu.edu/academics/>, archived at <http://perma.cc/9L8D-W39Q>, and the University of Washington’s *Becoming a Lawyer Pathways*, UNIV. OF WASH. SCH. OF LAW, <http://www.law.washington.edu/Students/Academics/BecomingALawyer/pathways.aspx>, archived at <http://perma.cc/P2W7-UW85>.

⁹ For a recent recommendation on how to accomplish this goal, see Cynthia Batt, *A Practice Continuum: Integrating Experiential Education into the Curriculum*, 7 ELON L. REV (forthcoming 2015).

¹⁰ Deborah Maranhville, *Creating a Coherent Curriculum: Unpacking Integration* (in draft).

¹¹ This process is often done through curriculum mapping. See Chapter 2, Section B, *Curriculum Mapping as a Tool for Improvement*, above.

through advising and course scheduling. But in that case, the student may have to perform all the work of identifying connections, and it makes sense for the institution and individual teachers to assist. The goal of reinforcing learning does not suggest that all courses must link in obvious ways – sometimes serendipitous pairings can facilitate rich and surprising connections, and sometimes variety is good for its own sake – but a conscious attention to achieving integration seems likely to help students transfer their learning to other contexts.

Law schools are often criticized for teaching doctrine in separate subject matter silos without presenting students with factual scenarios that implicate multiple areas of law. After all, clients often present problems that do not fall neatly into specific doctrinal areas or do not require just one form of remedy (*e.g.*, torts, contracts, property). Thus, a basic form of integration is to teach multiple areas of substantive law in conjunction with each other. While individual teachers sometimes do – and should – integrate their courses with those of their colleagues, law schools can formalize these efforts.

In the first year, law teachers, and even schools, have experimented with “Contorts,” or similar courses that integrate teaching and learning of multiple subjects. Often driven by a desire to incorporate more theory, or practice, or both, they may integrate the legal analysis, research and writing course and a more explicit focus on theoretical perspectives.¹² If these efforts also incorporate opportunities to apply the doctrinally integrated material in practice contexts, however, they may address BEST PRACTICES’ goal of integrating theory, doctrine, and practice. Despite the recurrence of such efforts, they have not succeeded in widely displacing the traditional 1L curriculum.

As discussed above, upper division integration efforts can be facilitated through concentration tracks and certificate programs, but absent conscious efforts by faculty to make connections among subject matter areas – for instance highlighting why tax law is relevant to family law – students may not perceive the connections on their own. Pairing a doctrinal course with an experiential course that will require the student to apply the rules in a practice context can be a step towards integrating theory, doctrine, and practice. This can be accomplished by faculty collaborations supported by the institution. For instance, the same students can be enrolled in an evidence and/or professional responsibility course paired with trial advocacy,¹³ criminal procedure and a criminal prosecution or defense clinic. Or a business organizations course can be paired with a transactional drafting course. Integration could also be achieved on a programmatic basis, for instance by pairing all of the first-year legal writing courses with the offerings of a doctrinal course.¹⁴

¹² See, *e.g.*, Jay Feinman & Marc Feldman, *Pedagogy and Politics*, 73 GEO. L.J. 875 (1985); since 1991 Georgetown has offered a “Curriculum B” with many of these characteristics. *First Year Curriculum: Curriculum B*, GEORGETOWN LAW CTR, available at <http://apps.law.georgetown.edu/curriculum/documents/DescriptionofcurriculumB.pdf>, archived at <http://perma.cc/NE63-J9SV>.

¹³ John S. Dzienkowski, et al., *Integrating Theory and Practice into the Professional Responsibility Curriculum at the University of Texas*, 58 LAW & CONTEMP. PROBS. 213, 213 (1995) (discussing the integration of theory and practice into professional responsibility courses in large classroom settings).

¹⁴ James Etienne Viato, *Legal Education's Perfect Storm: Law Students' Poor Writing and Legal Analysis Skills Collide with Dismal Employment Prospects, Creating the Urgent Need to Reconfigure the First-Year Curriculum*, 61 CATH. U. L. REV. 735 (2012). Viato argues in favor of integrating legal writing with 1L doctrinal courses, as has long been done by University of Iowa and recently at Washington & Lee. He bases the argument on perceived

Newer course structures, such as the “lab course” provide alternatives for integrating doctrinal and experiential courses. The lab course is typically a one or two credit course offered simultaneously with a doctrinal course, often structured around a single complex simulation.¹⁵ Students in the lab course encounter the concepts from the doctrinal course in a lawyering context and apply and work with the concepts as lawyers would.¹⁶ While simulation based lab courses can be created for an individual course, a more ambitious effort can create a series of such courses on a systematic, school-wide basis.¹⁷

4. Providing a Sequenced Curriculum: Layers and Spirals

In addition to building connections among courses taken at the same time, a law school should consider whether a particular sequence of courses will best facilitate learning. In the first year, students consider foundational concepts that ought to resonate with each other. Does the sequence matter?

For example, do students who take contracts in the first term do better in property in the second term because they are familiar with contractual issues that affect landlord-tenant analysis? Do students who take criminal law in the first semester understand torts better in the second semester because they realize how defenses are similar or different? Are there ways in which in which business or litigation courses might be sequenced to help students understand what is expected of them when they graduate?¹⁸

A persistent criticism of legal education is that repeated use of the case method and Socratic dialogue in upper division doctrinal courses means that students are exposed to new and sometimes more specialized subject matter knowledge without necessarily moving from

“softness” of current legal education and a move away from teaching analytical skills, rather than a desire for integration more generally. *Id.* at 743-46.

¹⁵ See Chapter 5, Section F, Subsection 1, *Incorporating Experiential Education throughout the Curriculum*, below.

¹⁶ Some schools have taken up the “lab” terminology but applied it to individual courses that are not paired with a doctrinally-focused course. Such courses might focus on simulations, such as the Evidence Lab offered by Southwestern as one of its skills-oriented intersession courses, *Traditional Upper Level Division Curriculum Enhancements*, SW. LAW SCH., <http://www.swlaw.edu/academics/jd/newcurriculum2>, archived at <http://perma.cc/J8V5-A2NA>). Other schools have used the lab course for law clinics. See, e.g. *Corporate Lab*, UNIV. OF CHICAGO LAW SCH., <http://www.law.uchicago.edu/corporatelab>, archived at <http://perma.cc/BGZ9-DUEC> (using the lab designation for a program combining a transactional clinic and a speaker series); and *Vanderbilt International Law Practice Lab*, VANDERBILT LAW SCH., <http://law.vanderbilt.edu/academics/academic-programs/international-legal-studies/international-law-practice-lab.php>, archived at <http://perma.cc/M5FE-AE42> (using the lab designation for a course in which students perform policy work for real-world clients).

¹⁷ At least two law schools have created such series. For Seattle U. Law School’s original upper division effort, see John B. Mitchell, et al., *And Then Suddenly Seattle University Was on its Way to a Parallel, Integrative Curriculum*, 2 CLIN. L. REV. 1 (1995). In 2009, Gonzaga School of Law created a set of mandatory skills labs for the first-year curriculum. *Skills Labs*, GONZAGA UNIV. SCH. OF LAW, <https://www.law.gonzaga.edu/academics/curriculum/skills-labs/>, archived at <https://perma.cc/LHN3-8WHY>.

¹⁸ Judith Wegner, *Curricular Mapping* (unpublished draft, 2014).

beginning to intermediate to advanced skill levels.¹⁹ In other words, the curriculum does not build students' skills in a consciously sequenced fashion.

The widespread incorporation of theory and practice skills simulation courses and clinical education into the curriculum means that many students are now exposed to additional skills beyond analyzing and synthesizing cases and statutes. This development presents two questions, in addition to the possibility that doctrinally-focused courses might build in skill level. Can courses focused primarily on doctrine and practice-oriented courses be sequenced to provide optimal learning? Second, can different types of practice-oriented experiential opportunities be sequenced for optimal learning?

The metaphor of a cake suggests two primary approaches to sequencing, the layer cake and the marble cake models. The first option, with elements proposed by a number of commentators,²⁰ is what may be termed a layer cake model. Each year of law school has a distinct curricular content and teaching method. Keep the first year essentially the same, focused on developing the skills of legal analysis, perhaps with some simulations incorporated to provide context. In the second year, add significant content around additional lawyering skills, using a teaching methodology built on student performance of lawyering tasks in a simulated case file. Add real lawyering experiences in the third year in a supervised practice experience. BEST PRACTICES' "Components of a 'Model' Best Practices Curriculum"²¹ followed the layer cake model, but with the important modification that all first-year classes should include the use of simulations.

A second option is the marble cake. Rather than restricting the first year solely to doctrine and analytical skills, students are introduced to a broader range of knowledge, skills and values, or Carnegie's three apprenticeships in a simplified fashion in the first year,²² with an "early and often" approach to exposing students to client-focused real lawyering experiences as well as simulation-focused opportunities integrated into both doctrinally-focused and separate courses.

Existing models for the layer cake approach are readily available. Some schools have developed courses that introduce students to not only legal writing, research, and analysis, but other foundational lawyering skills such as interviewing, counseling, and negotiation, with the idea that upper-level courses will build on that foundation for greater expertise and advanced skills.²³

¹⁹ CARNEGIE at 74-78; BEST PRACTICES argued for variety in teaching methods in the section titled, "Use Multiple Methods of Instruction and Reduce Reliance on the Socratic Dialogue and Case Method," text beginning at note 420.

²⁰ See, e.g., Margaret Martin Barry; Jon C. Dubin; and Peter A. Joy, *Clinical Education for This Millennium: The Third Wave*, 7 CLINICAL L. REV. 1 (2000).

²¹ BEST PRACTICES, text at notes 821-870.

²² See Deborah Maranville, *Infusing Passion and Context into the Traditional Law Curriculum through Experiential Learning*, 51 J. OF LEGAL ED. 51 (2001) and Deborah Maranville, *Metaphors for an Integrated Curriculum*, BEST PRACTICES FOR LEGAL EDUC. BLOG (Jan. 26, 2014).

²³ These include both first-year courses like the NYU Lawyering Program, *The Lawyering Program*, NEW YORK UNIV. SCH. OF LAW, <http://www.law.nyu.edu/academics/lawyeringprogram>, archived at <http://perma.cc/Y2BG-45YP>, and courses spanning both the first and second years, like William and Mary's *Legal Practice Program*, WM. & MARY LAW SCH., <http://law.wm.edu/academics/programs/jd/requirements/Legal%20Practice/index.php>, archived at <http://perma.cc/G6QF-Z3BG>. Both programs are described in Stefano Moscato, *Teaching Foundational Clinical Lawyering Skills to First-Year Students*, 13 LEGAL WRITING: J. LEGAL WRITING INST. 207, 230-34 (2007). See also James E. Moliterno, *Teaching Legal Ethics in a Program of Comprehensive Skills Development*, 15 J.

In recent years, other schools have experimented with their third-year curriculum, traditionally viewed as “more of the same” by 3Ls. Promising efforts include capstone courses²⁴ that offer a culminating experience either in a specific doctrinal area, or in a practice context such as transactional work advising startups, estate planning, or litigation, or the “all-experiential” third year.²⁵

The attractions of the layer cake model are these: first, because this model typically assumes a required simulation course in the 2L year in which all students will be exposed to a common, prescribed set of skills, it has the advantage of consistency; and second, because students develop more knowledge and skills before they encounter clients, they will presumably be more competent and easier to supervise.

Models for the marble cake approach are less well developed, but many schools are moving in that direction²⁶ by incorporating simulated, or even real, experiential education into doctrinal classes in all three years of law school, exposing first-year law students to real practice through legal writing collaborations with non-profit legal providers²⁷ or well-structured volunteer opportunities,²⁸ and offering a rich mix of theory and practice skills, simulation courses, law clinics, and externships. The advantages of the marble cake model are threefold: first, students’ doctrinal learning is more contextualized, increasing the likelihood that the learning will transfer into practice; second, earlier and more frequent exposure to real legal practice will be motivating for most students, and this should improve their engagement in their second and third years;

LEGAL PROF. 145 (1990). A more recent example is California Western’s STEPPS (Skills Training for Ethical and Preventive Practice and Career Satisfaction), *STEPPS Program*, CAL. WESTERN SCH. OF LAW, <https://www.cwsl.edu/academics/academic-initiatives/stepps-program>, archived at <https://perma.cc/GQF5-LKLK>. A different, but also layered approach is Southwestern’s SCALE 2-year degree program, *SCALE Curriculum*, Southwestern Law Sch., <http://www.swlaw.edu/academics/jd/scale/curriculum>, archived at <http://perma.cc/8XQ7-YLJN>.

²⁴ See, e.g., *Capstone Courses*, UNIV. OF MINN. LAW SCH., <http://www.law.umn.edu/current/capstone-courses.html>, archived at <http://perma.cc/A2VV-BHH2>; *Capstone Courses*, OHIO STATE UNIV., MORITZ COLL. OF LAW, <http://moritzlaw.osu.edu/academics/capstone-courses/> archived at <http://perma.cc/MED3-J6NB>; *Capstone Courses: Putting It All Together*, UNIV. OF DAYTON SCH. OF LAW, http://www.udayton.edu/law/academics/jd_program/capstone_courses.php, archived at <http://perma.cc/QUL4-AZ6K>.

²⁵ Washington and Lee University School of Law touts its “all-experiential” third year. *Third Year Law Reform*, WASH. & LEE UNIV. SCH. OF LAW, <http://law.wlu.edu/thirdyear/>, archived at <http://perma.cc/D24N-JKF4>.

²⁶ For instance, the University of Denver, Sturm College of Law’s Experiential Advantage Curriculum™ promotes distributing a full year of experiential courses across the second and third years, but does not appear to incorporate significant experiential education in the first year. *Experiential Advantage Curriculum*, UNIV. OF DENVER, STURM COLL. OF LAW (June 5, 2013), available at www.law.du.edu/documents/news/Experiential-Advantage-Release_FINAL0605.pdf, archived at <http://perma.cc/8XRD-YEWU>.

²⁷ See, e.g., *Legal Skills in Social Context*, NORTHEASTERN UNIV. LAW SCH., <http://www.northeastern.edu/law/experience/lssc/index.html>, archived at <http://perma.cc/5DEE-C8VD>; Sara K. Rankin, Lisa Brodoff & Mary Nicol Bowman, *We Have a Dream: Integrating Skills Courses and Public Interest Work in The First Year of Law School (And Beyond)*, 17 CHAP. L. REV. 89 (2013) (describing Seattle University Law School’s legal writing-clinic collaboration).

²⁸ For example, University of California Berkeley Law has *Student-Initiated Legal Services Projects (SLPS)*, UNIV. OF CAL. BERKLEY LAW, <http://www.law.berkeley.edu/slps.htm>, archived at <http://perma.cc/VN8L-ELGX>, and the University of Washington School of Law’s provides students with volunteer opportunities such as the *Immigrant Families Advocacy Project*, About, UNIV. WASH. SCH. OF LAW, <http://uwifap.wordpress.com>, archived at <http://perma.cc/EQK6-M5YS>.

finally, students will have more opportunities to learn what types of legal practice might be a good fit for them, as they encounter a broader range of skills and practice contexts. The challenge is to provide sensible connections among the varied experiential opportunities.

5. Addressing Impediments to Integrating and Sequencing

Faculties face several challenges in adopting an integrated approach to legal education. Undertaking a major overhaul of a law school's curriculum requires cooperation by the entire faculty. Expected objections include that such changes will infringe on academic freedom and will take substantial time and effort on the part of the faculty. Another challenge is that some faculty members may not be qualified or comfortable adopting this approach. Some members of the law school faculty did not practice law, did not practice for very long, and/or have not practiced for many years. As a result, they may feel unable to address issues beyond legal doctrine. Finally, even when a faculty is willing and able to embrace an integrated approach to legal education, there will be challenges of planning among faculty teaching similar courses, articulating goals of such an integration, and determining methods of assessment (particularly in large classes).

6. Conclusion

Efforts to integrate and sequence the law school curriculum remain to be fully developed. Thus, it is a best practice to attend to these efforts, but no one approach has risen to the status of a best practice.