

PUTTING STUDENTS AT THE CENTER OF LEGAL EDUCATION: HOW AN EMPHASIS ON OUTCOME MEASURES IN THE ABA STANDARDS FOR APPROVAL OF LAW SCHOOLS MIGHT TRANSFORM THE EDUCATIONAL EXPERIENCE OF LAW STUDENTS

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I. INTRODUCTION

The American Bar Association (ABA) Standards for Approval of Law Schools¹ will likely be revised² to emphasize outcome measures.³ What will this mean for legal education? While much excellent work has been done in recent years proposing changes to improve legal education—notably *Best Practices for Legal Education*,⁴ the Carnegie Foundation’s *Educating Lawyers*,⁵ and the Humanizing Legal Education movement⁶—

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1. ABA SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR, 2009–2010 STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS [hereinafter ABA STANDARDS].
2. *Standards Committee Members*, AM. BAR. ASS’N, <http://www.abanet.org/legaled/committees/comstandards.html> (last visited Oct. 25, 2010).
3. ABA SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR, REPORT OF THE OUTCOME MEASURES COMMITTEE 1 (2008) [hereinafter ABA OUTCOME MEASURES REPORT], available at <http://www.abanet.org/legaled/committees/subcomm/Outcome%20Measures%20Final%20Report.pdf> (defining outcome measures as “accreditation criteria that concentrate 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”).
4. ROY STUCKEY ET AL., *BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP* (2007) [hereinafter BEST PRACTICES].
5. WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (2007) [hereinafter CARNEGIE REPORT].
6. *Humanizing Law School*, FLA. ST. U. C. OF L., http://www.law.fsu.edu/academic_programs/humanizing_lawschool/humanizing_lawschool.html (last visited Nov. 2, 2010) (“Humanizing legal education is an initiative shared by legal educators seeking to maximize the overall health, well being and career satisfaction of law students and lawyers.”).

implementation of change has been voluntary and, therefore, uneven.⁷ If the ABA Standards are revised to emphasize outcome measures, law schools would be required to engage in assessment of student learning in order to provide feedback to students and as a measure of institutional effectiveness.⁸ These assessment measures would improve the educational experience of law students and affect the work of academic support faculty. Law schools that embrace assessment measures in such a way as to create a culture of assessment within their institutions will likely transform the educational experience of their students.

While the ABA Outcome Measures Committee notes that revisions to the ABA Standards would not—and probably could not—be implemented all at once,⁹ this paper will provide an overview of how implementation of assessment measures might proceed and how that implementation might affect the educational experience of law students and the work of academic support faculty. Part II will summarize the actions of the ABA and will provide background on the assessment movement and basic definitions. Parts III, IV and V will examine how assessment might proceed at the institutional, programmatic and course levels respectively. Part VI will explore how the resulting changes might affect the educational experience of law students and the work of academic support faculty. Part VII will relate the proposed revisions to other initiatives to improve legal education.

II. BACKGROUND AND DEFINITIONS

The Council of the ABA Section on Legal Education and Admissions to the Bar is recognized by the U.S. Department of Education as the national accrediting agency for law schools.¹⁰ In 2007 the Section chair appointed the Special Committee on Output Measures and charged them to:

determine whether and how we can use output measures, other than bar passage and job placement, in the accreditation process . . . consider methods to measure whether a program is accomplishing its stated mission and goals . . . and define appropriate output measures and make specific

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7. See Karen Sloan, *Reality's Knocking*, NAT'L L.J., Sept. 7, 2009, at 18 (noting that progress on law school curriculum reform is "piecemeal and not comprehensive").
 8. ABA SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR, STANDARDS REVIEW COMMITTEE, STUDENT LEARNING OUTCOMES SUBCOMMITTEE, PROPOSED REVISIONS TO CHAPTER 3 OF THE STANDARDS FOR APPROVAL OF LAW SCHOOLS (2010) [hereinafter ABA PROPOSED REVISIONS] available at www.abanet.org/legaled/ (follow "Report of Subcommittee on Student Learning Outcomes" hyperlink under "Meeting Date, Jan 8-9, 2011").
 9. ABA OUTCOME MEASURES REPORT, *supra* note 3, at 54.
 10. Roy Stuckey, "*Best Practices*" or Not, *It Is Time to Re-think Legal Education*, 16 CLINICAL L. REV. 307, 312 (2009) [hereinafter Stuckey].

recommendations as to whether the section should adopt those measures as part of the standards.¹¹

The final report of the Outcomes Measures Committee, which was filed in July 2008, recommended “that the Section re-examine the current ABA Accreditation Standards and reframe them, as needed, to reduce their reliance on input measures and instead adopt a greater and more overt reliance on outcomes measures.”¹²

In response to this recommendation, the Student Learning Outcomes Subcommittee of the ABA Standards Review Committee began drafting revisions to the Standards and Interpretations.¹³ The most recent draft of the proposed revisions to Chapter Three of the ABA Standards would require law schools to articulate learning outcomes for the institution,¹⁴ “offer a curriculum that is designed to produce graduates who have attained competency in the learning outcomes,”¹⁵ “apply a variety of formative and summative assessment methods across the curriculum to provide meaningful feedback to students,”¹⁶ and gather, review and use information on student learning as a measure of institutional effectiveness.¹⁷ If these revisions are approved, legal education will join the assessment movement that has been underway in higher education for over twenty-five years.

Beginning in 1973, a handful of undergraduate institutions began using assessment practices to reshape their curricula.¹⁸ Assessment has been described as “the systematic collection, review, and use of information about educational programs undertaken for the purpose of improving student learning and development.”¹⁹ An integral part of assessment is articulating the institution’s goals for student learning, which are often referred to as “outcomes.”²⁰

By the mid-1980s both educators and the public were becoming aware that higher education would benefit from assessment.²¹ In 1988 the Secretary of the U.S. Department of Education ordered all accreditation organizations approved by the Department to include “evidence of

11. ABA OUTCOME MEASURES REPORT, *supra* note 3, at 1.

12. *Id.*

13. See ABA PROPOSED REVISIONS, *supra* note 8.

14. *Id.* at Standard 302.

15. *Id.* at Standard 303.

16. *Id.* at Standard 304.

17. *Id.* at Standard 305.

18. CATHERINE A. PALOMBA & TRUDY W. BANTA, ASSESSMENT ESSENTIALS 1 (1999). These first colleges included Alverno College, Northeast Missouri State University (now Truman State University), and the University of Tennessee at Knoxville. *Id.*

19. *Id.* at 4 (citing T.J. Marchese, *Third Down, Ten Years to Go*, AAHE BULLETIN, Dec. 1987, at 3–8).

20. BARBARA E. WALVOORD, ASSESSMENT CLEAR AND SIMPLE 3 (2d ed. 2010).

21. PALOMBA & BANTA, *supra* note 18, at 1.

institutional outcomes” in their standards.²² States soon began requiring assessment at public institutions.²³ It has been estimated that by 1995 ninety-four per cent of undergraduate institutions were using some form of assessment.²⁴

Assessment is also well-established in other fields of professional education.²⁵ Accreditors of dental education led the way when they adopted outcomes measures in 1988.²⁶ Today most professional education accrediting bodies use outcomes measures in their standards.²⁷ Outcome measures are also used by accreditors of legal education in other countries.²⁸

Throughout this paper “educational outcomes” will refer to an institution’s decisions about what it wants its students to know and be able to do and the perspectives and values that should shape their work.²⁹ “Assessment” will refer to the process of setting educational outcomes, measuring how well students achieve those outcomes, and then using that information to take action.³⁰ Assessment is about putting students at the center of education.³¹ Throughout much of the history of higher education, institutional accreditation has been about inputs—what resources the institution invests in the education of its students—and classroom teaching has been about coverage—the transfer of quantities of information from professor to student.³² Assessment shifts the focus from what is delivered to students to what students take away from their educational experience,³³ but it is not merely about measuring the end results. Assessment is about setting goals for student learning, gathering information about how well students are achieving those goals, and then using that information to take

22. *Id.* at 2.

23. *Id.*

24. *Id.* at 3.

25. See ABA OUTCOME MEASURES REPORT, *supra* note 3, at 20.

26. *Id.*

27. See *id.* (listing the accrediting bodies of allopathic and osteopathic medicine, dentistry, veterinary medicine, pharmacy, psychology, teaching, engineering, accounting and architecture).

28. BEST PRACTICES, *supra* note 4, at 45 (noting that Scotland, Northern Ireland, England and Wales have adopted outcome measures).

29. GREGORY S. MUNRO, OUTCOMES ASSESSMENT FOR LAW SCHOOLS 50 (2000) (“If a law school is to be effective as an educational institution, it needs to be guided by student outcomes—a statement of the knowledge, abilities, and attributes its students should derive from their legal education.”).

30. See WALVOORD, *supra* note 20, at 3–4.

31. PALOMBA & BANTA, *supra* note 18, at 18.

32. Robert B. Barr & John Tagg, *From Teaching to Learning*, CHANGE, Nov.-Dec. 1995, at 13, 16, 19–20.

33. See WALVOORD, *supra* note 20, at 3 (“Proponents of assessment believe that higher education should examine what students have learned, not just what the institution or department did that supposedly resulted in learning.”).

action to improve student learning.³⁴ These steps can be taken at the institutional, programmatic, and course levels.³⁵

III. THE INSTITUTIONAL LEVEL

At the institutional level educational outcomes would be articulated and a curriculum map would likely be developed to track where each outcome is addressed in the educational program. Information would be gathered about how well students are achieving the outcomes, and the information would be used to improve student learning.

A. Articulating Educational Outcomes

A first step in institutional assessment would be to set educational outcomes for the law school as a whole.³⁶ These institutional outcomes would be derived from the law school's mission statement and from the ABA Standards.³⁷ Typical provisions in law school mission statements address preparing students for the practice of law, promoting justice, encouraging diverse perspectives and communities, and embracing high ethical standards.³⁸ Some mission statements include service to the community and promoting faculty scholarship.³⁹ The mission statement may also address the particular role the law school has chosen to fulfill in society such as providing education in American Indian Law⁴⁰ or offering legal education in fidelity to a particular faith.⁴¹

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34. PALOMBA & BANTA, *supra* note 18, at 4; MUNRO, *supra* note 29, at 68 (“An overarching tenet of the assessment movement is that the essential function of an assessment program is to improve student learning.”).
35. See LINDA SUSKIE, *ASSESSING STUDENT LEARNING: A COMMON SENSE GUIDE 6–10* (2d ed. 2009) (exploring the differences among course, program, and institutional assessments).
36. See WALVOORD, *supra* note 20, at 28.
37. MUNRO, *supra* note 29, at 94 (“Outcomes should be consistent with and serve the school’s mission.”); ABA PROPOSED REVISIONS, *supra* note 8, at Standard 302 (Learning outcomes should include “any other learning outcomes the school identifies as necessary or important to meet the needs of its students and to accomplish the school’s mission and goals.”).
38. See *Albany Law School Mission Statement*, ALBANY L. SCHOOL http://www.albanylaw.edu/sub.php?navigation_id=1332 (last visited Nov. 2, 2010); University of Missouri School of Law Mission Statement, U. OF MO. SCH. OF L., <http://www.law.missouri.edu/about/mission.html> (last revised July 30, 2008); *Mission Statement*, PAC. MCGEORGE SCH. OF L., http://www.mcgeorge.edu/Academic_Programs/Online_Academic_Catalog/Pacific_McGeorge_Mission_Statement.htm (last visited Nov. 2, 2010).
39. See *About Tulane Law School*, TUL. U. L. SCH., <http://www.law.tulane.edu/tlsabout/index.aspx?id=1870> (last visited Feb. 2, 2011); *Mission Statement*, PAC. MCGEORGE SCH. OF L., http://www.mcgeorge.edu/Academic_Programs/Online_Academic_Catalog/Pacific_McGeorge_Mission_Statement.htm (last visited Feb. 2, 2011).
40. See *Mission Statement*, U. OF N.M. SCH. OF L., <http://lawschool.unm.edu/administration/mission.php> (last visited Feb. 2, 2011) (“This commitment includes education in Indian Law

Starting from the mission and the ABA Standards, the faculty should develop the educational outcomes for the institution in collaboration with the bench and bar and other interested constituencies such as alumni.⁴² The outcomes should outline what the school's graduates should know (cognitive), the skills they should have (behavioral) and the values/principles with which they should act (affective/attitudinal).⁴³ In addition, they should describe the depth of learning students are expected to attain in each area⁴⁴ and should be stated in measurable terms.⁴⁵ Outcomes "should be stated explicitly, simply, in plain English, and without legal and educational jargon"⁴⁶ and should be written using active verbs.⁴⁷ The particular number of outcomes should be determined by each school based upon its mission, resources, students and faculty.⁴⁸ These institutional outcomes would become the basis for the outcomes at the programmatic and course levels.⁴⁹ All of these outcomes "must live" and be made real within the educational program.⁵⁰

All law school mission statements will include the purpose of preparing students for the practice of law.⁵¹ A set of educational outcomes written to elaborate upon this standard mission provision would be shaped primarily by the ABA Standards⁵² and might read as follows:

because nineteen pueblos and four reservation tribes operate governments within the territorial boundaries of New Mexico.").

41. See *Mission Statement*, AVE MARIA SCH. OF L., <http://www.avemarialaw.edu/index.cfm?event=about.mission> (last visited Feb. 2, 2011) ("Ave Maria Law School offers an outstanding legal education in fidelity to the Catholic Faith as expressed through Sacred Tradition, Sacred Scripture, and the teaching authority of the Church.").
42. See MUNRO, *supra* note 29, at 94.
43. See BEST PRACTICES, *supra* note 4, at 43.
44. MARY J. ALLEN, ASSESSING ACADEMIC PROGRAMS IN HIGHER EDUCATION 34 (2004) (noting that Bloom's Taxonomy is "one of the most well-known descriptions of depth of processing").
45. See MUNRO, *supra* note 29, at 95.
46. *Id.*
47. ALLEN, *supra* note 44, at 36.
48. See MUNRO, *supra* note 29, at 95.
49. See WALVOORD, *supra* note 20, at 31.
50. *Id.*
51. BEST PRACTICES, *supra* note 4 at 39 ("Most law schools have multiple missions. At its core, however, legal education is a professional education, and part of the mission of every law school is to prepare its students to enter the legal profession. It is why law schools exist. The accreditation standards of the American Bar Association require law schools to prepare their students for practice.").
52. ABA PROPOSED REVISED STANDARDS, *supra* note 8, at Standard 302 (listing competencies that each law school's learning outcomes must include).

All graduates will demonstrate competency sufficient for entry-level practice in:

1. knowledge and understanding of substantive law, legal theory, and procedure coupled with the ability to analyze the legal implications of factual situations and to apply relevant law;
2. the skills of critical thinking, problem-solving, legal research, written and oral communication, client counseling, negotiation, and resolving ethical and other professional dilemmas; and
3. knowledge and understanding of their ethical responsibilities as both lawyers and citizens, their responsibility to insure adequate legal services for persons who cannot pay and the values of the legal profession.⁵³

Articulating outcomes for the law school as a whole would represent a significant change because, “[i]n the history of legal education in the United States, there is no record of any concerted effort to consider what new lawyers should know or be able to do on their first day in practice or to design a program of instruction to achieve those goals.”⁵⁴ In the absence of articulated educational outcomes accompanied by the course design and pedagogy necessary to achieve those outcomes, law students are likely to conclude that the only desired educational outcomes are passing final exams and the bar exam.⁵⁵

B. The Curriculum Map: Aligning the Educational Program with the Outcomes

Once educational outcomes have been articulated that derive from both the mission and the ABA Standards, the law school would seek to align the overall educational program with the outcomes.⁵⁶ The curriculum should be “structured to build students toward mastery of the outcomes,”⁵⁷ so law schools would revise their curricula in order to develop the educational outcomes progressively.⁵⁸ “[L]aw schools will need to know

53. *See id.* This example is adapted from the language of Standard 302.

54. BEST PRACTICES, *supra* note 4, at 3.

55. *See* MUNRO, *supra* note 29, at 57.

56. *See* BEST PRACTICES, *supra* note 4, at 93 (urging law schools to strive to achieve congruence among their missions, educational outcomes, curricula and courses because, “[c]ongruence, in fact, is a defining characteristic of effective educational programs”).

57. *Id.*

58. *See* MUNRO, *supra* note 29, at 97 (“The curriculum must provide for the formation of student abilities in a manner that is incremental (performed in parts) and developmental (performed in tasks of successively increasing complexity.”); BEST PRACTICES, *supra* note 4, at 94–95.

when, where, and how each desired outcome will be accomplished in the overall program of instruction.”⁵⁹

Law schools could develop a curriculum map to track where each stated outcome is addressed.⁶⁰ For each outcome, the map would indicate where students first encounter the outcome, where students practice the outcome, and at what point the students can be expected to have achieved the outcome.⁶¹ The design of the overall curriculum would influence the educational outcomes for individual courses.⁶² Co-curricular activities such as journals, competitions, and pro bono programs may also provide opportunities for students to achieve outcomes, so a co-curricular map also may be helpful.⁶³ These maps can “reveal both curricular redundancy and curricular gaps and inadequacies.”⁶⁴ For example, a curriculum map might reveal that while basic negotiation skills are introduced in all first-year Contracts sections, students have no opportunity to develop these skills beyond the beginner level unless they opt to take certain elective courses.

C. Gathering Information

After the educational outcomes for the law school have been put in place, the law school must develop a system to assess how well its students are achieving the educational outcomes and use that information “to inform decisions at every level from the classroom and department on up to the provost, president, and board.”⁶⁵ Data would be collected from throughout the law school via a variety of assessment measures.⁶⁶

Direct assessment measures are those in which students demonstrate their learning.⁶⁷ Direct assessment can take the form of traditional measures such as exams⁶⁸ or performance measures in which student demonstrate their learning⁶⁹ such as clinical or capstone performances⁷⁰ or student portfolios.⁷¹ Indirect assessment measures involve reports about

59. BEST PRACTICES, *supra* note 4, at 93.

60. *See id.* (“A curriculum map is a wide-angle view of a program of instruction.”).

61. *Id.*

62. *See id.*

63. *Id.* at 93–94.

64. *Id.* at 94.

65. WALVOORD, *supra* note 20, at 32.

66. *See* ABA PROPOSED REVISIONS, *supra* note 8, at Standard 305, Interpretation 305-1 (interpreting Standard 305 to require law schools to “gather a variety of types of qualitative and/or quantitative evidence, as appropriate, to measure the degree to which its students, by the time of graduation, have attained competency in its learning outcomes”).

67. ALLEN, *supra* note 44, at 6.

68. *Id.* at 7.

69. *Id.*

70. BEST PRACTICES, *supra* note 4, at 267.

71. ALLEN, *supra* note 44, at 90.

learning which can be the reports of the students themselves or of others⁷² such as follow-up surveys of graduates or employers⁷³ or focus groups.⁷⁴ Assessment measures also can be embedded within courses.⁷⁵ Assessment measures can produce quantitative data which consists of numerical scores or qualitative data which is described verbally.⁷⁶ “For any assessment mode to be effective it must exhibit qualities of validity, reliability and fairness.”⁷⁷

Law schools must decide not only what measures they will use as evidence but also the level to which students must attain the measures.⁷⁸ Assessment measures can involve value-added judgments which measure change or absolute judgments in which students must meet defined goals.⁷⁹ At the institutional level “assessment data should be aggregated across faculty and courses because they should be used to assess the entire program.”⁸⁰

D. Using Information

Effective assessment is about more than gathering data. There must be a system in place for “digesting” the data and making sure that it reaches the decision makers within the institution.⁸¹ Law schools must “[u]se the results of this process to identify . . . and overcome barriers to learning.”⁸² For example, a law school with institutional educational outcomes like those in Part III.A. above might learn via an employer survey that its graduates are perceived as having weak negotiation skills. That data must reach those individuals within the law school who are responsible for aligning the curriculum with the educational outcomes so that adjustments can be made to improve student learning of negotiation skills.⁸³

72. *Id.* at 103.

73. BEST PRACTICES, *supra* note 4, at 267.

74. ALLEN, *supra* note 44, at 118.

75. *Id.* at 9.

76. *Id.* at 8.

77. MUNRO, *supra* note 29, at 105, 106–10 (explaining that validity means that the assessment tool must actually measure what it intends to measure; reliability means that the assessment tool must assess representative content; and fairness means that both the process and the results of the assessment must be equitable).

78. COUNCIL FOR HIGHER EDUCATION, STATEMENT OF MUTUAL RESPONSIBILITIES FOR STUDENT LEARNING OUTCOMES: ACCREDITATION, INSTITUTIONS, AND PROGRAMS 6 (2003) available at <http://www.chea.org/pdf/StmntStudentLearningOutcomes9-03.pdf>.

79. ALLEN, *supra* note 44, at 8–9.

80. *Id.* at 16.

81. WALVOORD, *supra* note 20, at 33.

82. COUNCIL FOR HIGHER EDUCATION, *supra* note 78, at 6.

83. This might involve incorporating simulated negotiation sessions into certain required courses. See BEST PRACTICES, *supra* note 4, at 179–88 (outlining best practices for simulation-based courses).

The end result would be a “feedback loop in which the law school regularly collects data about student achievement of the law school’s desired student outcomes; disseminates that information to faculty, administration, alumni, employers and other interested parties; and uses the information to reach conclusions about the effectiveness of the law school’s overall curriculum and individual programs”⁸⁴ and to effect the necessary changes to improve student learning. Thus, the whole process would focus primarily on student learning and would demonstrate a commitment to student learning.⁸⁵ Assessment data should not be used for faculty evaluation because institutional assessment data is intended to evaluate the “collective impact of faculty” on student learning, not to evaluate individual faculty.⁸⁶

E. Who Makes All of this Happen?

The dean will play a key role in the development and implementation of assessment for the entire institution.⁸⁷ Because law schools have so little history with assessment, the dean might appoint an assessment committee.⁸⁸ A faculty member could serve as coordinator and choose several other well-respected faculty members to serve on the committee.⁸⁹ A staff member with research experience would be a helpful addition to the committee.⁹⁰ The law school will likely develop a formal assessment plan that delineates responsibilities, timetables, and how the assessment data will be disseminated and used.⁹¹

The overall long-term goal of the law school should be to create a culture of assessment in which “the predominating attitudes and behaviors that characterize the functioning of an institution support the assessment of student learning outcomes.”⁹² The key to creating such a culture will be understanding and valuing the culture and history of the individual law school and choosing strategies accordingly.⁹³ Faculty support will be

84. *Id.* at 271.

85. Peggy L. Maki, *Developing an Assessment Plan to Learn About Student Learning*, 28 J. ACAD. LIBRARIANSHIP 8, 8 (2002).

86. SUSKIE, *supra* note 35, at 13; *see also* ALLEN, *supra* note 44, at 16 (“If personnel decisions are based on assessment data, faculty may seek ways to undermine the process.”).

87. MUNRO, *supra* note 29, at 83.

88. *See* WALVOORD, *supra* note 20, at 38.

89. *See id.*

90. *Id.* at 39.

91. *See* PALOMBA & BANTA, *supra* note 18, at 46.

92. Wendy F. Weiner, *Establishing a Culture of Assessment*, ACADEME, July-Aug. 2009, at 28, available at <http://www.aaup.org/AAUP/pubsres/academe/2009/JA/Feat/wein.htm>.

93. *See* SUSKIE, *supra* note 35, at 72 (noting that the “root cause of resistance to assessment” will be different at each institution).

critical to the success of assessment in any law school,⁹⁴ so faculty should be treated as “respected and empowered members of the assessment process.”⁹⁵ Assessment should be used to answer questions in which faculty are interested and to affirm what they value about the law school.⁹⁶ There should be ongoing faculty development programs about how to do assessment, and the results of the assessment process should be shared with faculty.⁹⁷ Assessment efforts should be celebrated and honored by the law school.⁹⁸

IV. THE PROGRAMMATIC LEVEL

Assessment could also be performed by programs within the law school such as the legal writing program.⁹⁹ Assessment in these programs would track the same steps followed by the institution: setting educational outcomes for the program, developing measures of student achievement of outcomes, and using the data to improve student learning.¹⁰⁰ The program outcomes would be derived from the institutional outcomes¹⁰¹ and would be more specific. For example, for a legal research skills outcome at the institutional level, the legal writing program outcomes might include the following.

All students will be able to:

1. find and retrieve legal authority in both electronic and print formats;
2. effectively use Westlaw and Lexis/Nexis to perform legal research;
3. demonstrate an understanding of basic internet legal research techniques; and
4. construct a research plan and memorialize research findings in a concise written summary.¹⁰²

94. MUNRO, *supra* note 29, at 77 (“Faculty members must invest as a group in learning about ability-based, student-centered education and performance assessment and must make themselves a community of experts in changing legal education. The core structures of the law school—the mission statement, student outcomes, institutional outcomes, teaching methods, assessment program—all depend on the collective judgment of a faculty acting as community.”).

95. See SUSKIE, *supra* note 35, at 75.

96. *Id.* at 74.

97. WEINER, *supra* note 92, at 2, 4.

98. See SUSKIE, *supra* note 35, at 84.

99. See WALVOORD, *supra* note 20, at 59.

100. *Id.* at 59–60.

101. WALVOORD, *supra* note 20, at 31.

102. These outcomes are adapted from outcomes of the University of Washington School of Law. See *Legal Analysis, Research and Writing, Program Goals and Learning Objectives*, U. OF WASH. SCH. OF L., <http://www.law.washington.edu/Writing/Goals.aspx> (last updated Nov. 13, 2008).

The program would then develop at least two measures of how well its students are achieving the outcomes.¹⁰³ One measure should be direct, such as a sample of student work at the end of the course and the other measure would be indirect, such as a survey of students or a focus group.¹⁰⁴ A structure, such as a faculty forum, would be established “to discuss the data and identify action items.”¹⁰⁵ Assessment done at the program level should be supported by institutional leaders who also should use the information to make decisions to improve learning.¹⁰⁶

V. THE COURSE LEVEL

Assessment data can be gathered at the course level and aggregated by the institution via fairly simple embedded measures. Assessment at the course level also can focus on individual student learning.

A. Course-Embedded Institutional Assessment

Assessment measures “can be embedded within courses.”¹⁰⁷ For example, if one of the law school’s educational outcomes is preparing students to counsel clients, faculty responsible for aligning curriculum with outcomes may decide to introduce client counseling skills in the first-year Property course. A common performance measure or exam question could be embedded in all sections of the first-year Property course that would yield aggregate information on how well first-year students were learning basic client counseling skills.

B. Course-Based Assessment

Course-based assessment, by contrast, focuses not on the aggregate of student learning but on how well individual students are mastering the educational outcomes of the course.¹⁰⁸ Course-based assessment has been described as a “feedback spiral.”¹⁰⁹ It follows the same steps as institutional and programmatic assessment: outcomes are set, assessment measures are selected, information is gathered and analyzed, and the results are used to make adjustments to the course that will improve student

103. WALVOORD, *supra* note 20, at 59–60.

104. *Id.*

105. *Id.* at 60.

106. *See id.* at 35, 39 (noting that “assessment needs to flow into budgeting and planning”).

107. ALLEN, *supra* note 44, at 9.

108. Sarah L. Stone & Donna M. Qualters, *Course-based Assessment: Implementing Outcome Assessment in Medical Education*, *ACADEMIC MEDICINE* 397–98 (April 1998).

109. *Id.*

learning.¹¹⁰ While the revised ABA Standards probably will not require that assessment be performed in all courses,¹¹¹ course-based assessment practices hold the potential to transform the educational experience of law students.

Course-based assessment would shift the classroom emphasis from teaching to learning. The traditional measure of higher education has been based upon the institution's inputs, which are the resources it musters to educate students, rather than on its outcomes, which is the amount of student learning produced.¹¹² Under traditional "inputs" measures, the role of the professor is to deliver information to students by covering course content.¹¹³ This traditional measure does not "provide for, warrant, or reward assessing whether student learning has occurred or is improving."¹¹⁴ Under "outcomes" measures, the role of the professor is not to deliver information but to design effective learning experiences so that students achieve the course outcomes and to monitor student learning in order to continuously improve their experiences.¹¹⁵

Faculty committed to course-based assessment would likely follow principles of "backward design"¹¹⁶ in the planning and teaching of their courses. "[T]he best teachers plan backward; they begin with the results they hope to foster."¹¹⁷ After the course outcomes have been determined, the professor would design the assessments that would measure how well the students are achieving the course outcomes and then would plan the course materials and teaching and learning strategies that would prepare students to achieve the outcomes.¹¹⁸

1. *Setting Course Outcomes*

The first step in planning the course would not be deciding what material to cover or which casebook to use but setting course outcomes.¹¹⁹

110. *Id.*

111. See ABA PROPOSED REVISIONS, *supra* note 8, at Standard 304, Interpretation 304-2 ("A law school need not apply a variety of assessment methods in each individual course; instead a law school shall apply a variety of assessment methods and activities over the course of a student's education.")

112. See Barr & Tagg, *supra* note 32, at 13.

113. See *id.* at 19-20.

114. *Id.* at 20.

115. *Id.* at 24.

116. L. DEE FINK, CREATING SIGNIFICANT LEARNING EXPERIENCES 63 (2003) (explaining that backward design involves designing the learning outcomes and the assessment measures for the course first and then deciding what teaching and learning activities are needed).

117. KEN BAIN, WHAT THE BEST COLLEGE TEACHERS DO 50 (2004).

118. See FINK, *supra* note 116, at 63.

119. See STONE & QUALTERS, *supra* note 108, at 398 (first step in course-based assessment is setting learning outcomes).

What should students know, what skills should they have and how should they approach their work at the end of the course? This determination would include an examination of the role the course is intended to play in the achievement of the overall educational outcomes of the curriculum.¹²⁰ The likely source of this information would be the curriculum map.¹²¹ Just because the law school has adopted certain agreed-upon educational outcomes that are intended to be achieved in designated courses, there is no danger of standardization.¹²² Faculty members would still be free to decide how to achieve the agreed-upon outcomes, to supplement agreed-upon outcomes with additional outcomes and to structure the course as they wish.¹²³ The faculty member also might want to consult with practicing lawyers about what graduates should know, the skills they should have, and the attitudes they should embrace in the practice area that corresponds to the course.¹²⁴ “All law teachers should be able to articulate clearly what their law schools do and what they seek to accomplish in each of their classrooms.”¹²⁵ A set of course outcomes for a typical first-year Property course might read as follows.

At the conclusion of this course, students will be able to:

1. recognize and resolve problems involving bailments, finders, gifts and adverse possession;
2. counsel clients concerning estates in land, future interests, concurrent interests and basic landlord/tenant problems;
3. analyze the impact of a series of transactions and encumbrances upon the state of title to real property;
4. draft a deed and a simple contract for sale of residential real property; and
5. approach all practice-related tasks with a sense of professionalism.

2. *Designing and Using Assessment Measures*

After setting the course outcomes, the professor would design the assessment measures.¹²⁶ Assessment measures can be formative, summative, or both.¹²⁷ Formative assessment measures provide students

120. See BEST PRACTICES, *supra* note 4, at 93 (Law schools should harmonize course outcomes with the curriculum in order to achieve desired congruence throughout the educational program.).

121. See *supra* notes 60–61 and accompanying text.

122. ALLEN, *supra* note 44, at 47.

123. *Id.*

124. BEST PRACTICES, *supra* note 4, at 59.

125. STUCKEY, *supra* note 10, at 317.

126. See FINK, *supra* note 116, at 63.

127. BEST PRACTICES, *supra* note 4, at 255.

with feedback to help them improve their performance.¹²⁸ These assessments need not be scored, and they are not used to assign course grades.¹²⁹ Summative assessment measures, by contrast, provide students with evaluative feedback such as a grade.¹³⁰

Formative assessment measures should be conducted throughout the semester¹³¹ and “ought to be the primary form of assessment in legal education”¹³² because graduates must be able to understand and monitor their own learning if they are to develop expertise in the profession.¹³³ Professors should use a variety of formative assessments throughout the semester and provide students with prompt feedback so that students can improve their performance.¹³⁴ These measures might include practice exam questions, peer-assessed exercises, short essay or multiple-choice quizzes, oral arguments, and flow charts or diagrams of legal concepts or procedures.¹³⁵

For example, in a Property course with the hypothetical outcomes listed above in Part V.B.1., students might be given the opportunity to practice drafting deeds and contracts for sale that would be peer-assessed using a checklist provided by the professor. This formative assessment measure would provide valuable feedback not only to the students but also to the professor who could review the scored checklists to determine how well students are learning to draft deeds and contracts for sale.¹³⁶ In course-based assessment, faculty are responsible for “determining what students are learning and whether to change their teaching to improve student learning.”¹³⁷

In addition, Classroom Assessment Techniques (CATs) would offer faculty a variety of quick and effective methods of obtaining feedback on student learning.¹³⁸ CATs are simple assessment measures that can be administered during the class period.¹³⁹ One example is The Minute

128. See ALLEN, *supra* note 44, at 9.

129. BEST PRACTICES, *supra* note 4, at 255.

130. *Id.*; see also ALLEN, *supra* note 44, at 9.

131. BEST PRACTICES, *supra* note 4, at 255.

132. *Id.* at 256.

133. *Id.*

134. MUNRO, *supra* note 29, at 151 (“The learning loop is complete only if what the teacher learns about the student’s performance is communicated to the student, so that the student knows how to improve.”).

135. BEST PRACTICES, *supra* note 4, at 256; MICHAEL HUNTER SCHWARTZ ET AL., TEACHING LAW BY DESIGN: ENGAGING STUDENTS FROM THE SYLLABUS TO THE FINAL EXAM 139, 143 (2009).

136. See BEST PRACTICES, *supra* note 4, at 256.

137. MUNRO, *supra* note 29, at 79.

138. THOMAS A. ANGELO & K. PATRICIA CROSS, CLASSROOM ASSESSMENT TECHNIQUES: A HANDBOOK FOR COLLEGE TEACHERS 25 (2d ed. 1993).

139. *Id.* at 29–30.

Paper,¹⁴⁰ which asks students to answer two questions: What was the most important thing you learned during this class and what important question remains unanswered?¹⁴¹ Professors could also adapt The Minute Paper to ask questions pertinent to a particular class session.¹⁴² Professors could quickly scan the student responses to determine if the students are “getting it,” and, if they are not, the professor may consider how to change strategy in the next class meeting.

In addition to formative assessment measures, several summative assessment measures should be administered during the semester.¹⁴³ The law school tradition of evaluating students on the basis of a single final exam is inappropriate for course-based assessment.¹⁴⁴ Multiple summative assessment opportunities would increase the accuracy of the final grade, prepare students for the final exam and reduce the stress on students produced by having only a single opportunity to earn a course grade.¹⁴⁵ These measures might include some combination of a mid-term exam, drafting assignments, oral presentations, writing assignments and role-playing in practice-related performances.¹⁴⁶ In a Property course with the hypothetical outcomes listed in Part V.B.1. above, the summative assessments would include a drafting assignment and a client counseling role play to determine how well students had achieved the drafting and client counseling outcomes of the course. The remaining outcomes might be assessed via more traditional mid-term and final exams.

Faculty should take care that summative assessments are both valid and reliable.¹⁴⁷ An assessment measure is valid if it evaluates what was taught,¹⁴⁸ and it is reliable if it accurately measures who has learned and who has not learned.¹⁴⁹ Because course-based assessment is concerned with student achievement of the course outcomes, students should be evaluated on how well they achieved the outcomes rather than on their

140. *Id.* at 148.

141. *Id.*

142. For example, at the end of a class session in a first-year Property course, the professor might ask students to write a brief example of circumstances in which they would counsel a client to create a life estate in real property. *See* SCHWARTZ, *supra* note 135, at 151.

143. BEST PRACTICES, *supra* note 4, at 259.

144. *See id.* at 238 (“Despite its long history as a part of legal education, the end-of-semester essay exam is an inadequate method for assessing student learning” and “is neither valid, nor reliable, nor fair.”); MUNRO, *supra* note 29, at 143 (“The traditional law school practice of evaluating student performance based on a single exam at the end of the course is inappropriate in the assessment-centered course.”).

145. *See* BEST PRACTICES, *supra* note 4, at 260.

146. *See* MUNRO, *supra* note 29, at 143; SCHWARTZ, *supra* note 135, at 139, 156.

147. BEST PRACTICES, *supra* note 4, at 239.

148. *Id.* at 241.

149. *Id.* at 243.

performance relative to other students.¹⁵⁰ Summative assessment measures should be returned with comments and explanations that help students understand how to improve their performance so that summative assessments would also serve a formative purpose.¹⁵¹ An easy way to provide explanatory information to students is via rubrics, which are grids that list the criteria used to evaluate student performance and the levels of student achievement of each criterion.¹⁵²

3. *Planning the Teaching and Learning Strategies*

After designing the assessment measures, the professor would plan the course materials and teaching and learning strategies that would prepare students to achieve the outcomes.¹⁵³ “The focus of the teaching must be student learning as defined and measured by specifically identified outcomes.”¹⁵⁴ Current teaching strategies in most courses in the required law curriculum consist of Socratic dialogue and case method.¹⁵⁵ Whether these would remain the only strategies in an assessment-based course would depend upon the course outcomes.¹⁵⁶

The Socratic dialogue and case method are very effective at developing analytic thinking skills and the ability to apply legal principles to varying factual situations.¹⁵⁷ If, however, the learning outcomes for a particular course are broader than those two skills, and include, for example, drafting legal documents, resolving client problems and/or developing “practical wisdom,” additional strategies would be developed to ensure that students would achieve those outcomes.¹⁵⁸ These additional strategies might include incorporating elements of “context-based education” such as problem-based instruction, using actual cases and case histories, simulations of practice experiences, and exposure to actual practice via visiting practitioners.¹⁵⁹ For example, in a Property course with

150. *Id.* at 243–45 (explaining difference between norm-referenced assessments which are “based on how well students perform in relation to other students in a course” and criteria-referenced assessments which are based upon how well students achieve the “explicit criteria” set for the course).

151. *Id.* at 260–61.

152. *See* SCHWARTZ, *supra* note 135, at 144–45.

153. *See* FINK, *supra* note 116, at 63.

154. MUNRO, *supra* note 29, at 98–99.

155. *See* BEST PRACTICES, *supra* note 4, at 133 (“Typical classroom instruction at most law schools today would be familiar to any lawyer who had attended law school during the past hundred thirty years.”).

156. *See id.* at 130 (urging professors to “choose teaching methods that most effectively and efficiently achieve desired outcomes”).

157. *Id.* at 134.

158. *See id.* at 141.

159. *Id.* at 141–57 (explaining how context-based instruction works).

the hypothetical outcomes listed in Part V.B.1. above, the professor might invite a real estate practitioner to conduct a class session in which students analyze an actual title report or students might work in small groups supervised by the professor to apply relevant law to a landlord/tenant dispute.

The course syllabus can be an important learning tool for students. Course outcomes should be included on the syllabus to help students track and control their own learning.¹⁶⁰ The professor should regularly refer to the outcomes to help students see how various topics and activities build toward the achievement of the outcomes.¹⁶¹ By embedding in the syllabus brief explanations of topics and/or questions that students should be considering, the professor can help students understand what they should be achieving and understanding.¹⁶²

VI. CHANGES FOR STUDENTS AND ACADEMIC SUPPORT FACULTY

While some students who seek assistance from their law school's Academic Support Program (ASP) may have motivational problems or learning disabilities that make law school a particular challenge, ASP faculty also meet with many students who are highly motivated and have strong undergraduate academic records.¹⁶³ Even accomplished learners may struggle in law school, particularly during the first year. While many law students might benefit from "time—time to adjust, grapple with hidden difficulties, and gain an intellectual home,"¹⁶⁴ first-year law students must adapt very quickly to the demands of their new learning environment or pay a heavy price due to the high stakes attached to first-year grades.¹⁶⁵

Adaptation can be difficult, though, because students often have no guide to how their courses will develop or to what they are expected to achieve other than syllabi that consist of course topics and reading assignments, as organized in the casebook, correlated to class meeting dates.¹⁶⁶ In addition, "[p]art of the stress and confusion that first year students experience is caused by our failure to explain why we are having them read appellate cases and wrestle with questions that do not seem to

160. See ALLEN, *supra* note 44, at 44.

161. MUNRO, *supra* note 29, at 144.

162. See JUDITH GRUNERT, *THE COURSE SYLLABUS: A LEARNING-CENTERED APPROACH* 17 (1997).

163. See Janet W. Fisher, *Change of Perspective: Reflections of a First-year Academic Support Professor*, *THE L. TCHR.*, Fall 2005, at 6.

164. BEST PRACTICES, *supra* note 4, at 256 (quoting Judith Wegner, *Thinking Like a Lawyer About Law School Assessment* 31 (2003) (unpublished manuscript) (on file with Roy Stuckey)).

165. *Id.*

166. See ANN L. IJIMA, *THE LAW STUDENT'S POCKET MENTOR* 92 (2007).

have any correct answers.”¹⁶⁷ Law school testing is also an issue for students who frequently complain that they prepared and learned detailed outlines of the course material but did not perform well on the exam because they did not accurately anticipate the content of and/or the skills required by the exam.¹⁶⁸ Students frequently have little or no opportunity to practice what they will be tested on or to benefit from feedback on their performance before the final exam.¹⁶⁹

While most students eventually adapt to and figure out how to succeed in law school, students acquire this information primarily from personal and law school contacts. This has been described as “pivotal survival information”¹⁷⁰ that students learn from second and third year law students, family and friends who are lawyers, and occasionally from professors.¹⁷¹ The difficulty with this system is that it is “often simply fortuitous” whether students access the survival information.¹⁷² Students who are isolated from the law school community by virtue of race, age or other non-traditional factors may never have equal access to the survival information because they have difficulty forming relationships at the law school, joining study groups, and may not have family or friends who are lawyers.¹⁷³ While ASP faculty provide an additional source of law school survival information, some first-year students are reluctant to approach ASP faculty or attend ASP programs for fear of being stigmatized as poor students.¹⁷⁴

Course-based assessment would eliminate many of the frustrations faced by first-year law students and would provide the information necessary to succeed to all students equally via the courses themselves. Students would be given a syllabus listing the course outcomes, so all students would know from the start what they were expected to achieve in the course. The professor would refer to these outcomes periodically, so

167. BEST PRACTICES, *supra* note 4, at 41; *see also* Cathaleen A. Roach, *A River Runs Through It: Tapping into the Informational Stream to Move Students from Isolation to Autonomy*, 36 ARIZ. L. REV. 667, 672 (1994) (“The combination of traditional Case Method instruction and Socratic dialogue does not intuitively lead most law students anywhere, and the uncertainty caused by this isolation results in great distress.”).

168. *See* CARNEGIE REPORT, *supra* note 5, at 165.

169. *Id.*; *see also* ROACH, *supra* note 167, at 673 (“At the end of the semester, although taught by the Case Method system, typically they are presented with the standard three-hour exam with loaded fact patterns providing complicated legal problems for which they have received little or no explicit training. This general lack of context is also greatly compounded by the lack of feedback students receive during their first year. Most receive no formal, detailed feedback ever.”).

170. *Id.* at 673–74 (listing key elements of this pivotal information as learning to create rule-based outlines and flow charts and to take practice exams).

171. *Id.* at 674.

172. *Id.*

173. *Id.* at 675–76.

174. *See* Paula Lustbader, *Principle 7: Good Practice Respects Diverse Talents and Ways of Learning*, 49 J. LEGAL EDUC. 448, 452 (1999).

that students would understand how parts of the course relate to the outcomes. Students would receive feedback from several formative assessments that would give them the opportunity to practice the outcomes on which they were to be evaluated and to remediate without any adverse effect on their final grade. Several summative assessments would give students multiple opportunities to contribute toward their final grade, and students would likely have at least one opportunity to be evaluated while demonstrating their strongest ability, which might be performance rather than written analysis. Summative assessments would correlate to the course outcomes, so students would not struggle with discrepancies between what they learned and the content or requirements of evaluations. Course materials and teaching and learning strategies would correlate to the course outcomes in order to prepare students to achieve those outcomes and to succeed on the assessment measures.

The proposed revisions to the ABA Standards incorporate some principles of course-based assessment. Others may be adopted by faculty voluntarily. The proposed revisions require law schools to provide “a variety of formative and summative assessment methods across the curriculum to provide meaningful feedback to students.”¹⁷⁵ In order to create these assessments at the course level, faculty would have to articulate student learning outcomes for their courses.¹⁷⁶ Setting student learning outcomes for courses and providing a variety of formative and summative assessments would improve the educational experience of law students and would affect the work of academic support faculty.

Currently ASP faculty spend a great deal of time helping first-year students decipher law school pedagogy and testing.¹⁷⁷ Articulated learning outcomes and more formative and summative assessment measures would reduce some of the mystery of the first year experience and, as a result, the work of ASP faculty. While ASP faculty would still work individually with students facing specific learning challenges and those in poor academic standing, much of the effort of ASP faculty could be redirected from providing information in a parallel academic universe to participating more directly in the academic experience of students.¹⁷⁸

175. ABA PROPOSED REVISIONS, *supra* note 8, at Standard 304, Interpretation 304–2 (noting that assessments would not be required in each individual course).

176. *See* BEST PRACTICES, *supra* note 4, at 50 (“Only when we articulate the objectives of legal education can we evaluate the extent to which we are achieving those objectives.”).

177. *See* Lustbader, *supra* note 174, at 844; *see generally* HERBERT N. RAMY, SUCCEEDING IN LAW SCHOOL (2d ed. 2010) (academic support professor advising students on what they need to do in order to succeed in law school).

178. At many law schools, academic support faculty are also responsible for running bar exam preparation courses. *See* Paula Lustbader, *From Dreams to Reality: The Emerging Role of Law School Academic Support Programs*, 31 U.S.F. L. REV. 839, 844 (1997).

Under the proposed revisions to the ABA Standards, the design and delivery of courses would become more labor intensive for doctrinal faculty who would design more formative and summative assessments.¹⁷⁹ In addition, many courses would include more practice-related skills because the law school's institutional learning outcomes would include competency in "a depth and breadth of other professional skills sufficient for effective, responsible, self-reflective and ethical participation in the legal profession" in addition to named skills.¹⁸⁰ In their capacity as learning specialists ASP faculty could work with doctrinal faculty to assist in the design of a variety of assessment measures and in the delivery of the skills instruction. For example, in the hypothetical Property course referenced in Part V above, one of the learning outcomes requires students to be prepared to counsel clients on a number of topics. An ASP faculty member could work with the Property law professor to design and carry out role-playing assessments and to teach the necessary interviewing and counseling skills in break-out sessions from the main course.

VII. OTHER INITIATIVES TO IMPROVE LEGAL EDUCATION

The report of the ABA Committee on Outcome Measures acknowledges the influence of The Carnegie Foundation's book *Educating Lawyers* and of *Best Practices for Legal Education*, both of which propose extensive changes to improve legal education. While some of the principles advocated by these works are reflected in the proposed revisions to the ABA Standards, others are not. For example, *Educating Lawyers* recommends a model of legal education that would integrate three apprenticeships:¹⁸¹ legal doctrine and analysis, practice skills, and the "identity, values and dispositions" of the legal profession.¹⁸² Similarly, *Best Practices for Legal Education* advocates a curriculum that would integrate theory, doctrine, and practice and that would teach professionalism "pervasively throughout all three years of law school."¹⁸³ While the proposed revisions to the ABA Standards require law schools to "identify, define, and disseminate" learning outcomes in the areas of knowledge, skills and values,¹⁸⁴ the revisions do not incorporate the

179. See ABA PROPOSED REVISIONS, *supra* note 8, at Standard 304, Interpretation 304–2.

180. *Id.* at Standard 302.

181. See CARNEGIE REPORT, *supra* note 5, at 27 ("As understood in contemporary learning theory, the metaphor of apprenticeship sheds useful light on the practices of professional education. . . . The common problem of professional education is how to teach the complex ensemble of analytic thinking, skillful practice, and wise judgment on which each profession rests.").

182. See *id.* at 194.

183. See BEST PRACTICES, *supra* note 4, at 100.

184. See ABA PROPOSED REVISIONS, *supra* note 8, at Standard 302.

emphasis that both *Educating Lawyers* and *Best Practices for Legal Education* place on integrating these elements throughout the curriculum.¹⁸⁵

While not mentioned in the report of the ABA Committee on Outcomes Measures, the Humanizing Legal Education movement has achieved recognition in the creation of the Section on Balance in Legal Education of the American Association of Law Schools.¹⁸⁶ Three basic principles underlie the Humanizing Legal Education movement. The first principle is that law schools should create less stressful learning environments for law students by reducing the negative stress and teaching students how to cope with stress that cannot be eliminated.¹⁸⁷ One means of achieving this end would be for legal education to move away from an “educational philosophy grounded in a competitive ethos”¹⁸⁸ by adopting criterion-referenced grading rather than norm-referenced grading, i.e. “grading on the curve.”¹⁸⁹ This grading change is also advocated by *Best Practices for Legal Education*.¹⁹⁰ The second Humanizing principle advocates student-centered teaching which requires that faculty learn about their students so that they can teach “students as individuals, with all of their diverse personalities, intelligences, backgrounds and circumstances.”¹⁹¹ In student-centered teaching faculty attend to the development of their students as persons and as professionals.¹⁹² The third Humanizing principle urges law schools to provide more “explicit values education” emphasizing the values of “peacemaking, problem-solving and justice work” in the education of law students.¹⁹³ The proposed revisions to the ABA Standards do not address these principles. Law schools are merely directed to, “offer a curriculum . . . designed to produce graduates who have attained competency in the learning outcomes identified in Standard 302,”¹⁹⁴ so each law school will make decisions about how to comply with the Standards.

While some law schools may approach the revised ABA Standards determined to do no more than is necessary to comply, other law schools may be energized by the challenge and develop a culture of assessment in

185. *Id.* at Standard 303 (requiring integration of doctrine, theory, skills and ethics in only one course).

186. See Barbara Glesner Fines, *Fundamental Principles and Challenges of Humanizing Legal Education*, 47 WASHBURN L.J. 313, 313 (2008); see also *Section on Balance in Legal Education*, THE ASS'N OF AM. L. SCHS., www.aals.org (follow “Services” hyperlink; then follow “Sections” hyperlink; then follow “Balance in Legal Education” hyperlink) (last visited Nov. 2, 2010).

187. Glesner Fines, *supra* note 186, at 314.

188. *Id.* at 316.

189. See *id.* at 318; see also sources cited *supra* note 150.

190. BEST PRACTICES, *supra* note 4, at 243–244.

191. Glesner Fines, *supra* note 186, at 319.

192. *Id.* at 321–22.

193. *Id.* at 322.

194. ABA PROPOSED REVISIONS, *supra* note 8, at Standard 303(a).

which the law school enthusiastically designs and administers assessment measures to gather information that will be used to improve student learning. These law schools will likely choose to experiment with many of the principles advocated by *Educating Lawyers, Best Practices for Legal Education*, the Humanizing Legal Education movement and principles of course-based assessment. These schools will strive continuously to improve student learning, thereby putting students at the center of legal education and transforming their educational experience.

VIII. CONCLUSION

The ABA Standards for Approval of Law Schools will likely be revised to emphasize outcome measures. If this happens, legal education will join the assessment movement that has been underway in higher education for several decades. Law schools will be required to articulate learning outcomes, design curricula that will help students achieve the learning outcomes, provide more formative and summative feedback to students, and assess student achievement of the outcomes as a measure of institutional effectiveness. These changes will positively affect the educational experience of law students and the work of academic support faculty. These changes also hold the potential to transform the educational experience of law students in those institutions that choose to create a culture of assessment.

