Bringing The Real World Into The Classroom

Eric J. Gouvin, a professor at Western New England University School of Law, is chair of an American Bar Association Committee which recently surveyed more than 100 accredited schools on skills training.

ABA committee seeks best practices for skills instruction in law schools

For Eric J. Gouvin, the recent drumbeat of debate over whether law schools are adequately providing skills training has a familiar sound. After all, as far back as the 1930s, practitioners were raising concerns about the apparent disconnect between theoretical education and the practice of law.

But Gouvin, a professor at Western New England University School of Law, and others have only heard the drumbeat get louder as competition grows for fewer jobs in a stagnant economy. As chairman of the American Bar Association’s Adjunct Faculty Committee for the Section on Legal Education and Admission to the Bar, Gouvin has been on the front lines of efforts to document best skills-teaching practices via a survey of more than 100 law schools.

He also has long immersed his students in practical skills training, both by founding a small business clinic and by leading the Law and Business Center for Advancing Entrepreneurship at Western New England University. He recently spoke to Managing Editor Marie Grady about a report that developed from the ABA’s best practices survey and the need for law schools to innovate.

LAW TRIBUNE: What has the ABA committee you chair been doing to address this issue?
ERIC J. GOUVIN: We just recently completed a best practices report on the use of adjunct faculty. The ABA has long held that a good curriculum should include drawing on the resources of the local bar and bench. Part of what we're doing is pulling together existing practices. We had participation from 116 of the 200 ABA-accredited law schools. One of the things that came across to me loud and clear in this era of skills training is that the bench and the bar are incredible resources.

LAW TRIBUNE: What are some of the innovative practices out there?

GOUVIN: One innovative use of adjunct faculty we found is the creation of "skills labs" as a way to bring doctrinal courses into the real world. There was a school that had in its first-year contracts a lab where lawyers would come in and help students think through contract drafting. There is a willingness in some [schools] to depart from the traditional model of regular faculty and adjunct-taught classes and think more about a team-teaching approach, where maybe the adjunct isn't committed for the whole semester. One of the challenges is tapping that expertise but being aware of how much time costs.

LAW TRIBUNE: I understand you've written about a class based on a simulated case?

GOUVIN: On the first day of my secured transactions class, the students get a file like a file an associate at a firm would get. It describes the client, a firm that grows oysters — an aquaculture farmer. They need financing. I bring in a commercial banker to talk to the class ... as if he's going to give this business a loan. I bring in a bankruptcy judge to talk about what happens if the transaction ends up in bankruptcy, how that would play out. I also bring in a commercial lawyer to talk about the lawyer's role in shepherding the transaction and closing the deal. Is this going to be a magic wand to get all those students in that class ready to go out and practice secured transactions? Probably not. But it's a step in the right direction.

LAW TRIBUNE: Tell me about Western New England's mandatory pro bono program.

GOUVIN: It goes into effect for students admitted this year. The faculty is subject to it as well. We hope the pro bono experiences the students have will be something akin to an externship. The practice of law is not usually compartmentalized. If you're doing lots of interesting, law-related things it comes together and helps to make you a better professional.

LAW TRIBUNE: Why has the debate about skills training gone on for so long? Is there a resistance to change?

GOUVIN: I hate to say it, but the disconnect between law schools and the legal profession starts with the professoriate. On every law faculty in the United States there are lots of really smart people teaching law to lots of really smart students who want to be lawyers. The problem is, many of the people teaching the students didn't like practicing law so they're not really cheerleaders for the practice of law because they themselves sought refuge in the academy. Even for professors who did like legal practice, the practice experience of the typical law professor and the actual practice of the typical lawyer are two very different things. Of lawyers in private practice, 70 percent practice in firms of fewer than 10 lawyers. On the other hand, the vast majority, of law professors who teach in ABA law schools practiced in huge firms in big cities. Consequently there's a disconnect.

LAW TRIBUNE: What about the Massachusetts Bar Association president's concern that students are taught core subjects the first year and not tested on them until two years later?

GOUVIN: In California, there is an exam for unaccredited schools called the "baby bar." In order to sit for the bar exam you have to take it after the first year. If you don't pass, you can't proceed to the second and third year of law school. I like the idea of having at least that component of the bar earlier. It would make sense to get the Multistate Bar Examination portion of the bar exam out of the way early in a student's legal education.

LAW TRIBUNE: An increasing number of new law grads are going solo. What concerns does that generate?

GOUVIN: It's kind of scary. I know how long it took me to feel like I was a lawyer, and I graduated at the top of my class and had a job at a big firm with all kinds of support. It just takes a while to learn the tricks of the trade, plus you need to learn them from somebody — a partner or a mentor. A lot of bar associations now have mentoring programs in place and I would urge anyone hanging out a shingle to get into a relationship like that. There's a surprising amount of generosity among members of the bar.

LAW TRIBUNE: Why did you go to law school and what has changed since then?

GOUVIN: I wanted to be a history professor but my honors advisor in college said it would take forever and then there wouldn't be any decent jobs. Plan B was law school. I thought law school gave me a lot of options. For all of their faults, I think law schools still do that. •