

## LEARNING BY DOING: AN EXPERIENCE WITH OUTCOMES ASSESSMENT

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### I. INTRODUCTION

AN emphasis on assessment and outcomes measures is a drum beat that is growing louder in American legal education. Prompted initially by the demands of regional university accreditation bodies, the attention paid to outcomes assessment is now growing with the forecast that the ABA will revise its accreditation standards to incorporate outcomes measures. For the past three years, the University of Pittsburgh School of Law—in response to a mandate from our University—has been developing a system for assessing the learning outcomes of its students. By describing our experience here at Pitt Law, with both its high and low points, we hope to suggest some helpful pointers for other law schools as they work to develop systems for assessing whether they are accomplishing institutional goals related to student learning.

#### *A. Assessment of Student Learning Outcomes*

A fundamental challenge for law schools that embark on developing a system for assessing student learning outcomes (whether voluntarily or in response to some kind of mandate) is clarifying for faculty and deans the central concept.<sup>1</sup> In comparison to other realms of professional education, legal education has remained fairly naïve about the idea that schools should seek to assess whether their students, as a group, are achieving the educational objectives embraced by the school. Initial discussions among legal educators regarding the assessment of student learning outcomes typically prompt questions from individual faculty members who point out that they assess their students when they assign grades at the end of every semester; why is further assessment called for, they ask.

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1. Given the nature of this venue, this section's attempt to clarify the concept of assessing student learning outcomes is of necessity brief.

These questions reflect a basic, and understandable, confusion of the differing purposes and types of assessment. Of course, each faculty member is responsible for assessing the performance of the individual students in his or her course, whether that assessment occurs by means of a final examination; one or more papers, simulations, or other exercises; or the application of some kind of grading rubric to students' performance in a clinical setting. This assessment of individual student performance serves the purpose of signaling both to the student and to third parties, such as prospective employers or other graduate programs, how the student is performing or has performed in the course.<sup>2</sup> In contrast, assessing student learning outcomes is a method of evaluating the effectiveness of a program or an institution.<sup>3</sup>

A comparison to the distinction between the goals of medical care and the goals of public health practice, while not an exact parallel, may be helpful. The focus of a clinical encounter between a physician and a patient is the health of the individual patient—first ascertaining the patient's current health status and then prescribing any treatment needed to improve it. By contrast, a public health official is concerned primarily with the health of *populations*. The official asks questions about the incidence of communicable diseases or unhealthy habits in a population group and what steps can be taken to lower them. While some overlap may exist between the interventions recommended to advance population health and those used to improve an individual's health, the core motivations are distinct. Similarly, while the grading conducted by professors in their courses is focused on assessing the performance of individual students, a system of assessing student learning outcomes seeks to measure how well a population of students is accomplishing stated objectives and, accordingly, how effectively the institution is supporting them in achieving those objectives. Ideally, this process will provide information that the institution can use to identify steps to improve its students' attainment of objectives.

Fundamentally, therefore, an effective system of assessing student learning outcomes serves as a mechanism for providing an educational institution with information about whether its students—as a group—are succeeding in learning those things that the school has set out to teach them.<sup>4</sup> This deceptively simple articulation of the concept requires some unpacking, however. First, before it can measure its students' success, the school must articulate clearly what exactly it wants them to come out of the school being able to do—what are the desired “learning outcomes” for the school's students?<sup>5</sup> In the case of J.D. programs, these should include the core competencies of the lawyer's professional role.<sup>6</sup> Depending on a school's particular mission or emphasis, they may include other

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2. ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROADMAP 235, 255 (2007) [hereinafter “BEST PRACTICES”].

3. *Id.* at 265.

4. *See id.* (“Principle: The school regularly evaluates the program of instruction to determine if it is effective at preparing students for the practice of law.”).

5. *See id.* at 265-66.

6. For examples of desirable outcomes, see *id.* at 50-55.

objectives as well. The school then has to determine how it will know whether its students, again as a group, are in fact accomplishing those results.

Once it has assessed how well students are currently doing in achieving the articulated outcomes, a law school can use that information to inform institutional efforts to increase the number of students attaining those results. Those efforts might include adjusting the curriculum (in terms of either what is taught or how it is taught),<sup>7</sup> providing academic support services, or simply communicating to students more clearly the outcomes sought and the rationales for them.<sup>8</sup> Finally, a sound system for assessing students' learning outcomes increases accountability by allowing a school to inform external and internal audiences about how well it is teaching students what the school thinks they need to know.<sup>9</sup>

Of course, nothing currently prevents individual law schools (or the universities in which they are situated) from voluntarily developing and implementing a system for assessing whether its students as a group are successful in attaining certain desired learning outcomes. The question that has generated considerable conversation in the past several years, however, is whether law schools should be required to do so in order to be accredited by the American Bar Association.<sup>10</sup>

#### B. ABA Accreditation and Outcomes Assessment

Over the past several years, the ABA Section on Legal Education and Admissions to the Bar ("Section") has begun approaching this question seriously and methodically, with the appointment in 2007 of a Special Committee on Outcomes Measures ("Outcomes Committee") to consider "whether and how we can use output measures, other than bar passage and job placement, in the accreditation process."<sup>11</sup> As part of its inquiry, the Outcomes Committee examined the educational accreditation schemes employed in ten other professions to see how those disciplines assess whether schools are achieving educational and professional goals.<sup>12</sup> It found that all the professional accrediting bodies reviewed use standards that are based on outcome measures, with the majority of them having moved from input-based systems just in the past decade.<sup>13</sup> Notwithstanding some variation in how these professions assess a

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7. See generally *id.*

8. *Id.* at 40-55 (recommending, *inter alia*, that schools "[a]rticulate [the] [g]oals of [e]ach [c]ourse in [t]erms of [d]esired [o]utcomes").

9. *Id.* at 265.

10. See, e.g., SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR, AM. BAR ASS'N, REPORT OF THE OUTCOME MEASURES COMMITTEE 3 (1992) [hereinafter "CARPENTER REPORT"], available at [http://webcourses.lexisnexis.com/@/5F5ABA16982A3AA0ACA5FE600BED10B9/courses/1/Law\\_123509/db/\\_351669\\_1/Outcome%20Measures%20Final%20Report.pdf](http://webcourses.lexisnexis.com/@/5F5ABA16982A3AA0ACA5FE600BED10B9/courses/1/Law_123509/db/_351669_1/Outcome%20Measures%20Final%20Report.pdf).

11. *Id.* at 4.

12. *Id.* at 20. The professions selected for comparison were allopathic and osteopathic medicine, dentistry, veterinary medicine, pharmacy, psychology, teaching, engineering, accounting and architecture.

13. *Id.*

school's success in producing outcomes, the Outcomes Committee identified "two trends in professional accreditation. First, the accrediting body measures a school's performance against its own stated mission .... Second, accreditation standards are performance-based and seek evidence of student learning."<sup>14</sup> After a thorough review of the approach taken in each of the ten professions, the Outcomes Committee concluded:

[T]he other disciplines allow schools to play a significant role in defining the nature of the professional education they will deliver to students and then demand that the schools produce outcome evidence of their educational efforts to insure they have delivered to graduates what they promised to deliver. The focus clearly is on student performance outcomes as opposed to input measures such as the human and other resources schools are investing in the educational enterprise.<sup>15</sup>

In addition to its review of other professions' approaches to accrediting professional schools, the Outcomes Committee examined legal education in other common-law countries, where it found evidence of a movement towards an emphasis on outcomes. England, Wales, Scotland, and Australia all are in the process of reforming their systems of legal education to focus more on outcomes—specifically graduates' ability to demonstrate both their "knowledge and understanding of law and legal practice and their ability to deliver legal services to a high quality, rather than on their ability to complete a particular course or courses of study."<sup>16</sup>

Its consideration of the approaches of legal educators in other countries and of accrediting bodies in other professions, along with its examination of insights gleaned from legal education (contained in The Carnegie Foundation Report<sup>17</sup> and the "Best Practices" Report<sup>18</sup>) and the use of outcome measures by regional accreditation commissions and the Council for Higher Education Accreditation, ultimately led the Outcomes Committee to recommend, in a report issued on July 27, 2008, 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 outcome measures."<sup>19</sup>

Its recommendation acknowledges that any such change in approach could not be implemented immediately, and the report proceeds to identify and make suggestions regarding "a number of difficult questions" that a decision by the ABA to shift to an outcomes-based approach would raise.<sup>20</sup> While the Committee cautioned against throwing the proverbial baby out with the

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14. *Id.* at 21.

15. *Id.* at 46.

16. *Id.* at 12 (quoting THE LAW SOCIETY, QUALIFYING AS A SOLICITOR—A FRAMEWORK FOR THE FUTURE: A CONSULTATION PAPER 6 (Mar. 2005)).

17. WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007).

18. BEST PRACTICES, *supra* note 2.

19. CARPENTER REPORT, *supra* note 10, at 1.

20. *Id.* at 55.

bathwater in any revision process,<sup>21</sup> its bottom line was also clear. Legal education in the United States has much to learn about the value of focusing on outcomes.<sup>22</sup>

In response to this recommendation, a Student Learning Outcomes Subcommittee of the Section's Standards Review Committee worked throughout 2009 to draft Standards and Interpretations that place greater emphasis on student learning outcomes than the existing Standards do. In October 2009, the Subcommittee completed a draft of revisions and additions to the ABA Standards relating to the "Program of Legal Education" and presented that draft to the Standards Review Committee. The draft is available online<sup>23</sup> and has already generated comment from interested parties. The draft would require law schools to articulate student learning outcomes, offer a curriculum "designed to produce graduates who have attained [those] learning outcomes," and assess student learning outcomes. The debate over these proposed revisions is likely to be contentious, and the adoption of revised standards (if it occurs) will almost certainly be followed by some kind of phased-in implementation. Nonetheless, it is none too soon for law deans and faculties that have not yet focused on how they might measure the results their students take away from law school to begin considering that prospect. The balance of this Essay describes how the University of Pittsburgh School of Law has been working to develop a system for assessing student learning outcomes and offers some lessons that we have learned from that process, in hopes that those lessons might be of some value for others engaging in a similar effort.

## II. LEARNING BY DOING: ASSESSMENT OF LEARNING OUTCOMES AT PITT LAW

As have a number of U.S. law schools, Pitt Law came to the assessment of student learning outcomes reluctantly, at the prompting of our University administration, after the University itself was prompted to undertake assessment by its accrediting agency.<sup>24</sup>

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21. *Id.* at 64.

If the Council follows our recommendation and instructs the Standards Review Committee to re-examine the existing Standards and Interpretations for the purpose of moving towards a greater emphasis on outcome measures, the Committee strongly urges that the Committee and the Council revise with a very careful eye .... [E]ven Standards and Interpretations that are currently couched in input terms may reflect important concerns that should be retained, albeit in a more outcome-oriented formulation.

*Id.*

22. *See id.*

23. ABA SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR STANDARDS REVIEW COMMITTEE, STUDENT LEARNING OUTCOMES DRAFT FOR OCTOBER 9-10, 2009 MEETING, *available at* <http://www.abanet.org/legaled/committees/comstandards.html>.

24. The University of Pittsburgh is accredited by the Middle States Commission on Higher Education. The Law School is required to assess student learning outcomes (SLOs) for each of its three degree programs (J.D., LL.M., and M.S.L.), but this discussion will focus primarily on our experience with assessment of the J.D. program.

Our story might sound familiar. Starting conditions were neither ideal nor uncommon: Our faculty was resistant to and skeptical of assessment, with several members expressing views and concerns commonly articulated within the legal academy. The University itself had limited experience with the kind of programmatic assessment sought by its accreditor.<sup>25</sup> And we in the Deans' Office lacked familiarity with the concept, process, and methods of outcomes assessment and were, quite frankly, not much more enthusiastic about the exercise than our colleagues. An added wrinkle was that the school had concurrently initiated a process of curricular review and reform that faced faculty resistance and skepticism as well, at least from some quarters.

*A. We Set Forth*

To meet the University's requirements while hoping to minimize conflict and stress within our building, we started by following a "path of least resistance" approach. That is, the Deans' Office took on the responsibility and most of the burden of identifying and defining our desired student learning outcomes ("SLOs"), as well as designing and implementing methods of assessment. To keep the faculty informed of the process and to obtain faculty input on the content and process of assessment—while minimizing the time and effort we asked the faculty to expend—we worked with four faculty "consultants"<sup>26</sup> and the Faculty Steering Committee<sup>27</sup> to develop our plan. We reported to and surveyed the entire faculty at key points (for example, in selecting the five outcomes on which to focus).<sup>28</sup> We shielded the faculty completely from the nitty gritty aspects once we undertook our first round of actually assessing student work. We managed that exercise ourselves and

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25. Some disciplines, notably the health-related professions and engineering, had experience with the assessment of student learning outcomes, but for the rest of the academic units at the University the practice was new.

26. Along with our decision to engage faculty members as consultants rather than constitute a faculty committee to work on assessment, the way in which we communicated with those consultants provides an example of how sensitive we were to try to avoid burdening faculty members with the work of assessment while at the same time providing the opportunity for faculty input. In our email message asking them to serve as consultants, we emphasized that the Deans' office would take primary responsibility for the project, that the time commitment expected of them would not be great, and that we were interested in their "input" and "feedback."

27. Pitt's law school has a tradition of strong faculty governance, and the faculty Steering Committee is elected by the faculty to provide advice to the Law School's administration, among other responsibilities.

28. We polled the faculty using a form that asked them to select and rank five of seven defined SLOs that students should achieve by the time they complete the requirements for the J.D. and to suggest revisions to our language describing particular outcomes. We also invited faculty to add outcomes to our list if it did not include an outcome they believed to represent a fundamental result of the J.D. program. Based on the results of this survey, we identified and defined five student outcomes to assess: Legal Analysis and Reasoning, Knowledge of Substantive Law, Communication, Problem Solving, and Professionalism and Ethics. The two outcomes receiving the lowest levels of faculty support were Legal Research and Practical Lawyering Skills. We do not interpret those two outcomes' ranking as suggesting that our faculty does not view them as important, but merely as the result of the faculty's being limited to choosing five outcomes.

delegated the task of evaluating individual pieces of student work to three faculty librarians, all of whom are trained lawyers.<sup>29</sup>

In several respects, that approach worked. We satisfied the University's requirements, and the Vice Provost in charge of assessment even held up elements of our assessment plan as something of a model for other schools.<sup>30</sup> In other respects, however, our initial approach reaped what it sowed. We treated assessment as a necessary evil, and the faculty, not surprisingly, remained disengaged and unconvinced of the value (and perhaps even the legitimacy) of the School's administration-driven efforts. After the second year of this approach, members of the faculty expressed a wish for greater involvement in assessment—mainly because they began to realize the potentially significant ramifications of assessment for how they taught and wanted to keep an eye on and have input into an unavoidable task of which most remained skeptical, if not downright suspicious.

Throughout the first two years of our work with assessment, in various settings and through different interactions, culminating in a faculty meeting towards the end of that second year, we heard a range of views on assessment from our colleagues—most of them quite typical of views that have been expressed in the legal academy generally. A number of our colleagues opposed school-wide assessment or at least questioned its value, making points that fell into four general categories:

- Institutional assessment of SLOs is not necessary because each faculty member assesses how well our students are learning each semester when we assign grades. (This view might be characterized as a “trust us; we know best” perspective.)
- Institutional assessment of SLOs would be harmful because it will lead us to “teach to the test” in a way that will strip from our classes the most important and subtle learning experiences. The concern sometimes articulated is that an attempt to measure what students take away from their three years of law school, by reducing an experience of intellectual growth and personal development to some kind of objective measure, will diminish the experience and lead legal education to become more pedestrian in its focus and rote in its method.

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29. Here we have compressed our account of the assessment of our three degree programs, for we used our graduates' Pennsylvania bar examination results to assess the J.D. program in our first round—obviously, the bar exam graders actually evaluated our graduates' work and we simply analyzed the results. For our LL.M. and M.S.L. programs (the vast majority of graduates from which do not sit for a bar exam), however, our own faculty librarian assessors applied scoring rubrics to students' examinations and papers to evaluate their Legal Analysis and Reasoning.

30. For example, the Vice Provost included a defined learning outcome, an assessment method, and a standard of comparison from our J.D. assessment plan among the “good examples” provided via the University's website on assessing student learning outcomes. (The Provost's Office maintains a website on assessing student learning that is available at <http://www.provost.pitt.edu/assessment/>.) She also invited one of us to present on our assessment plan to the University's Council on Graduate Studies. A slide show from this presentation is available at <http://www.academic.pitt.edu/assessment/pdf/LawExamples03-17-09.pdf>.

- Related to the previous point: Institutional assessment of SLOs in legal education cannot be done in a way that is meaningful because what we teach cannot be quantified or evaluated objectively (and, accordingly, to attempt to measure it would be harmful). Proponents of this view seemed to suggest (and sometimes stated outright) that legal education is simply different from other types of professional education in which outcomes assessment is more common. Some legal educators at our school and elsewhere believe that the critical thinking skills, issue spotting and analysis, and communication skills emphasized in traditional legal education provide a richer, more intellectually diverse and rigorous educational experience than is offered in other professional schools.
- Institutional assessment of SLOs would entail a large and unjustifiable drain on faculty resources and take us away from the important work of teaching, scholarship, and service.

Lurking in the background (and sometimes expressed directly) was the suspicion that outcomes assessment was a vehicle for the University to exert control over the Law School and therefore something to be resisted.

Not everyone was so negatively inclined, however. Indeed, a (perhaps smaller) number of our colleagues embraced the idea of assessing student outcomes on an institutional basis and even urged us to do so with greater rigor and ambition. Some stressed the importance of identifying and stating our learning objectives to insuring that we had a clear institutional sense of mission and direction; these colleagues noted the relationship among those objectives, our overall curriculum, and our individual courses—in other words, the relationship of assessment to “what” we teach. Some colleagues pointed out the value of the opportunity that assessment would provide us as teachers to be more self-reflective about our effectiveness and more rigorous in our methods—in other words, they noted the relationship between assessment and “how” we teach. Our colleagues who favored assessment viewed the expenditure of faculty time and effort on assessment as an investment that would relate directly to our teaching mission.

#### *B. Faculty Join the Journey*

Prompted by the faculty’s desire for greater input, the Dean appointed an ad hoc faculty Committee on the Assessment of Student Learning Outcomes (affectionately known as “CASLO”) and charged it with two main tasks: (1) “developing and articulating, with faculty input, a proposed general approach or philosophy to guide the Law School’s efforts regarding assessing student learning outcomes”; and (2) “proposing how responsibility for carrying out these efforts (including plan development, implementation, and reporting) should be shared in the future between the School’s faculty and administration.”

Perhaps because the memory of the previous years’ unhappy faculty discussions remained fresh, our work with CASLO did not get off to a promising start. The Chair, a noted research scientist and legal scholar, was both wary of



the potential for top-down assessment to interfere with meaningful instruction and concerned about the drain on faculty time and Law School resources that satisfying this annual requirement would represent. Given this wariness, our first meeting with him was difficult, leaving all parties feeling less than upbeat about the year ahead.

But a funny thing happened over the course of that year: the Chair, and then the committee, and, finally, a critical number of other faculty members, began to warm up to the idea of institutional assessment. Some were even enthusiastic about it (but we considered them to be outliers). Several of our faculty colleagues have come to appreciate the value of identifying and assessing student learning outcomes, and the faculty as a whole has adopted a sound set of principles to guide the School's efforts. This welcome development has brought our faculty colleagues into closer engagement with us in this work. A high point for us was when the Chair of CASLO, presenting that committee's recommendations at a faculty meeting, declared himself to have experienced a "conversion" on the subject (even if he seemed to be saying this tongue in cheek).

By the end of our third academic year with assessment, the ad hoc CASLO recommended, and the faculty adopted, a number of important proposals, including:

- A standing faculty committee on assessment, similar to CASLO, should be established to "assist the Administration in addressing [issues related to assessment], providing regular faculty input, evaluating the results of assessments and making recommendations to appropriate faculty committees if the assessments show that the School's goals are not being met." The new standing committee should have an annually rotating membership that represents "the full range of faculty expertise, including clinical and legal writing faculty as well as doctrinal faculty."
- "The assessment process and measures should be integrated with the Law School's curriculum (broadly construed to include its courses, academic programs, and practice-related opportunities). Assessment measures should focus on criteria and results that are coherent with the curriculum and the results should be used to inform and update curricular change."
- "An important focus of the Student Learning Outcomes concerns preparing students for practicing law. An important purpose of the assessment should be to evaluate how well the School is preparing students for practicing law."

The faculty adopted CASLO's recommendations with respect to how the School should design and implement assessment as well, including its proposals that (1) assessment be conducted as objectively as reasonably possible and use suggested methods and criteria for achieving objectivity,<sup>31</sup> and (2) the School

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31. These suggestions included "the use of pre- and post-test evaluation designs, blinded grading, achieving reliability of grading, and avoiding bias."

engage the assistance of experts at the University of Pittsburgh and other local universities. Addressing the issue of faculty resources, CASLO recommended and the faculty agreed that faculty work in preparing evaluation instruments and scoring student work should be compensated, whether financially or through adjustments to individual faculty members' other responsibilities.

We are now in our first year operating under these principles, and the year is going well so far. The first standing CASLO has been appointed and comprises the Chair of the former, ad hoc CASLO (a doctrinal faculty member) as its Chair, a clinical faculty member, a legal writing faculty member, and another doctrinal faculty member with clinical teaching experience; one of us (Lu-in) serves *ex officio*. This CASLO worked diligently, even over the summer, to carry out its charge to:

review[] the School's existing SLOs for its JD program for the purpose of determining whether to propose additions to or revisions of those SLOs in light of (1) the faculty's discussions of curricular reform to date; (2) the faculty's adoption of a proposal to incorporate the development of "whole lawyer" skills<sup>32</sup> and attributes into the School's curriculum and co-/extra- curricular programs; and (3) the Committee's own review, as informed by external sources.

That review has resulted in CASLO's determination that, while the existing SLOs are still appropriate, they are framed too abstractly to adequately communicate their scope and meaning or to allow for rigorous, detailed assessment. Accordingly, CASLO has drafted an elaboration of the existing SLOs for faculty discussion that expands upon the original definitions of the SLOs by providing a list of the specific components that comprise a particular SLO.

### C. *Lessons Learned on the Road so Far*

We are learning a great deal from this experience about how to engage faculty, leverage resources, and integrate outcomes assessment and curricular reform. By no means do we pretend to have assessment of student learning outcomes all figured out or are we convinced that it is an unalloyed good for our school or legal education more broadly, nor is all smooth sailing at Pitt Law. To the extent that we have had positive experiences with our first steps towards outcomes assessment, have learned from our negative experiences, have seen an increase in faculty engagement, and are mapping an approach for deriving benefits for the School from what had once seemed primarily a task imposed

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32. Earlier in the same year that the faculty adopted CASLO's proposals, it had adopted the proposal of a separate faculty committee, the ad hoc Legal Education Initiatives Committee, with regard to "'whole lawyer' competencies," which that Committee described as potentially including particular personal attributes, effective organizational and management capacities, and work strategies to complement the substantive expertise and practical lawyering skills that students also should develop. The faculty adopted the proposal that it continue to study how it might offer curricular and co-curricular proposals for developing whole lawyer competencies, a task that entails identifying the competencies on which to focus.

from above, however, we want to share what we have learned. Our experience is consistent with a number of recommendations in the literature on assessment of learning outcomes in legal education,<sup>33</sup> and therefore underlines the importance of consulting those sources and of opportunities for legal educators to come together to share their experiences and learning.

Here, in no particular order, are the six biggest lessons we have learned:

1. *Think big: Make the assessment process meaningful.* Thinking small yielded no lasting benefits for us. It was only when we stopped treating assessment as a chore from which to spare our colleagues and opened the door to our colleagues'—and our own—greater ambitions that we have started to see the potential for outcomes assessment to further the School's mission rather than detract (and distract) from it. To insure that assessment does not devolve into a mere assignment that drains our resources but does little to move the School forward, we must remain mindful of and distinguish between two of the overlapping but distinct purposes of assessment: advancing the School's mission and strategic objectives versus satisfying the University's central administration and the relevant accrediting agencies. In this regard, the emphasis that the Outcomes Measures Committee placed on “afford[ing] considerable flexibility to individual law schools to determine the outcomes the school seeks to effect ... and the mechanisms by which to measure those outcomes” and allowing schools room to fashion outcomes measures and mechanisms “that reflect any special missions the law school has adopted”<sup>34</sup> is encouraging. We remain keenly aware, however, of the negative potential that a reframing of the ABA Standards might occur in a way that would decrease flexibility, increase costs, and push schools toward greater uniformity.

2. *At the same time, take small steps.* As with so many important endeavors, we believe it is best to combine ambition—in terms of using assessment to define and further the School's goals and improve students' educational experience—with modest aspirations in terms of implementation. That is, we have found it helpful to take a methodical, step-by-step approach to adopting assessment measures in order to develop expertise and work out kinks with each method before taking on a new one. For example, when we undertook to develop scoring rubrics for assessing students' written work to evaluate their legal analysis and reasoning, we designed and implemented them first in our two smaller degree programs, the M.S.L. and LL.M. programs (each of which generally has an enrollment of 15-18 students per year) so we could test and refine them with a smaller set of exams and papers before applying them to our much larger J.D. program. We need to continue to develop and refine our

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33. See, e.g., GREGORY S. MUNRO, OUTCOMES ASSESSMENT FOR LAW SCHOOLS (2000); BEST PRACTICES, *supra* note 2, at 265. See also generally BARBARA E. WALVOORD, ASSESSMENT CLEAR AND SIMPLE: A PRACTICAL GUIDE FOR INSTITUTIONS, DEPARTMENTS, AND GENERAL EDUCATION (2004).

34. CARPENTER REPORT, *supra* note 10, at 55, 56.

rubrics, moreover, in order to insure that they are valid, reliable, and fair,<sup>35</sup> and this process is one on which we will need to consult with experts in relevant fields (see point #4, below).

3. *Recognize the limits of assessment—but recognize the potential range of assessment methods, as well.* While we believe the assessment of student learning outcomes *could* prove to be a worthwhile practice,<sup>36</sup> we also heed the misgivings of those in legal education, our colleagues among them, who warn that not every skill or value that a faculty wants its students to take from their three years of law school can be reduced to a performance that is easily measured or assessed. As one of our colleagues pointed out, he has heard from some of our graduates that among the most valuable lessons they learned were the unstated ones.

We also believe that recognizing the value of measuring some outcomes does not require a school to devalue or lose sight of other outcomes that cannot readily be measured. Having said that, however, we also note the availability of a wide range of methods for evaluating students' attainment of different types of skills, attributes, and knowledge.<sup>37</sup> Furthermore, as one expert on assessment has stated, while it may be true that some goals of higher education cannot be measured fully in an "objective" sense (meaning "that all judges of a student performance will agree on its quality"), we can develop means to assess those goals using "informed judgment of student work using explicit criteria."<sup>38</sup>

4. *Engage a broad spectrum of faculty members, and tap outside expertise.* To increase faculty engagement in, as well as improve the quality of, your assessment plan, include on your committee or team (1) faculty members who have indicated an interest in assessment, (2) faculty members who have expertise in relevant subjects such as learning theory or program evaluation, and (3) faculty members who teach in different areas of the curriculum (i.e., doctrinal and skills).<sup>39</sup> The reasons for including each might be obvious, but we will

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35. See MUNRO, *supra* note 33, at 106-10 (on requirements for effective methods of assessment); BEST PRACTICES, *supra* note 2, at 271-72 (on the principle of meeting recognized standards for conducting assessments).

36. Ultimately, whether the assessment of student learning outcomes is a valuable enterprise depends on the balance between the benefits derived (with respect to improving students' learning, advancing institutions' pursuit of their missions, and demonstrating accountability) and the burdens imposed (in terms of resources required, distraction from other goals, and potential limits on institutional autonomy) and is, as one of our colleagues has pointed out, an empirical question. As far as we know, the net value of assessing SLOs in legal education has not yet been demonstrated empirically.

37. For a discussion of various methods schools can use to gather both quantitative and qualitative information about the effectiveness of their programs of instruction, see BEST PRACTICES, *supra* note 2, at 266-70. Indeed, it is good practice to employ a variety of methods. See *id.* at 266. Our University expects programs to use both direct and indirect methods of assessment. See [http://www.academic.pitt.edu/assessment/assessment\\_process.html](http://www.academic.pitt.edu/assessment/assessment_process.html).

38. WALVOORD, *supra* note 33, at 9. For more on criterion-referenced assessment, see SULLIVAN ET AL., *supra* note 17, at 170-71.

39. This lesson is one we learned the hard way after our year of trying to go it mostly alone met with faculty displeasure. While our initial approach seems to provide an example of what *not* to do, we wonder at the same time whether the assessment project would have sparked the faculty

elaborate nonetheless: Including those who have indicated an interest in assessment, without regard to their areas of teaching or their expertise, will help to move the project forward because of their enthusiasm and energy. Further, those faculty members are likely to be the individuals most motivated to integrate assessment with curricular and teaching reforms, thereby helping to guard against the danger of assessment's becoming a "top-down" initiative and promoting a more effective and healthier "bottom up" approach to integrating assessment and mission. Law faculty members with expertise in relevant areas such as learning theory or program evaluation (such as our CASLO Chair) might be a rare breed, but they can be extremely helpful because they can understand and navigate both the world of legal education and the world of assessing learning outcomes and thereby improve the validity, rigor, and value of the assessment process. Engaging individuals who teach in different areas of the curriculum is important to insure that the school assesses meaningfully the full range of knowledge, attributes, and skills needed to educate the whole lawyer.

We are fortunate to be located both within one major research university and in close proximity to another (Carnegie Mellon University). As a result, we have access to and have tapped a wealth of resources with expertise in and experience with assessment. We have, for example, consulted with our University's Center for Instructional Development and Distance Education, Office of Measurement and Evaluation of Teaching, and Learning Research and Development Center. In addition, many other fields of professional education have long experience with assessment (or, as ABA's Outcomes Measures Committee put it, "the legal education field has lagged behind other fields in developing and using outcome measures"),<sup>40</sup> so the other professional schools at our university have much to teach us about assessment. Furthermore, a creative and ambitious program of assessment could engage scholars in fields such as organizational behavior and development to identify a fuller and richer set of professional competencies to teach and assess.

5. *Share more information with faculty members than you might think they are interested in receiving or than you might find comfortable sharing.* As we have noted, our original, cautious approach did little to reduce resistance among our colleagues or to promote meaningful assessment. Only after "burdening" our colleagues with more information, including some long and (some might say) dense readings on assessment did we get their attention and interest. Learning about the prevalence of outcomes assessment in other fields of professional education and the apparent inevitability of outcomes assessment in American legal education seems to have played a key role in bringing some of our colleagues to the discussion.

6. *Be patient, and be willing to have difficult conversations.* Outcomes assessment will require changes in our thinking and in how we operate, and the prospect of those changes can be unsettling. It would be unrealistic to expect our colleagues to embrace such changes readily, and we have found it important to

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interest that has led to our present, more collaborative point if we had sought to involve our faculty colleagues more extensively from the outset.

40. CARPENTER REPORT, *supra* note 10, at 61.

give the faculty time to absorb the idea of and learn about assessment and to allow them to come to their own conclusions. We have also learned much about how assessment might offer value to our institution, as well as why we should proceed with caution, by listening to the legitimate concerns raised by our colleagues. Although we have chronicled here just our experiences focused directly on assessment of student learning, we believe that other work and events over the past few years have contributed to whatever progress we have made. As we noted earlier, alongside our work on assessment, the faculty has been studying and discussing curricular reform as well. Part of that process included a year devoted entirely to faculty study of critiques of and innovations and trends in legal education.<sup>41</sup> Over time, the faculty has had the opportunity to reflect on changes in legal education through the work of various faculty committees and by hearing about innovations at other law schools through invited speakers.

#### IV. CONCLUSION: THE JOURNEY CONTINUES

We have learned some useful lessons on our journey over the past several years toward implementing a system of assessing student learning outcomes. We emphasize again that we do not purport to have figured out the best system for our own institution, much less other institutions. Indeed, we are not fully convinced that we will be able to pursue truly meaningful assessment of SLOs in ways that will leave our institution stronger or our students better educated overall. Nonetheless, because of Pitt Law's commitment to doing our best to educate our students to become competent and ethical professionals, both law school administration and faculty are working to develop the soundest assessment system we can, regardless of whether we would originally have chosen this path. Whatever the level at which our assessment efforts ultimately succeed, however, an unquestionable good that has come out of this journey is that it has provided an occasion and a focus for discussion, deliberation, and fuller articulation of our educational mission.

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41. To lead this study, the Dean appointed an ad hoc Committee on Curricular Review that comprised a large number of faculty members who teach in a wide range of areas.