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LAW FACULTIES: MOVING BEYOND OPERATING AS INDEPENDENT CONTRACTORS TO FORM COMMUNITIES OF TEACHERS

MELISSA J. MARLOW*

“We work together to bring into being dreams that otherwise would lie dormant in the imaginations of separate people.”**

I. PRELIMINARY MATTERS

Naivety can be both a blessing and a curse. Recently, I authored an article¹ appealing mainly to academic support professionals that suggested every faculty member should be involved in academic support.² The article discussed why stand-alone academic support programs are not the best course of action for remedying law student achievement problems, as well as suggested ways in which all faculty members could assist in academic support’s mission.³

The responses from readers of this piece were strikingly similar: how do we get our faculties engaged in this process? In other words, how do we form communities of teachers such that everyone desires to work together toward this common goal? Before receiving these responses, I had assumed forming a community of teachers would be a straightforward task. Upon reflection, it appears the once-thought simple task is actually quite a shift in how law faculties view themselves, each other, and the institution as a whole.

* Clinical Professor of Law, Southern Illinois University School of Law. With sincere appreciation to Professor Ian Gallacher, for his careful outside scholarship review and accompanying suggestions for future writing; Dean Cynthia Fountaine, for her helpful support of scholarly pursuits; and gratitude to twelve close colleagues who attended a faculty forum on this topic and made valuable contributions to this piece.

** Dick Raspa & Dane Ward, *Listening for Collaboration: Faculty and Librarians Working Together*, in *THE COLLABORATIVE IMPERATIVE: LIBRARIANS AND FACULTY WORKING TOGETHER IN THE INFORMATION UNIVERSE 3* (Dick Raspa & Dane Ward, eds., 2000).

1. Melissa J. Marlow, *It Takes a Village to Solve the Problems in Legal Education: Every Faculty Member’s Role in Academic Support*, 30 U. ARK. LITTLE ROCK L. REV. 489 (2008).

2. *Id.* at 489.

3. *Id.* at 500-07.

This article seeks to provide a preliminary overview for law schools to consider becoming communities of teachers. Part II of this article explores the barriers to forming a community of teachers. Part III discusses advantages as well as disadvantages to law faculties functioning as communities in their teaching of students. And finally, Part IV suggests some ways law faculties might overcome any real or perceived hurdles to becoming real communities.

II. BARRIERS TO FORMING COMMUNITIES

Before exploring the obstacles to forming communities of teachers in law schools, it is important to define the term “community of teachers” in the law school context, as well as how that community would operate. Generally, “communities” tend to share the same language, goals, and routines.⁴ Patricia Cranton, a scholar in higher education, defines communities as “social groups who have common characteristics or interests and perceive themselves as distinct from the larger society on the basis of their shared qualities.”⁵

Thus, the law school as a whole could be a “community,” casebook or clinic subject-matter specialties could be “communities,” and obviously various subsets in the academy itself—including administrators, librarians, clinicians, and legal writing⁶ specialists—could be “communities.” For purposes of this article, the term “community of teachers”⁷ is meant to apply to the entire teaching faculty, which may be composed of administrators, full-time doctrinal faculty, librarians, and clinicians.

A community of teachers would be an environment with collaboration as the centerpiece. Collaboration has been defined as a:

pervasive, long-term relationship in which participants recognize common goals and objectives, share more tasks, and participate in

4. See PATRICIA CRANTON, BECOMING AN AUTHENTIC TEACHER IN HIGHER EDUCATION 95 (2001) (discussing communities in the educational context as valuing their “missions, goals and objectives[.]” “educator roles[.]” “teaching and assessment strategies[.]” “the role of professional or personal development in teaching[.]” and “student or faculty rights within the institution[.]”).

5. *Id.* at 94.

6. Nationally the legal writing community is already a strong model of a legal teaching community in action. For example, legal writing specialists attend conferences and contribute to each other’s teaching and scholarship. See, e.g., *LWI Conferences*, THE LEGAL WRITING INSTITUTE, http://www.lwionline.org/lwi_conferences.html (last visited Nov. 8, 2011). The legal writing listserv is also a very strong community tool. See, e.g., *Legal Writing Listservs*, THE LEGAL WRITING INSTITUTE, http://www.lwionline.org/mailling_lists.html (last visited Nov. 8, 2011).

7. For a nice history dealing with a community of learners and the development of cooperative and collaborative learning techniques with students, see generally Clifford S. Zimmerman, “Thinking Beyond My Own Interpretation:” *Reflections on Collaborative and Cooperative Learning Theory in the Law School Curriculum*, 31 ARIZ. ST. L.J. 957, 988-94 (1999).

extensive planning and implementation. Collaborators share the give-and-take listening that creates the bond of belonging to a learning community. It is a more holistic experience in which we are committed to the enterprise, the relationship, and the process.⁸

As far as how a community of law teachers would function, I envision an atmosphere in which law faculty meet frequently to discuss overall learning objectives and coordination of experiential learning activities across the curriculum, generously share lesson plans and teaching ideas, regularly observe each other's teaching to enrich their own teaching (as contrasted with observation of a colleague's class for peer review), consistently engage in team teaching, and jointly determine whether learning objectives are being met.⁹ More important than the actual "doing" of collaborative teaching, I hope law faculty can shift their mindset away from working as individuals to unite together in their common mission of preparing students for the practice of law.

A. Status Distinctions

Status distinctions permeate everything we do as teachers in law schools, and much has been written about how differences in status impact compensation,¹⁰ voting rights,¹¹ office location,¹² and our relationship with our students.¹³ In terms of forming communities of teachers, status differences cause us to work and plan our teaching in separate ways.

In essence, the various subsets of the academy, with their corresponding status distinctions, operate as separate teaching units within the same

8. Raspa & Ward, *supra* note **, at 5.

9. See generally Janet W. Fisher, *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*, 35 S. ILL. U. L.J. 225 (2011).

10. See, e.g., Susan P. Liemer & Hollee S. Temple, *Did Your Legal Writing Professor Go to Harvard?: The Credentials of Legal Writing Faculty at Hiring Time*, 46 U. LOUISVILLE L. REV. 383, 413-14 (2008) ("[S]o we know with confidence that the typical legal writing professor is a white female, hired off the tenure-track with a multi-year contract, earning significantly less than the typical tenure-line law faculty hire."); Anthony V. Alfieri, *Against Practice*, 107 MICH. L. REV. 1073, 1074 (2009) ("The theory/practice dichotomy in law school teaching, scholarship, and mission relegates clinical-lawyer instruction to the periphery of legal education and consigns clinical faculty to a subordinate caste status differentiated by inferior compensation, limited governance, and segregated space.").

11. See generally Susan P. Liemer, *The Hierarchy of Law School Faculty Meetings: Who Votes?*, 73 UMKC L. REV. 351 (2004).

12. Maureen J. Arrigo, *Hierarchy Maintained: Status and Gender Issues in Legal Writing Programs*, 70 TEMP. L. REV. 117, 150 (1997).

13. See Christine H. Farley, *Confronting Expectations: Women in the Legal Academy*, 8 YALE J.L. & FEMINISM 333, 333-35 (1996).

building.¹⁴ For the most part, and granted there are exceptions, the clinical program at most schools, plans its teaching as a unit. The legal writing faculty at most schools operate as a program, which plans its teaching of first-year students as a unit.¹⁵

Currently the vast majority of the tenure-line faculty at most law schools operate as independent contractors, teaching their specialties, individually planning their lessons, and assessing their students' performance.¹⁶ The status occupied by tenure-line faculty encourages a certain independence, and thus results in very little cooperative work with colleagues in planning, executing, or assessing teaching.¹⁷

B. *The Way We Teach and the Subject Matter Itself*

How we teach¹⁸ law students has been transformed in recent years by the MacCrate¹⁹ and Carnegie reports,²⁰ the Clinical Legal Education Association's *Best Practices for Legal Education*,²¹ the humanizing legal education movement,²² and the infusion of experiential learning

14. See generally Arrigo, *supra* note 12, at 150 (noting that "LWRs may be denied faculty office space, or are relegated to windowless cubicles in the basements or libraries where they remain separated physically from ongoing intellectually-sustaining interactions with 'real' faculty.").

15. See *id.* at 151-55.

16. See generally Mark L. Adams, *The Quest for Tenure: Job Security and Academic Freedom*, 56 CATH. U. L. REV. 67, 79 (2006) (explaining that "academic freedom gives professors the liberty, established through professional associations, that shields them from administrative or political interference with their teaching, research, service in the university and profession, and institutional and academic self-governance.").

17. See *id.* at 79.

18. Professor Barbara Glesner Fines points out most law faculty do not have teaching backgrounds. Barbara G. Fines, *Fundamental Principles and Challenges of Humanizing Legal Education*, 47 WASHBURN L.J. 313, 315 (2008) ("Our philosophies and practices of teaching are formed by our own experiences as students.").

19. A.B.A. SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM (REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP) (1992) [hereinafter REPORT OF THE TASK FORCE]; Robert MacCrate, *Preparing Lawyers to Participate Effectively in the Legal Profession*, 44 J. LEGAL EDUC. 89 (1994) (discussing how the MacCrate report calls all law faculty to integrate doctrinal with skills and values teaching).

20. WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (SUMMARY) 9 (1999-2000), available at <http://www.carnegiefoundation.org/publications/educating-lawyers-preparation-profession-law> (The report highlights the need for a community of teachers, stating "[f]aculty development programs that consciously aim to increase the faculty's mutual understanding of each other's work are likely to improve students' efforts to make integrated sense of their developing legal competence.").

21. See generally ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION, A VISION AND A ROAD MAP (Clinical Legal Education Association 2007), available at <http://cleaweb.org>.

22. See Fines, *supra* note 18, at 319 ("Much of the work in humanizing legal education has been about making this careful study of our pupils and the compassion and benevolence we might extend to them.").

techniques.²³ And while the Socratic Method has lost its hold as the exclusive teaching tool, it is still safe to say that we teach students to be independent thinkers and learners.²⁴ In fact, “[t]he values we attend to in the classroom are apt to be individualism and autonomy, which we present as the basis for the adversary system”²⁵

This push toward teaching our students to become independent thinkers likely impacts our disinclination to work cooperatively as teachers. “Few of us have much real knowledge about what each other does in our fifty minute segments.”²⁶ It is almost startling to realize we know more about our colleagues’ scholarship than about their teaching. Most law faculties offer scholarship forums to comment on works in progress, while at the same time having virtually no formalized gatherings to discuss each other’s teaching.

Noted educator scholar Pat Hutchings speaks of this “pedagogical solitude” as:

a state of affairs in which that aspect of faculty work that would *seem* to be the most social, the most public, turns out in fact to be the most unrelievedly private. Maybe there’s occasional, desultory chat about teaching in the elevator or faculty dining room, but when it comes to planned, purposeful conversation—occasions *set aside* for good talk about good teaching (and meaningful student learning)—the situation is pretty bleak.²⁷

Further complicating the ability to work easily with colleagues is the subject matter²⁸ of law school curriculum itself, which tends to focus on the analytical aspect of the thinking process.²⁹ The lack of emotional,³⁰ and

23. See Sameer M. Ashar, *Law Clinics and Collective Mobilization*, 14 CLINICAL L. REV. 355, 371 (2008) (pointing to the recent growth in experiential learning).

24. See, e.g., Bridget A. Maloney, *Distress Among the Legal Profession: What Law Schools Can Do About It*, 15 NOTRE DAME J.L. ETHICS & PUB. POL’Y 307, 315 (2001) (quoting A. Hacker, *The Shame of Professional Schools*, 32 J. LEGAL EDUC. 278, 279 (1982)) (“The message gets across that if you have a question you should find the answer for yourself . . .”).

25. Dennis Turner, *Infusing Ethical, Moral, and Religious Values Into a Law School Curriculum: A Modest Proposal*, 24 U. DAYTON L. REV. 283, 287 (1999).

26. Justine A. Dunlap, “I’d Just as Soon Flunk You as Look at You?” *The Evolution to Humanizing in a Large Classroom*, 47 WASHBURN L.J. 389, 411 (2008).

27. PAT HUTCHINGS, MAKING TEACHING COMMUNITY PROPERTY: A MENU FOR PEER COLLABORATION AND PEER REVIEW 7 (American Association for Higher Education 1996).

28. See CRANTON, *supra* note 4, at 88 (“The discipline within which we work and the level at which we teach it provide a certain structure.”).

29. See generally Ian Gallacher, *Thinking Like Non-Lawyers: Why Empathy is a Core Lawyering Skill and Why Legal Education Should Change to Reflect its Importance*, 8 J. ASS’N LEGAL WRITING DIRECTORS 109 (forthcoming Fall 2011); Leah M. Christensen, *Going Back to Kindergarten: Considering the Application of Waldorf Education Principles to Legal Education*, 40 SUFFOLK U. L. REV. 315,

sometimes even social, considerations³¹ in the legal opinions we and our students read on a daily basis could influence faculty to operate as independent contractors in teaching. If faculty spend a good deal of time each week immersed in preparing for and teaching classes in which the material is mostly devoid of emotional and social context, it is not difficult to imagine why an atmosphere conducive to collaborative work is not present.

C. Law School Culture

There is a distinct and remarkably consistent culture in most American law schools. “This culture makes law school feel like a world unto itself, a world with its own rules, rhythms, and rituals.”³² First-year students still arrive in August with the Kingsfield stereotype³³ firmly planted in their minds. Diversity in teaching practices and in the composition of the faculty will likely cause this notion to fade over time, but as for now, the culture in most law schools is still heavily influenced by the fear of a Socratic dialogue from a law professor who shows little empathy for the struggling lawyer-in-training.³⁴ The Kingsfield stereotype fits more neatly with operating as independent contractors in teaching, than with working cooperatively with colleagues in the teaching mission.

318 (2007) (pointing out how legal education focuses very heavily on case analysis and analytical reasoning.); Ollivette E. Mencer, *New Directions in Academic Support and Legal Training: Looking Back, Forging Ahead*, 31 S.U. L. REV. 47, 61 (2003).

30. See Christensen, *supra* note 29, at 318 (arguing that “law students also need to educate their ‘hearts.’ Law students should be encouraged, while in school, to consider the human element of lawyering and how this human element impacts their clients, their colleagues, and themselves.”); Mencer, *supra* note 29, at 61 (“Feelings of students and professors surrounding the human issues in casebooks are generally ignored, thereby ignoring the underlying purpose of the profession. Traits such as helping, caring, warmth and humility are frequently viewed as weaknesses when displayed by the lawyer ‘hero.’”); John M. Conley, *Can You Talk Like a Lawyer and Still Think Like a Human Being? Mertz’s the Language of Law School*, 34 LAW & SOC. INQUIRY 983, 1001 (2009) (“The classroom experience initiates law students into this new [legal] language using an approach that encourages them to push aside the emotional and socially embedded particulars of the conflict. Instead, law professors direct their students’ attention to the oddly abstract conceptions of people and contexts provided by layered readings of legal texts . . .”).

31. See Turner, *supra* note 25, at 286.

32. Susan Sturm & Lani Guinier, *The Law School Matrix: Reforming Legal Education in a Culture of Competition and Conformity*, 60 VAND. L. REV. 515, 522 (2007).

33. See Stephen M. Bainbridge, *Reflections on Twenty Years of Law Teaching*, 56 UCLA L. REV. DISC. 13, 14-15 (2008) (discussing how as a new law professor he felt compelled to follow the Socratic method); Symposium, *The Shadow of Professor Kingsfield: Contemporary Dilemmas Facing Women Law Professors*, 11 WM. & MARY J. WOMEN & L. 195, 199 (2005) (explaining how the Kingsfield stereotype has a particularly negative impact on women who do not fit “this prototype.”).

34. In fact, some have argued the culture itself is hindering “curricular reform, pedagogical innovation, clinical education, career development, [and] student life” proposals. Sturm & Guinier, *supra* note 32, at 520.

Another cultural impact on forming teaching communities is the billable hours practice model that many law faculty bring from practice. Practicing law in the competitive law firm hierarchy and the continual pressure to individually produce billable hours³⁵ does not result in a mindset supportive of community. And, of course, there are architectural barriers which influence the culture of any law school and can hinder a sense of community if all the teaching faculty are not housed in the same building, or even in different parts of a large building.³⁶

D. Emphasis on Scholarship

The rewards for prolific scholarship have been both exalted and lamented in legal education literature.³⁷ Notwithstanding this, these rewards, whether in the form of promotion, tenure, merit raises, or prestige, can serve as significant obstacles to forming a community of law teachers. Forming the community and keeping the community functioning well will require a substantial investment of each faculty member's time.³⁸ That investment of time will conflict to some extent with current scholarly expectations and its reward system.³⁹

E. Student Ratings of Teacher Performance

If ever there was an obstacle to forming cooperative teaching communities it just might be the current system for evaluating teacher performance. Research suggests student ratings of teacher performance are not reliable and can be influenced by gender, race, class size, subject matter,

35. See Andrew Bruck & Andrew Canter, *Supply, Demand, and the Changing Economics of Large Law Firms*, 60 STAN. L. REV. 2087, 2100-02 (2008) (explaining the increasing importance of billable hours in large competitive law firms).

36. See Sarah O. Schrup, *The Clinical Divide: Overcoming Barriers to Collaboration Between Clinics and Legal Writing Programs*, 14 CLINICAL L. REV. 301, 303 (2007) (noting the "physical separation" of clinicians from legal writing faculty is a barrier to collaborative work).

37. See, e.g., Linda L. Berger, Linda H. Edwards & Terrill Pollman, *The Past, Presence, and Future of Legal Writing Scholarship: Rhetoric, Voice, and Community*, 16 LEGAL WRITING 521 (2010).

38. ANN E. AUSTIN ET AL., FACULTY COLLABORATION: ENHANCING THE QUALITY OF SCHOLARSHIP AND TEACHING 44 (Bryan Hollister & Barbara Fishel eds., 1991); Sturm & Guinier, *supra* note 32, at 538 ("[P]rofessors measure their worth in publications, and it is widely recognized that this incentive structure places serious constraints on any innovation that will require faculty to devote time and energy to teaching at the expense of scholarship.").

39. William J. Rich, *Balance in Legal Education: Pervasive Principles*, 60 J. LEGAL EDUC. 122, 125 (2010) (pointing to current requirements for junior faculty to produce three law review articles and have them well placed); see Barry Sullivan & Ellen S. Podgor, *Respect, Responsibility, and the Virtue of Introspection: An Essay on Professionalism in the Law School Environment*, 15 N.D. J. L. ETHICS & PUB. POL'Y 117, 144-45 (2001) ("Where the development and maintenance of professional reputations, both of individuals and of institutions, depend as heavily as they do on scholarly publication, there are strong incentives to maximize the amount of time spent in scholarship.").

and year in law school.⁴⁰ Despite this, student evaluations of teacher performance are an administratively-easy tool for gauging teacher performance.⁴¹ These evaluations are a factor in promotion and tenure decisions, as well as merit pay increases.⁴²

With such pressure put on these numbers and narrative comments, it is easy to see how faculty would not be overly enthusiastic about forming teaching communities. After all, how would team teaching be evaluated?⁴³ If faculty were teaching with similar techniques and receiving substantially similar feedback, how could administrators compensate for differences in teaching skill? And would teachers with high student evaluation scores (either due to good teaching or pandering) want to participate in the community and risk raising the scores of their colleagues or lowering their own?

F. Technology

There are some distinct advantages to having technology in place, and consequently for its ability to foster communities.⁴⁴ However, the use of technology has over time decreased the amount of contact we have with each other in face-to-face interactions.⁴⁵ Those lost interpersonal interactions could have included discussions about teaching or the more important social conversations that help bind us together and provide the authentic sense of community necessary to accomplish our joint goals.

40. For a discussion of the variables impacting student evaluation of teacher performance, see Melissa Marlow, *Student Evaluation of Teacher Performance and the "Legal Writing Pathology: Diagnosis Confirmed"*, 5 N.Y. CITY L. REV. 115, 120-24 (2002); Melissa J. Marlow, *Blessed Are They Who Teach an Upper-Level Course, For They Shall Earn Higher Student Ratings*, 7 FL. COASTAL L. REV. 553, 554-57 (2006).

41. Marlow, *Blessed Are They*, *supra* note 40, at 554.

42. Marlow, *Student Evaluation of Teacher Performance*, *supra* note 40, at 117-18.

43. See AUSTIN, *supra* note 38, at 72-73. "Collaboration among faculty often raises issues of power, influence, professional identity, and integrity. Evaluating individual contributions to collaborative endeavors and allocating credit fairly among partners are difficult challenges that frequently plague collaborators." See *id.* at v. Some subsets of the academy have already struggled with this in reviewing junior faculty who teach in collaborative legal research and writing programs, as well as in clinical programs. One anonymous excerpt from a peer review report commented, "It is difficult to know how much weight to give to each aspect of Professor [x's] teaching, because observation of her classroom only provided a partial view of her teaching. Most of the planning and preparation work for her teaching is a collaborative effort, to which she contributes." Anonymous, excerpt from peer review report.

44. Rogelio Lasso, *From the Paper Chase to the Digital Chase: Technology and Teaching 21st Century Law Students*, 43 SANTA CLARA L. REV. 1, 44 (2002).

45. For an interesting discussion of other drawbacks from technology, including less focus on thinking, meaning, and perspectives, see Rita R. Rogers, *Identity Revisited in the New Technological Culture*, 19 MED. & L. 381, 386 (2000).

III. ARE COMMUNITIES OF TEACHERS A GOOD IDEA FOR LAW SCHOOLS?

There are some distinct advantages to law faculty moving away from functioning as independent contractors.⁴⁶ The humanizing legal education movement has picked up steam in recent years and forming a community of teachers could be key in successfully realizing some of that movement's goals.⁴⁷ Additionally, forming communities of law teachers could assist law schools in their efforts to change the focus from inputs to outcome assessments.⁴⁸ In fact, it will prove difficult for law schools to fully undertake this assessment task without working as teaching communities.⁴⁹ A community of law teachers would nicely complement the call from the bench and bar for more professionalism in law practice.⁵⁰ If law students observed their professors interacting cooperatively,⁵¹ displaying collegiality, and team teaching on a daily basis there would certainly be an impact on how students view lawyers and the work lawyers do.⁵²

Having a community of teachers would help in realizing writing across the curriculum goals.⁵³ In fact, law schools' failure to shift to a community

46. See AUSTIN, *supra* note 38, at iii ("Many believe collaboration increases productivity, maintains motivation, and stimulates creativity and risk taking. It can maximize the use of limited resources and could enhance the quality of teaching and research.").

47. Fines, *supra* note 18, at 316 (In fact, Professor Fines warns that we cannot reach the goals of the humanizing legal education movement "while so many faculty members are wedded to an educational philosophy grounded in a competitive ethos.").

48. See Fisher, *supra* note 9, at 227-29.

49. See *id.* at 230 (Teaching communities would be necessarily formed while faculty "develop[ed] the educational outcomes for the institution in collaboration with the bench and bar and other interest constituencies such as alumni.").

50. See Sullivan & Podgor, *supra* note 39, at 120 ("One would be hard-pressed today to find a practicing lawyer who professes a lack of concern with professionalism."); Douglas S. Lang, *The Role of Law Professors: A Critical Force in Shaping Integrity and Professionalism*, 42 S. TEX. L. REV. 509, 509 (2001) (pointing out law faculty are key players in instilling professionalism).

51. See Jamie R. Abrams, *A Synergistic Pedagogical Approach to First-Year Teaching*, 48 DUQ. L. REV. 423, 453 (2010) (discussing the integrated approach to teaching first-year students, Abrams noted, "Students saw their faculty engage collaboratively and expansively in this simulation. They saw us as a team committed to preparing them for the practice of law and teaching them to think like lawyers in a holistic way. Thus, our structure aligned with our substance. The students seemed to value this and derive energy from it.").

52. See Christensen, *supra* note 29, at 323 (maintaining that every teacher has an impact on students' values whether they set out to or not); Kristin B. Gerdy, *Clients, Empathy, and Compassion: Introducing First-Year Students to the "Heart" of Lawyering*, 87 NEB. L. REV. 1, 58 (2008) ("Probably the greatest role models for students are faculty members themselves."); Sullivan & Podgor, *supra* note 39, at 135-36 ("[f]aculty must become more acutely aware of their significance as role models for law students' perception of lawyering.") (quoting A.B.A. SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, TEACHING, AND LEARNING PROFESSIONALISM (REPORT OF THE PROFESSIONALISM COMMITTEE) 16 (1996)).

53. See generally Pamela Lysaght & Cristina D. Lockwood, *Writing-Across-the-Law-School Curriculum: Theoretical Justifications, Curricular Implications*, 2 J. ASS'N LEGAL WRITING DIRECTORS 73 (2004).

mindset actually has been hindering the full implementation of various proposals to expand experiential learning, and infuse clinical experiences throughout the curriculum.⁵⁴

Granted, there are disadvantages to law faculties functioning as a teaching community. One major drawback would be the investment of time it takes to teach cooperatively.⁵⁵ In the already hectic life of a law school academic, with its myriad of teaching, scholarship, and service tasks, it might be quite difficult to make the transition to collaborative teaching.

Arguably, a diversity of viewpoints would be lost and creativity might be compromised if law faculty functioned as a community.⁵⁶ This, of course, questions whether academic freedom itself might be in jeopardy if faculty stopped functioning as independent contractors. Other potential concerns are how cooperative work could be credited toward promotion and tenure, and how to successfully bring adjuncts into the teaching community, given the practical realities of how adjuncts work in law schools.⁵⁷

Despite the disadvantages, every law school should be striving to function as a community of teachers. The costs of continuing on as we always have are too great for our students. Every lawyer who teaches in a law school brings a unique set of knowledge, creativity, and problem-solving skills to the table. Our students would benefit from combining and sharing those unique skill sets in teaching. And legal academics are well equipped to work around any potential problems that will occur when transitioning to a community mode of teaching.

IV. FORMING COMMUNITIES

Law schools have been taking ‘baby steps’ toward forming a community of teachers. Successful teaching collaborations between doctrinal and skills faculty already exist in law schools.⁵⁸ Some schools

54. There have been many legal education reform proposals over the last two decades, the most significant are likely the MacCrate and Carnegie reports, and CLEA’s Best Practices. See REPORT OF THE TASK FORCE, *supra* note 19; SULLIVAN, *supra* note 20; STUCKEY, *supra* note 21.

55. Clifford S. Zimmerman, *Thinking Beyond My Own Interpretation: Reflections on Collaborative and Cooperative Learning Theory in the Law School Curriculum*, 31 ARIZ. ST. L.J. 957, 1007 (1999).

56. Teaching communities could however, foster diversity of viewpoints as faculty create new approaches.

57. AUSTIN, *supra* note 38, at iii (law schools should have models to look to for guidance on these, and other matters since “teaming is increasingly prevalent in business, health care, and public policy work.”).

58. See, e.g., Elizabeth Fajans, *Learning from Experience: Adding a Practicum to a Doctrinal Course*, 12 LEGAL WRITING 215 (2006). While not strictly a doctrinal and skills collaboration, Michael Hunter Schwartz points to the team teaching at Washburn where twenty faculty members team teach an upper-level colloquium course. See Michael Hunter Schwartz, *Humanizing Legal Education: An Introduction to a Symposium Whose Time Came*, 47 WASHBURN L.J. 235, 237 (2008). Others have focused

have developed integrated teaching approaches for first-year students.⁵⁹ Collaborative work between clinicians and legal writing faculty is on the rise.⁶⁰ And it has been recognized that first-year faculty are more cooperative and organized in their approach to teaching their students than the faculty generally.⁶¹

First-year faculty could be the catalysts for change and encourage their colleagues who teach upper-class courses to join in the preexisting first-year community. The law school dean could sponsor weekly or monthly luncheon meetings to form a sense of community like law firms have done to increase a sense of belonging.

Building on what has been done in law schools to create interest around scholarly activities, Professors Hess and Sparrow observed:

The value of building enthusiasm for teaching is supported by recent scientific studies on human interaction, which indicate that people's emotions affect their ability to process information, think clearly, and be creative. Just as institutions build and nurture a culture of scholarship when they host weekly or monthly brown-bag discussions where faculty present scholarly works-in-progress, so too can law schools build a culture of teaching and learning. Law schools could hold teaching and learning discussion sessions on biweekly or monthly basis. As with scholarly presentations, faculty could volunteer to lead sessions on topics such as active learning, discussion techniques, instructional technology, student motivation and engagement, course design, and testing and grading. Faculty

on integrating concepts traditionally covered in professional ethics into their classes. See Melissa H. Weresh, *Fostering a Respect for Our Students, Our Specialty, and the Legal Profession: Introducing Ethics and Professionalism into the Legal Writing Curriculum*, 21 *TOURO L. REV.* 427, 427-29 (2005).

59. See, e.g., Abrams, *supra* note 55, at 428 ("In this pedagogical approach, a section of first-year WCL faculty (including writing faculty, doctrinal faculty, adjunct faculty, tenured faculty, and contract faculty) coordinated to lead students through a client simulation woven through all first-year courses in the first semester."); see also Suzanne J. Schmitz & Alice M. Noble-Allgire, *Reinvigorating the 1L Curriculum: Sequenced "Writing Across the Curriculum" Assignments as the Foundation for Producing Practice-Ready Law Graduates* (Feb. 14, 2011), available at <http://ssrn.com/abstract=1879618> (describing the integrated first-year program at SIU School of Law, in which students engage in writing intensive exercises in all courses throughout their first year of study).

60. See generally Schrup, *supra* note 40, at 301-03 (noting increase consideration of collaboration between clinicians and legal writing faculty despite barriers to such collaboration); Stefano Moscato, *Teaching Foundational Clinical Lawyering Skills to First-Year Students*, 13 *LEGAL WRITING* 207, 217 (2007) ("The most logical place to include the foundational clinical teaching discussed in this Article is in the first-year legal analysis, research, and writing curriculum as part of an integrated 'Lawyering Skills' course.").

61. See Turner, *supra* note 25, at 313 ("the bond among professors who teach first-year courses is often a little stronger than that between professors who teach upper-level courses.").

interested in improving their teaching could also be encouraged to try and then discuss new techniques.⁶²

If there is not sufficient interest in forming a community of teachers, even a monthly discussion meeting in the faculty lounge focusing on a particular book about teaching could help lay the foundation for future cooperative work. Certain texts like *Becoming an Authentic Teacher in Higher Education*⁶³ have been cited for their ability to engender a sense of community.⁶⁴

Within each institution, faculty could submit lesson plans that worked well to a “lesson plan bank,” similar to the Legal Writing Institute’s “Ideabank” for writing problems.⁶⁵ The dean and senior faculty could encourage an atmosphere where observing colleagues’ teaching becomes a frequent occurrence. Most law faculty are accustomed to peer-teaching reviews when undergoing promotional review. But a culture of visiting colleagues’ classrooms to inform and improve teaching (and not for purposes of promotional review) could go a long way toward forming communities. “[B]oth metaphorically and literally, ‘opening the classroom door,’ through reciprocal visits and other forms of classroom observation, is an important step toward a campus culture of teaching and learning, and one with real power for faculty willing to take the risk.”⁶⁶

“Administrators have a key role to play in fostering effective collaboration. They can allocate discretionary resources and shape supportive policies to encourage faculty to work together. More important, administrators can stimulate collaborative work by recognizing and rewarding collaborative achievements in public and private ways.”⁶⁷ In annual review meetings, deans could inquire what classrooms were visited in the previous year. Deans could also inquire whether the faculty member had engaged in team teaching.⁶⁸ Law school deans can also encourage and

62. Gerald F. Hess & Sophie M. Sparrow, *What Helps Law Professors Develop as Teachers?—An Empirical Study*, 14 WIDENER L. REV. 149, 166 (2008) (footnotes omitted).

63. Cranton, *supra* note 4.

64. See Denise C. Camin, *Becoming an Authentic Teacher in Higher Education*, available at <http://www.ntlf.com/html/lib/authenticteacher.pdf> (last visited Aug. 9, 2011) (reviewing Cranton, *supra* note 4).

65. The Legal Writing Institute’s Idea Bank is accessible to authorized users via Rutgers School of Law. See Idea Bank, RUTGERS LAW SCHOOL, <http://camlaw.rutgers.edu/webapps/ideabank/> (last visited Nov. 20, 2011).

66. Hutchings, *supra* note 27, at 17, 22 (Hutchings also points out how rare classroom visits by peers are, as well as the enormous potential these visits have to improve teaching and a sense of community).

67. AUSTIN, *supra* note 38, at v.

68. For an overview of the advantages of team teaching, see *id.* 43.

support mentoring programs for junior faculty, which have been noted as helpful in forming teaching communities.⁶⁹

Hutchings discusses the effectiveness of teaching circles. Teaching circles are defined as “(1) a small group of faculty members (typically four to ten . . .) (2) makes a commitment to work together over a period of at least a semester (3) to address questions and concerns about the particulars of their teaching and their students’ learning.”⁷⁰ Hutchings points out these teaching circles could be those who teach first-year students, teachers of large classes, or any other group with similar agendas.⁷¹

Technology could also play a role in fostering communities, whether it be listserv discussions among the faculty generally, blogs, or use of specific programs that assist in planning teaching activities. National listservs dealing with subject-matter specialties, including clinician, librarians, deans, and legal writing, have certainly gone a long way toward creating teaching communities. The same benefits can occur within our own institutions.⁷²

Each school will take a slightly different and unique path in moving away from working as independent contractors. “However it is organized, it is the sustained dialogue among faculty with different strengths and interests united around common educational purpose that is likely to matter most.”⁷³ Already here at my institution, the first-year faculty, in conjunction with the Academic Support Program, have been meeting regularly for a few years, and there are plans to include an experiential learning director soon. There is really no single charted path that will ultimately lead to success. The important thing for our students is that we continue taking those steps toward teaching communities. The benefits for them and all of us working in the legal academy are too great not to try.

69. See HUTCHINGS, *supra* note 27, at ch. 3.

70. *Id.* at 7. Hutchings also points out how helpful videotaping class segments can be to discuss within teaching circles. *Id.* at 25.

71. *Id.* at 7.

72. In fact, at my school, we have a faculty listserv for general discussion, as well as one devoted to first-year teachers.

73. SULLIVAN, *supra* note 20, at 9.