

New-Lawyer Development Tips from the Law School Trenches

By Toree S. Randall

Legal employers who invest in new graduates naturally expect much in return. They want motivated and practice-ready new lawyers who will make a fast start—both in terms of performing actual legal work without (much) supervision and playing a professional role in the business of law practice. So while most employers recognize the inevitable learning curve for their new hires, many become understandably frustrated when the on-ramp to productivity seems to run indefinitely.

In light of recent legal-education innovations, employers and law schools stand poised to shorten that on-ramp between young attorneys' legal education and productive legal careers. Law schools are working harder than ever to develop new approaches to deliver the practice-ready graduates that employers expect. The lessons learned in implementing these new educational ideas can provide valuable perspective for legal employers. By building upon recent legal-education trends, employers can more effectively develop their new lawyers and realize better returns on their talent investments.

Background: The legal-education "gap," law school innovation, and the employer's role

Responding to calls for reform that began in earnest with the 1992 MacCrate Report,¹

Michigan law schools have "narrowed the gap" between education and practice. In 2013, the American Bar Association recognized that law schools have shifted toward practice-oriented teaching that continues to adapt to both a changing legal market and an evolving student body that learns and works differently from past generations.² While there is still work to be done, the past 25 years have seen significant growth of innovative approaches in how law schools develop lawyers, and law graduates are increasingly better prepared to take responsibility for their own careers.

But the ABA also made clear that "now, more than ever, viewing law school as only part of the professional continuum of legal education is critically important."³ Employers retain the daunting task of enabling a new lawyer's continued movement along the professional development trajectory.

For many employers, the pressures of practicing law and serving clients understandably might leave little time for wholesale changes in how they train new lawyers. But even if employers are not positioned to make sweeping changes to (or significant investment in) their development programs, they can still create simple, yet powerful, incremental change. To do so, they might consider building upon two recent legal-education trends: leveraging formative as-

essment and looking at lawyer development in new ways.

Take stock: Leveraging the power of formative assessment

Perhaps more so than any other element of educational reform, formative-assessment innovation has been a game changer.⁴ As most lawyers of a certain age will recall, grades were once based almost entirely on performance in one final examination. This summative assessment model was perhaps a fair measure of what students had learned by the end of the course. But it allowed little to no formative assessment: students couldn't measure their progress or identify learning gaps before it was too late.⁵ As a result, final grades often came as a surprise to good students who had erroneously believed they were on track.

Likewise, many new hires eventually arrive at the threshold of the next phase of their legal careers without realizing they have failed to fully prepare. Perhaps they've learned to do good legal work, with some formative assessment by way of supervisor feedback on their projects. But a gap remains: many young lawyers receive little to no meaningful progress assessment concerning the "intangibles" necessary to build a successful law practice or otherwise

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manage the many aspects necessary to keep their employer's day-to-day operations running smoothly.

For example, many discover—perhaps too late—that they don't really understand how their employer secures the work that keeps them employed. So when summative assessment comes in the form of failing to make partner or to otherwise secure a long-term position, disappointment on both ends is inevitable.

The call for law school reform has caused educators to rethink the summative “one-exam-at-the-end” approach. At Western Michigan University Cooley Law School and many other law schools, formative assessments are now strategically spaced throughout the academic term in many classes. Faculty and students work together to identify learning gaps. And, at a time when there is still opportunity to adjust, professors help students to identify weaknesses and develop appropriate action steps.

For many employers, annual performance reviews ostensibly provide formative assessment. Indeed, the best of these reviews measure employees not only on their legal skills, but also on practice development intangibles such as time management, internal networking, and external business development activities. But too often, these reviews are used solely for bonus determinations rather than as tools to develop actionable improvement strategies.

Even as a bonus-determination element, practice development skills are often quickly overshadowed by billable-hour achievements (or shortcomings). This, of course, perpetuates the notion that billable hours are all that truly matter in the end. Yet while most new lawyers must understand that strong billings are critical to profitability, firms risk unintended consequences when billings become the sole and central focus: attorneys

tend to expend their efforts disproportionately and shortsightedly.⁶ When they do so, they are not investing in a concrete, long-term plan to grow as lawyers engaged in the business of law practice.

And even when employers recognize these intangibles as important, many do little more than give them a score or a rating. While this has some value, it is ineffective as a development tool if each year's report sits in a drawer until the next performance review rolls around. In such a case, young lawyers may earn a series of bad grades and yet be no closer to developing as productive practitioners and rainmakers.

To better leverage the power of formative assessment, consider the following:

- **Performance review content:** Do annual reviews include nonlegal skill assessment and feedback? Do the items evaluated align with what it really takes to succeed? Are intangibles a meaningful part of the process or are they quickly scored and forgotten?
- **Action plans:** Are new hires required to create professional development plans? If not, could the existing review system be tweaked to yield three individual action steps for each employee to take in the coming year? Could a supervisor or mentor meet periodically with the employee to assess progress on each item?
- **Pathways to partnership:** As for-profit employers, law firms generally seek associates who will eventually secure their own clients. Yet many firms place little emphasis on building business development skills during the early years. If business development is ultimately essential to success, is there a clear path with achievable benchmarks? It can take years to establish a strong professional network

that will yield clients over time. Are new graduates being coached and measured on how they incrementally lay the foundation for future business?

Be unconventional: Thinking about lawyer development in new ways

The shift to formative assessment exemplifies a larger lesson at the heart of the academic innovation movement: accepting that educators must be open to changing our pedagogical approach. Take, for example, the Socratic method, which dates back to 1870.⁷ It certainly has merit for its ability to stimulate critical thinking. But as educators, we understand that to say “because that's how we've always done it” is, by itself, poor justification for continued overreliance on a strategy.

Instead, law schools now appreciate that certain unconventional teaching methods are necessary to prepare new lawyers for the realities of law practice, particularly in an increasingly global and heavily regulated business environment.⁸ This has, in part, required recognizing and adapting to notable generational markers of today's students and how they learn and work.

Likewise, the traditional legal business model is being challenged. The market has become fiercely competitive. Solid legal skills and good work product are merely the price of admission in a world where many clients increasingly scrutinize bills and put work out for proposals—even when their current lawyer is doing good work. The steady stream of recurring work is simply becoming less reliable.

Couple these market pressures with the fact that today's young lawyers are just *different*. Like older attorneys, they are most certainly willing to work hard. But, as a generation, they typically seek to be more than just “workers.” They care more about knowing that their work is important—that it *matters*. And they thrive on collaboration.⁹

Innovation is the only way forward

In law schools, new client-centric and context-driven approaches are helping to respond to these challenges. For example, at WMU-Cooley we have replaced entire segments of podium lecture with in-class collaboration opportunities and client-focused

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simulations. Rather than lecture at students in the abstract, we break them into teams and engage them in mock arguments around class topics. Even practice multiple-choice questions provide an opportunity to work in groups, letting students break down the correct answers and present them to the class. This approach breeds collaboration while also providing practical context for the legal issues being discussed.

Law schools across the country are using similar approaches to create engaging learning environments that better simulate the realities of law practice.¹⁰ Yet none of this would be possible if educators clung to the Socratic method and “how it’s always been done.” Embracing the unconventional has been essential.

To infuse your attorney development process with fresh thinking, consider the following:

- **Challenge your recruiting, new-lawyer onboarding, and development “status quo.”** Are you doing things simply because they’ve always been done? Are new lawyers getting the right message, early on, about what it takes to succeed? Are your recruiting and interviewing strategies meaningfully connected to the type of candidate you are trying to attract? Is your approach likely to resonate with that candidate?
- **Provide context and client exposure.** When assigning a project, take time to tell the new lawyer about the history and background of the matter. What are the client’s problems and objectives? Does anything make the matter particularly interesting or challenging? And commit to consistently looking for appropriate opportunities to get new lawyers in front of clients.

- **Involve young lawyers in the process of seeking and securing business.** Have new attorneys write a first draft of a pitch letter or proposal. Ask them to research the prospective client or to play the prospective client in a pitch rehearsal. If your associate is on a pitch team, bring him or her to the client meeting to observe.
- **Try directed collaboration.** Give young lawyers the opportunity to collaborate around the intangibles that will help them succeed in the business of law practice. Roundtable discussions in a “partner-free” environment allow newer lawyers to brainstorm with peers about how they manage time, get exposure to good work, and build professional networks. Assign a more senior—but not too senior—lawyer to moderate and keep the discussion on track.
- **Explore new ways that young lawyers can contribute.** Leverage your newer attorneys’ enthusiasm and their desire to do important work that makes a difference. Involve them in employer-wide initiatives such as diversity and inclusion programs or pro bono work. Ask for their perspectives on marketing efforts. Leverage their technology know-how and social media savvy to explore new ways to reach prospective clients.

Conclusion

No doubt about it: developing new lawyers in a competitive market is challenging. But legal employers who replace dated practices with fresh ideas can create real and effective change. By building upon legal-education innovations, employers can

more effectively develop their new lawyers and realize better returns on their talent investments. ■



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ENDNOTES

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8. *Twenty Years After the MacCrate Report*, p 13.
9. Moore, *Millennials Work for Purpose, Not Paycheck*, Forbes (October 2, 2014) <<https://www.forbes.com/sites/karlmoore/2014/10/02/millennials-work-for-purpose-not-paycheck/#76f3cdb16a51>>.
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