

CUNY SCHOOL AT CROSSROADS AS ITS STUDENTS FAIL THE BAR

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Body

Since it opened in 1983, New York City's only publicly financed law school has won widespread national attention for its innovative curriculum, its efforts to bring underrepresented groups into the legal profession and its goal of training them for public-service careers.

But today the school, the City University of New York Law School, finds itself at a crossroads. Its graduates have not performed well on the state bar examination, and educators say that to succeed, the law school may have to make dramatic changes in its curriculum and admissions practices.

The curriculum, many legal scholars say, represents the most ambitious reordering of legal education since the 19th century, an effort to draw a line between the elite schools, which take a largely theoretical approach to the law, and those that have tended to prepare students solely for the bar examination.

Instead, the city school, which is part of Queens College, gives no grades and emphasizes the teaching of what most lawyers actually do - counseling clients, negotiating settlements, drafting contracts and serving as advocates in a variety of forums.

The school has won praise from a host of legal educators and government officials, including the former Chief Justice of the United States, Warren E. Burger. Professor Robert A. Burt of Yale Law School has called it an experiment with "national significance," and Haywood Burns, the New York school's new dean, speaks of proving to the world that there can be "a new model" for legal education by "breaking down the barriers between theory and practice."

But the disappointing results on the licensing examination have forced school officials to question whether they must accommodate some elements of tradition to accomplish their ultimate goals.

Across New York state, 65 percent of the law graduates who took the July bar examination passed it, but only 30 percent of the CUNY graduates did. The showing of CUNY's class of 1987, the second to graduate from the school, was also much lower than that of its class of

1986. In that class, 56 percent of those who took the July 1986 examination passed, while the statewide passage rate was 66 percent.

"Those are not the results we wanted," Dean Burns said about the 1987 test, "but that's no reason to throw out the baby with the bath water. In the development of any new program you may run into rough spots in the road, but we're on the right road."

Emphasis on Law's Theories

Shirley Strum Kenny, president of Queens College, agrees. But like other educators, she says that unless CUNY's graduates can pass the bar examination, it cannot succeed in turning out a new breed of lawyers.

"You can have a law school with a very good bar pass rate that is not a very good law school, but you cannot have a law school without a good bar pass rate," she said. "We absolutely must deal with this problem and deal with it now, because it's the bottom line."

A subcommittee of the City University system's board of trustees has urged the school to find ways to improve its students' bar passage rate, and a task force of law school faculty members is in the process of studying means for achieving that end.

"They know it's their responsibility, and we're not going to get in their way," said James P. Murphy, chairman of the board of trustees and of the committee with oversight for the law school.

Until the New York school was established, American law schools could be divided roughly into the elite schools and the others. The elite schools, approximately 20 or so that include Harvard, Yale, Columbia and Stanford, have de-emphasized technical skills and concentrate instead on the intellectual underpinnings of the law. According to Professor Burt, "The best, most intensive part of training has been directed at producing other legal academics or high-level judges, and not the practitioners who do the everyday work of the legal universe."

Schools Resist Change

As for the curriculum, most schools use the so-called Harvard model that was developed in 1870 by C. C. Langdell. The first year, for example, is pretty standard everywhere: contracts, torts, civil procedure, property and criminal law. Students read cases, gleaning from them the black-letter doctrine as well as the historical development of the law. Then, in huge classes in amphitheater-like settings, they hear lectures from professors who teach according to the Socratic method.

There have been periodic efforts to transform tradition-bound curriculums to add more practical training, to prepare law students to be framers of public policy or to teach law in the context of social problems.

"Law schools are very resistant to change," said Robert W. Gordon, a professor at Stanford Law School, "but what CUNY did was take all these reform notions and decided to build from scratch

a law school that, instead of just tolerating these foci of learning, would actually emphasize them."

"This was the first really serious attempt to break the mold in a serious way," Professor Gordon said.

No 'Paper Chase'

So far, CUNY has scrupulously avoided becoming what Dean Burns calls "a carbon copy of the existing law schools." It is no "Paper Chase," and there are no Professor Kingsfields instilling fear in the hearts of budding lawyers. The atmosphere at the school is charged with excitement, not trepidation. Faculty members and students are on a first-name basis.

The attempts to break the mold can be seen, too, in the first-year offerings, which provide students with theory in a combination of classroom and small-group settings, but also afford them the opportunity to develop the skills of a lawyer through simulation exercises.

They learn to negotiate contracts and to work out settlements for their "clients," for example. Their classes include "Adjudication and Alternatives to Adjudication," which teaches about the use of mediation and other means of resolving disputes outside the court system, and "The Work of a Lawyer," which teaches how lawyers work and think, including legal analysis, research and writing, negotiation, counseling and advocacy.

At the start of their first year, students are assigned to "houses," groups of about 20 students who operate as a members of a law firm would. A faculty member serves as the senior lawyer, the students as associates.

No Grades, No Ranking

In the spring of the second year, students are required to do field work, such as working as clerks to judges or legal assistants for district attorneys. In the third year, in addition to a variety of advanced courses and seminars, students are given the opportunity to represent clients in a legal clinic operated by the school. Much of the work of the clinic is in the areas of occupational safety and immigration law.

Students are neither given grades nor ranked. Rather, professors provide extensive written evaluations.

Still, some courses are little different from what students would take in more conventional law schools.

CUNY students have had few problems obtaining employment. Among members of the Class of 1986, 118 of the 131 graduates have legal jobs; the remaining 13, according to placement officials, are not seeking employment. Among the Class of 1987, 90 of the 134 graduates were employed as of Nov. 23; 12 were not seeking employment.

In Federal courts in the Second Circuit, a region that includes New York, Connecticut and Vermont, CUNY is behind only Harvard and Yale in the number of its graduates now working as law clerks, jobs that carry a fair amount of prestige within the profession.

As the school tries to determine what to do about the bar-exam scores, Dean Burns said one area of inquiry is whether students are "getting sufficient traditional doctrine." "We may not be hitting all the bases," he said.

Raising Bar-Exam Performance

Another area is testing, a subject on which there are strong differences of opinion among faculty members. Many professors, from the inception of the school, have opposed testing students at the end of the course. But one of the suggestions now being bandied about is to improve students' test-taking skills by providing them with more opportunities to be tested and to obtain feedback from their professors.

Unlike other law schools, the school's 432 students are about half women and a third racial minorities. The median age of students is 29.

Much will be decided in coming weeks and months. The law school has been given provisional accreditation by the American Bar Association. Next month, the accreditation committee is expected to take up its request for full accreditation.

Graphic

Photo of Haywood Burns, dean of the City University of New York Law School (NYT/Linda M. Baron) (pg. 27)

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