

Unbundled Legal Education

Law school courses serve a bundle of functions. At the broadest level, they provide learning acquisition and learning verification functions. For a variety of purposes, it may be useful to think about how these functions may be unbundled. Unbundling may improve (1) learning acquisition; (2) learning verification; (3) the delivery of legal education; and (4) practice readiness for a world of increasingly unbundled legal services.

Before turning to each of these areas of improvement, consider how a typical first-year Contracts course bundles multiple functions. That course will likely aim to teach (1) substantive contract doctrine; (2) how to read an appellate court opinion; (3) legal reasoning; (4) and perhaps some contract drafting skills. The Contracts course will also aim to provide some learning verification function, perhaps on an absolute or relative basis, in which a grade of “A” may indicate the student learned a substantial amount of contract doctrine/skills/etc. (either granularly or as a whole) and/or may indicate the student was in the top 10% of the class.

CURRICULAR REFORM: LEARNING ACQUISITION

Continuing with the example of the hypothetical Contracts course, its learning acquisition goals could be unbundled into either separate courses or separate segments of the same course. The separate course model might offer, for example, a first year curriculum of Legal Theory, Legal Reasoning, Legal Practice, and Legal Procedure. Nested within these, there could be some traditional first year doctrinal material (e.g., Legal Theory may be taught through the vehicle of Contract law). This sort of unbundling may improve the efficiency of the first year curriculum to the extent that every course purports to do these same goals. Unless there is a good reason to teach legal theory in Contracts, Torts, Property, etc., then this unbundling may actually free up time in those courses to focus more on the other curricular goals.

Alternatively, the traditional curriculum could remain intact but with unbundled courses. The Contracts course could be broken down in the course organization (and reflected in the course syllabus) along these lines. For example, the doctrine of consideration may be a vehicle for teaching legal reasoning: the doctrine itself is not particularly difficult (or important); however, the common law development of that doctrine may be useful for teaching students how to structure legal arguments. There would be parallels in other first-year courses. This redundancy may be desirable, as it provides students with multiple perspectives on the same topics. This overlap may also better ensure that students gain a firm foundation in each of these “background” topics of typical first-year courses.

LEARNING VERIFICATION: ABA LEARNING OUTCOMES

Unbundling law school courses may also assist law schools to assess learning verification. Law school courses all provide some mechanism for verification, and these mechanisms are largely uniform (either letter grades or pass/fail). But, there is a great deal of ambiguity in what these marks mean. Most schools use letter grades, for instance, but they vary on what those letters mean. In some schools, “B” means the median grade. In other schools, “B” may mean above average. And in still others “B” may indicate that the student adequately learned the material (regardless of how the student fared relative to her peers).

Law schools have sought ways to provide better verification functions in order to assist their graduates in the legal market. In addition, the American Bar Association, as the accreditation agency for U.S. law schools, has also implemented requirements that law schools provide specific verification functions. ABA Standard requires that law schools establish learning outcomes that include not just substantive and procedural law but also legal research, legal analysis, and legal ethics. Law schools are also required to conduct ongoing evaluation to verify student competency in these areas.

In order to provide clearer verification to potential employers and to comply with the ABA requirements, some unbundling of the learning verification function is necessary. That is particularly true in courses in which there is a mandatory curve, which would mean the first year curriculum and likely major upper level courses.

ONLINE LEARNING

Unbundling legal education may also help improve the delivery of legal education through online and other nontraditional means of course instruction. We know that online education necessarily unbundles the education experience in important ways, with mixed success. Deliberately unbundling courses may actually help identify those portions of the curriculum that are better suited to traditional classroom learning and those that are better suited to delivery via online lectures.

UNBUNDLED LEGAL SERVICES

Finally, it may be worth considering the extent to which legal services are likely to be unbundled in the future. We have seen a trend towards unbundled legal services in particular areas of the market, in which lawyers do not provide full service but provide only piecemeal assistance. To the extent this trend may continue, an unbundled legal education might better prepare students for the market for unbundled legal services.