

Assessment of Teaching and Learning

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A COMPREHENSIVE GUIDEBOOK
FOR LAW SCHOOLS

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Carolina Academic Press
DURHAM, NORTH CAROLINA

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Library of Congress Cataloging-in-Publication Data

Names: Terry, Kelly (Kelly S.), author. | Hess, Gerald, 1952- author. | Grant, Emily
(Law professor), author. | Simpson, Sandra (Professor), author.

Title: Assessment of teaching and learning : a comprehensive guidebook for
law schools / by Kelly Terry, Gerald Hess, Emily Grant, Sandra Simpson.

Description: Durham, North Carolina : Carolina Academic Press, LLC, [2020]

Identifiers: LCCN 2020038698 (print) | LCCN 2020038699 (ebook) |
ISBN 9781611631302 (paperback) | ISBN 9781531015466 (ebook)

Subjects: LCSH: Law--Study and teaching--United States--Evaluation. |
Law schools--United States--Evaluation. | Learning--Evaluation.

Classification: LCC KF272 .H463 2020 (print) | LCC KF272 (ebook) |
DDC 340.071/173--dc23

LC record available at <https://lcn.loc.gov/2020038698>

LC ebook record available at <https://lcn.loc.gov/2020038699>

Carolina Academic Press
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

With gratitude for the support from our colleagues and the administrations at Gonzaga University School of Law, Washburn University School of Law, and the University of Arkansas at Little Rock William H. Bowen School of Law.

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What, Why, Who, and How?

1. What?

At the most basic level, assessment is evaluation. It is the process of collecting data about student learning and using that data to improve teaching, learning, and indeed the full functioning of a law school.¹ In that regard, assessment is a tool for schools “to learn something about the effectiveness of the educational program as measured against deliberately chosen benchmark outcomes and to gather and employ evidence that will help the school determine how to achieve those outcomes.”²

Assessment is not a newfangled educational craze.³ It has been a vital part of higher education since the 1980s⁴ and is grounded in extensive academic research.⁵ And although undertaking the assessment process at law schools is a relatively recent endeavor, the research and the ideas have been percolating among legal education scholars for decades.⁶ The 2007 report *Best Practices for Legal Education* suggested, as a guiding principle for law schools, that they “regularly evaluate[] the program of instruction to determine if it is effective at preparing students for the practice of law.”⁷

Around that same time, the American Bar Association began a thorough review of the accreditation standards for law schools, and in 2016, a new set of standards relating specifically to assessment took effect:

Table 1.1: ABA Accreditation Standards Relating to Assessment

Standard 301. OBJECTIVES OF PROGRAM OF LEGAL EDUCATION

- (a) A law school shall maintain a rigorous program of legal education that prepares its students, upon graduation, for admission to the bar and for effective, ethical, and responsible participation as members of the legal profession.
- (b) A law school shall establish and publish learning outcomes designed to achieve these objectives.

Standard 302. LEARNING OUTCOMES

A law school shall establish learning outcomes that shall, at a minimum, include competency in the following:

- (a) Knowledge and understanding of substantive and procedural law;
- (b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context;
- (c) Exercise of proper professional and ethical responsibilities to clients and the legal system; and
- (d) Other professional skills needed for competent and ethical participation as a member of the legal profession.

Standard 314. ASSESSMENT OF STUDENT LEARNING

A law school shall utilize both formative and summative assessment methods in its curriculum to measure and improve student learning and provide meaningful feedback to students.

Standard 315. EVALUATION OF PROGRAM OF LEGAL EDUCATION, LEARNING OUTCOMES, AND ASSESSMENT METHODS

The dean and the faculty of a law school shall conduct ongoing evaluation of the law school's program of legal education, learning outcomes, and assessment methods; and shall use the results of this evaluation to determine the degree of student attainment of competency in the learning outcomes and to make appropriate changes to improve the curriculum.

In short, a law school must establish a program of legal education and identify specific learning outcomes, or goals, that it is seeking to achieve (Standard 301). Those learning outcomes should include, at the very least, the topics listed in Standard 302. The law school should use both formative and summative assessment methods when evaluating students (Standard 314). And Standard 315 brings it all together: the law school administration and faculty “shall conduct ongoing evaluation” of the school and should use the results of that evaluation to make decisions about the future.

2. Why?

Most law schools have undertaken the assessment process, or at least have begun thinking about it, in response to these new directives from the ABA. Nonetheless, the underlying purpose of the entire endeavor is to improve legal education.⁸ The process is designed to help law schools ensure that they, as institutions, are accomplishing their goals and that their students are taking away the things that are most important. It is also an opportunity for law schools to gather empirical evidence about their strengths and to continue and encourage curricular growth in those areas.⁹

Assessment can feel very detail-oriented and technical, full of numbers and spreadsheets and charts. It is easy, in the midst of filling out forms and creating graphs and gathering data, to get wrapped up in a numbers game where the entire focus becomes just checking boxes on a form to submit to the ABA. But the goal of engaging in assessment is not to just “pass” and satisfy the ABA, though that hope most definitely exists. Instead, the whole point, the big picture focus of assessment, is for an institution to honestly evaluate itself and to make necessary improvements. Law school faculty and administration will be making decisions about curriculum and strategic planning and hiring; the information gleaned from the assessment process can help inform those decisions and ultimately lead to improved student learning.¹⁰

3. Who?

Assessment occurs at various levels within a law school. Institutional assessment, as mandated by Standards 302 and 315, focuses on the law school’s overall effectiveness as a provider of education.¹¹ At this level, the assessment process looks at the collective performance of students as a measure of whether the law school as a whole is accomplishing its big-picture goals.

Program-level assessment evaluates various programs within the law school—clinics, externships, certificate or other specialty programs, the legal writing program, the library.¹² It can also include co-curricular activities like moot court or law review. And it may even extend to less academic departments in the building, such as the admissions office or the career services office.

Course-level assessment allows professors to analyze their own courses with an eye toward whether the desired content is being absorbed by the students.¹³ In addition to professors data gathering and analyzing the course, law school administration may wish to devise methods for reviewing and evaluating an individual professor’s teaching effectiveness.

The results of the assessment process at each level work together to provide law schools with a cohesive, “whole-building” approach to improvement. The efforts of individual faculty members and separate departments in the building blend into an overall assessment of the institution, where “faculty as a whole use assessment of student learning to improve learning systematically and collaboratively.”¹⁴

One challenge for law schools will be to create a building-wide culture of assessment. A “majority of law teachers must be committed to data-driven continuous improvements in teaching and learning,”¹⁵ rather than placing the burden on a small group of people. Creating a pervasive culture of assessment takes time, but it is vital to the success of the endeavor.¹⁶

Additionally, the fundamentals of assessment can be used to evaluate teaching, as an activity separate and apart from student learning. This process can be useful for encouraging more effective teaching methods and for making personnel decisions.

4. How?

In general, the assessment process will look similar at each level, and this book will discuss these steps in a variety of contexts:

1. Creating student learning outcomes and ensuring that the curriculum aligns with the outcomes.
2. Designing and administering assessment instruments to measure student achievement of those outcomes.
3. Reviewing and analyzing data that assessment instruments produce.
4. Making changes based on the data to improve student learning.
5. Repeating the process to evaluate the impact of the changes and whether they made any difference in student learning.

Assessment is a cyclical process; it’s iterative in that the data leads to information, which can lead to changes in curriculum and instruction, which produces new data to analyze. Institutions that merely gather data in spreadsheets will wind up being data rich but information poor. Instead, law schools must use the data “to determine whether they are delivering an effective educational program.”¹⁷ The assessment process is meaningful only when schools use the data “to improve [themselves], to change the curriculum, to change teaching and learning methods, and even to change the assessment methods themselves.”¹⁸

Assessment in law schools can be viewed as a prism. Contained within the prism are principles and practices that apply to various aspects of legal education, including institutional assessment, programmatic assessment, and course-level assessment of student learning, as well as assessment of teaching effectiveness. This book is structured to be a resource in all of those areas. Section 1 begins with a thorough overview of the assessment process generally, and it includes a chapter about how to build a culture of assessment throughout the institution. Section 2 turns to the specifics of assessing student learning in a variety of contexts: at the institutional level, at the course level, and in the context of other programs in the law school, including experiential learning, legal writing, centers and concentrations, co-curricular activities, and non-academic units. Section 3 focuses the assessment lens on teaching, with a discussion of the fundamentals and suggestions for both summative and formative assessment of teaching performance.

Endnotes

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5. *Id.* at 5.
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12. FUNK, *supra* note 8, at 28.
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14. Barbara Glesner Fines, *An Institutional Culture of Assessment for Student Learning*, in *BUILDING ON BEST PRACTICES: TRANSFORMING LEGAL EDUCATION IN A CHANGING WORLD* 416 (Deborah Maranville et al. eds. 2015).
15. *Id.* at 418.
16. FUNK, *supra* note 8, at 9.
17. STUCKEY, *supra* note 7, at 272.
18. *Id.* at 273.

