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# ENSURING A MULTICULTURAL EDUCATIONAL EXPERIENCE IN LEGAL EDUCATION: START WITH THE LEGAL WRITING CLASSROOM

By Johanna K.P. Dennis<sup>1</sup>

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## I. INTRODUCTION

Creating a multicultural educational experience is important in legal education because one goal of the legal education academy is to train future lawyers to be competent advocates for their future clients. In an increasingly globalized world, these future lawyers need to not only understand substantive law across multiple doctrines, but they need to be tolerant to cultural issues and adaptable to the diversity of their clients. Many law schools make it their mission to train lawyers for a culturally diverse world. Yet, aside from upper-level elective course offerings, it is unclear how schools are achieving that goal.

In the first-year curriculum, schools lay the foundation for how the lawyers of tomorrow will view their educational experience and the practice of law. The legal writing classroom, with its small size and skill-based instruction format, particularly lends itself to the introduction of multiple issues in law and culture. The Author, as a lawyer of color and a legal writing professor, has observed the necessity to integrate multicultural aspects into the legal writing classroom and has endeavored to do so in assignments to students. Yet, this is but the beginning of a series of baby steps in a larger transformative walk. Legal educators generally, and especially those of color, can fill the gap that exists in legal education.

This Article discusses the two-fold nature of multicultural education—educating on multicultural topics and educating multicultural students. By examining eight different law schools, the Author discusses current efforts in each law school that impact the educational experience, the shortfalls in these efforts, the need for first-year integration of multicultural topics, and how an educator in the legal academy can ensure that her students receive a well-rounded multicultural educational experience. In particular, the Article addresses multicultural education through the lens of a legal writing professor, whose role entails instructing students on predictive and persuasive writing over the course of the first two or three semesters of law school. The Article concludes by making recommendations for how all legal educators can enhance the classroom experience by creating a multicultural environment.

## II. WHAT IS MULTICULTURAL EDUCATION?

Every student has the right to learn and each student has the right to an equal opportunity to obtain an education. Yet in a world where people bring their own baggage and set of preconceptions and barriers, educators are challenged to ensure that every student learns because each student is different. By acknowledging and embracing these differences, educators can topple the cultural barriers that could otherwise prevent groups of students from equal learning opportunities and from learning from one another's experiences.

A. *Educating on Multicultural Issues v. Educating Students  
from Multicultural Backgrounds*

Multicultural education means two things. One meaning is that educators are aware of the society in which their students will engage long after the classroom, and these educators make curricular choices to present a balanced, well-rounded program and environment in which students can learn. A multicultural legal curriculum is one that should be sought after *regardless* of the ethnic or cultural make-up of the classroom, but certainly more so in areas where the classroom does not reflect the population of potential clientele (society). In many instances, a multicultural curriculum will involve educating non-diverse student populations about the impact of societal issues (e.g., race, national origin, or socioeconomic class, on a group of people). As this Article discusses curricular choices later on, examples of this conception of multicultural education are deferred until that point.

Alternatively, multicultural education can mean educating students from different cultural groups. This conception of multicultural education is the means by which educators endeavor to “create equal educational opportunities for students from diverse racial, ethnic, social-class, and cultural groups.”<sup>2</sup> In this type of education, all students are ensured equal access to learning regardless of cultural or socioeconomic background, and students, educators, and the institution are transformed by the cultures among them.

Just as notions of culture differ from person to person, concepts of how to educate a multicultural student body can mean different things to different people. Some people accept that to create a multicultural educational experience for a diverse student population there need only be a scattering of “diverse materials and perspectives” to more fully include those groups of people who are “traditionally under-represented.”<sup>3</sup> However, this bare minimum does little to actually include the minority groups within the discourse, and the attempt, though present, is shallow at best. From an intermediary standpoint, some may view cognizance of the cultural atmosphere in the classroom, such as using varied teaching styles to reach students from different cultural groups and addressing institutional issues such as testing, funding, and tracking, as a means of creating multicultural education.<sup>4</sup> Yet, similar to the bare-bones approach, these teacher/educator-centered means do not encompass the students’ learning experiences.

Finally, there is a cultural group that mandates that for there to be a proper education of multicultural students, the learning must buck up

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2. HANDBOOK OF RESEARCH ON MULTICULTURAL EDUCATION xi (James A. Banks & Cherry A. McGee Banks eds., 2003).

3. PAUL C. GORSKI, WORKING DEFINITION, <http://www.edchange.org/multicultural/initial.html> (last visited Apr. 13, 2010).

4. *Id.*

against the "oppressive foundations of society and how education serves to maintain the status quo."<sup>5</sup> This group posits that without challenging, criticizing, and analyzing educational foundations, no multicultural experience is complete.<sup>6</sup>

In truth, a wholly encompassing multicultural education involves a transformation of involvement at different levels: the student's critical thinking; the teacher's critical and conscious choice of substance, materials, atmosphere, and teaching styles; and the institution's provision for educational mechanisms and support. The overall concept of multicultural education is multi-faceted and as diverse as the people who make up the underlying cultures of society.

Ultimately, for the school environment to be transformed into one conducive to multicultural education in either sense of the term, the teacher needs to make a commitment acknowledging a deficiency and work towards consciousness of choice and change. Gorski posits that these types of transformations involve five primary goals,<sup>7</sup> and while there are certainly other pathways to achieve the necessary result, the Author favors Gorski's view because Gorski's goals are equally applicable to both kinds of multicultural education. Whether the educator is making decisions about how best to teach a diverse group of students or how best to develop a multicultural curriculum, these decisions involve a transformation, from one state to another, that implicates all five goals.

First, according to Gorski, the teaching needs to be student-centered.<sup>8</sup> By this, student experiences must intertwine with the classroom "making learning more active, interactive, and engaging" while traditional teaching methods which are oppressive are removed and examined.<sup>9</sup> Standardized tests should no longer be the endpoint; the "[e]mphasis should be put on critical and creative thinking, learning skills, and deep social awareness as well as facts and figures."<sup>10</sup> Certainly, the classroom must be a place where all learning styles can thrive. Second, the curriculum must change to become one that is more diverse.<sup>11</sup> Educators should study, evaluate, and analyze the existing and proposed curriculum. Considerations of what is to be taught should include the "voices of the students in the classroom."<sup>12</sup> A multicultural curriculum reflects the diversity of learning styles in every classroom within the school. Third, educational media and materials must be included.<sup>13</sup> Students should be challenged to use

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5. *Id.*

6. *Id.*

7. *Id.*; see *infra* Part VI Figure 1.

8. GORSKI, *supra* note 3.

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.*

and critically think about media, which communicates diverse voices, perspectives, biases, and conceptions. Fourth, the school and classrooms must be supportive by fostering positive growth for all students.<sup>14</sup> Oppressive conditions and cultures within the school must be eradicated; and hierarchies in the administration should be evaluated to ensure that the teaching environments are positive and that there is accountability for all practices. Finally, there must be continual evaluation, assessment and transformation.<sup>15</sup> A multicultural education is not a static education. Educators should review assessments and routinely work on developing fair and equitable alternatives to traditional standardized testing that accurately measure student achievement, ability, potential or growth. By constantly evaluating the educational experience, educators can ensure that learning opportunities are maximized for all students.

Because a multicultural education is dynamic, those who wish to implement one within the institution must also be willing to critically assess and potentially change all that is around them in order to realize the utopic balance of the educational experience. Only by first shaking, and then by toppling the walls that confine us can the traditional, and somewhat static, view of education begin to be transformed.

#### B. *Focusing on the Most Important Goal: Student-Centered Teaching*

Generally, there are two divergent perspectives of education, student learning, and assessment: the teacher-centered model and the student-centered model. These models are categorized by differing teaching strategies, assessment design, and coverage, and determinations of the importance of learning style study. These two perspectives are the teacher-centered and student-centered models. Although it may seem counter-intuitive, Gorski's first goal requires that educators contemplate their teaching style and shift from teacher-centered teaching to student-centered teaching.<sup>16</sup>

For comparison, the main principle underlying the teacher-centered model is that students are empty vessels waiting to be filled with information from the hands of the teacher, who is the expert.<sup>17</sup> As a result, the students are passive participants in the learning process and they need not take accountability for their own learning or their learning

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14. *Id.*

15. *Id.*

16. The Author presented this Article at the *Role of Lawyers of Color* Symposium at Texas Wesleyan Law School on Oct. 9, 2009. One member of the audience commented on the absurdity of the notion of teaching being teacher-centered as opposed to student-centered, in that teaching itself should focus on the students to be taught.

17. George Catalano & Karen Catalano, *Transformation: From Teacher-Centered to Student-Centered Engineering Education*, J. ENGINEERING EDUC. (1999).

styles.<sup>18</sup> The teacher talks and imparts knowledge, while students avidly take notes and memorize information. To assess the knowledge imparted (in truth whether students were listening or good note takers), the teacher uses traditional assessments, which involve multiple-choice or similar short-answer formats, requiring little to no critical thought. The main assessment skill being addressed is whether students sufficiently demonstrate knowledge and understanding.<sup>19</sup>

By contrast, the main principle underlying the student-centered model is that while teachers are experts, they serve primarily as consultants and guides for the students while they learn the material and acquire skills.<sup>20</sup> The ship master is the student, who must direct the vessel for it to travel the waterways of knowledge. The student is actively involved in the learning experience, and both she and the teacher are aware of what learning style works best for her, so she can adapt her study and the teacher can best advise the student and adapt the teaching.<sup>21</sup> The classroom involves two-way discussions and group activities or exercises to engage the students. The students take notes that include not only the material, but applications of it as well. To assess whether the students are learning the material, the teacher consciously designs authentic assessments, such as presentations, reflective or informative essays, or other exercises that require the students to think critically and evaluate the material.<sup>22</sup> Overall, while in the teacher-centered model students are passively involved in the learning experience, the student-centered model requires that students be proactively involved in their own learning.<sup>23</sup>

Although in a multicultural education, student-centered learning should form the helical core of the course, as in any education, the instruction should involve a well-contemplated balance of both teacher-centered and student-centered models. Though the notion may be counter-intuitive, some teacher-centered teaching is necessary, especially early on in a curriculum. The teacher needs to know whether the students have grasped basic information, have met an identified end point, or are meeting an external standard. In these aspects, the teacher-centered model provides valuable information. The downfall however, is that many times teachers rely too heavily on this model. As a result, students lose their engagement with the mate-

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18. See David Robotham, Lecture at Wolverhampton Business School: The Application of Learning Style Theory in Higher Education Teaching (1999) (transcript available at <http://www2.glos.ac.uk/gdn/discuss/kolb2.htm>).

19. See PEGGY NIGHTINGALE ET AL., ASSESSING LEARNING IN UNIVERSITIES (1996); LEE DUNN, SELECTING METHODS OF ASSESSMENT, <http://www.scu.edu.au/services/tl/pathways/pathways06/appendices/a16.html> (last visited Feb. 7, 2010).

20. Catalano & Catalano, *supra* note 17.

21. See Robotham, *supra* note 18.

22. See Maureen Ann Varley, Teachers' and Administrators' Perceptions of Authentic Assessment at a Career and Technical Education Center (2008) (unpublished Ph.D. dissertation, Fordham University) (on file with author).

23. Robotham, *supra* note 18.

rial, the assessments fail to cover a sufficient range of skills, and the curriculum does not reflect what students will need to know to function in the real world. It is helpful to transition to the student-centered model once students are at a point where they can engage in critical thought and venture beyond mere memorization to application. In this respect, the student-centered model provides much more valuable information as well as active student engagement and assessment of many skills. Notwithstanding its importance, the student-centered model admittedly does not lend itself as well to the reporting of statistics, and a teacher's grading of assessments, if not completed carefully using a rubric, can be criticized as being subjective.<sup>24</sup>

To ensure that the educational setting does not suffer from the drawbacks of either of these two models, the teacher and students are doubly served if the teacher contemplates before-hand the instruction and balance of models that will best provide the desired educational experience. This means the teacher must think through not only what will work best to convey the material, but what will work best to ensure the development of the skill (use of the material), the objectives sought, the material in the curriculum, and the balance between teacher-centered and student-centered models. This balance will not likely be 50-50, but it need not be an even division to ensure a 100% return on the investment in education.

### C. *Assessment in a Student-Centered Model*

One key aspect of a multicultural education is assessment, both assessment of students and assessment of the institution and its programs. Gorski's goals explicitly require continual evaluation, assessment, and transformation.<sup>25</sup> To fulfill the goal of student-centered teaching, an educator needs to know whether the students are learning the material being presented. Nine principles of good practice for assessing student learning are:

1. The assessment of student learning begins with educational values.
2. Assessment is most effective when it reflects an understanding of learning as multidimensional, integrated, and revealed in performance over time.
3. Assessment works best when the programs it seeks to improve have clear, explicitly stated purposes.
4. Assessment requires attention to outcomes but also and equally to the experiences that lead to those outcomes.
5. Assessment works best when it is ongoing, not episodic.

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24. See Edward Roy Krishnan, *Assessing Student Learning: New and Creative Learning Methods Require Innovative Evaluation Techniques*, BANGKOK POST, Oct. 28, 2008, <http://www.bangkokpost.com/life/education/3488/assessing-student-learning>.

25. GORSKI, *supra* note 3.



6. Assessment fosters wider improvement when representatives from across the educational community are involved.
7. Assessment makes a difference when it begins with issues of use and illuminates questions that people really care about.
8. Assessment is most likely to lead to improvement when it is part of a larger set of conditions that promote change.
9. Through assessment, educators meet responsibilities to students and to the public.<sup>26</sup>

A multicultural education in legal education should involve all nine of these principles. Multicultural legal education involves incorporation of educational values and the community into the curriculum and recognition of different cultural backgrounds (principles 1 and 6); ongoing learning of diverse materials over time (principles 2 and 5); transparency in curricular choices and learning objectives (principle 3); evaluation and critical reflection on outcomes (principle 4); discussion of topics that matter in society (principle 7); and each course being part of the larger transformative goal of educating students to be future lawyers of society (principles 8 and 9).

In addition, similar to the requirement that multicultural education shift towards student-centered teaching, educators need to shift towards student-centered authentic assessment. Five of these principles direct the educator to select authentic assessment versus traditional assessment in the classroom. Authentic assessments more easily permit students to critically evaluate the substantive area being discussed, challenge biases, and engage in meaningful discussions about society.

It is a well-known concept that learning is a change in capability, knowledge or understanding, even if that change does not manifest itself in a change in behavior. Further, assessment serves to determine whether one has learned a certain modicum of information or skill. Both traditional and authentic assessments can provide evidence of learning. More specifically, traditional assessments, such as tests, quizzes, and examinations involving "traditional multiple-choice and true-false assessments" that require the student to recite specific information or select a correct answer among a series of choices, certainly provide evidence of a student's ability to retain information.<sup>27</sup> However, contrary to many educators' beliefs, these assessments do not necessarily provide direct evidence that learning has occurred. In addition, traditional assessments do not require much critical thought, and traditional assessments administered close in time to the educational event provide evidence of short-term learning (memorization of

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26. ALEXANDER W. ASTIN ET AL., 9 PRINCIPLES OF GOOD PRACTICE FOR ASSESSING STUDENT LEARNING (1996), available at <http://ultibase.rmit.edu.au/Articles/june97/ameril.htm>.

27. LINDA ANN BOND, N. CENT. REG'L EDUC. LAB., CRITICAL ISSUE: RETHINKING ASSESSMENT AND ITS ROLE IN EDUCATIONAL REFORM (1995), <http://www.ncrel.org/sdrs/areas/issues/methods/assment/as700.htm>.

information), but not evidence of long-term learning (conversion of information into ability).<sup>28</sup>

By comparison, authentic assessments, which are specifically designed to ascertain a student's collective ability to perform a task or apply knowledge to a problem or situation, more accurately provide true evidence of long-term learning.<sup>29</sup> Authentic assessments determine whether the student "knows how" to do something. Using an authentic assessment, a teacher is able to evaluate a student's "collective abilities" in the real-world context, and provide the student with feedback regarding his or her application of the necessary skills and knowledge.<sup>30</sup> In fact, "authentic assessment is a multi[-]component tool that effectively measures real-world tasks and provides a comprehensive picture of students' performance proficiencies."<sup>31</sup> Authentic assessments involve the use of rubrics, which provide room for various answers and levels of skill, as opposed to a rigid "right or wrong" answer key.<sup>32</sup> Examples of authentic assessments include written or oral reports; essays; problem-solving questions, exercises and discussions; and any other activity that calls for the student to apply a set of knowledge to a situation, in or out of the classroom.<sup>33</sup> An overwhelming number of skills that should be assessed are addressed through authentic assessment.<sup>34</sup> These skills include: critical thinking and judgments; problem solving and plan development; performance procedures and demonstrations; self-management and development; accessing and managing information; designing, creating and performing; and communicating.<sup>35</sup> In addition, the skills that are most easily assessed through authentic assessment are those that are deemed to be fundamental in lawyering.<sup>36</sup>

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28. *Id.*

29. See Funderstanding, *Authentic Assessment*, in ASSESSMENT: HOW WILL WE KNOW IF LEARNING OCCURS?, <http://www.funderstanding.com/content/authentic-assessment> (last visited Feb. 7, 2010).

30. *Id.*; Varley, *supra* note 22, at 8.

31. Varley, *supra* note 22.

32. Krishnan, *supra* note 24.

33. See Varley, *supra* note 22 (suggesting that authentic assessments best determine the student's ability to perform the skill in the real world).

34. DUNN, *supra* note 19.

35. *Id.*; see also NIGHTINGALE ET. AL., *supra* note 19.

36. These ten fundamental lawyering skills include: (1) problem solving; (2) legal analysis; (3) legal research; (4) factual investigation; (5) communication; (6) counseling; (7) negotiation; (8) familiarity with comparative litigation and alternative dispute resolution; (9) organization and management of legal work; (10) recognition and resolution of ethical dilemmas. SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR, AM. BAR ASS'N, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, ch. 5, pt. B, §§ 1–10 (1992), <http://www.abanet.org/legaled/publications/onlinepubs/maccrate.html#Chapter%20Five>.

In an ideal world, every authentic assessment would be coupled with a traditional assessment.<sup>37</sup> Put another way, before a student is called to demonstrate that she or he “knows how,” the student would demonstrate that she or he “knows that.” An educator needs to determine not only what types of assessment to use, but when to use which type, and how many assessments should be done.<sup>38</sup> The most accurate assessment of a student’s learning is that which combines not only what the student recalls, but how the student, after reflection and critical thought, applies that raw knowledge.

Just as assessments are crucial to the learning process, a student’s learning style is also fundamental. As students develop a learning style, that style is refined in three ways: “unconscious personal interventions by the individual, conscious interventions by the learner themselves, and interventions by some other external agent.”<sup>39</sup> Thus, while two-thirds of the refinement process involves the learner, external influences also play an important role. In this way, teachers can help students develop their learning styles by varying the teaching styles to address all kinds of learning styles (tactile, auditory, and visual, for example), and consciously informing students of the differences in styles and the need to consciously develop one’s own learning style. In such an educational environment, as the student becomes more aware of her own learning style, she “no longer operates as a passive receiver of information, but takes responsibility for the achievement, and ultimately setting, of learning outcomes,” and as the student learner develops her own style, outcomes, and “proactively structure[s] the programme to match [her] own learning attributes,” the teacher shifts from an instructor to a facilitator and ultimately to “a resource to be tapped, as required by the learner.”<sup>40</sup> Authentic assessments are more easily adaptable to accommodate for changing learning styles than are traditional assessments, in that the former assessments ask the student to analyze a problem (and the teacher can receive the answer in a variety of mediums) whereas the latter rigidly restricts the forms and varieties of answers.

In addition, teachers can help students develop an appreciation for the importance of what is being covered in the classroom and understand the relevance of that information outside the classroom. Teachers can use real-life classroom examples, problems or exercises, engage in field trips, obtain guest speakers from industries, and engage in discussions with students that discuss the application of classroom learning to the world outside academia. The teacher can design

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37. “Traditional assessment refers to a host of paper-and-pencil type of test items that include multiple choice, true/false, fill in the blank, matching, and short answers.” Krishnan, *supra* note 24.

38. *See id.*

39. Robotham, *supra* note 18.

40. *Id.*

authentic assessments that incorporate society or industry circumstances as teaching tools and simultaneous means of determining learning outcomes.

Thus, if an educator is to determine whether her students learned and how best to effect that learning, she needs to design curricula and teaching methodologies that ascertain the students' knowledge and abilities. Authentic assessments best lend themselves to integration into a multicultural education.

In the law school classroom, though the Socratic Method<sup>41</sup> in legal education<sup>42</sup> calls for a discussion between the professor and the student, this falls short of an authentic assessment or the intended purpose of an authentic assessment in a multicultural education. While the Socratic Method certainly permits the teacher the ability to determine whether a student knows the concepts and is essentially asking the students the same questions as would be on a pop quiz or a test, the missing step is the authentic assessment, such as an analytical paper, research exercise, or other presentation, which calls for the students to manipulate the knowledge in a critical way beyond a spontaneous response to a hypothetical. Many foundational courses in legal education are so focused on conveying the substantive doctrines and testing whether students have absorbed that substance that they leave little time for critical discussion, reflection, and meaningful debate of how the law impacts society. The hypotheticals discussed in class or found on the final examinations usually do not reflect justice or the kinds of problems found in society. Thus, while legal education involves some aspects of meaningful assessment and student engagement, an authentic assessment in a student-centered multicultural education requires substantially more than question and answer.

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41. The Socratic Method is "[a] ritual in which an individual at the top of the hierarchical chain of command will ask a series of increasingly difficult questions about [the substance and its application to a problem] to someone closer to the bottom (almost always in front of his/her peers). In theory, and when done correctly, this is in the service of teaching. In its worst form, this can serve more effectively to reinforce the [classroom's] power structure by demonstrating how much the questioner knows in relationship to the one being questioned . . ." William Wood, *Emerging Uses of an Ancient Art: The Socratic Method*, 10 HEMONC TODAY, No. 12, 34 (2009), available at <http://www.hemonctoday.com/article.aspx?rid=41173>.

42. See Robert Perry, *The Socratic Method in the Teaching of International Law: An American Perspective* 3 (Working Paper), available at <http://ssrn.com/abstract=1369278> ("When a teacher begins a Socratic dialogue by calling on a student, attention shifts to the two alone, the rest of the students observing from the outside, as an audience. The teacher's questions probe the chosen student as to the facts of the dispute, the procedures taken by the court, the nature of the case brought by the prosecution or plaintiff, the legal rules at issue, and the holding of the case. Attempts are made to parse assumptions and introduce hypotheticals, and the student is asked to respond to these . . . . The teacher interrogates and uses few declaratory statements in the exchange; the student responds to the questions asked and is generally discouraged from asking questions herself.").

### III. CURRENT EFFORTS AT MULTICULTURAL EDUCATION IN LAW SCHOOL

Lawyers' clients come from the community, and to be effective in representing their clients and making social change, lawyers need to understand clients' backgrounds, cultures, and experiences. The U.S. population is about 66% white and 34% people of color,<sup>43</sup> yet the legal profession is 92% white and less than 8% people of color.<sup>44</sup> Thus, "the legal profession has a long way to go before it reflects the ethnic and racial diversity of the general population."<sup>45</sup> Yet the fact that the legal profession does not ethnically and racially reflect the population should not prevent lawyers from being educated in a way to make up for the statistical gap. By changing legal education into a multicultural student and curricular experience, the client population will be better served even if lawyers are not ethnically and racially identical to their clients.

#### A. *The American Bar Association's Role*

The American Bar Association's (ABA) mission is "[t]o serve equally our members, our profession and the public by defending liberty and delivering justice as the national representative of the legal profession."<sup>46</sup> To help fulfill that mission as it relates to legal education and diversity, the goal of the ABA Section on Legal Education and Admissions to the Bar's, Committee on Diversity, is to "develop[ ] suggestions and strategies for greater diversity in American legal education in furtherance of the aims of Standards 211, 212, and 213."<sup>47</sup> The Standards are the goals with which each ABA-accredited law school must comply in order to obtain and maintain their accreditation status.<sup>48</sup>

Standard 213, "Reasonable Accommodation for Qualified Individuals with Disabilities," seeks to ensure that law schools provide reason-

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43. As of July 1, 2008, the U.S. Census estimate of the population was 65.6% Caucasian and 34.3% minority (comprised of 12.2% Black, 15.4% Hispanic, and 6.7% Asian, American Indian, Hawaiian, and multi-racial). U.S. CENSUS BUREAU, ANNUAL ESTIMATES OF THE RESIDENT POPULATION BY SEX, RACE, AND HISPANIC ORIGIN FOR THE UNITED STATES: APRIL 1, 2000 TO JULY 1, 2008 (NC-EST2008-03) (2009), available at <http://www.census.gov/popest/national/asrh/NC-EST2008/NC-EST2008-03.xls>.

44. AM. BAR ASS'N, AMERICAN BAR ASSOCIATION RESOURCE GUIDE: PROGRAMS TO ADVANCE RACIAL AND ETHNIC DIVERSITY IN THE LEGAL PROFESSION 9 (2000), <http://www.abanet.org/leadership/recmenu.html>.

45. *Id.*

46. American Bar Association, About the American Bar Association, <http://www.abanet.org/about/> (last visited Feb. 8, 2010).

47. American Bar Association, Council and Committee Descriptions, <http://www.abanet.org/legaled/committees/committees.html> (last visited Feb. 14, 2010).

48. SECTION OF THE LEGAL EDUC. AND ADMISSIONS TO THE BAR, AM. BAR ASS'N, THE LAW SCHOOL ACCREDITATION PROCESS 3, [http://www.abanet.org/legaled/resources/13665\\_ABA\\_accred\\_web150.pdf](http://www.abanet.org/legaled/resources/13665_ABA_accred_web150.pdf) (last visited Feb. 7, 2010).

able accommodations for individuals with disabilities, as defined by “Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, as further defined by the regulations on post secondary education, 45 C.F.R. Section 84.3(k)(3) and by the Americans with Disabilities Act, 42 U.S.C. Sections 12101 et seq.”<sup>49</sup>

Standard 211, “Non-Discrimination and Equality of Opportunity” describes certain prohibitions, including requiring that a law school provide equality in legal education “without discrimination or segregation on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability.”<sup>50</sup> However, as far as it relates to individuals from different cultures and backgrounds, the Standard and its Interpretations do not describe exactly how a law school should seek to ensure “equality of opportunity.” The Standard only mandates what the thing is to be done, and how that thing shall *not* be done, but not how the task should be completed.

Standard 212 more directly addresses “Equal Opportunity and Diversity.” This Standard requires that a law school make “a commitment to providing full opportunities for the study of law and entry into the profession by members of underrepresented groups, particularly racial and ethnic minorities, and a commitment to having a student body that is diverse with respect to gender, race, and ethnicity.”<sup>51</sup> As with Standard 211, this Standard does not inform the law school how to provide these so-called “full” and “equal” opportunities. Interpretation 212-2 indicates that “a law school shall take concrete actions to enroll a diverse student body that promotes cross-cultural understanding, helps break down racial and ethnic stereotypes, and enables students to better understand persons of different races, ethnic groups and backgrounds.”<sup>52</sup> However, this seems to suggest that by the sprinkling of some magical dust (enrolling a scattering of minority students), somehow the legal education the entire student body receives will be transformed into something multicultural. This suggestion is no more real than the Sandman.

In fact, Interpretation 212-3 concedes that the “Standard does not specify the forms of concrete actions a law school must take to satisfy its equal opportunity and diversity obligations,” but suggests that each law school should evince “a special concern for determining the potential of these applicants through the admission process,” in addition to “special recruitment efforts, and programs that assist in meeting the academic and financial needs of many of these students and that create a more favorable environment for students from underrepresented

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49. AM. BAR ASS'N, 2009-2010 ABA STANDARDS FOR APPROVAL OF LAW SCHOOLS 17, available at <http://www.abanet.org/legaled/standards/2009-2010%20Standards.pdf>.

50. *Id.* at 15.

51. *Id.* at 16.

52. *Id.* at 17.

groups.”<sup>53</sup> This, notwithstanding Interpretation 212, comes closest to addressing both facets of multicultural education, acknowledging that meeting the educational needs of a diverse student body is as important (educating multicultural students) as “promot[ing] cross-cultural understanding”<sup>54</sup> (educating on multicultural issues).

Generally, the ABA Standards focus most on informing law schools of the need to diversify the student body. But, as will be discussed below, special programs just for minorities do little to create a multicultural educational experience for the entire student body. And, merely having a diverse student body is not enough. Nor is it enough to just provide an opportunity to study law and enter the profession. These blanket opportunity-only based statements assume that every opportunity at a legal education is the same so long as the door is made available for the student to walk through. However, this is not sufficient if a law school’s intent is to create a multicultural curricular education. A diverse education for diverse and non-diverse students is not the same as a basic education for both similar student sets. One can learn the substance of laws required to pass the bar exam and become admitted as an attorney (a basic legal education) without understanding the legal impediments faced by minorities in obtaining health care, or the impact of new statutes on the settled, hardworking minority non-immigrant and immigrant population (an example of what may be covered in a multicultural curriculum).

While the ABA provides inspirational goals that a law school should meet, it falls far short of helping a law school delineate how to provide a multicultural legal curriculum or how to educate a multicultural student body.

### B. *Specific Law Schools: Missions, Goals, Community, and Diversity*

Accordingly, the Author looked to specific law schools to examine their goals, how they describe their student bodies, and what has been done to help create a multicultural curriculum and help educate multicultural students. Eight schools were studied. One school was selected from each of the following geographical areas: Mid-Atlantic, Midwest, New England, Northeast, Northwest, Rocky Mountain, Southeast, and Southwest.<sup>55</sup>

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53. *Id.* at 17.

54. *Id.* at 17.

55. The schools studied were Arizona State University, Sandra Day O’Connor College of Law (Rocky Mountain); Florida A&M University, College of Law (South-east) [HBCU]; Northeastern University School of Law (New England); Temple University, James E. Beasley School of Law (Mid-Atlantic); Touro College, Jacob D. Fuchsberg Law Center (Northeast); University of California, Boalt Hall School of Law (Southwest); University of Michigan Law School (Midwest); and University of Washington School of Law (Northwest).

Overall, the missions and goals of the law schools sought to educate the lawyers of tomorrow to address the legal needs of the community. The ABA identified as a goal the need to increase the number of minority students who attend and graduate from law school.<sup>56</sup> But with the exception of one law school, which is recognized as a HBCU (historically black college and university), the law schools studied by the Author did not specifically state that educating minority students was part of their mission.<sup>57</sup> One law school made reference to the “growing internationalization of the law” and “individuals from a broad range of age, culture and experience,”<sup>58</sup> and another law school advertises “multidisciplinary training” and “global perspective.”<sup>59</sup> Other schools claimed to have “diverse” student bodies. Commendably, one law school appeared to grasp the concept of multicultural education, stating that “the legal profession must reflect the society it serves,” and “our students learn to find their voices” while “reflect[ing] on laws and how they should evolve.”<sup>60</sup>

Not surprisingly, statistically, only the HBCU-based law school, the law school located in the South-West, and the law school that best espoused multicultural education had entering class minority-student populations exceeding 25%,<sup>61</sup> and these same three schools had the highest diversity indices of the studied schools.<sup>62</sup> The diversity index is “based on the total proportion of minority students—not including international students—and the mix of racial and ethnic groups on campus.”<sup>63</sup> The groups included as minorities in U.S. News and World Report’s calculations of the diversity index are “African-Americans, Asian-Americans, Hispanics, American Indians, and non-Hispanic whites.”<sup>64</sup> “[The] formula produces a diversity index that ranges from 0.0 to 1.0.”<sup>65</sup> “The closer a school’s number is to 1.0, the more diverse is the student population,” but simply enrolling “a large proportion of students from one ethnic group, even if it is a minority

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56. AM. BAR ASS’N, *supra* note 44, at 35.

57. *See infra* Part VI Table 1.

58. Touro College Jacob D. Fuchsberg Law Center, *Diverse Community of People and Ideas*, [http://www.tourolaw.edu/about/why/diverse\\_community\\_of\\_people\\_and\\_ideas.asp](http://www.tourolaw.edu/about/why/diverse_community_of_people_and_ideas.asp) (last visited Feb. 7, 2010) [hereinafter *Touro Diverse*].

59. About Us, Berkeley Law, <http://www.law.berkeley.edu/about.htm> (last visited Feb. 20, 2010).

60. Diversity, Northeastern University School of Law, <http://www.northeastern.edu/law/admission/why-nus/diversity.html> [hereinafter *Northeastern*] (last visited Feb. 6, 2010).

61. *See infra* Part VI Table 2. Note that due to attrition and drop-out rates, the graduation class almost always has fewer minority students than the entering class. Accordingly, the highest percentage of minorities is usually found at the entering end.

62. *See infra* Part VI Table 3.

63. Robert Morse & Sam Flanigan, *Law School Diversity Rankings Methodology*, U.S. NEWS & WORLD REP., Apr. 22, 2009, <http://www.usnews.com/articles/education/best-law-schools/2009/04/22/law-school-diversity-rankings-methodology.html>.

64. *Id.*

65. *Id.*



group,” does not result in a high score in the index.<sup>66</sup> In fact, no school ranked by U.S. News has a diversity index over 0.65 out of 1.0.<sup>67</sup> The diversity represented by these facts creates opportunities for people from different cultures to interact. But the same facts reveal that increased diversity alone, without more, does not lead to an optimum multicultural educational experience. As a result, it appears that educational institutions need to determine ways to do more in order to create an environment that fully integrates multicultural experiences into a student’s overall legal education.

Merely increasing student diversity increases the potential for meaningful interactions and learning. But as suggested by Gorski’s goals, a significant commitment to action still needs to be undertaken to move from a mere numbers game—how many minority students is “enough”—to something more meaningful. Undertaking such a commitment would serve to ensure that multicultural students’ educational needs are met, and also serve to ensure that all students’ educational needs to learn about other cultures are met through expanded curricular choices. Thus, an optimum multicultural educational experience is not achieved by simply having a student body comprised of some formulation of minority students. Even more, it is not achieved by simply having any formulation of non-homogenous people. As discussed in “What is a Multicultural Education?” above, an optimum multicultural education is achieved by a commitment to transform the entire educational experience on all levels. Multicultural education requires a commitment to teach beyond stereotypes. It requires a commitment to learn about the legal struggles of different cultures and a commitment to helping solve those problems. And it requires a commitment to ensure institutional barriers to education are removed. It encompasses a series of choices made by students, educators, and administrators to change not only who is being educated, but also the curriculum itself and the way it is taught. In short, providing a true multicultural education is not just ensuring diversity. It is so much more.

### C. *Curricular Options*

Going beyond admissions and the make-up of the student bodies at the Author-studied schools, the curriculum forms an intricate part of any educational experience. However, the courses that offer the greatest likelihood of addressing cultural, minority, diversity, or racial

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66. *Id.*

67. *Diversity Rankings*, U.S. NEWS & WORLD REP., Apr. 22, 2009, [http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-school-diversity?s\\_cid=related-links](http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-school-diversity?s_cid=related-links).

issues are predominantly electives in the law school curriculum.<sup>68</sup> Typically, such courses are not a curricular requirement. Rather students are left on their own to determine whether or not to avail themselves of the benefits associated with taking multicultural courses. If these courses are not an intrinsic part of the curriculum, there is no guarantee that the new lawyer will graduate having been exposed to the topics that they cover.

Some courses that introduce students to the legal struggles of the minority, such as the required Constitutional Law course, are a fundamental component of every legal education. However, the primary objective in these courses is not to challenge or critically evaluate viewpoints, biases, and stereotypes,<sup>69</sup> nor is the learning typically student-centered or diverse.<sup>70</sup> As courses such as Constitutional Law are usually large-sized lecture courses, and not small-enrollment seminars, the instruction does not lend itself well to discussions about the problems faced by the individuals in the cases studied. The main purpose of these courses is for the student to understand the law in a specific area. Along the way, the student may in passing think about how the law has responded to the problems faced by various groups of people. But such critical thinking can only occur after the student fully understands the substance of the material. Rather than presenting an opportunity for deep multicultural education, these foundational substantive law courses are merely geared to form the basis of study for the upper-level elective courses in which the student can grapple with the more difficult concepts, evaluate whether the law has properly responded to the issues, and posit alternative ways of addressing the needs of the people involved.

#### D. *Specialized Academic Programs*

In addition to curricular choices for all students, many schools offer special programs for minority students that provide academic assistance. One school studied by the author describes its Legal Education Access Program (LEAP) as being designed to “promote diversity, create a positive, welcoming environment for minority students, and ensure that students from minority racial and ethnic backgrounds have a fair and equal opportunity to achieve a high level of success in law school.”<sup>71</sup> LEAP aims to:

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68. These courses include those which address topics such as gender, poverty, race, affirmative action, disabilities, immigration, human rights, genocide, and power dynamics in American legal culture.

69. GORSKI, *supra* note 3.

70. *Id.*

71. Legal Education Access Program, Touro Law Center, [http://www.tourolaw.edu/student\\_services/student\\_services\\_office/academic\\_resources/legal\\_education\\_access\\_program\\_leap.asp](http://www.tourolaw.edu/student_services/student_services_office/academic_resources/legal_education_access_program_leap.asp) (last visited Feb. 20, 2010).

offset[ ] the overt and subtle barriers to success often encountered at predominantly white law schools by fully qualified minority students, the most significant of these barriers being the difficulty a minority student often encounters obtaining necessary information from other students about the academic demands of law school and methods for achieving success in law school.<sup>72</sup>

It is undisputed that minority programs present benefits to the minority student, including the feeling of community with other minorities, the opportunity to discuss similar experiences, and the mentoring relationship between upper-level and first-year students.<sup>73</sup> In addition, minority students need programs that provide extra educational support. Studies have shown that minority students are more at-risk, are more in need of academic support, are more likely to leave law school for financial reasons, and are more prone to failing the bar exam.<sup>74</sup> Further, the ABA has specifically identified students of color as within the category of “at-risk” students in need of additional support in studying for the bar examination.<sup>75</sup>

Problematically, after some period of time, law school programs only for minorities run the risk of becoming insular clubs for minority students. Put another way, there is little true diversity in a club of minorities,<sup>76</sup> and non-minority students do not gain any cultural benefit from programs geared for minority students. In addition, these programs have been criticized as creating the possibility for minority students to feel stigmatized as intellectually inferior to other students, and it has been suggested that non-minority students resent the special treatment and extra attention minority students may rightfully garner from the programs.<sup>77</sup>

So while there is educational and community value in these programs, and on those bases they should certainly be encouraged, the programs themselves do not add to the multicultural educational experience for all students. The additional educational support that

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72. *Id.*; see also, Anupama Ramlackhan, *Leveling the Playing Field in Law School: A Look at Academic Assistance Programs for Minority Law Students*, 1 J. RACE, GENDER, & ETHNICITY 27, 27–36 (2006) (discussing other academic assistance programs), available at <http://www.tourolaw.edu/JournalRGE/Issues/Issue1/Programs%20for%20Minority%20Law%20Students.pdf>.

73. See Ramlackhan, *supra* note 72.

74. *Id.* at 31. For example, the Mission of the American Bar Association Legal Opportunity Scholarship Fund is “to provide financial assistance to ensure that [racial and ethnic minority] students have the opportunity to attend law school for three years.” AM. BAR ASS’N, *supra* note 44, at 37. Also, “[o]ne finding of the 1998 LSAC National Longitudinal Bar Passage Study was ‘the relatively large proportion of examinees of color, particularly black examinees, that failed the bar examination on the first attempt and did not make a second attempt.’” *Id.* at 47–48.

75. AM. BAR ASS’N, *supra* note 44, at 48.

76. This is supported by U.S. News’ diversity index calculation, in which a high concentration of the same minority group does not increase the diversity in a law school. See Morse & Flanigan, *supra* note 63.

77. Ramlackhan, *supra* note 72, at 34–35.

these programs provide help level the playing field for the opportunity at a legal education.<sup>78</sup> And they certainly involve catering to the specific needs of students from multicultural backgrounds. But they do not overcome the hurdle of creating a multicultural education experience for *all* students because these programs do not educate the students outside the group to the cultural issues minorities face in the real world.

#### IV. THE FUTURE OF MULTICULTURAL EDUCATION IN LAW SCHOOL

##### A. *What Is Lacking?*

Part of the problem with integrating multiculturalism into legal education is that students are recruited to form a purportedly diverse community, with administrators singing the praises of diversity in admissions, specialized programs, and elective course options. Thereafter, minority students are clustered into special programs where they interact with other minority students. Meanwhile, the rest of the student population may or may not be advised to enroll in seminar-size elective courses that address “minority issues.” There is little active discussion of multicultural topics across the law school population, and the students most likely to have a multicultural experience are those who are multicultural themselves. Put another way, law schools seem to believe that multicultural legal education is one-sided and equal to “diversity,” when in fact a multicultural legal education involves both diverse students and diverse topics.

Merely accepting a more culturally diverse student body is not enough. Admitting more students of color does not necessarily correlate into more competent attorneys of color being admitted to the bar.<sup>79</sup> Nor is the catch-all answer to create special minority programs aimed at eliminating the problems of a lack of proper education of multicultural students and a lack of understanding of multicultural issues. Furthermore, lawyers of color and white lawyers alike who are uneducated in the ways of the cultural world and the needs of the culturally diverse clientele are plentiful, but without curricular understanding of multicultural issues in society, they are individually as useless as the common penny.

While acceptance and opportunity are undoubtedly the first steps,<sup>80</sup> legal educators need to go much further down the lonely road. The solution is not to simply educate more minority students—it is about

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78. See generally *id.* at 31–35, for more information regarding the advantages and disadvantages of these special minority programs.

79. “Minority students that do make it through three years of law school continue to face difficulty when attempting to pass the bar. African-American students are four times as likely to not pass the bar on their first attempt, and are six times as likely not to pass after multiple attempts, than their white colleagues.” *Id.* at 31.

80. See AM. BAR ASS’N, *supra* note 44, at 35.

hypereducating them. It is about making each student of color so aware of the uniqueness of her opportunity that she will redouble her efforts to succeed and give back to her community ten-fold. It is then hypereducating the entire student body to the needs of the culturally diverse minority client. This concept of hypereducation means to go beyond the traditional confines of legal education. It means to transform the experience into something more than that which is expected. In effect, hypereducation is the means by which every student can experience a multicultural education in both senses of the term as they apply (both educating minority students and providing a diverse education about minority populations) and where stereotypes and biases are criticized and challenged.

This hypereducation needs to start from day one. There should be integration in the first-year curriculum of multicultural topics, instruction, and learning so that students will be inspired to follow through with selecting the upper-level courses which will enable a higher level of critical thinking. Simultaneously, teachers should consider the needs of students from multicultural backgrounds, develop instructional topics, and provide support and assistance to these students.

Students of color certainly become lawyers of color. That much is clear. Yet, it is a fallacy to think that only lawyers of color need to be attuned to the plight of the minority client. All lawyers need this level of understanding to be truly able to stand up and call themselves attorneys.

Legal educators of color are in the best position to make the call and lead the charge. Lawyers of color have lived through the experience of law school in which minority law students are engaged. We can serve as mentors and apprentices to the future generation. In addition, we are best equipped to educate non-minorities about the struggles faced by our communities. Let us begin the transformation towards multicultural education by training the Atticus Finches of tomorrow today.

### B. *The Ideal First-Year Multicultural Educational Experience*

One of the Author-studied law schools aims to fulfill its cultural mission starting in the first year. At this school, an institutional decision was made to bring culture into the curriculum and not to rely on students' choices of electives as the sole hope that legal education would involve higher-level discussions of societal and cultural problems. This is all aside from the cultural composition of the classroom; the law school did not rely solely on the concept of diversity to ensure a diverse curriculum or learning experience.

In Northeastern University School of Law's mandatory first-year legal writing course, Legal Skills in Social Context, students work with their professors to "understand complex issues of difference and focus on societal and professional values that support the structure and ethi-

cal practice of law.”<sup>81</sup> To permit the level of discussion typical of a seminar, the course is taught in sections that are even smaller than the traditional legal writing classroom, consisting of approximately fourteen students. Each section functions as a small “law office” and the sections are “taught by a team of full-time faculty, adjunct professors and upper-level student fellows and teaching assistants.”<sup>82</sup> The classroom component involves simulated problems and the traditional legal writing model of memoranda, briefs, and oral argument.

The multicultural defining factor of this course is the social justice project, which each “law office” plans and executes. The project consists of “an extensive real-world legal research project” involving “library and field research components” for a “nonprofit community-based or advocacy organization” to solve “a societal problem involving issues of diversity, the law and social justice.”<sup>83</sup> Problems addressed span the legal gamut, including Children and Family Law, Civil Rights, Criminal Law, Domestic Violence and Sexual Assault, Education Law, Elder Law, Employment Law, Health, Disability and Public Health Law, Housing, Human Rights, Immigration, and Tax.<sup>84</sup>

Through this first-year course, of which providing legal assistance to community organizations is an intricate part, the institution is able to “donate[ ] more than 20,000 hours of pro bono service” each year.<sup>85</sup> Students are able to see how the law can impact the world around them. Students no doubt become more attuned to their surroundings, become more educated about the population they will serve, become more tolerant to different cultures, and strive to make a difference in their communities. This is all in addition to the fact that the student body is ethnically and racially diverse. This course is an example of the kind of integration into the first year that is fundamental if an institution is to shift from merely educating to educating with a greater cultural purpose. Northeastern’s first-year course reflects the first component of a multicultural legal education. It provides a foundation in society and culture that can then be continued by students’ choices in the upper-level curriculum and cooperative work experiences.

While extraordinary in its breadth and attempt to bring the cultural experience into the legal classroom, this program certainly requires

81. Northeastern, *supra* note 60.

82. Legal Skills in Social Context, Northeastern University School of Law, <http://www.northeastern.edu/law/academics/curriculum/lssc/index.html> (last visited Feb. 15, 2010); Social Justice Program, Northeastern University School of Law, <http://www.northeastern.edu/law/academics/curriculum/lssc/social-justice.html> (last visited Feb. 15, 2010).

83. Social Justice Program, *supra* note 82.

84. Social Justice Projects Abstracts by Category, Northeastern University School of Law, <http://www.northeastern.edu/law/academics/curriculum/lssc/abstracts.html> (last visited Feb. 15, 2010).

85. *Id.*

significant institutional commitment and resources that may not be available at every institution. The question therefore arises as to how a law school can begin to move in the direction of educating its students in a multicultural way. Keeping in mind that there are five steps to creating a multicultural education, namely: (1) student-centered teaching; (2) diverse curriculum; (3) use of cultural educational media and materials; (4) institutional support and classrooms in which students are supported and growth is fostered; and (5) continual evaluation, assessment, and transformation;<sup>86</sup> the key is starting at the beginning—in the first year.

C. *Making Change on a Smaller Scale: How Can Individual Legal Educators Enhance the Future of the Legal Profession by Creating a Multicultural Learning Experience?*

As stated above in “Curricular Options,” smaller classroom settings more easily lend themselves to student-centered discussions than do larger enrollment classes. Also, a multicultural educational experience is one in which students critically think about and challenge the problems being discussed. Thus, in most law schools’ first-year curricula, the course that best provides the opportunity for integrating multicultural experiences is that in which legal research and writing is taught. The legal writing classroom is smaller than the typical lecture class.<sup>87</sup> The course involves multiple writing assignments that require the student to critically discuss, evaluate, and assess a legal problem; challenge, debate, and advocate for changes in the law benefiting the hypothetical client; and work towards determining an effective solution.<sup>88</sup> It is, therefore, no surprise that Northeastern University School of Law chose this course in which integrate its cooperative community-based learning experience.

While, ideally, an institutional transformation is best, creating a multicultural legal education can start with an individual professor making a commitment to achieve the five goals. A professor can shift her teaching to be student-centered. She can choose issues that are socially and culturally diverse to expose students to a range of problems facing the population and minorities. She can incorporate media and materials into the classroom to demonstrate the way the community functions and how its structure falls short of meeting the community’s needs. She can support her students and their growth. Finally, she can continually revise, assess, and change her teaching, topics, and materials to ensure their relevance and effectiveness in student learning.

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86. GORSKI, *supra* note 3.

87. At most law schools, legal writing is taught in sections of less than 30 students, similar to the enrollment in upper-level seminar classes. By comparison, first-year lecture courses usually have enrollment in excess of 60 students per section.

88. See generally Legal Skills in Social Context, *supra* note 82.

The first consideration should be the cultural and ethnic composition of the students who will be taught. A professor needs to be cognizant of her pupils, their backgrounds, stereotypes, and biases, and what they bring to the classroom. In this way, the professor can determine the extent of her need to concern herself with educating multicultural students. Students who are overwhelmingly aware of cultural problems may not have the same educational needs as those who come from a more narrow range of prior experiences. For example, in the HBCU law school the Author studied, where the student body minority population is greater than 50%,<sup>89</sup> a multicultural education may look and feel different than one in a law school with a minority population of 20%.<sup>90</sup> Similarly, a school body with a large urban-origin population has different pre-existing experiences than a school body mainly from suburban and rural backgrounds. In the former environments (large minority population or large urban backgrounds), there may be fewer types of problems faced by minorities with which the students are not familiar. Thus, the professor can play to the students' backgrounds by educating them about the ways the law addresses or fails to address community problems. These students can then use their education to help their communities and future clients and advocate for change. Their experiences notwithstanding, the professor may determine that these multicultural students have other challenges to learning that they bring to the classroom.<sup>91</sup> By comparison, in the latter environments (fewer minority students or mostly suburban and rural backgrounds), the professor needs to start by educating the students about the problems in society before engaging in a fruitful discussion about how the law impacts these problems.<sup>92</sup>

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89. See generally 1L Class Profile: Fall 2009 Class Profile, <http://law.famu.edu/go.cfm/do/Page.View/pid/13> (last visited Feb. 20, 2010). The Author's students at Florida A&M University College of Law consisted of 69.4% minorities in Fall 2006 and 86.1% minorities in Spring 2007. Florida A&M University College of Law is an HBCU located in Orlando, Florida, an urban center.

90. See generally Program Facts, Touro Law Center, [http://www.tourolaw.edu/admissions\\_and\\_financial\\_aid/faq/program\\_facts.asp](http://www.tourolaw.edu/admissions_and_financial_aid/faq/program_facts.asp) (last visited Feb. 20, 2010) [hereinafter Touro Program Facts]. The Author's students at Touro College, Jacob D. Fuchsberg Law Center consisted of 22.2% minorities in Fall 2007, 18.75% minorities in Spring 2008, 20% minorities in Fall 2008, and 18.75% minorities in Spring 2009. Touro College, Jacob D. Fuchsberg Law Center is located in Central Islip, New York, a suburban locale.

91. In the Author's experience, such challenges can include language barriers, writing and grammar competency issues, and biases or preconceptions about law enforcement or government.

92. This was especially the case when using immigration-based problems to instruct the Author's students at Vermont Law School, where in one semester (Fall 2009) the Author's class of forty students consisted of 12.5% minorities and no black students (information on file with Author).



D. *The Author's Experience in Integrating Multicultural Topics*

Consistent with this analysis, the Author, as a lawyer of color and a professor who teaches legal writing, observed that the necessity to educate students to the problems faced by minorities in the United States and beyond in educational settings with less cultural diversity was greater than in institutions with more cultural diversity. While recognizing that students from different cultural backgrounds had different educational needs, the Author is fortunate enough, thus far, to have institutional support for minority students such as the programs described in Section III.D, as well as language support (ESL), alumni groups, student organizations, and personal experience. These mechanisms help provide a supportive and nurturing environment for minority students. Thus, focusing on multicultural curricular elements as those that were most lacking in the legal education structure, the Author endeavored to integrate multicultural experiences into the legal writing course through the topics and areas of law comprising student assignments.

Specifically, in one research-based writing course, students researched a series of issues surrounding an immigrant rights association's attempt to advocate against use and entry of information obtained in police stops about immigrants into a national crime database. The concern was that police officers became *de facto* federal immigration law enforcers where there may not have been an immigration detainer against the individual. While students were not assigned the substantive legal issue, they had to think through the issue and its implications for their client, and they became aware of how the situation affected the minority and immigrant communities. This scenario was developed based on an earlier decided case. The factual situation was eye-opening for many students who had not previously considered the impact of a routine police stop on an immigrant, or had not previously recognized or contemplated that members of these communities had legitimate fears of law enforcement officials.

In another assignment, students researched marriage laws in two countries to ascertain whether an immigrant client was legally married to her United States Citizen husband and the immigration consequences of her marital status. This assignment also involved domestic violence and child abuse issues, in which the students needed to develop tolerance and sensitivity to the client's circumstances. This scenario was developed based on a prior client whom the Author had represented. Students reported that this scenario caused them to think more broadly about the clients they will be representing, how to communicate with these future clients, and their prospective roles as more than just lawyers (e.g., counselors, sources of community information, etc.). Students became aware that the client is a whole person with a range of prior experiences and dilemmas that may far exceed the narrow legal problem initially brought to the lawyer.

In one advocacy course, the assignment involving the impact on a criminal defendant's bond (whether such bond should be forfeited) when the defendant is deported required that students understand the impact the case would have on immigrants, criminal defendants, sureties, and the judiciary, while advocating for policy changes in the law and a clearer set of rules to be enforced in such situations. For this assignment, because the case was on direct appeal to the New Jersey Supreme Court, the students were able to review the actual record, research the issues as if they were preparing for argument before the Court, and speak to the attorneys of record. Students reported that the ongoing nature of this case made them feel as though their research made a real difference. In one instance, the students found information about one criminal defendant that had not been known to the attorneys in the case. That information was passed along to one of the attorneys, and though the information itself was outside the scope of the record on appeal, the attorney reported that the information further supported the argument being made to the appellate court.

In another advocacy course, the assignment was based on a case in which the Author was the pro bono attorney of record. This situation was arranged by the Author's choice to associate with a non-profit organization that referred immigration cases to attorneys. Thus, the Author was directly responsible for the client's immigration case. As background, the client was being held in an immigration detention center, and the immediate and long-term relief sought was release from custody and cancellation of removal, respectively. In this case, the students researched the impact of the client's DUI convictions on his immigration case; developed an understanding of the child protection and foster care aspects of state public welfare; developed the record for the case; brainstormed with the Author regarding case strategy; researched country conditions to understand the environment in which the client previously lived and the life to which the client would return if deported; and celebrated in the client's successes in being released from immigration detention and seeing his children for the first time in almost one year.<sup>93</sup>

In all of these assignments, the students developed a greater understanding of the interaction between criminal, family, and immigration law and the impact of a criminal case on an immigrant's life and family. Being the attorney of record in one case enabled the Author to directly relate the client's fears and concerns to the students. Prior to these assignments, many students did not realize that even seemingly minor criminal interactions or convictions had negative consequences on an individual's ability to live in the United States and on his or her family. Students realized that the minority population faced criminal,

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93. During the writing of this article, the long-term immigration case is still ongoing (information on file with Author).

public welfare, domestic violence, family, and immigration problems on a daily basis, and the students developed an increased understanding of their roles as future lawyers.

In the aggregate, these assignments met Gorski's five goals for a multicultural education as applied to curriculum choices.<sup>94</sup> First, the Author ensured the teaching environment was student-centered by fostering discussion about the topics inside and outside of the classroom, encouraging interaction between members of the class, creating small-group activities to work through some of the sub-parts to the assignments, and organizing real-life interactions for the students (including court trips and attorney discussions). With three of the four sets of students, the Author was able to organize class court trips related to the topics being studied.<sup>95</sup>

At the HBCU institution where the Author taught, the court trips organized by the Author permitted the students an opportunity to observe both civil and criminal cases. The criminal case, which involved the trial and conviction of a seventeen-year old black boy for the killing of another individual for the individual's cell phone, left a lasting and emotional impression on students due in part to the shocking ethnic homogeneity of the jury in urban Orlando, societal and judicial biases and stereotypes, and notions of fairness. These impressions were even further pronounced because the students, who were more culturally diverse than at other institutions, related to and empathized with the criminal defendant.<sup>96</sup> In other years, the Author organized immigration court trips,<sup>97</sup> which enabled the students the opportunity to see the real-world implications of their research, the immigration system at work, the effect of language barriers on adequate legal representation and justice, and the cultural and ethnic make-up of deportation. Overall, these interactions between the students and the world in which they will practice law broadened the students' understandings of society.

Relating directly to Gorski's second goal,<sup>98</sup> the Author selected topics for writing assignments that dealt with some of the issues faced by the minority population. These writing assignments, discussed previously, involved immigration, family, and criminal law.

Gorski's third goal,<sup>99</sup> the integration of media, was also achieved in these courses. The Author used video and audio clips, client and

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94. See GORSKI, *supra* note 3.

95. At FAMU-College of Law, at the time, the institution did not have a program for court trips. Accordingly, the Author organized both state and federal court trips in the fall semester for students in her course.

96. See 1L Class Profile, *supra* note 89.

97. At Touro Law Center, federal and state court trips are part of the overall law school curriculum. See Hands-On Practical Training, Touro Law Center, [http://www.tourolaw.edu/about/why/hands\\_on\\_practical\\_training.asp](http://www.tourolaw.edu/about/why/hands_on_practical_training.asp) (last visited Feb. 15, 2010).

98. GORSKI, *supra* note 3.

99. *Id.*

third-party interviews, websites, panel and group discussions with attorneys and judges, and government publications to supplement the standard legal writing reading material. These “outside” educational sources helped educate the students about the types of clients in the real world; clients’ needs, histories, and backgrounds; and how the law impacts each client’s situation.

Regarding institutional and classroom support (Gorski’s fourth goal),<sup>100</sup> the Author found that, regardless of institutional support for a specific cause, so long as there is some curricular freedom, an individual professor can commit to a multicultural learning experience and provide the classroom support that directly impacts each student’s learning. As the professor is the direct link to the material, the Author endeavored to support her students’ research; challenge her students to think outside the box; encourage out of class discussion through emails, chats, and the course websites; and encourage all students to think creatively towards real-life, not merely academic, solutions for the clients.

Finally, as with any curriculum and teaching choice, continual assessment and evaluation is key to ensure that the program does not become stagnant, addresses the students’ needs, and is effective. Accordingly, not just at the end of the course or year, but throughout the entire teaching process, the Author works to evaluate and assess the teaching and materials used and the client problems and writing assignments given to students. The Author also solicited feedback from the students on major assignments and events to determine their effectiveness and what was learned. Overall, this consciousness about the Author’s teaching helped the Author ensure that the students’ learning and experiences were in fact multicultural.

Accordingly, consistent with all five of Gorski’s goals,<sup>101</sup> the Author was able to make curricular choices to create a multicultural learning experience for all students, regardless of their individual cultural backgrounds.

## V. CONCLUSION

These educational experiences involved multicultural learning, and the students from these classrooms learned about and critically thought about the problems facing the minority population and society as a whole. The students were able to develop ideas about how to help the client, how to overcome the barriers faced by the client, and how to make changes to better society. Learning experiences such as these are invaluable. One cannot quantify what it means for a lawyer to be aware of the types of issues faced by a community and how the law enables the lawyer to help or advocate for the client. All lawyers

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100. *Id.*

101. *Id.*

should understand their clients' backgrounds; such understanding permits the lawyer to be most effective.

Accordingly, the legal training forum is the best place to begin making changes and ensuring that the next generation of lawyers is more diverse and has a greater multicultural understanding so that they can be true "Superheroes of Society." As the first year of law school lays the groundwork and context in which students will view their role as future lawyers, introducing social and cultural issues into the first year is crucial to the development of a multicultural legal education. In addition, from day one, students interact with each other, and are exposed to each others' cultures and experiences. Prolonged ignorance of the cultural backgrounds of the student body and continued isolation from societal problems will only make it more difficult in upper-level courses for students to become tolerant of the problems within the real-world community and the minority population. Thus, law schools should endeavor to go beyond the talk of diversity, which, though important, only addresses one component of multicultural education. Law schools need to begin to enhance legal education by turning to multicultural curricula.

While all legal educators can elect to begin to make these small changes in the classroom, and thus create ripples in the current, legal educators of color have a greater investment in ensuring that the minority population has a future generation of lawyers who are highly cognizant of the population's needs. Institutions can choose to move in a direction similar to Northeastern's model, recognizing that large-scale program changes take time and impact many issues.<sup>102</sup> In the meantime, individual legal educators need to challenge students to think about significant and current problems and aim to teach in a way that follows the five goals for a multicultural education. To do less is to do a disservice to the public, the profession, and the students. The time for a transformation of legal education into a multicultural educational experience has come. The tide of change begins with one professor in one classroom, one student at a time.

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102. Some issues affected by major program changes may be accreditation requirements; credit restrictions; fiscal, staff and resource constraints; and effectiveness of existing courses and programs.

VI. APPENDIX

Figure 1

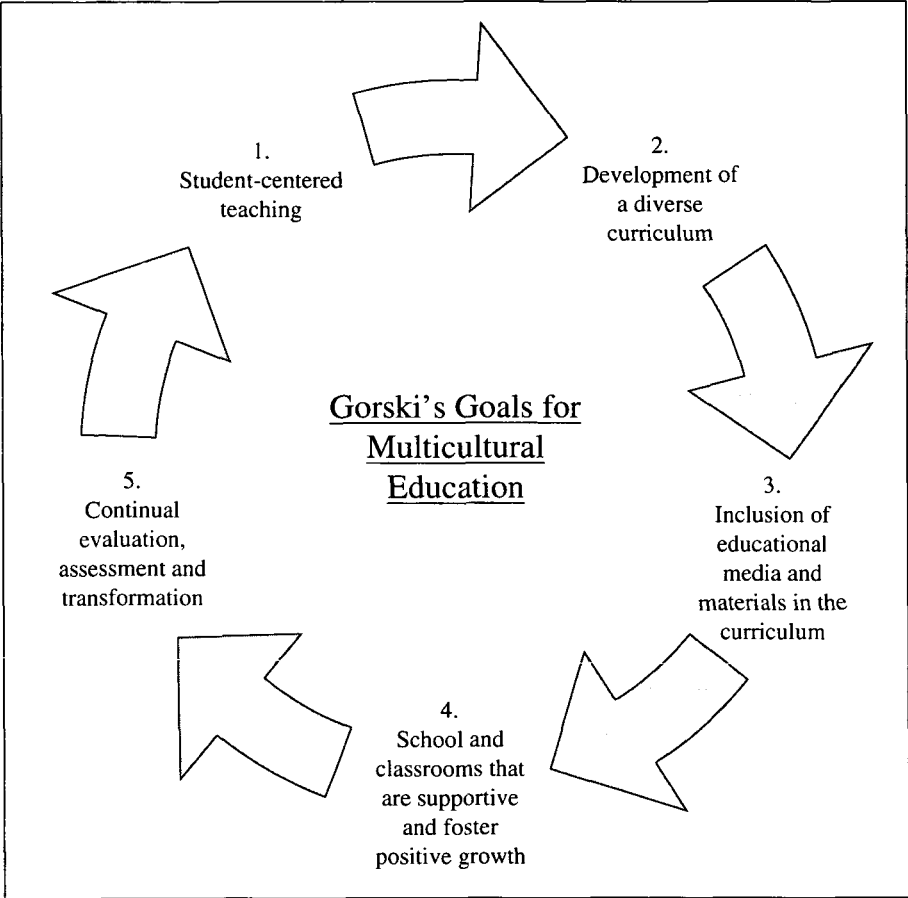


Table 1—Law School Missions, Goals and Community<sup>103</sup>

<i>Law School</i>	<i>Mission, Goal, Community</i>
Arizona State University, Sandra Day O'Connor College of Law (Rocky Mountain)	States that ASU offers a “divers[e] . . . student body.”
Florida A&M University, College of Law (South-East)	“ . . . to provide opportunities for minorities to attain representation within the legal profession” and “meeting the educational needs of African Americans and other ethnic minorities, while maintaining its leadership in racial diversity.”
Northeastern University School of Law (New England)	“[W]e believe the legal profession must reflect the society it serves. To that end, we are committed to enrolling students from a variety of racial, ethnic, religious and socio-economic backgrounds; diverse educational and work experiences; varied geographical backgrounds; differing political ideologies; and diverse gender identities and preferences. Together our students learn to find their voices, reflect on laws and how they should evolve, and bring a vibrancy to dialog in the classroom.”
Temple University, James E. Beasley School of Law (Mid-Atlantic)	“Our students are bright, dynamic and diverse. They come from a variety of backgrounds and disciplines and add unique and stimulating ideas to the classroom.” and “Our concept of diversity is also broader than just race and ethnicity . . . and includes factors such as work experience, students from different parts of the country and students from diverse economic and educational family backgrounds.”

103. Sandra Day O'Connor College of Law, Admissions, <http://www.law.asu.edu/?id=330> (last visited Apr. 3, 2010); Florida A&M University College of Law, Mission, <http://law.famu.edu/go.cfm/do/Page.View/pid/4> (last visited Apr. 3, 2010); Northeastern, *supra* note 60; Temple University Beasley School of Law, Prospective Students: Message from the Dean, [http://www.law.temple.edu/servlet/RetrievePage?site=templeLaw&page=prospective\\_Deans\\_Welcome](http://www.law.temple.edu/servlet/RetrievePage?site=templeLaw&page=prospective_Deans_Welcome) (last visited Apr. 3, 2010); Temple University Beasley School of Law, Prospective Students: Frequently Asked Questions, [http://www.law.temple.edu/servlet/RetrievePage?site=templeLaw&page=prospective\\_FAQ](http://www.law.temple.edu/servlet/RetrievePage?site=templeLaw&page=prospective_FAQ) (last visited Apr. 3, 2010); Touro Diverse, *supra* note 58; About Us, *supra* note 59; University of Michigan Law School, Your Life as a Michigan Law Student, <http://www.law.umich.edu/aboutus/Pages/studentlife.aspx> (last visited Apr. 3, 2010); University of Washington School of Law, About the UW School of Law, <http://www.law.washington.edu/about/> (last visited Apr. 3, 2010).

Touro College, Jacob D. Fuchsberg Law Center (North-East)	“The student community reflects the growing internationalization of the law, with individuals from a broad range of age, culture, and experience.”
University of California, Boalt Hall School of Law (South-West)	To ensure that students receive “multidisciplinary training, global perspective, and adaptable skills.”
University of Michigan Law School (Mid-West)	Describes its student body as “bright, diverse, interesting, intellectually engaged (and engaging).”
University of Washington School of Law (North-West)	“Our students are not only academically excellent, but also have diverse personal, educational, and (in many cases) professional backgrounds, which creates a varied and stimulating intellectual atmosphere.”

Table 2—Minority Student Population (Entering Class)<sup>104</sup>

<i>Law school</i>	<i>Minority Population (Entering Class, unless otherwise specified)</i>
Northeastern University School of Law (New England)	33% students of color (Fall 2009)
Touro College, Jacob D. Fuchsberg Law Center (Northeast)	22% minority (entire student body)
Florida A&M University, College of Law (Southeast)	58% minority (Fall 2009)
Temple University, James E. Beasley School of Law (Mid-Atlantic)	24% minority (Fall 2009)
University of California-Berkeley, Boalt Hall School of Law (Southwest)	40% people of color (Fall 2009)
Arizona State University, Sandra Day O’Connor College of Law (Rocky Mountain)	25% students of color (Fall 2009)
University of Michigan Law School (Midwest)	22% minority (Fall 2009)
University of Washington School of Law (Northwest)	25% minority (Fall 2008)

104. Northeastern University School of Law, Quick Facts, <http://www.northeastern.edu/law/about/quickfacts.html> (last visited Apr. 4, 2010); Touro Program Facts, *supra* note 90; 1L Class Profile, *supra* note 89; Temple University Beasley School of Law: Profile of Entering Class, Profile of 2009 Entering Class, [http://www.law.temple.edu/servlet/RetrievePage?site=templeLaw&page=prospective\\_Profile\\_Enter\\_Clas](http://www.law.temple.edu/servlet/RetrievePage?site=templeLaw&page=prospective_Profile_Enter_Clas) (last visited Apr. 4, 2010); Berkeley Law: University of California, Entering Class Profile, <http://www.law.berkeley.edu/37.htm> (last visited Apr. 4, 2010); Sandra Day O’Connor College of Law, Facts and Figures, <http://www.law.asu.edu/?id=505> (last visited Apr. 4, 2010); University of Michigan Law School, Law School Facts, <http://www.law>



Table 3—Diversity Index (2008-2009)<sup>105</sup>

<i>Law School</i>	<i>Diversity Index (largest minority and its proportion)</i>
Northeastern University School of Law (New England)	0.45 (10% Hispanic)
Touro College, Jacob D. Fuchsberg Law Center (Northeast)	0.36 (9% African-American)
Florida A&M University, College of Law (Southeast)	0.65 (47% African-American)
Temple University, James E. Beasley School of Law (Mid-Atlantic)	0.36 (9% Asian-American)
University of California-Berkeley (Southwest)	0.52 (19% Asian-American)
Arizona State University, Sandra Day O'Connor College of Law (Rocky Mountain)	0.41 (11% Hispanic)
University of Michigan-Ann Arbor (Midwest)	0.41 (13% Asian-American)
University of Washington (Northwest)	0.35 (12% Asian-American)

umich.edu/newsandinfo/Pages/facts.aspx (last visited Apr. 4, 2010); University of Washington School of Law, 2008–2009 Quick Facts, <http://www.law.washington.edu/About/SchoolFacts.aspx> (last visited Apr. 4, 2010).

105. *Best Law Schools: Law School Diversity Index*, U.S. NEWS & WORLD REP., [http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-school-diversity?s\\_cid=related-links](http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-school-diversity?s_cid=related-links) (last visited Apr. 4, 2010) (copy on file with author) (table not reproduced in complete form).