

not aware of the standards for articling or feel intimidated.

The author suggests that the articling program should be reviewed and evaluated. She recommends a process of review that is often used to evaluate other educational programs. The process, consisting of five steps, starts with a very clear idea about what is to be accomplished and ends with the implementation and ultimate monitoring of a new or revised program.

Before introducing any educational programs, the educational needs of students must be identified and the objectives of articling must be set. At a certain level there is general agreement about the knowledge, skills and attitudes that lawyers should possess to be able to practise law competently. The most direct way to get a general sense about what students know is through a written or oral assessment or by reviewing student transcripts. The gap between what students know and what students should know describes the educational need which can be transformed into educational objectives.

Once the objectives of articling are defined, research should be conducted to compare them with what is actually happening during articling. Information should be gathered about each of the objectives. This information will assist in identifying any gaps or overlaps in student learning and experience. Resultant adjustments to the articling program can range from simply clarifying to principals and students the expectations of articling, to rethinking the entire purpose of articling or even abolishing it.

Once a revised or new program is in place, it is important to ensure it continues to meet the desired objectives. A key component of any program is monitoring and evaluating. Indeed, this topic should be discussed when the program is initially introduced. There should always be in place some method by which to measure whether the

program is meeting its objectives and to ensure it is as effective and efficient as it can be. At the minimum, information should be gathered about how many students article and where they article. It is also important to gather information about what is happening during articling from both the student's and the principal's perspective. If a system of continuous data collection is put in place, the task of evaluating and monitoring would simply consist of analysing the information periodically and adjusting the program to ensure that the changing needs of students, lawyers and the legal profession are met.

### **Designing a powerful PLT program**

S Nathanson

16 *J Prof L Educ* 2, 1998, pp 229–245

How do you design a professional legal training program so that it is more than the sum of its parts? Based on his experience in designing several PLT programs, the author identifies design principles that enhance student motivation. These principles are divided into the categories of *design concepts* and *program features*.

The function of curriculum design is to put theory together with planned experience so that professional knowledge and skills can be learned more efficiently and can be transferred to the workplace in a way that accelerates the growth of competence once people are in practice. Thus, the most important goal for designers of professional education is to find ways to maximise transfer of learning and the acceleration of later learning.

Originating in Australia, one of the most important breakthroughs in design was the conceptual division of legal practice into 'tasks' — the step-by-step jobs that lawyers do for clients, characterised by specialised knowledge and procedures; and 'skills' — processes used to solve a wide variety of problems, pervading the whole range of tasks. Australian PLT courses were said to be 'transaction-based'

because, although they practised skills as they worked their way through transactions, the courses were organised around, and focused on, transactions. British Columbia's Professional Legal Training Course (PLTC) reversed priorities, so that skills were paramount. Skills were the educational end product; transactional knowledge a means to that end.

Designers developed a number of devices to promote transfer, including the use of skills theories. They devised skills guides to explain the theory of a skill, to help in analysing skills performance, to provide feedback to students on the skill and to assess it. Transfer, skills guides and peer feedback were elements in the broader endeavour of systematic skills teaching.

However dynamic systematic skills teaching can be, it can also create a disjointed, fragmentary portrait of law practice. PLT course designers have realised that their programs would benefit from a unifying theory of legal practice to provide an organising principle for the course as a whole.

At the University of Hong Kong's professional legal education program designers introduced a theory of 'problem solving' — the simple idea that lawyers were problem solvers and that, consequently, the primary goal of professional education was that students should learn to solve realistic legal problems. The lawyer is required to overcome obstacles to resolving or preventing conflict, in ways that satisfactorily solve the problem for the client.

Success in teaching problem solving depends less on the design of guides however, than on the high quality of the problems created for the course. High quality problems have a realistic, transactional context. They are consistent with the general objectives for which they were designed. However, the knowledge required to solve them does not unfold topically. It is cross-discipline knowledge, originating from a variety of disciplines and other sources



es connected to each other in disordered ways. How then do you integrate coherent knowledge with messy problems?

Integration can be achieved using 'problem generated design', a design strategy that focuses first and foremost on designing high quality problems within limits defined by the general objectives of the course. Since realistic problems have a life of their own, only after the problems are written and tried out, will a range of objectives in both knowledge and skills be precisely identified. The designers then fill in the curriculum with sufficient knowledge and skills prerequisites to guide students toward solutions without giving away the answers.

Problem solving should also be made explicit as the main course goal. Because the idea of solving problems is so straightforward, yet so all-inclusive of what a lawyer does, it is an easy concept to understand. This makes it an invaluable touchstone for designers as they strive for overall coherence. When designing its legal practice course the Nottingham University Law School interpreted the Law Society's goals and objectives as the production of graduates who could solve legal problems and who exhibited suitable professional attitudes. At Nottingham, the vocabulary of problem solving and related concepts facilitated the process of breaking legal practice down into teachable parts as well as selecting appropriate instructional methods for each part.

The second, attitudinal, goal fitted in with the first. At Nottingham, 'professional attitude' was reinterpreted to mean 'professional attitude toward learning', because designers determined that this particular attitudinal objective was both critical to competence — because lawyers need to be learners throughout their careers — and achievable inside the institution — because of the experiential learning methods that Nottingham would use to teach skills.

A vision or goals for the program expressed in simple language is a beacon that helps designers stay focused on where the program is going throughout the design process. At Nottingham and, later at the College of Law in London, problem solving and a professional attitude toward learning were the main program goals. These could be called the twin pillars of professional legal education. Once designers understand them and can communicate them clearly, they provide reference points for the design of all learning activities.

More concrete program features, attached to the design concepts, motivate and even excite students about learning. In establishing the Bar Vocational Course (BVC) at the College of Law, several essential program features were incorporated into the design. These were: coherent sequencing, feedback culture, training groups, guest instructors, programmed instruction and end-of-term assessment.

In curriculum sequence the BVC, like the PLTC, is skills-based. The sequencing of the curriculum is dictated largely by what makes the teaching of skills more coherent. The design is problem-generated, not topic-generated. Problems are strung together according to principles that the designers, from experience, thought would result in a coherent skills sequence. Great emphasis is placed on all aspects of feedback because it fosters openness to new learning and new ways of seeing things. The BVC adopted the training group as the principal group format for delivering instruction. The training group is the ideal vehicle for promoting the transfer of learning and the growth of a unifying theory of legal practice. Guest instructors from the practising profession and the Bench provide students with models of skill and conduct.

Real-life legal problems are messy, but the process of design is a deliberate, carefully plotted effort to make the accumulated experience of students

working through these problems coherent and understandable. Most of the concepts and features, such as skills theories, unifying theory of legal practice, problem solving, problem-generated design, programmed instruction and program groups are all part of a strategy to construct this coherent world out of that experience.

## SKILLS

### Teaching negotiation: changing the focus from strategy to substance

M Taylor

16 *J Prof L Educ* 1, 1998, pp 23–51

Negotiation in many professional skills courses, as well as much of the literature, focuses upon teaching trainees to understand the different strategies. This approach neglects the substance of the negotiation, particularly how students can convert the theoretical understanding into practice in the negotiation in order to achieve the best result for the client.

The Negotiation Course on the Bar Vocational Course (BVC) at the Inns of Court School of Law teaches what could be labelled an 'intellectual defensively collaborative' approach. It is collaborative in that it involves looking for common interests of the parties and, where possible, building on shared or compatible interest and expanding the pie. It is intellectual in that it focuses on the substance of the negotiation and seeks compromise through the use of the cognitive skills of persuasive argument and judgment rather than more emotive, behavioural methods. It is defensive in that it recognises that, in many negotiations, particularly those involving dispute resolution, the negotiators have to deal with conflicting interests of the parties and that this may involve division of resources and exchange of information which could be adverse to the client's interests.

This approach has been developed gradually over ten years of teaching and