

Improving Legal Education in Georgia

This paper provides several recommendations for improving the state of legal education in Georgia. The author is an American who teaches law in Georgia. The recommendations include: improving student attendance by emphasizing the importance of attendance; raising overall standards and expectations of law students, including emphasizing GPA and class rank; providing more practical skill development (law clinics, simulation courses), instruction in legal writing and analysis, and moot court competitions; and general student skills, including cultivating attention to detail. The paper discusses each of these recommendations, including how they might be adopted or improved upon, and includes comparative analysis with American law schools where relevant.

1. Introduction

I have a unique perspective: before moving to Georgia and teaching law in this country, I practiced law in the United States. As such, I have an appre-

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ciation for the state of legal education in both countries. During my time here, I have had the honor of teaching some truly brilliant students and working with some excellent colleagues. What follows are a few humble proposals (based on my observations as well as discussions with students and other lecturers) regarding the improvement of legal education in Georgia.

Attendance is a perennial problem; problematic because if students do not attend class, their mastery of the subject matter is inherently limited (or, if they can master the material without going to class, then what value is the lecture adding?). We should raise both our standards and our expectations for law students; I am confident the students would rise to meet the challenge and become better lawyers for it. We ought to provide more practical skills development in order to prepare our students for the employment market. We also need to teach new law students proper study skills which they can utilize throughout their studies and beyond.

2. Attendance

Attendance is key. When students do not come to class, it is difficult and rare for them to make up the missed material through self-study. There is a significant body of research correlating attendance and grades: “While a relatively few studies have failed to find a significant correlation between attendance and academic performance, the overwhelming majority of them have found a positive correlation between attendance and academic performance.”¹ When student attendance increases, student performance increases. In fact, this may be the most effective way to improve student performance: “Class attendance appears to be a better predictor of college grades than any other known predictor of college grades – including SAT scores, HSGPA [high school grade point average], studying skills, and the amount of time spent studying. Indeed, the relationship is so strong as to suggest that *dramatic improvements in average grades (and failure rates) could be*

¹ B. Senior, ‘Correlation between Absences and Final Grades in a College Course’ <http://ascpro0.ascweb.org/archives/cd/2008/paper/CEUE275002008.pdf>, (accessed 28 June 2018), (internal citations omitted), p. 2.

achieved by efforts to increase class attendance rates among college students.”²

2.1 Employment Hours

Students who are working full-time cannot also be full-time students. Law schools should restrict employment to a certain number of hours, perhaps 15–20 hours per week, for full-time students. If students want to work full-time, they should be limited to part-time student status. Currently, many students, especially 3rd and 4th year students, work full-time while simultaneously taking a full-time course load. Not surprisingly, such students’ attendance is sporadic and their grasp of the material is usually incomplete.

Until 2014, the American Bar Association (“ABA”), which accredits law schools in the US,³ required rules limiting students’ working hours to 20 hours per week.⁴ Although this was often difficult to verify, most law firms, who were the most likely employers, were aware of this rule and followed it. Although this is no longer required by the ABA, many law schools continue to adhere to this rule. In fact, some law schools limit employment hours even further.⁵

The reason for the rule was that law students are required, by necessity if not by university regulations, to dedicate a substantial amount of time to their studies – usually calculated as at least two hours of study for each hour

² M. Credé, et al., ‘Class Attendance in College: A Meta-Analytic Review of the Relationship of Class Attendance With Grades and Student Characteristics’, *Review of Educational Research*, Vol 80, Issue 2, 2010, <https://doi.org/10.3102/0034654310362998>, (accessed 28 June 2018), (internal citations omitted; emphasis added), pp 288–289.

³ “Since 1952, the Council of the ABA Section of Legal Education and Admissions to the Bar of the American Bar Association has been recognized by the United States Department of Education as the national agency for the accreditation of programs leading to the J.D. degree in the United States. Law schools that are ABA-approved provide a legal education that meets a minimum set of standards promulgated by the Council and Accreditation Committee of the Section of Legal Education and Admissions to the Bar. Every U.S. jurisdiction has determined that graduates of ABA-approved law schools are eligible to sit for the bar exam in their respective jurisdiction.” ABA, *Frequently Asked Questions*, [website] https://www.americanbar.org/groups/legal_education/resources/frequently_asked_questions.html (accessed 28 June 2018).

⁴ *Ibid.*

⁵ William & Mary Law School, *Working while in Law School*, [website] <https://law.wm.edu/academics/whatabout/workingwhileinlawschool/index.php>, (accessed 28 June 2018).

of class time.⁶ Although there is more flexibility in the European Credit Transfer System (ECTS), the same 1:2 ratio is often followed.⁷

A student who is working full-time and taking a full course-load cannot excel in both; often, it is their studies that suffer. Students with a course-load of 30 ECTS should generally be spending 40 hours per week during the semester on their studies.⁸ When students miss class sessions and do not have ample time to read and study the materials, their learning and grades suffer greatly. Few students (or graduates, for that matter) have the ability or discipline to effectively perform two full-time jobs at the same time.

However, one law school cannot effectively enforce this principle on its own. The only way it would work is if all the country's law schools, or more likely a bar association or association of law schools, adopted and enforced this rule. Such an association would also have influence over law firms and government agencies, which constitute a large number of employers in the legal field.

2.2 Compulsory Attendance

Law students are training to be professionals; as such, we should expect them to act like professionals. We would not retain lawyers who regularly failed to appear for court or for client or settlement meetings; by not holding our students to a high standard, we are doing them a great disservice. Class attendance should be compulsory.

ABA standards require “regular class attendance”⁹ which is interpreted as compulsory attendance. If a student misses more than a certain number or percentage of class sessions, commonly 80%, then the student cannot

⁶ ABA Standard 310(b)(1).

⁷ D. Evans, *How the measurement of Contact Hours is Evolving*, [website] 2018, <http://blog.educpros.fr/daniel-evans/2018/04/22/how-the-measurement-of-contact-hours-is-evolving/>, (accessed 28 June 2018).

⁸ University of Groningen, *Workload of a Student*. <https://www.rug.nl/education/find-out-more/studying-at-university/workload?lang=en>, (accessed 28 June 2018); also see: NUI Galway, ECTS, [website] <https://www.nuigalway.ie/media/celt/files/coursedesign/ECTS.pdf>, (accessed 28 June 2018).

⁹ ABA Standard 311, https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2017-2018ABASStandardsforApprovalofLawSchools/2017_2018_standards_chapter3.authcheckdam.pdf, (accessed 28 June 2018).

pass the course.¹⁰ In some law schools, the final grade is reduced.¹¹ This is usually enforced by attendance sheets circulated at the beginning of class.¹² The instructor of the course who is mandated to enforce this rule, however, may choose to apply *more stringent* standards.¹³ “Our experience is that failing attendance is often one of the first signs that a student is having serious personal or academic difficulty.”¹⁴

3. Raise Standards

Law schools and the legal community should raise the standards to which we hold law students. Lawyers are leaders in society and pillars of their communities; law school should accordingly be a demanding course of study.

The minimum entrance exam scores for law students should be increased. The law is a difficult and challenging profession. There should be an emphasis on quality of students, over quantity.

The legal community should begin to emphasize the importance of a graduate’s Grade Point Average (“GPA”). Currently, GPAs are not considered to be very important or relevant. Consequently, many students have the goal of simply passing their courses and are not interested in passing with a high grade. This is a rational decision; if it does not matter whether one graduates with a 4.0 or a 2.0, students are simply recognizing that fact and acting (as they consider) appropriately.

¹⁰ PittLaw, *Attendance Policy*, [website] <http://law.pitt.edu/pp/attendance>, (accessed 28 June 2018); also see: University of Washington, *Attendance* [website] <https://www.law.washington.edu/students/academics/attendance.aspx>, (accessed 28 June 2018); Whittier Law School, FAQ, [website] <https://www.law.whittier.edu/index/student-affairs/faqs/> (accessed 28 June 2018); UNC School of Law, *Class Attendance*, [website] <http://www.law.unc.edu/academics/policies/evaluation/attendance/>, (accessed 28 June 2018).

¹¹ UC Hastings, *Attendance*, <http://www.uchastings.edu/about/admin-offices/records/registration/attendance/index.php>, (accessed 28 June 2018).

¹² PittLaw, *Attendance Policy*, [website] <http://law.pitt.edu/pp/attendance>, (accessed 28 June 2018).

¹³ *Ibid.*

¹⁴ UC Hastings, *Attendance*, [website] <http://www.uchastings.edu/about/admin-offices/records/registration/attendance/index.php>, (accessed 28 June 2018).

Unfortunately, this means that students that could master the material instead learn only enough to pass. Instead of pushing themselves to excel, to learn as much as they can and to prepare as well as they can, they instead learn “just enough”. This is unsatisfactory for two reasons: first, we are turning out many graduates who know “just enough” law to pass, instead of cultivating legal experts and scholars; and second, our students are learning bad habits which will make them poor lawyers. Once a bad habit is learned, it is twice as hard to unlearn. We should be teaching them not just the law, but also the good habits that are necessary to be successful.

Of course, this should not happen overnight. However, law firms and other legal employers should begin to recognize the importance of high-achieving students. The skills and abilities that allow students to earn high marks frequently translate into their being successful lawyers and employees. Working at a fast-paced law firm is not the appropriate time to learn the importance of good work ethic, effective time management and self-discipline. A high GPA may be evidence of a potential employee who has already learned these very important, albeit basic, life skills; not to mention the importance of a deep understanding of the legal course material studied.

It is common in American universities to publish a Dean’s List; this is a list of students who achieved a 3.5 GPA during the prior semester. Public praise such as this can be an effective method to encourage some students. The “Red Diploma” is another good way to recognize a student’s high achievement.

Besides GPA, class rank is often used in American law schools. It is quite impressive to see on a CV: “graduated in the top 10%”, or top 25% or even top third. Class rank is also a successful hedge against grade inflation. Law schools could easily keep track of this and provide the information to their students.

4. Practical Applications

Often the emphasis in legal education is placed on theory with the practical aspects of law being given scant attention. Although theory is fundamental and does have an important place, practical skills must be taught and students must be able to practice these skills – in real-life situations

(law clinics), competitive environments (domestic or international competitions) and in the classroom (simulation courses). Additionally, legal writing and analysis needs to be incorporated as a fundamental component of the legal curriculum.

In 2016, the East-West Management Institute and USAID conducted a Legal Market Study in Georgia.¹⁵ One of the common complaints referenced by employers in the study is the deficit of practical skills by new graduates.¹⁶ Although most law school courses focus on theoretical knowledge, many employers are looking for graduates that have training or experience in practical matters. Law clinics, internships, and practical application workshops (often called “simulation courses” by the ABA) would help students learn these pragmatic skills.

Another notable weakness is writing, specifically in legal writing and argumentation. This is a common complaint in the United States as well; often, employers are disappointed with the writing and critical thinking displayed by recent graduates.¹⁷ The substantive law will change over time and a good lawyer can, to some extent, teach themselves the “black-letter law”; however, legal writing and analysis are skills not easily self-taught.

Legal writing and analysis are skills vital to every lawyer and form the basic building blocks of any legal career. A law student will take several courses during their education and in the course of their career never practice these fields of law; however, every lawyer will need to analyze data and reports, synthesize a conclusion or decide a course of action while articulating all of this in writing, often while advocating their (or their client’s) position. These are the core skills lawyers will utilize for the entirety of their careers. If law students are graduating without a basic level of such skills, we (legal educators and law schools) are doing our students a great disservice. In American law schools, legal writing is an integral part of the curriculum and takes place in courses delivered over multiple semesters.

¹⁵ EWMI & USAID, Legal Market Study in Georgia: Final Report, ACT, 2016.

¹⁶ *Ibid.*, p. 10.

¹⁷ K. Strauss, ‘These Are The Skills Bosses Say New College Grads Do Not Have’, *Forbes Magazine*, 17 May 2016. <https://www.forbes.com/sites/karstenstrauss/2016/05/17/these-are-the-skills-bosses-say-new-college-grads-do-not-have/#5db5c72f5491>, (accessed 28 June 2018).

A writing curriculum ought to include several types of legal writing – from informal emails or internal memos, to formal letters to clients or opposing parties, and of course court documents (such as complaints, answers, argumentative briefs and motions, *inter alia*). Undoubtedly, writing skills are improved by editing and revising; students should be given constructive feedback and then the opportunity to improve on their first drafts, and repeat this process. Peer-editing can be a very effective teaching tool as well; by editing the work of other students, students can see the mistakes they themselves made but did not fully understand or internalize until identifying it in someone else’s writing.

Although some courses should particularly focus on these skills, other courses should further develop them; writing should be a significant component of many courses, not just for writing-specific courses. (For example, in a substantive law course such as family law, students could draft a complaint for a given hypothetical fact pattern and then respond to another student’s complaint by drafting an answer.) Furthermore, it is important that all instructors at a law school are teaching in fundamentally the same style – students should not be taught one method in their writing course only to lose points for using that method of writing in their other courses. The entire law school should adopt the same basic writing techniques.¹⁸ This can be a challenge in Georgian law schools, where so many lecturers are adjuncts and not full-time employees.

Moot court competitions are a great way to teach and practice many of these skills. I have taught several mooting teams in different international competitions. The mooters do the research and find the legal materials with which to make their arguments. They then develop coherent legal arguments and draft their briefs (for both the complainant and the respondent) supporting these arguments with the law. As a team, each member may have an issue that is their responsibility, but they also have to practice teamwork – helping and pushing each other to improve their arguments, understanding and writing.

¹⁸ Unless there are valid reasons to support distinctions, such as the fact that drafting complaints for Georgian courts would be different than drafting complaints for the European Court of Human Rights.

After the briefs are completed, the mooters practice oral arguments. Oral advocacy is another important skill, and it is not just for courtroom lawyers; every graduate is going to advocate for their (or their client's) position. Naturally, many law graduates will frequently speak publicly – it is important to learn these core skills. How to address a court (or other tribunal, such as in arbitration), how to be persuasive and convincing, how to control body language and maintain poise, to be confident, to speak “Loud, Slow, & Clear” – these are vital skills for every lawyer.

Georgia is very active in many of these international moot competitions, and there are several domestic competitions as well. It would be advantageous for the law schools (or NGO's or legal societies) to host more of these competitions in order that more law students could gain from such experiences.

5. Student Skills

At the beginning of their studies, students should be taught how to be successful students. Often, methods that worked in prior studies are not sufficient for succeeding in law school.

At American law schools, outlining and study groups are ubiquitous. To create a study outline for each course in Microsoft Word can be a very effective way to learn the material. Students can continuously edit the outline, adding details, removing details that have been studied and memorized, and reorganizing the material as it becomes understood better. When students study in groups, they help each other learn the material.

Attention to detail is a hallmark of a good lawyer. I fear this is not emphasized enough in law school. I even notice this in CV's and cover letters received from applicants with masters' degrees or PhDs which feature numerous simple mistakes. In every communications format, a lawyer is judged for their writing, style and accuracy, inter alia. More is expected of lawyers than of members of most other professions. Attention to detail is a core skill for any lawyer and it is vital that we cultivate this appreciation among our students.

6. Conclusion

Every educational system has room for improvement. This paper identified several areas which should be seen as opportunities to improve the legal education system in Georgia. The format of this short paper makes it impossible to go into great detail or to cover all the possible areas of improvement. Nevertheless, hopefully this will be a starting point for future dialog.

One additional proposal would be to develop an active law school association. An association could become the conduit for such a dialog about improving the quality of legal education in the country. It could also foster cooperation to improve legal education and coordinate interuniversity conferences as well as moot or other competitions. ■