Minding the Gaps: Re-Engineering Legal Education to Fix the Market Gap, Close the Practice Gap, and Narrow the Justice Gap

by Gerald M. Slater

Gerald M. Slater is the Assistant Dean for Professional & Career Development at Suffolk University Law School. This article was submitted on behalf of the NALP Law Student Professional Development Section.

Why are there so many unemployed and underemployed law school graduates when so many Americans want and need a lawyer? Law students have been trained to think like lawyers, but not trained to do what lawyers do. Thus, most lack the ability to support themselves by tapping underserved markets. At Suffolk University Law School in Boston, a group of law school administrators, faculty, legal technologists, law practice experts, and practitioners have been thinking of this challenge in terms of three gaps — market, practice, and justice.

The Market Gap

Over time, law schools have separated themselves from the business and actual practice of law. While legal theory is important, law faculties have focused mostly on the theoretical at the expense of the practical, outsourcing or severely limiting access to invaluable apprenticeship training. Thus, law school training has lagged far behind the realities of modern practice.
The Practice Gap

The practice gap represents the distance between the skills and knowledge graduates need to practice and the abilities they actually possess upon graduation. If you want or need to start your own practice or join with others, in addition to client service, advocacy, and practical lawyering skills, you need a business, marketing, and technology plan, and, of course, the ability and know-how to create one. These competencies are rarely taught in law schools.

The Justice Gap

A vast chasm exists in our society between the legal needs of people and the availability of competent lawyers to represent them. Institutional clients and high net worth individuals can afford representation, but many low- and moderate-income individuals cannot. They earn too much money to access government-supported legal services, but not enough to retain an attorney at current market rates. Left to themselves, they form the ranks of the growing unserved market of pro se litigants whose numbers are creating long waits, huge dockets, and general chaos in the courts.

The market gap created the practice gap, and rectifying the former should fix the latter. If we do so, newly admitted lawyers will be better able to support themselves and help alleviate the justice gap. So, how do we mend these gaps?

At Suffolk Law, we believe we need to re-engineer the legal education we provide our students and broaden the pool of talent we involve in providing it. We need to expand the law school curriculum to include practical training in professional communication and development of professional networks, legal technology, client-focused problem solving, and business competencies such as project management, marketing, and financial literacy, including the ability to predictively price legal services and calculate return on investment. We need to engage law school career
services professionals, practice experts, and clients as Instructors of this expanded curriculum. Equally important, we need to provide students with successive, well-supervised and contextualized opportunities for practice through carefully selected internships and clinical insourcing of legal work.

This September, six third-year law students started an intensive year of training in Suffolk Law’s new Accelerator Practice. The Accelerator Practice is a fee-generating law firm imbedded within the law school. We’ve created it as the capstone of a specialized track of instruction that includes an
expanded professional development and skills curriculum, technological training, first summer secondment to a solo or small firm, second summer and third year employment in the Accelerator Practice, and career development and practice supports. This three-year specialized track of instruction, the Accelerator-to-Practice Program, is designed to train students to join or start small firm practices representing average income individuals and families. It’s our response to our students’ desire to make a living helping people in their communities and our society’s need for greater access to justice.

Differing from traditional clinical programs, the Accelerator-to-Practice Program — and training in the Accelerator Practice — is designed to teach students a replicable business model for the creation of sustainable community-based law firms in addition to the lawyering skills necessary for practice. This includes instruction in interviewing clients and in profitable case selection, including specific instruction related to fee shifting cases and the award of attorneys’ fees. It includes instruction in effective oral arguments and in law practice economics and the creation of business and marketing plans. It includes instruction in persuasive legal writing and in the development and use of technology to reduce costs and widen access to justice.

We think this is a model for the future — more prescribed courses of instruction, more business training, more technology, and more specifically tailored experiential opportunities, including field placements and clinical insourcing of legal work. We envision an accelerator to corporate practice that would include successive training in-house with corporations, and possibly with large multi-practice firms that represent them, and another in technology that would include successive training with a wide range of emerging legal providers utilizing technology to streamline the delivery of legal services.

During this time of disruptive change, many law schools, law firms, corporations, and legal service providers will test innovations in the

Continued on page 8
delivery of legal services and in the training of new lawyers. We hope that the Accelerator-to-Practice Program will prove to be a catalyst for change and yield increased career satisfaction for our graduates while improving access to justice. In creating it, we’ve coalesced around a few principles of relevance to NALP members.

Law school career services professionals need to be involved in curricular change. We need to work with our faculties to re-engineer the curriculum to better serve our students. As the recent ABA Task Force on the Future of Legal Education Report noted, “...as important as jobs and career success are to graduates and, again, to the success of the law school, the curriculum is generally not used for preparing students to pursue and compete for jobs. Rather, that service is generally delegated to a non-academic unit of the law school.” That needs to change.

All members of the legal community need to be involved. Practitioners and PD professionals can identify core competencies that need to be taught in law school and participate in teaching them. Law schools and law firms can partner with clients to create and deliver specialized curricula to meet their mutual needs, and all should participate in creating successive practical training opportunities for students.

Long gone is the time when clients were willing to pay to fill the gaps in law graduates’ preparation for practice. Reorienting law schools toward the modern market and providing law students with the training they need to competently practice law upon graduation will benefit lawyers, their clients, and society. At Suffolk Law, we believe we’ve come up with a plan to do just that — and we’re about to find out if we’re right.

For more information on the Accelerator-to-Practice Program, visit www.suffolk.edu/accelerator.