universities remains important, because two-thirds of the responding external examiners were at old university law schools.

It is normal practice to invite external examiners to examination (or assessment) boards. Overall, visits to old university law schools seem to have been considerably less frequent than those made to new university law schools. Whilst external examiners have always been provided with relevant course information and examination regulations, a number of universities now do rather more by way of induction of their external examiners.

The role of the external examiner is essentially one which involves communicating and discussing assessment-related matters with internal staff at the law schools where they examine. Very few examiners reported that they had ever reported to their employing law school any 'threats to academic standards'. More than 90% of examiners reported that they were satisfied with the fairness and consistency of the assessment process, as well as of assessment board meetings.

Several respondents indicated their reluctance to continue as external examiners. One was only prepared to do the job at one institution at any one time and stated that this was because the fee was so 'modest'. Another stated the role was becoming 'more onerous' and yet another made it clear that once current commitments had ended no more would be undertaken as 'the role has become nominal and the number of students excessive'.

A clear theme emerging from the data in this survey is the persistent divide between 'old' and 'new' universities. Marked differences emerge with respect to the frequency of externals' visits to employing institutions; induction; opportunities for discussion with staff; and above all, the apparent reluctance on the part of old university law schools to employ external examiners based at new university law schools. There are some suggestions, too, from respondents that new universities may expect externals to take on more units than is the case at old universities and that new universities are more generous regarding fees than are old universities.

CLINICAL LEGAL EDUCATION

Mandatory pro bono publico for law students: the right place to start
C M Rosas
30 *Hofstra L Rev,* 2002, pp 1069–1101

There are many positive effects that law students experience as participants in *pro bono publico* ('pro bono') programs. Students who participate in their schools' mandatory pro bono programs are already fulfilling an obligation that extends to all members of the bar. Because it is an ethical obligation that applies to all lawyers, this responsibility should be a concern of all law students as well. However, pro bono is by no means a common element in the American law school curriculum. While some law schools around the nation have introduced public service graduation requirements, the majority of ABA-accredited schools have yet to make such advances.

While the definition of an attorney's duty has been refined over time, the assertion that the courts, and the legal system generally, should be a public resource has been a constant. After the most recent amendments to the ABA's Model Rules of Professional Conduct ('Model Rules'), Rule 6.1 requires that attorneys aspire to render at least (50) hours of *pro bono publico* legal services per year, of which a substantial majority should be provided to persons of limited means or organisations designed to address the needs of these persons.

It is important to note that this rule is not 'enforced' in most states; lawyers are not subject to any disciplinary proceeding if they fail to adhere to the rule. Despite the improved clarity in the rule's language, despairingly few attorneys perform any pro bono work at all. At the same time, the number of persons in need of such services is alarmingly great. Just as the needs of low-income individuals are expected to continuously expand, the decline in funding is also anticipated to persist. It is mainly for these reasons that pro bono experience must be integrated into the law school curriculum, so that the importance of this professional obligation is understood even before law students make the transition to practising members of the bar. However, the current atmosphere in most law schools inherently discourages students from performing pro bono work by failing to integrate an emphasis on social justice into the curriculum.

Partly in response to this negative effect, the ABA altered its accreditation standards for law schools, requiring them to encourage students to participate in pro bono activities and to provide opportunities for them to do so. Because one of the roles of law schools is to instruct students about professional responsibility, preparing students to follow Rule 6.1 once they are practising must be a goal of legal education. Mandatory pro bono programs assist in the effort, by assuring that every graduating law student has been exposed to such an experience and has been made aware that such work is an ethical obligation of the profession.

The increasing need for free legal assistance also supports the introduction of a mandatory pro bono requirement for law students. Additionally, students benefit practically from pro bono work by getting hands-on experience with real clients. The acquisition of lawyering skills,

while not the primary intended benefit for students, is still a significant side-effect. Aside from practical knowledge that is gained, students are also exposed to a sector of the population whose need for legal representation is great, but whose visibility is often marginalised.

Despite the benefits pro bono work brings to both the community and the individual, opponents to mandatory requirements are easily found. Among the most common arguments are assertions that any mandatory requirement would violate the constitutional rights of students and attorneys. All of these criticisms are rooted in the notion that a mandatory requirement would offer an inflexible and narrowly drawn set of satisfactory locations in which to perform the required service.

For law schools planning to launch a mandatory pro bono program, a more pressing concern than the possible constitutional challenges would be the act of defining what work would qualify as pro bono. Much debate has transpired as to whether it should be limited to assisting those in need, as Model Rule 6.1 encourages, or whether a broader type of requirement, perhaps encompassing all non-profit organisations, is preferred. It would be difficult, even for the most strident opponent to mandatory pro bono, to argue that the multitude of options suggested by Model Rule 6.1 are so limited as to present an infringement on a student's First Amendment rights.

The general consensus among scholars and the law schools that currently have mandatory pro bono programs in place is that students should not receive credit or compensation for their service. The reasons for this may seem obvious: one of the goals of a mandatory pro bono requirement is to encourage students to continue to perform such services once they become practising attorneys. Therefore, the experience should mirror that of attorneys, who are not generally compensated for pro bono services.

A mandatory pro bono requirement should be a recurring one, so that each student has an annual requirement to meet. In this way, the experience more closely resembles the ethical obligation of a practising attorney. Rather than a one-time duty, pro bono service is intended to be integrated into an attorney's annual workload.

In light of the lack of commitment to pro bono work among practising members of the bar, a concerted effort must be made by law schools to raise the awareness among students of their ethical obligation to provide legal services to persons of limited means. The most effective manner of accomplishing this is by instituting mandatory pro bono requirements in all law schools. Despite the opponents' protestations, these programs provide numerous benefits, including professional and personal development for the student, desperately needed legal services to the community and a greater understanding of the importance of pro bono work to the profession as a whole. Law schools may draw upon existing mandatory programs to develop a model that will achieve these benefits.

CURRICULUM

The curriculum: patterns and possibilities
J W Wegner
51 *J Legal Educ* 3, 2001, pp 431–438

Innovation proves most feasible if undertaken with full understanding of existing systems and past patterns of change. In many respects, the overall structure of the first-year American law curriculum is relatively simple and relatively uniform. Most schools would say that teaching students to 'think like a lawyer' — commonly understood to include skills in analysis and synthesis — is the overarching goal of the first year. Schools generally seek to achieve this objective against the backdrop of a core set of required foundational courses in traditional common law subjects, including one- or two-semester offerings in torts, contracts, criminal law, property and a course in civil procedure. A significant number of schools include a required first-year introductory course in constitutional law, focusing on structural issues. Schools also generally require a first-year course in legal writing and research, in some instances integrating such instruction as part of a course that includes instruction in a broader range of lawyering skills.

A survey of upper-division courses offered during the period 1994–97 was conducted by the AALS Committee on Curriculum and Research in an effort to discern patterns of development and change. With 83 law schools (about half of the member schools) reporting, the committee found that, on average, five new courses or seminars were offered at each school each year. The top area of curricular innovation was international and comparative law. One of every six new courses was international or comparative in scope, and 84 percent of schools responding had added at least one new international or comparative course.

Relying on insights about the overall structure of the law school curriculum, one can sketch a variety of models or niches in which curricular innovation might take place. First, there are basic elective courses. Schools might seek to increase the number of students enrolled or structure such a course as part of the foundational curriculum (first-year option or requirement). Second, there are advanced specialised electives tied to substantive fields. Schools might encourage students to take either full-length offerings or special short-course modules that provide international or comparative insights as 'capstones' in areas of substantive interest. Third are practice-based offerings. Schools might focus clinical or externship