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An Invitation to Explore Online Legal Education and Strategically Realign Legal Education

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AN INVITATION TO EXPLORE ONLINE LEGAL EDUCATION AND STRATEGICALLY REALIGN LEGAL EDUCATION

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I. INTRODUCTION[1]

The United States Constitution's elemental precept, "form[ing] a more perfect Union," launched from citizens' longing to "establish Justice."[2] One of this country's top societal dilemmas is that countless Americans cannot pay the expenses of retaining professional legal help when they most require it.[3] Numerous pro se litigants have aggravated their problems by fruitlessly ending their own legal affairs, forsaking their constitutional rights, or struggling single-handedly with intricate legal issues.[4]

Lamentably, the cumulative outcomes of citizens' untrained legal responses to their respective quandaries have weakened American social underpinnings.[5] Irrespective of the means by which

1. This article is an expansion of research obtained by Alison L. Becker's dissertation, Online Legal Studies Graduate Programs' Capacity to Improve Legal Accessibility Disparities in the United States (May 18, 2016) (Ed.D. dissertation, Northcentral University) (on file with Proquest Dissertations and Theses, Identification No. northcentral11138).

2. *See* U.S. CONST. pmbl.

3. *See* WASH. SUPER. CT. ADMISSION AND PRAC. R. 28(A) (2012) ("[T]he legal needs of the consuming public are not currently being met."); Daniel C. W. Lang, *Utilizing Nonlawyer Advocates to Bridge the Justice Gap in America*, 17 WIDENER L. REV. 289, 289 (2011) ("[O]nly one in five legal problems experienced by poor Americans is addressed with the assistance of a lawyer." (citing *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans*, LEGAL SERVICES CORPORATION 16 (Sept.2009), http://www.lsc.gov/pdfs/documenting_the_justice_gap_in_america_2009.pdf)); Karlee M. Phelps, *Broadening Access to Justice in Nevada by Defining the Practice of Law*, 11 NEV. L.J. 224, 224 (2010) (highlighting several statistics indicating that the needs of low-income Americans are not met); Soha F. Turfler, *A Model Definition of the Practice of Law: If Not Now, When? An Alternative Approach to Defining the Practice of Law*, 61 WASH & LEE L. REV. 1903, 1904 (2004) ("Access to legal guidance is extremely important in American society. . . . Yet many low- and middle-income Americans do not have access to an attorney because they lack adequate amounts of disposable income."); *see also Narrowing the "Justice Gap": Roles for Nonlawyer Practitioners*, N.Y.C. BAR ASS'N COMM. ON PROF'L RESPONSIBILITY 1, 4–5, 12–21 (2013), http://www2.nycbar.org/pdf/report/uploads/20072450-RolesforNonlawyerPractitioners.pdf (discussing the unmet legal needs of New York's impoverished population and suggesting that non-lawyer legal professions can meet these needs).

4. Drew A. Swank, *The Pro Se Phenomenon*, 19 BYU J. PUB. L. 373, 384 (2005).

5. *See* Lang, *supra* note 3, at 289 ([P]ro se litigation places an increased burden on the courts . . . . [P]ro se litigation has the tendency to shift the legal system from an adversarial system to an inquisitorial system." (citing Earl Johnson, *Justice for America's Poor in the Year 2020: Some Possibilities Based on Experiences Here and Abroad*, 58 DEPAUL L. REV. 393, 413–14 (2009))); *see also* NEW YORK CITY BAR

such legal cases have concluded, adverse derivative consequences have frequently harmed those close to individuals with unmet legal needs.[6] Such undesirable effects have amassed to the point that nearly everybody has suffered, at least indirectly, through higher costs or lost opportunities.[7] Accordingly, the United States Constitution's assurance of evenhanded access to justice for everyone is void for much of the populace.[8]

The nation's powerlessness to render cohesive, easily attainable support to the masses for at least some of their legal challenges is a colossal national shortcoming. Two of the American legal system's hallmarks, purposeful case progression and deference to legal precedence, have thwarted individuals by creating a system that is overtaxed, unreachable, and incomprehensible to most of the public.[9] These conditions pre-existed the twenty-first century.[10] Furthermore, throughout this same period, as lawyers' salaries

ASSOCIATION COMMITTEE ON PROFESSIONAL RESPONSIBILITY, *supra* note 3, at 4–5, 14–15 (discussing how the lack of legal representation for low-income New Yorkers in cases adjudicating basic needs has left many without homes, finances, or in-tact families).

6. *See* NEW YORK CITY BAR ASSOCIATION COMMITTEE ON PROFESSIONAL RESPONSIBILITY, *supra* note 3, at 4–5, 14–15.

7. *See id*.

8. *See* U.S. CONST. pmbl. (listing that one purpose of the Constitution is to "establish justice").

9. *See* D. James Greiner, Cassandra Wolos Pattanayak & Jonathan Hennessy, *The Limits of Unbundled Legal Assistance: A Randomized Study in a Massachusetts District Court and Prospects for the Future*, 126 HARV. L. REV. 903, 911 (2013); David Nuffer, *The Future of Legal Systems, the Legal Profession and the Rule of Law: A Paradigm for a Season of Change*, 13 UTAH B. J. 9, 9–16 (2000); Michael Serota, *Intelligible Justice*, 66 U. MIAMI L. REV. 649, 649 (2012); State Bar of California, *Civil Justice Strategies Task Force Report and Recommendations*, 5, 7–8 (2015), http://board.calbar.ca.gov/docs/agendaItem/Public/agendaitem1000013003.pdf; *see also* NEW YORK CITY BAR ASSOCIATION COMMITTEE ON PROFESSIONAL RESPONSIBILITY, *supra* note 3, at 1 (explaining how the lack of representation of low-income New Yorkers in civil cases is causing them to face complex legal issues on their own and ultimately lose assets). *But see*, Diarmuid F. O'Scannlain, *Access to Justice: A Ninth Circuit Perspective*, 90 OR. L. REV. 1033, 1046–54 (2012) (explaining, through a Ninth Circuit federal judge's perspective, how federal courts have dealt with greater caseloads through procedural mechanisms—but with unfortunate side effects for the equality of justice).

10. *See* Nuffer, *supra* note 9, at 11; Mark David Agrast et al., *Rule of Law Index 2012–2013*, THE WORLD JUSTICE PROJECT 155 (2013), http://worldjusticeproject.org/sites/default/files/WJP_Index_Report_2012.pdf.

increased, many were unwilling to offer reasonably-priced assistance to countless lower and middle-class citizens.[11] This is due to multiple interrelated problems, such as divergent thinking on how legal practice might evolve.[12]

Concurrently, the national legal education system failed to effectively support the public's need for more legal help. Although the estimated work projection for lawyers is expected to rise 6% by 2024, law school registration numbers are decreasing, to some extent owing to wheeling tuition charges.[13] Similarly, although paralegal jobs are anticipated to swing upwards by 8%, paralegals and legal assistants do not have distinct scholarly avenues to tread.[14] In effect,

11. *See* Nuffer, *supra* note 9, at 11.

12. *See, e.g.* WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 4–12 (2007); Robert J. Rhee, *Addressing Major Changes in Law Practice: On Legal Education and Reform: One View Formed From Diverse Perspectives*, 70 MD. L. REV. 310, 310–11 (2011); Larry E. Ribstein, *Practicing Theory: Legal Education for the Twenty-First Century*, 96 IOWA L. REV. 1649, 1657–59 (2011); *see also* Michael A. Fitts, *The Future of Legal Education: What Will Our Future Look Like and How Will We Respond?*, 96 IOWA L. REV. 1539, 1542, 1544–48 (2011); David Barnhizer, *Redesigning the American Law School*, 2010 MICH. ST. L. REV. 249, 250–53 (2010); Elizabeth Mertz, *Social Science and the Intellectual Apprenticeship: Moving the Scholarly Mission of Law Schools Forward*, 17 LEGAL WRITING: J. LEGAL WRITING INST. 427, 440 (2011); Sara K. Rankin, *Tired of Talking: A Call for Clear Strategies for Legal Education Reform: Moving Beyond the Discussion of Good Ideas to the Real Transformation of Law Schools*, 10 SEATTLE J. FOR SOC. JUST. 11, 13 (2011). There remain other ethical and legal questions, including those associated with the current overabundance of recently licensed lawyers who are incapable of finding work that pays their education loans. *See, e.g.*, Steven L. Willborn, *Legal Education as a Private Good*, 41 WASH. U. J.L. & POL'Y 89, 91–92 (2013); Mark Yates, *The Carnegie Effect: Elevating Practical Training Over Liberal Education in Curricular Reform*, 17 LEGAL WRITING: J. LEGAL WRITING INST. 233, 245, 248–50 (2011).

13. *See, e.g.*, U.S. DEP'T OF LABOR: BUREAU OF LABOR STATISTICS, OCCUPATIONAL OUTLOOK HANDBOOK: LAWYERS (2015); Danielle Douglas-Gabriel, *Why Law Schools Are Losing Relevance—And How They're Trying to Win It Back*, WASH. POST: BUSINESS (Apr. 20, 2015), https://www.washingtonpost.com/business/economy/why-law-schools-are-losing-relevance—and-how-theyre-trying-to-win-it-back/2015/04/20/ca0ae7fe-cf07-11e4-a2a79517a3a70506_story.html?hpid=z1&utm_term=.4064e125b526.

14. U.S. DEP'T OF LABOR: BUREAU OF LABOR STATISTICS, OCCUPATIONAL OUTLOOK HANDBOOK: PARALEGALS AND LEGAL ASSISTANTS (2015); OCCUPATIONAL OUTLOOK HANDBOOK: LAWYERS, *supra* note 13. This 8% increase projection is down from the Bureau's 2012 projection of an 18.3% increase in these fields from 2012 to 2020. *See* C. Brett Lockard & Michael Wolf, *Occupational Employment*, MONTHLY LAB. REV. 84, 94 (Jan. 2012), https://www.bls.gov/opub/mlr/2012/01/art5full.pdf.

legal academia is not adjusting well to the estimated demand for legal service providers in the future.

The range of associated issues is quite extensive and therefore beyond the range of this article. Nonetheless, significant retooling appears necessary. It is pivotal to determine the consequences this pool of up-and-coming lawyers could bring to the public's access to legal help. At a minimum, the legal scholastic community should make a deliberate assessment of the full gamut of legal service providers as a starting appraisal. Such data could decisively show whether our nation's problem is an insufficient number of attorneys or whether the primary issue is high-priced legal services.

Either way, and depending upon the precise results of this kind of study, the United States legal community may need to learn a tough lesson. This lesson is that the country's legal system must meet its citizens' legal needs.[15] Meeting such needs will almost certainly involve enhanced options for obtaining legal education.[16]

Understanding the justice gap's beginnings is an important component to bridging this gap because citizens' power to readily access legal services is integral to this nation's democratic operations.[17] By appreciating the actual bases for the justice gap's existence, the legal scholastic community may find a good site to begin understanding this enormous problem.[18] Such understanding may lead to fresh prospects through legal education for at least a

15. *See* Swank, *supra* note 4, at 378–80.

16. One of many implications of legal professionals' failure to address the enormous legal inaccessibility crisis is that the public may ignore self-protective bar associations. *See* Turfler, *supra* note 3, at 1942, 1944–47, 1954–55. This may cause significant alterations to legal licensing, and these changes might affect the curricular development of legally-oriented degree programs. *See, e.g.*, Christopher Edley, Jr., *Fiat Flux: Evolving Purposes and Ideals of the Great American Public Law School*, 100 CAL. L. REV. 313, 323–29 (2012); Michele R. Pistone & John J. Hoeffner, *No Path but One: Law School Survival in an Age of Disruptive Technology*, 59 WAYNE L. REV. 193, 194–97 (2015); Phelps, *supra* note 3, at 236–37.

17. *See* Lang, *supra* note 3, at 289.

18. *See* Pistone & Hoeffner, *supra* note 16, at 223 ("The failure of the modern American law school to make adequate provision in its curriculum for practical training constitutes a remarkable educational anomaly." (quoting ALFRED REED, TRAINING FOR THE PUBLIC PROFESSION OF THE LAW: HISTORICAL DEVELOPMENT AND PRINCIPAL CONTEMPORARY PROBLEMS OF LEGAL EDUCATION IN THE UNITED STATES WITH SOME ACCOUNT OF CONDITIONS IN ENGLAND AND CANADA 281 (D. B. Updike ed., 1921)); Swank, *supra* note 4, at 385 (identifying the commonness of pro se litigants and the need for greater legal assistance to such individuals).

fractional resolution to the impasse.[19] Moreover, such knowledge might lead to answering the strategic directional questions that still need asking.

Those working in legal education need to first comprehend what created the justice gap before plotting the course toward solving the crisis.[20] Otherwise, they risk never finding the way out of the calamity for want of an acceptable starting point.

II. THE INVESTIGATIVE APPROACH

With a concern for enhancing the public's access to legal help, the primary author recently conducted a qualitative data analysis ("QDA") exploration concerning the potential for American online master of legal studies ("MLS") degree programs.[21] The investigation exposed the need for both examination of online education and possible strategic alignment of all levels of legal education in the United States.[22] Application of the QDA design, which fused key-word-in-context qualitative content analysis with conventional coding, led to this discovery.[23] The combined process extracted, coded, and evaluated the data for patterns.[24]

The principal author used QDA procedures due to the lack of appreciation for the presence of the legal accessibility fissures and the online American MLS degree programs.[25] The surveyed data

19. Ellen M. Lawton & Megan Sandel, *Investing in Legal Prevention: Connecting Access to Civil Justice and Healthcare Through Medical-Legal Partnership,* 35 J. OF LEGAL MED. 29, 30–33 (2014). *See generally* Swank, *supra* note 4 (discussing the proper justifications for changing the legal system to better accommodate pro se litigants).

20. *See generally* Swank, *supra* note 4 (arguing that accommodating pro se litigants is best achieved by first understanding the reason why pro se litigation is a part of our legal system).

21. Becker, *supra* note 1, at 5, 211.

22. *Id.* at 214–15.

23. *Id.* at 67–70, 200; *see also* Jochen Gläser & Grit Laudel, *Life With and Without Coding: Two Methods for Early-Stage Data Analysis in Qualitative Research Aiming at Causal Explanations*, 14 F. QUALITATIVE SOC. RES., ¶ 5 (2013) (explaining the QDA research method); Hélène Joffe and Lucy Yardley, *Content and Thematic Analysis*, *in* RESEARCH METHODS FOR CLINICAL AND HEALTH PSYCHOLOGY 56, 56–68 (David F. Marks & Lucy Yardley eds., 2004) (discussing the purposes and methods of content analysis); Margit Schreier, *Qualitative Content Analysis*, *in* THE SAGE HANDBOOK OF QUALITATIVE DATA ANALYSIS 170–84 (Uwe Flick ed., 2014) (discussing the applications of quantitative data analysis).

24. *See, e.g.*, Gläser & Laudel, *supra* note 23, ¶¶ 90–96; Schreier, *supra* note 23, at 170–74.

25. Schreier, *supra* note 23, at 170–74

comprised the actual language written by the authors of various law review articles. Each of the purposefully chosen articles dealt in some way with the American people's plight to obtain timely help for their legal problems.[26]

The research problem's scope encompassed some of the legal industry's contemporary circumstances and origins, along with legal education, for new paralegals and lawyers.[27] The lead author evaluated the consequences of both the legal work force and legal academia on legal inaccessibility subsequent to 2008 since this may show the pressing civic need for enhanced legal accessibility.[28] Therefore, the QDA began with a search through academic literature for keywords, including "access to justice, attorney, judicial access, judicial accessibility, judicial inaccessibility, juris doctor, juris doctorate, justice gap, law school, lawyer, legal accessibility, legal education, master of legal studies, nonlawyer, [and] paralegal."[29] Thereafter, this academic endeavor included analysis of language from the websites of eight online MLS degree programs and the Washington Limited License Legal Technician ("LLLT") program to explore the void between citizens' legal requirements and the practical usefulness of currently obtainable legal services.[30]

26. Becker, *supra* note 1, at 73–74.

27. *Id.* at 5–6, 63, 101–02, 199.

28. *Id.* at 18–58, 101–96, 199–228.

29. *Id.* at 19.

30. *Id.* at 6, 73–75, 101–96, 199–228; *see Master of Arts in Legal Studies*, AM. PUB. UNIV. SYS., https://catalog.apus.edu/graduate/academic-programs/masters/master-arts-legal-studies/ (last visited Dec. 4, 2017); *Online Master of Legal Studies*, ARIZ. ST. UNIV. ONLINE, http://asuonline.asu.edu/online-degree-programs/graduate/master-legal-studies (last visited Dec. 4, 2017); *Masters Degree Programs (MS, MBA, MFA, MPA, MS)*, ATLANTIC INT'L UNIV., http://aiu.edu/Masters.html#p2 (last visited Sept. 18, 2017); *Master of Legal Studies program*, DREXEL UNIV. THOMAS R. KLINE SCH. OF L., http://drexel.edu/law/academics/non-JD-programs/mls/ (last visited Dec. 4, 2017); *Online MLS*, HAMLINE UNIV., http://www.hamline.edu/law/msl/online/ (last visited Dec. 4, 2017); *Master of Science in Legal Studies*, KAPLAN UNIV., http://www.kaplanuniversity.edu/legal-studies/legal-studies-master-degree.aspx (last visited Dec. 4, 2017); *Shepard Broad Law Center*, NOVA SE. UNIV., https://www.law.nova.edu/online/index.html (last visited Dec. 4, 2017); *Master of Legal Studies*, UNIV. OF OKLA. PROSPECTIVE STUDENTS, https://www.law.ou.edu/mls (last visited Sept. 18, 2017). *See generally* WASH. SUPER. CT. ADMISSION AND PRAC. R. 28, *supra* note 3 (delineating limited practice rules for LLLTs); Swank, *supra* note 4 (explaining the need for low-income legal representation and the perceived usefulness of such representation).

Several means balanced the inquiry's prospects for validity-related shortcomings. For instance, the investigation deliberatively accentuated reliability over validity by observing expressed language.[31] The investigation also solidified analytical validity by only selecting exact texts from the relevant peer-reviewed law review articles.[32] Further, the methodical application of QDA procedures might achieve generalizability.[33] Finally, data triangulation ensured neutral assessment of hundreds of previously published law review articles.[34]

III. WHAT WAS LEARNED

The QDA gathered a few thousand material data chunks taken from nearly 400 law review articles that were published in the United States between 2008 and 2014.[35] The articles furnished legal minds'

31. *See* DANIEL DRUCKMAN, DOING RESEARCH 258–59 (Lisa C. Shaw & Denise Santoyo eds., 2005) (giving an overview of balancing scientific reliability against validity in content analysis research); *see also* Joffe & Yardley, *supra* note 23, at 62 (explaining ways researchers can test for reliability).

32. *See* DRUCKMAN, *supra* note 31, at 4–5 (explaining that the issue of bridging the gap between researchers and practitioners has been receiving attention in academic articles); GEOFF PAYNE & JUDY PAYNE, KEY CONCEPTS IN SOCIAL RESEARCH 51–54 (2004) (describing how to evaluate documents in social science research through content analysis); *see also* Andrew K. Shenton, *Strategies for Ensuring Trustworthiness in Qualitative Research Projects*, 22 EDUC. FOR INFO. 63, 63–72 (2004) (discussing the four structural supports for qualitative analysis).

33. *Cf.* Denise F. Polit & Cheryl T. Beck, *Generalization in Quantitative and Qualitative Research: Myths and Strategies*, 47 INT'L J. NURSING STUD. 1451, 1451–58 (2010) (describing what generalization is and how it can assist with transporting research concepts from one project to another); Shenton, *supra* note 32, at 64, 69–71 (describing the importance of generalizability, or transferability). *See generally* CATHERINE MARSHALL & GRETCHEN B. ROSSMAN, DESIGNING QUALITATIVE RESEARCH 4, 8–9, 13, 18–25, 31 (Ashley Dodd et al. eds., 5th ed. 2011) (explaining how to write a qualitative research proposal that is well-developed, demonstrates competence, and builds an argument through narrative analysis, action research, and cultural studies).

34. *See generally* UWE FLICK, MANAGING QUALITY IN QUALITATIVE RESEARCH 92 (Juliet Corbin et al. eds., 2007) (explaining how closely following procedures can increase reliability in qualitative research); Maria T. Northcote, *Selecting Criteria to Evaluate Qualitative Research*, 38 EDUC. PAPERS & J. ARTICLES 99, 99 (2012) (illustrating the factors relevant to establishing high-quality qualitative research project); Shenton, *supra* note 32, at 65–66 (discussing the different methods of triangulation).

35. Although countless articles presented innumerable explanations for the legal accessibility predicament, not one collected a coast-to-coast general outlook.

diverse and often widely-avowed views regarding the continuing troubles of providing affordable and convenient legal services to the public.[36]

The QDA assessment first uncovered several issues in the contemporary inaccessibility troubles.[37] Principal among these issues are the following: (1) a constricted description of "practice of law" as a term of art,[38] (2) the justice system's oppositional nature, (3) bar associations' apparent deficit of proper rule-making legitimacy, (4) legal service costs that markedly surpass the affordability of lower and middle class people, and (5) sparse public funding for legal relief institutes.[39] The inquiry also detected smaller issues for the crisis: (1) an expansion of litigiousness, (2) a dearth of attorneys in some industry segments, (3) unrealistic legal fee arrangements, (4) attorneys' powerlessness to fund their clients' legal costs, (5) scarce civic dialogue regarding legal accessibility, (6) convoluted legal courses of action, (7) primitive understanding or suspicion concerning the nation's legal framework, (8) ethnic-based misinterpretations, and (9) deficient integration of ethical and legal pathways.[40] Interestingly, the QDA study data also implied that current legal professionals may blame the scarceness of communication on legal educators.[41]

Second, the QDA examined online MLS degree programs in the United States to assess their applied utility.[42] As a result, MLS programs' prospective value for solving any of the legal inaccessibility roots is unknown.[43] Thus, the QDA required a depiction of the span of these degree programs' intended functions, along with propositions for improving legal accessibility and the educational needs of nonlawyer legal workers.[44]

Becker, *supra* note 1, at 73, 102–03, 204.

36. *See id.*

37. *Id.*

38. *See* Phelps, *supra* note 3, at 225 (arguing a barrier to accessing legal services originates from a poor definition of the practice of law); *see also* Turfler, *supra* note 3, at 1944–47, 1954–55 (arguing public trust of the legal profession erodes with a definition of the practice of law that encompasses activities nonlawyers can successfully perform).

39. Becker, *supra* note 1, at 187–88.

40. *Id.* at 188.

41. *Id.* at 221.

42. *Id.* at 206.

43. *Id.*

44. *Id.* at 187–88.

Curiously, the probe disclosed only one reason for these degree programs' presence within the legal academic marketplace: to prepare graduates for certain jobs that include intricate legal duties.[45] However, no evidence connected these duties to the legal inaccessibility predicament.[46] More remarkable was that apparently no legal educators, not even those charged with directing these programs, regarded them as instruments that might solve the justice gap crisis.[47]

The QDA also made use of Washington's innovative LLLT program as a functional substitute for paralegal academic standards since no singularly recognized norm existed.[48] The online MLS degree programs' significance was assessed by seeking potential associations linking (1) common reasons for the legal inaccessibility quandary, (2) nonlawyer legal workers' requirements, and (3) the programs' potencies.[49] The results were then organized topically by suggestions found for potential systemic change, vocational expansion for paralegals or other nonlawyers, and conversion to non-traditional opportunities for replying to legal questions.[50] Ultimately, the investigation found no relationship between the online MLS degree programs' functional objectives and the difficulties associated with the justice gap.[51] However, these programs showed promise for expansion of legal services.[52]

IV. CONNOTATIONS

Two broad spheres for future inquiry became obvious as a result of the qualitative investigation. The first was the lack of information about e-learning within American legal academic programs.[53] The second was exploration of a calculated re-positioning of all rungs of legal education.[54]

45. *See id.* at 191.
46. *Id.* at 137, 191, 214.
47. *Id.* at 193, 207–09, 214.
48. *See id.* at 75, 166, 177–78, 195–96; *see also* WASH. SUPER. CT. ADMISSION AND PRAC. R. 28 (permitting the State of Washington to customize a restricted license for nonlawyers to aid residents with basic domestic legal matters).
49. Becker, *supra* note 1, at 167.
50. *Id.* at 167.
51. *Id.* at 193.
52. *Id.* at 211.
53. *See infra* section IV.A.
54. *See infra* section IV.B.

A. Legal E-learning.

The QDA data revealed the need for more exploration into e-learning in American law schools.[55] A specialized sub-set of the broad category of distance education, the term "e-learning" is a short-form reference to the electronic means by which students can access and learn knowledge.[56] The term encompasses, among other ideas, resourceful instructional designs that train students in a challenging manner at the students' personalized paces.[57]

The qualitative investigation inadvertently disclosed that law schools and the American Bar Association (ABA), especially the ABA's Section of Legal Education and Admissions to the Bar (ABA-SLEAB),[58] ought to investigate e-learning's capacity to improve legal education.[59] The underlying enquiry did not directly address e-learning's viability in law schools. Instead, this topic arose tangentially from data showing American law schools' struggle to remain relevant in the twenty-first century.[60]

Numerous intellectuals have addressed the challenges associated with legal education and practice.[61] Some have pointed out that skillful legal providers, especially those capable of efficiently offering a range of choices to the public, may be able to alter the

55. *See id.* at 48, 52, 59, 74; *see also* Kathy Douglas & Belinda Johnson, *Legal Education and E-learning: Online Fishbowl Role-play as a Learning and Teaching Strategy in Legal Skills Development*, 17 MURDOCH U. ELECTRONIC J. OF L. 28, 28–29 (2010).

56. MARC J. ROSENBERG, E-LEARNING: STRATEGIES FOR DELIVERING KNOWLEDGE IN THE DIGITAL AGE 28–29, (Richard Narramore ed., 2001).

57. *Id.* at 30–31.

58. The ABA's Section of Legal Education and Admissions to the Bar, which often refers to itself as the Council, is authorized by the United States Department of Education to accredit juris doctor degree programs. *Section of Legal Education and Admissions to the Bar*, A.B.A. (2017), https://www.americanbar.org/groups/legal_education/about_us.html; *see also The Law School Accreditation Process*, AM. BAR ASS'N 1, 3–4 (2016), https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/2016_accreditation_brochure_final.authcheckdam.pdf (explaining the ABA's role in accreditation).

59. *Cf.* Becker, *supra* note 1, at 45–46 (explaining that the ABA has not swiftly adapted to high-tech changes, thus hampering law schools' ability to evaluate, observe, and improve the quality of their curricula).

60. *Id.* at 48.

61. *See, e.g.*, Fitts, *supra* note 12, at 1542, 1544–48; Ribstein, *supra* note 12, at 1659–63; Willborn, *supra* note 12 (considering the relative value of a juris doctor education within the greater national economy).

future of legal practice.[62] One way to address many of these concerns is to provide education through electronic means.[63]

Students' educational necessities are the prime concern within e-learning environments, just as they are in traditional classrooms.[64] E-learning works best when it relates students' freshly-learned knowledge to their individual experiences.[65] This frequently involves the use of adult learning theories, such as andragogy or game design theory, as opposed to merely relying upon pedagogy.[66] In addition, well-designed electronic classrooms, or "e-classrooms," succinctly present course materials in ways that (1) oblige students to participate more consistently than in face-to-face lectures and (2) permit stimulating conversations to develop just as easily as in traditional classrooms.[67] E-learning can further support complex taxonomical arrangements and digital filing of course-wide and individualized materials so that the data might be used efficiently across numerous courses.[68] E-learning can also support innovative lessons founded on aptitudes that are useful in real-world situations.[69]

62. *See* Michelle R. Weise & Clayton M. Christensen, *Hire Education: Mastery, Modularization, and the Workforce Revolution* (July 30, 2014), https://www.christenseninstitute.org/publications/hire-education/.

63. *See generally* Thomas C. Reeves, Jan Herrington & Ron Oliver, *Authentic Activities and Online Learning*, HIGHER EDUC. RES. & DEV. SOC'Y OF AUSTRALASIA 562 (2002) (describing the learning needs of both classroom and online learners, and discussing the importance of unique approaches to meeting these needs in the online context).

64. *See id.*

65. *See id.* at 564–65 (2002).

66. *Id.* at 562–65.

67. *See, e.g.*, BROOKE BROADBENT, ABCS OF E-LEARNING: REAPING THE BENEFITS AND AVOIDING THE PITFALLS 151–59 (Josh Blatter et al. eds., 2002); ROSENBERG, *supra* note 56, at 117–48; *see also* Peter Shea et al., *Online Instructional Effort Measured Through the Lens of Teaching Presence in the Community of Inquiry Framework: A Re-examination of Measures and Approach*, 11 INT'L REV. OF RES. IN OPEN & DISTANCE LEARNING 127, 142 (2010) (guiding e-learning instructors on how to participate more with their students and create unique participation opportunities among the students).

68. *See* Phil Ice et al., *Aligning Curriculum and Evidencing Learning Effectiveness Using Semantic Mapping of Learning Assets*, 7 INT'L J. OF EMERGING TECH.'S IN LEARNING 26, 29–30 (2012).

69. *See, e.g.*, Weise & Christensen, *supra* note 62, at 10, 13; CONN. B. ASS'N TASK FORCE ON THE FUTURE OF LEGAL EDUC. & STANDARDS OF ADMISSION 5, 17 (2014); Douglas & Johnson, *supra* note 55, at 31–37, 46.

Conversely, e-learning is criticized for its costly introductory and maintenance outlays.[70] However, these costs are offset by things like the discounted or non-existent expenditures for the upkeep of physical space for teaching.[71] Nevertheless, since the feasibility of assimilating e-learning into law schools has not been fully assessed, the actual outlay balance is not yet determined.

1. Why Not Adopted?

The QDA-analyzed law review articles indicated that American law schools have not yet adopted the electronic form of educational material delivery for two major reasons. The first reason concerns legal academia's long-term resistance to change.[72] The second reason paradoxically relates to law schools' accreditation by the ABA-SLEAB.[73] These two explanations are discussed below.

a. Legal Academia's Resistance to Change

It is no secret that the pedagogical style employed by numerous law schools has been sustained resolutely for nearly one-and-a-half centuries.[74] However, American law schools have also confronted many dilemmas which have conflicted with maintaining this pedagogical style for most of the past decade.[75] These quandaries have surfaced mostly from practical and fiscal clashes about the markedly different way in which different individuals see the practice of law.[76] Such dilemmas have also stemmed from broad concerns,

70. *See* ROSENBERG, *supra* note 56, at 211–20.

71. *Id.* at 214–20.

72. Becker, *supra* note 1, at 48.

73. *Id.* at 45–46.

74. Pistone & Hoeffner, *supra* note 16, at 200, 243; *see also* Barnhizer, *supra* note 12, at 252 ("Any member of a law faculty who has gone through efforts to make what are minor changes to law curricula understands how argument, turf protection and elevated rhetoric purportedly grounded on intellectual criteria are used to sabotage change."); Edley, *supra* note 16, at 314–20 (describing the role of pedagogy in historic American legal education); Mary A. Lynch, *An Evaluation of Ten Concerns About Using Outcomes in Legal Education*, 38 WM. MITCHELL L. REV. 976, 977–84 (2012) (describing how the focus of legal education reform has historically been on the way education is presented instead of the way education is applied).

75. *See, e.g.*, Pistone & Hoeffner, *supra* note 16, at 200; Genevieve Blake Tung, *Academic Law Libraries and the Crisis in Legal Education*, 105 L. LIBR. J. 275, 275–77 (2013).

76. *See* Barnhizer, *supra* note 12 (explaining how legal education has not molded to current economic demands and suggesting steps the legal education

such as business antagonism from nonlawyers and hi-tech advances in the legal field.[77]

Furthermore, legal academia's resistive conduct has abridged its capacity to harness crucial moments.[78] Rather than looking forward to transforming the future, many law schools appear to be anticipating the future of legal practice with dread.[79] Some legal scholars have pointed out that education provided by law schools needs contemporary examination.[80] In one particularly succinct highlight among the hundreds of law review articles in the qualitative review, an author wrote:

> This is a time of unprecedented opportunity to undertake a comprehensive and unflinching evaluation of the deeply entrenched and inflexible system of legal education, a system that has utterly failed to adapt its pedagogy, culture, and economics to the current and devastating reality facing law students. A confluence of factors has created the current state of affairs, including . . . the limitations of the dominant pedagogy of legal education and urging educators to reshape its reigning design; a collaborative effort to delineate the best practices in legal education in the Best Practices Report that highlighted the shortcomings of legal education as currently structured; crushing student debt, rising tuition, and dismal employment prospects for law school graduates; vociferous student dissatisfaction with the value of their legal education; a continuing crisis in access to justice; the

industry could take to respond to such demands); Lynch, *supra* note 74, at 980.

77. *See* Barnhizer, *supra* note 12, at 255, 279–81; S. Scott Gaille, *The ABA Task Force Report on the Future of Legal Education: The Role of Adjunct Professors and Practical Teaching in the Energy Sector*, 35 ENERGY L.J. 199, 201–02 (2014); Pistone & Hoeffner, *supra* note 16, at 230–33; Rhee, *supra* note 12, at 332; Ribstein, *supra* note 12, at 1659–63.

78. *See, e.g.*, Barnhizer, *supra* note 12, at 252; Gaille, *supra* note 77, at 201–02; Pistone & Hoeffner, *supra* note 16, at 222–28.

79. *See, e.g.*, Barnhizer, *supra* note 12, at 252; Lynch, *supra* note 74, at 982–83; Karla Mari McKanders, *Clinical Legal Education at a Generational Crossroads: Shades of Gray*, 17 CLINICAL L. REV. 223, 238 (2010); Pistone & Hoeffner, *supra* note 16, at 222–28. *But see* Michael A. Olivas, *Ask Not for Whom the Law School Bell Tolls: Professor Tamanaha, Failing Law Schools, and (Mis)Diagnosing the Problem*, 41 J. OF L. & POL'Y 101, 107–09 (2013) ("While I think we should watch these figures carefully, I do not agree that we should believe or act as if the sky is falling. . . . [T]hese national aggregate data are very volatile and cyclical.").

80. *See, e.g.*, Barnhizer, *supra* note 12, at 310; Margaret Martin Barry, *Practice Ready: Are We There Yet?*, 32 B.C. J. OF L. & SOC. JUST. 247, 250–52 (2012).

> apparent end of "big law;" and alarming rates of student and lawyer distress. These factors contain thematic cross-currents and send the unmistakable message that it is time to ignite a conversation within the academy and the broader legal community to reassess our mission, vision, and efficacy as legal educators. We must engage in unsparing self-reflection, step back from our entrenched positions and the attendant privilege we have as members of legal academia, and re-imagine a new vision for legal education that serves the interests of our students, the bench and bar, and society, with an overarching aspiration to bolster the bedrock principle of equal justice under law.[81]

b. Accreditation's Influence

A second and more influential reason that law schools have not yet thoroughly investigated e-learning is that the ABA-SLEAB has prevented them from doing so.[82] This justification is perplexing because the ABA permits e-learning in paralegal education programs.[83] A review of the purpose for accreditation is a good place to begin delving into this inconsistency.

As with many complex matters, accreditation is affected by a multi-faceted tangle of issues, rules, and policies at the local, regional, and national levels, most of which are beyond our scope.[84]

81. Lauren Carasik, *Renaissance or Retrenchment: Legal Education at a Crossroads*, 44 IND. L. REV. 735, 736–37 (2011).

82. *See* Becker, *supra* note 1, at 45–46 (explaining that the ABA-SLEAB has been slow to incorporate high-tech changes in the law school classroom and that due to this slow adaptation, law schools' capacity to improve curricular quality has likewise suffered).

83. Through its sections, the ABA both sanctions law schools for the United States Department of Education and assists academic institutions with regionally endorsed paralegal studies programs that request its oversight. *See* AM. BAR ASS'N, *supra* note 58 (listing the ABA Section on Legal Education and Admission to the Bar's mission statement, purpose, and giving a brief historical statement about the functions of the ABA); *Standing Committee on Paralegals*, A.B.A (2017), https://www.americanbar.org/groups/paralegals.html (displaying the general mission statement of the ABA Standing Committee on Paralegals—a body organized by the ABA to ensure the proper education of paralegals as well as the proper utilization of paralegals by attorneys—and listing educational opportunities for paralegals through that committee).

84. *See* Ice et al., *supra* note 68, at 26–27 (discussing the difficulty of the accreditation process given the tension between the longstanding and unchanged definition of "educational quality," evolving institutional educational practices, and

However, accreditation's dominant function has been assuring minimum academic quality; in so doing, it protects students' educational welfare.[85] Accreditation dimensions span from those affecting individual learners to programs of study and up to the universities.[86]

Moreover, accreditation ensures that courses realize their curriculum goals within their curricula.[87] Logically, these taxonomical functions should support learners' abilities to participate usefully in their chosen occupational communities. Scholarly distinctiveness within professional degree programs should be constructed upon the students' grasp of knowledge within their anticipated careers.[88] Newly-minted lawyers, then, should be capable of pragmatic legal practice upon graduation.[89] Particularly in recent years, this has not always been the case.[90]

changing policies involving technology).

85. *See id.* (explaining that structuring course content to achieve desired goals and objectives of the accreditation process is always central to efficient instructional course design).

86. *See generally* Peter T. Ewell, *A Proposed Point of Departure*, COUNCIL FOR HIGHER EDUC. ACCREDITATION (2001), https://www.chea.org/userfiles/occasional%20Papers/EwellSLO_Sept2001.pdf (discussing generally the problem of ensuring same or similar educational outcomes in varied educational settings and at different points within the educational system).

87. *See* Ice et al., *supra* note 68, at 26 ("Ensuring the alignment of course content against desired goals and objectives has always been at the core of effective instructional course design—whether the instruction is delivered face-to-face, or via the support of distance technologies.").

88. *See* Anne Haarala-Muhonen et al., *Comparison of Students' Perceptions of Their Teaching-learning Environments in Three Professional Academic Disciplines: A Valuable Tool for Quality Enhancement*, 14 LEARNING ENVIRONMENTS RES. 155, 156 (2011) (discussing the importance of teaching professional degree students in accord with the "professions' aims and ways of doing things").

89. ALLI GERKMAN & LOGAN CORNETT, THE INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., FOUNDATIONS FOR PRACTICE: THE WHOLE LAWYER AND THE CHARACTER QUOTIENT 4–5 (2016) (explaining the efforts of the Institute for the Advancement of the American Legal System to ascertain the tools new lawyers need to be capable of pragmatic legal practice upon graduation).

90. *See id.* at 4 (citing LEXIS NEXIS, HIRING PARTNERS REVEAL NEW ATTORNEY READINESS FOR REAL WORLD PRACTICE 1 (2015), https://www.lexisnexis.com/documents/pdf/20150325064926_large.pdf.) ("95% of hiring partners and associates believe recently graduated law students lack key practical skills at the time of hiring.").

Many scholarly authors wrote about the lack of practice-ready law graduates over the past decade.[91] Part of the problem was that the term of art "practice of law" was not precisely defined.[92] This concern is certainly influential, even if it is larger than the confines of the e-learning topic.

In addition, the ABA-SLEAB's norms for law schools have not acclimated promptly to the business world's rapidly-changing digital landscape.[93] For example, the ABA-SLEAB does not permit law

91. *See, e.g.*, Barry, *supra* note 80, at 250–53 (discussing the increased prevalence of "clinical legal education" as part of law schools' attempts to better prepare new attorneys); Edley, *supra* note 16, at 320, 323 (discussing law schools' new goal to train attorneys that know how to "use the law" in a variety of scenarios outside traditional trial court or appellate court settings); Gaille, *supra* note 77, at 200 (explaining that many law firms demand that law schools better prepare students with an education that is practice-focused); Bruce A. Green, *The Flood of U.S. Lawyers: Natural Fluctuation or Professional Climate Change?*, 19 INT'L J. LEGAL PROF. 193, 201–03 (2012) (noting that due to the "perceived flood" of practicing attorneys into the U.S. legal job market, young attorneys must better prepare to enter the market upon graduation); McKanders, *supra* note 79, at 225–27 (discussing public service goals of millennials and how legal education may change to fit these goals and the new technological age); Pistone & Hoeffner, *supra* note 16, at 224–25 (mentioning reports by the American Association of Law Schools, the ABA, and the Carnegie Foundation that all stressed the importance of preparing law students for practice during their time in school); Rhee, *supra* note 12, at 313–15 (pointing out that while current curricula of law schools is appreciated, the current shift to preparing students for law practice is much needed); Ribstein, *supra* note 12, at 1655–58 (explaining issues behind traditional and non-practical legal education, where students did not obtain "practical skill" in the law and instead gained skill in merely what their professors knew, researched, and taught); Tung, *supra* note 75, at 275–81 (comparing the former, "traditional" model of law school to the newer, reformed curriculum of law school education that focuses on training students for the many facets of legal practice); *see also* Weise & Christensen, *supra* note 62, at 9–10 (discussing the need for graduate and vocational programs to produce students who possess practical skill sets).

92. *See* Phelps, *supra* note 3, at 226–28 (discussing the evolution of the definition of the "practice of law" from the time period around the Civil War up through the ABA's Model Definition of the Practice of Law in 2003); Turfler, *supra* note 3, at 1913–15, 1919, 1923–24 (discussing the ABA's effort to define the "practice of law" via a task force and how this term's definition shaped the legal services market).

93. *See* Edley, *supra* note 16, at 320–21; *see also* Barnhizer, *supra* note 12, at 295–99 (comparing the inefficient overhead costs of traditional law schools with more cost-efficient online education programs). Recently, the ABA-SLEAB began to re-address the matter. Stephanie Francis Ward, *Distance Learning Standards Under Consideration by ABA Legal Ed Section*, A.B.A. J. (July 17, 2017), http://www.abajournal.com/news/article/distance_learning_standards_under_

schools to use digital means of education for more than a quarter of the courses needed to attain a juris doctor degree.[94] Yet Standards 301 and 302, which mandate both the institution and circulation of aptitude-based learning outcomes, do not restrict the delivery of face-to-face education, nor do they prohibit e-learning.[95] As a result, the ABA-SLEAB's accreditation standards seem to have fettered law schools' capabilities to perceive, gauge, and advance curricular excellence.[96] In turn, this restriction has hurt law students, who already suffer from the simultaneous coming-together of multiple vocational crises.[97]

Yet the same is not necessarily true for paralegal educational programs, some of which are also influenced by the ABA.[98] Unlike law schools, such regionally-accredited paralegal programs do not need ABA accreditation.[99] Nevertheless, the ABA permissively authorizes paralegal scholastic bodies that request its accreditation advice to select their own processes for delivering academic content.[100] This stance is more malleable than what the ABA-SLEAB currently tolerates for law schools.

consideration_by_legal_ed/?utm_source=maestro&utm_medium=email&utm_campaign=weekly_email (showing that the ABA-SLEAB granted Mitchell Hamline School of Law an exception to the strict e-learning provisions).

94. Standard 311(a) requires that at least sixty-four of the total eighty-three required credit hours be in "regularly scheduled classroom sessions or direct faculty instruction," but this phrase is not defined. *See 2017–2018 Standards and Rules of Procedure for Approval of Law Schools*, A.B.A. (2017), https://www.americanbar.org/groups/legal_education/resources/standards.html. This too could reflect the ABA-SLEAB's ambiguity of e-learning's operation. *See generally* A.B.A., *The Law School Accreditation Process*, *supra* note 58 (failing to mention how e-learning plays into the accreditation process).

95. *See* AMERICAN BAR ASSOCIATION, *2017–2018 Standards and Rules of Procedure for Approval of Law Schools*, *supra* note 94 (restricting neither face-to-face nor online education).

96. Tung, *supra* note 75, at 299–300 (discussing ABA-imposed curricular requirements and how alternative education options could enhance the legal learning process without these requirements).

97. *See* Rankin, *supra* note 12, at 13 (positing that traditional law school education does not yield prepared lawyers); *see also* SULLIVAN ET AL., *supra* note 12, and accompanying text.

98. *See* A.B.A., *Standing Comm. on Paralegals*, *supra* note 83.

99. *Id.* ("Although this document is concerned only with formal education programs for the training of paralegals, it is not intended to limit entry into this career field by other means.").

100. *Id.* at 26 ("Programs may offer legal specialty courses with a combination of traditional classroom and alternative delivery formats, such as online,

Remarkably, the ABA also has not tempered course objectives or net results for paralegal course materials that are provided digitally.[101] Such inadvertences may hint at the ABA's imperfect command of the learning theory variances between e-learning and lectures offered in traditional classrooms.[102] If true, this laxity could be a silent expression of why the ABA-SLEAB has not yet significantly addressed the feasibility of using e-learning in law school curricula or advanced toward adult learning theories that could support legal education better than pedagogy.

2. The Call for Academic Inquiry

Numerous legal intellectuals have addressed various challenges associated with legal education and practice.[103] Some of the QDA-assessed law review articles included nudges to investigate more closely the role of e-learning in juris doctor curricula.[104] However, no qualitative assessment of e-learning's potential to reduce any of those quandaries has yet been published.[105] Consequently, the merit of introducing e-learning into legal education remains unclear. Understanding e-learning's potential value, or lack thereof, requires

blended/hybrid, accelerated, or compressed, as long as the courses meet the stated hour requirements.").

101. *Id.*; Becker, *supra* note 1, at 215–16.

102. Becker, *supra* note 1, at 52.

103. *Id.* at 54; *see, e.g.*, William Hornsby, *Challenging the Academy to a Dual (Perspective): The Need to Embrace Lawyering for Personal Legal Services*, 70 MD. L. REV. 420, 439 (2011) (pointing out the challenges of faculty, who often lack professional experience in personal legal services, to effectively teach practice management to law school students, many of whom will make careers out of personal legal services); Mertz, *supra* note 12 (discussing the challenge of integrating social science research into legal academic curricula); Lynch, *supra* note 74 (identifying the challenges and ills of trying to integrate outcomes-based curricula into legal academia); Pistone & Hoeffner, *supra* note 16 (predicting that the greatest educational challenge of laws schools will be, if it is not already, adopting online learning); Rankin, *supra* note 12 (noting that the greatest challenge to law school reform is the enactment of a coherent, strategic, overarching plan instead of disjointed substantive changes).

104. Becker, *supra* note 1, at 53–54. *See, e.g.*, ROY STUCKEY, BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP 118 (2007), http://www.cleaweb.org/Resources/Documents/best_practices-full.pdf; Bernard J. Hibbitts, *The Technology of Law*, 102 L. LIBR. J. 101, 108 (2010), http://www.aallnet.org/mm/Publications/llj; SULLIVAN ET AL., *supra* note 12, at 6, 8–10; Pistone & Hoeffner, *supra* note 16, at 197–203.

105. Becker, *supra* note 1, at 54, 206.

some grasp of what e-learning is and why law schools have not yet embraced it.

Despite the current absence of data, sufficient clues point to the ABA's accreditation-based influence as a starting point for such an investigation.[106] The ABA's president-elect recently convinced the organization's Board of Governors, over the ABA-SLEAB's objection,[107] to begin earnest reformation of prospective legal scholarship; thus was born the Commission on the Future of Legal Education (ABA-CFLE).[108] With its capacity to influence legal instruction at both the paralegal studies and juris doctor levels, the ABA ought to conscientiously weigh the advantages and disadvantages of the academic content distribution choices for both curricular levels.[109] Within the context of its dually significant status, the ABA might better acquaint itself with the complete range of innovative alternatives, including some that are deliverable via the internet, keyed on proficiency development, and deployable in legal academic scenarios outside of law schools.[110]

Both the ABA-SLEAB and law schools generally have appeared averse to serious investigation of e-learning's capability to improve law school education, despite their respective preeminence for

106. *See, e.g.*, Lynch, *supra* note 74, at 1015; Lisa McElroy et al., *The Carnegie Report and Legal Writing: Does the Report Go Far Enough?*, 17 J. OF LEGAL WRITING INST. 279, 279–324 (2011).

107. The ABA-SLEAB primarily raised opposition to both ensure that the federal Department of Education is consulted and to avoid the ABA-SLEAB losing its accreditation function. *See* Letter from Greg Murphy, Chair, A.B.A., to A.B.A. Board of Governors (Jan. 30, 2017), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_letter_bog.authcheckdam.pdf.

108. Letter from Hilarie Bass to A.B.A. Board of Governors (Jan. 12, 2017), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_ admissions_to_the_bar/bass_memo.authcheckdam.pdf; Email from Greg Murphy, Section Chair, to Members of the A.B.A. Section of Legal Education and Admissions to the Bar (Feb. 7, 2017, 15:17 EST) (on file with author); *see also* Greg Murphy, *From the Chair: The Section Lives, and a Few Words on Bar Admissions and Examiners*, 48 SYLLABUS 2 (2017) (noting the permanence of ABA sections relative to the transience of ABA commissions and that the ABA-CFLE's work officially begins in late August 2017).

109. Becker, *supra* note 1, at 215–16; *see also* A.B.A., *Section of Legal Education and Admissions to the Bar*, *supra* note 58 (demonstrating the ABA's control over the law school accreditation process); A.B.A., *Standing Committee on Paralegals*, *supra* note 83 (demonstrating the ABA's control over the paralegal program approval process).

110. *See, e.g.*, Douglas & Johnson, *supra* note 55, at 31–37; Weise & Christensen, *supra* note 62, at 28.

influencing legal education's continuing evolution.[111] Law schools should also have independent interests in e-learning. On behalf of their students, law schools should ask the ABA-SLEAB or the newly formed ABA-CFLE to justify the significant distinction between the concurrent inflexibility against e-learning for law schools and its permissive lenience for such learning within paralegal curricula.[112]

Reluctance to embrace e-learning may stem from a calculated oversight to sidestep concessions of its significance. Yet, it is more likely the consequence of a dearth of understanding about e-learning. Therefore, this proposed e-learning query may help the ABA resolve its in-house accreditation standard variances for both paralegal and law school education.[113] Similarly, law schools can avoid both protracting misperceptions produced by the ABA's incongruity and increasing law students' malcontent at their powerlessness to reap e-learning's benefits by not endorsing this disparity—tacitly or otherwise.[114]

By arming themselves with current information, the ABA-SLEAB, the ABA-CFLE, and law schools can better prepare themselves for the next obvious set of decisions to determine the strategic vision for all legal education.[115] Some of the groundwork needed for developing such a vision is already laid. [116] Ignoring emerging research may only compound the challenges. Thoughtful consideration of e-learning's advantages and semantic analysis may

111. Becker, *supra* note 1, at 52, 196.

112. *Id.* at 215.

113. *Cf.* Gaille, *supra* note 77, at 201–02 (noting the ABA is not keeping pace with the ever-evolving legal education at a proper pace).

114. *Compare* AMERICAN BAR ASSOCIATION, *Standing Comm. on Paralegals*, *supra* note 83 ("[P]aralegal programs may offer legal specialty courses with a combination of traditional classroom and alternative delivery formats, such as online, blended/hybrid, accelerated, or compressed, as long as the courses meet the stated hour requirements."), *with* A.B.A., *2017–2018 Standards and Rules of Procedure for Approval of Law Schools*, *supra* note 94, at 19–20 (requiring law schools to grant no "more than a total of 15 credit hours toward the J.D. degree" of "Distance Education").

115. Becker, *supra* note 1, at 61.

116. *See, e.g.*, CONN. BAR ASS'N TASK FORCE ON THE FUTURE OF LEGAL EDUC. & STANDARDS OF ADMISS., *supra* note 69, at 18–21 (emphasizing the need for more experiential legal education and other reforms); THE INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., *supra* note 89 (noting the results of a fifty-state survey of more than 24,000 attorneys regarding the "opportunities and challenges to [law] schools"); Weise & Christensen, *supra* note 62, at 34–35 (arguing that online competency-based learning can solve racial disparities in higher education).

enliven the distinctive techniques and ingenuity of the ABA-SLEAB, the ABA-CFLE, and law schools, particularly with law school curricula.[117] Only after much deliberation about the full scope of e-learning should legal educators make decisions about whether juris doctor studies ought to include more or less content delivered through e-learning.

B. Strategic Alignment of All Legal Academic Programs

Beyond the need for exploration of online legal education, the QDA also disclosed that the legal inaccessibility conundrum's origins require clear-headed reflection by all bands of legal service providers—not just lawyers and educators.[118] But taken with the context of academic preparation for legal careers, these data markers imply that either legal education professionals have not reflected critically on solving the justice gap or that their collective thoughts are muddled to some degree. The signs also signal that those working in the legal field do not hold a consistent view of the field's strong points and limitations. Likewise, a disseminated mental picture of what legal practice will soon mean and a view of the likely challenges thereto are also missing from their perspective.[119] For these reasons, a collective understanding of how to holistically combat the justice gap does not yet exist.

Essentially, the QDA's results begged the question of what should be done next, namely, how the next generation of legal professionals can be better prepared to solve the justice gap. The data optimistically suggested a path toward a possible solution.[120]

117. Ice et al., *supra* note 68, at 30.

118. Becker, *supra* note 1, at 50; *see also* Lang, *supra* note 3, at 302–03 (arguing that highly trained and certified nonlawyer advocates can fill a gap in the U.S. legal system); Thomas D. Morgan, *The Changing Face of Legal Education: Its Impact on What It Means to Be a Lawyer*, 45 AKRON L. REV. 811, 812–41 (2012) (noting stressors on attorneys in the current practice of law and arguing for alternative forms of legal education leading to some certification beyond the traditional Juris Doctor degree); Pistone & Hoeffner, *supra* note 16, at 228, 232–33 (noting that a high percentage of American individuals—fifty to eighty percent—are unable to obtain legal assistance and postulating a role for nonlawyer "courtroom aides" and "legal technicians"); Rankin, *supra* note 12, at 16, 18–20, 42–47 (noting the efforts needed to create substantial legal education reform); New York City Bar Ass'n, *supra* note 3, at 6, 9–10, 29.

119. Becker, *supra* note 1, at 4.

120. Becker, *supra* note 1, at 320–22 (arguing that online MLS degree programs may be a tool legal educators can use to address the justice gap problem).

Soon, those interested in solving the legal accessibility predicament could conduct fresh exploratory routes supported by the data marking the origins of the problem.[121] This segment of the article highlights key terrain along this new route to help guide those interested in the proposed expedition.

The vastness of the judicial accessibility dilemma calls for fair evaluation of all varieties of law-related degree programs available in the United States to see if adjustments to any of them could lessen the troubles associated with legal inaccessibility. In fact, the data reflected the magnitude of the country's need for an accurate estimation of the strategic significance of all legally oriented degree programs.[122] Thus, an unsullied scrutiny of all legal education is necessary.[123] Courage and an unwavering search for the relationship between the heart of legal education and the soul of American social justice can guide this sort of needed collaborative exploration.

The legal education community's willingness to look beyond the foreseeable by taking advantage of existing opportunities is key to providing the needed systemic enhancements to its structure. [124] In particular, legal scholastic leaders must concurrently visualize the future and remain grounded pragmatically in the current digital era milieu.[125] If they do not, then lawyers soon could lose their command over how law should be practiced.[126]

121. *See, e.g.*, Jane H. Aiken & Stephen Wizner, *Measuring Justice*, 2013 WIS. L. REV. 79 (2013) (demonstrating how client surveys in a low-income service clinic can make improvements in legal serve and accessibility); Lawton & Sandel, *supra* note 19 (highlighting data's importance in finding a solution to the intersection of legal and healthcare needs for low-income individuals); Swank, *supra* note 4 (using data to track indigent individuals' own assessments regarding whether they want or think they need representation).

122. *See generally* Charles E. Rounds, *Bricks Without Straw: The Sorry State of American Legal Education*, 24 ACAD. QUESTIONS 172 (2011) (positing that legal education is not preparing students to become lawyers).

123. *See id.*; Edley, *supra* note 16, at 323–29 (giving suggestions for the future of teaching law); Pistone & Hoeffner, *supra* note 16, at 233–68 (suggesting how law schools should respond to changing environments).

124. *See, e.g.*, Paul Lippe, *Profession at a Crossroads: Will Lawyers Lead, Follow or Get Out of the Way?*, A.B.A. J.: LEGAL REBELS (Jan. 28, 2016, 8:30 AM CST), http://www.abajournal.com/legalrebels/article/profession_at_a_crossroads_will_lawyers_lead_follow_or_get_out_of_the_way.

125. *See id.*

126. *See id.*

1. Getting Started

Assuming the above is true, legal educators must appraise purposefully the complete array of education required for making competent legal services available to all in this technological era.[127] To do this, disruptive transformation of legal education seems essential.[128] While unsettling to some, some kind of feasible reconfiguration might permit the following: (1) all legal degree program designers to improve legal service accessibility, (2) all legal degree program instructors to wisely advise their learners about the justice gap, and (3) all legal degree program graduates more resourcefully participating in the legal service trade.[129] Embracing disruption could also secure the much needed, but presently absent, strategic decisions required to start to resolve the crisis. This is particularly true if other anchor points for the required changes include: (1) conviction in the law's essential value; (2) linking public service and communal fairness;[130] and (3) increasing civic

127. *See* Barnhizer, *supra* note 12, at 280; Fitts, *supra* note 12, at 1542, 1544–45.

128. Becker, *supra* note 1, at 167–70.

129. *See* Ribstein, *supra* note 12, at 1665–66; Weise & Christensen, *supra* note 62, at 34–35; *cf.* Douglas G. Fish, *Medical Manpower in Teaching and Research: The Present Situation*, 97 CAN. MED. ASS'N. J. 1587 (1967) (discussing how system reconfiguration is working in medical education); Geraldine Bednash et al., *PhD or DNP: Planning for Doctoral Nursing Education*, 27 NURSING SCI. Q. 296 (2014) (noting the factors to consider when pursuing a post-baccalaureate nursing degree, including which career paths are available); D. I. Rice, *The Future Use of Paramedical Personnel in Private Medical Practice*, 97 CAN. MED. ASS'N J. 1597 (1967) (arguing that empowering paramedical professionals with more medical responsibilities and functions could aid medical accessibility in the next few decades). *See generally* Becker, *supra* note 1 (explaining how alternative legal education opportunities could exand legal accessibility); Barry, *supra* note 80 (arguing that expanding experiential learning in law school will enable practice-ready lawyers at graduation).

130. *See* WASH. SUP. CT. ADMISSION AND PRACTICE RULES 28(A) (pointing out that their 2003 Civil Legal Needs study "clearly established that the legal needs of the consuming public are not currently being met"); Lawton & Sandel, *supra* note 19, at 29–30 (arguing that improving legal services for vulnerable populations will improve general healthcare); Nuffer, *supra* note 9, at 10. *See generally* Aiken & Wizner, *supra* note 121 (linking access to legal services with improved justice for poor and marginalized communities); Carrie J. Menkel-Meadow, *Too Many Lawyers? Or Should Lawyers Be Doing Other Things?*, 19 INT'L J. OF THE LEGAL PROF. 147 (2012) (suggesting that legal training and the lawyer workforce should reallocate their skills to better serve the needs of indigents); Swank, *supra* note 4 (examining the reasons people choose to represent themselves).

involvement, especially by those who might be subjected to the consequences of any suggested modifications to the legal field.[131]

While law schools are poised to carry out this sort of integrated development, they have not yet boldly tackled such an extensive project.[132] Recognizing the need for substantial transformation, the law schools' academics have proposed numerous ideas for improvement in recent years, but generally without strategic harmonization.[133] A sweeping assessment of legal education's structure might commence if law schools pondered the potential of using unconventional approaches to teaching legal doctrines and customs to reach a broader assortment of learners.[134]

After establishing a base for such a wide-ranging appraisal, law schools may assist instructors at every tier of legal education by completing the proposed restructuring.[135] The results of such an effort may be even better for resolving the justice gap than relying on direction from law schools. All constituents of the full span of legal education could work together to compose an overarching strategy for wrestling with the tribulations associated with the public's inability to easily access competent legal assistance.[136]

131. *See, e.g.*, U.S. CONST. pmbl. (suggesting that civil engagement in the law is a foundational principle of this nation because of the introductory phrase "[w]e the people"); 2 WASH. SUP. CT. A.P.R. 28(A) (empowering LLLTs to perform basic legal services in order to better serve community legal needs); Menkel-Meadow, *supra* note 130 (suggesting new ways lawyers should use their legal skills). *See generally* Nuffer, *supra* note 9 (discussing the future of the legal profession and education).

132. *See, e.g.*, Barry, *supra* note 80, at 276–77; Mertz, *supra* note 12, at 428; Pistone & Hoeffner, *supra* note 16, at 233; Rankin, *supra* note 12, at 16, 18–20.

133. *See, e.g.*, Clinical Legal Educ. Ass'n, *Best Practices for Legal Education: A Vision and a Road Map* 1, 205–10 (2007), http://www.cleaweb.org/Resources/Documents/best_practices-full.pdf; SULLIVAN ET AL., *supra* note 12, at 6, 8–10; Edley, *supra* note 16, at 322–30; Lynch, *supra* note 74, at 978–83; Mertz, *supra* note 12, at 428–30; Rankin, *supra* note 12, at 16, 18–20; Rounds, *supra* note 122, at 3–4, 15.

134. Barry, *supra* note 80, at 254–66.

135. *See, e.g.*, *id.*; Becker, *supra* note 1, at 220–21.

136. *Id.* at 221–23. *See* Barnhizer, *supra* note 12, at 250–70, 277–310; Fitts, *supra* note 12, at 1545–47; Rankin, *supra* note 12, at 16, 18–20, 42–47.

2. Constructing a New National Legal Education Plan

a. Step One

The first step toward building strategically aligned legal academic programs ought to be gathering the construction team. That is, representatives of all tiers of legal education providers should analyze jointly—and courageously—whether they should partake in holistic reformation of legal education.[137] After all, the construction site is rocky and is not yet fully surveyed, so suitability doubts may exist. But the fruit of garnering this sort of buy-in early may result in a shared vision of both the near-term evolution of legal practice and the feasible dangers that could prevent its attainment. To do this effectively, all of legal academia's strengths and failings ought to be examined and summarized candidly at the venture's outset. In addition, thoughtful consideration is needed of the academic and pragmatic business purposes that juris doctor, master of legal studies, and other paralegal or legal assistance degree programs are projected to serve in the future.[138]

b. Step Two

Assuming that adoption of a cohesive approach toward educating all levels of legal students is desired, Step Two should map the building design requirements to the available tools. Mapping will help the construction team determine what is "in stock" for use in the building project and what still needs to be acquired. In other words, attention ought to be paid to whether the degree programs' purposes are aligning with the projected functions that lawyers, paralegals, and other legal professionals will be expected to carry out.[139] The diverse sorts of legal jobs required during the next

137. Becker, *supra* note 1, at 221–22.

138. Such inquiry ought to also address whether any of these degree programs are capable of negating the potentially adverse gaps in attorney positions that might occur due to the recent drops in student enrollment at law schools nationwide. Becker, *supra* note 1, at 222–23; *see also* Richard L. Abel, *What Does and Should Influence the Number of Lawyers?*, 19 INT'L J. LEGAL PROF. 131 (2012) (detailing methods of limiting the number of attorneys to match demand); OCCUPATIONAL OUTLOOK HANDBOOK: LAWYERS, *supra* note 13.

139. Becker, *supra* note 1, at 223–24. Significantly, the QDA divulged the fact that lawyers do not need to handle all legal problems. Exploring nonlawyers' part in resolving the access to justice crisis may blaze new trails around present impediments to justice. *See, e.g.*, Barnhizer, *supra* note 12, at 287–90 (describing the

century should be acknowledged, regardless of the likelihood of whether those tasks will be performed within conventional vocational trajectories.[140] Such recognition, perhaps arranged according to the useful support that the tasks might render to society at large, may show the way toward more deliberate examination of obstacles to the public's inability to obtain legal services.[141]

c. Step Three

Step Three should entail the affirmative naming of the architects of the legal education construction team (i.e. the strategic planners) right at the beginning of the endeavor, just as the other foundational matters are defined. Unless such authority is uttered definitively, the infant structural plan may be jeopardized by insufficiency of either breadth or depth of the professional advice that needs to be gathered. The timing could be adversely affected just as the planners commence their work in contending with the justice gap's causal problems. As a result, a complete assortment of promising resolutions might not be established.[142]

The planners also should design and stock a well-defined tool kit that includes, among other things, a catalog of terminology and

restructuring in the traditional legal job market); Fitts, *supra* note 12, at 1546–47 (discussing the sustainability of high-cost legal education during an era of change); Sipho C. Ndwandwe & Omwoyo B. Onyancha, *Job Functions and Requirements for Knowledge Managers: Lessons for Library and Information Science (LIS) Schools in South Africa*, 29 MOUSAION 211, 222–24 (2011) (discussing the economic efficiencies that nonlawyers bring to some legal dynamics, especially through digital means). Therefore, we should thoroughly analyze all legal educational options for their usefulness in shrinking the justice gap. *See, e.g.*, Lang, *supra* note 3, at 302–03 (arguing systemic change to the legal profession is necessary to stretch financial resources and "provide legal services for many more impoverished Americans"); Phelps, *supra* note 3, at 231–32 (discussing criticism of the American legal education system that some suggest leaves lawyers unprepared for actual practice and inevitable ethical challenges); Turfler, *supra* note 3, at 1914–15, 1919, 1923–24 (discussing the merits and criticisms of broadly construed, unauthorized practice-of-law statutes).

140. *See generally* OCCUPATIONAL OUTLOOK HANDBOOK: LAWYERS, *supra* note 13 (listing currently identified job types).

141. Such data may also better inform the U.S. Department of Labor's Bureau of Labor Statistics as it analyzes career trends that can influence individuals who may contemplate entering the legal career field and who may desire to know the best entry points.

142. Becker, *supra* note 1, at 11–12; *see, e.g.*, Rankin, *supra* note 12, at 42–47 (articulating strategies for beginning the process of legal education reform).

a timetable to integrate all of the undertakings needed to start and finish the proposed construction.[143] In so doing, the promise can form durable associations among those institutions that offer any level of formal legal education and that are willing to participate in the construction.[144] From all of this data, the design planners can put together rational administrative ideas for controlling the modernization work, which then can be carried back to peers at their home institutions in a train-the-trainer kind of atmosphere.[145]

d. Step Four

After addressing these preliminary matters, the planners can move to Step Four by reasonably accounting for shifting soil at the work site. That is, planners should assess the need regarding whether (and how) to span unstable terrain, such as the internet's pervasive stretch into American business and culture (even into individuals' legal affairs). Such a review might explore which legal endeavors are capable of being completed more resourcefully, and just as capably, by nonlawyers due to digitally mechanized efficacies.[146] This data might aptly help discern indispensable skills, even if the provision of these skills needs improvement, to seal the cracks in legal service availability.

Throughout Step Four, the legal education overhaul architects should reflect on the imminent necessity for developing several ranks of legal service providers. The ranks may illuminate the construction zone's dark areas, such as whether formation of new nonlawyer legal career paths might make sense in this twenty-first century legal environment. For instance, some legal issues could call

143. *See generally* Rankin, *supra* note 12, at 42, 45–46 (arguing that "clear and replicable strategies" are necessary to advance conversations around legal education reform).

144. *See generally* Rankin, *supra* note 12, at 4, 12 (describing how the entire spectrum of American legal education requires fresh analysis and strategic planning in order to find "realistic potential to reduce the judicial accessibility gap" and enable all to "target future course improvements").

145. *See* Rankin, *supra* note 12, at 45–46 (describing the coalitions necessary at the institutional, regional, and national level to enact comprehensive reform).

146. *See* Nuffer, *supra* note 9, at 13 (suggesting that a traditional perspective is not broad enough to solve the legal inaccessibility problem); *see also* Phelps, *supra* note 3, at 228 (explaining the need to question whether lawyers' monopoly on providing legal services is necessary); Turfler, *supra* note 3, at 1908 (contending that a "model definition of the practice of law" is needed "to address the many issues arising from restructuring the legal services market").

for local competence, yet perhaps others ought to be tackled at regional or higher echelons. Hence, creating various licensure and certification echelons across the nation, conceivably in conjunction with alternatives for state and local areas of expertise, seems desirable. Doing so might clarify functions of lawyerly functions and create occupational competition amid legal workers, thus lowering legal service costs.[147] In turn, this perception may also stimulate advancement of other germane study programs. This cognizance might also meaningfully encourage the shaping of a certification procedure for nonlawyers performing legal duties.

e. Step Five

The recommended Fifth Step in this constructive progression is agreement on the suitable intellectual necessities that are capable of sustaining the proposed reformation tasks. Unstable places, such as nonlawyers working in the legal field, likely exist on the project's floor. Uncertainty will probably continue due to the scarcity of career management for these nonlawyers. Such ambiguity unfavorably affects the entire legal community, and frankly, the nation at large.[148] Yet the American legal profession is strong enough to form the foundation for the evaluation of this structural enterprise. Greater legal-economic stability could be found, at least

147. *See* Morris M. Kleiner & Alan B. Krueger, *Analyzing the Extent and Influence of Occupational Licensing on the Labor Market*, 31 J. LABOR ECON. S173, S185 (2013) (showing that licensing requirements can reduce competition in an industry by restricting entry); *see also* Phelps, *supra* note 3, at 236 (explaining three ways in which states can regulate nonlawyer activity: "registration, certification, and licensing"); Turfler, *supra* note 3, at 1932 (theorizing that a narrower definition of the practice of law would lead to increased competition, lower prices, and "increased access for the public"). *But see* Shirley V. Svorny, *Beyond Medical Licensure: Is Licensing More Important for Doctors than for Interior Decorators or Hair Braiders?*, 38 REGULATION 26, 26 (2015) (comparing the actions of state licensing boards to private cartels).

148. Despite the absence of any trusted, measurable observed assessment, some distrust the concept of an autonomous paralegal vocation because suitable controlling protections do not exist. *See* Wash. SUP. CT. ADMISS. AND PRAC. RULE 28 (defining a paralegal as someone who does "law-related work for which a lawyer is responsible"). Yet critics have not voiced a substantiated opinion about the correct scholarly parameters for practicing law in a distinctly narrow field, regardless of whether the practitioner is an attorney or not. *See generally id.* (lacking provisions addressing autonomous paralegal practice). In the absence of such an investigation, Washington's LLLT program's minimum academic requirements filled the void as a starting educational benchmark. *See generally id.* (detailing academic requirements for autonomous LLLTs, that might be partially applied to paralegal programs).

at the macro level, by priming several legal scholarly bands to tender legal relief to a broader segment of the populace.[149]

One of the current foundation-stabilizing possibilities is education via the internet; it can be offered at differing legal academic levels as well as adapted to students' individual proficiency growth.[150] However, particular attention may need to be paid to relational clarification points. For example, rubrics are more commonly used in online, non-law school courses; as a result, such education may not be immediately understood in precisely the way that law schools customarily measure quality.[151] All by itself this should not cause alarm. Rather, it merely indicates the need for translation, similar to the way engineers regularly conduct metric-to-standard conversions.

Translation is needed because law schools should recognize that non-juris doctor degree programs might alter legal instruction, perhaps more so than law schools themselves, despite not directly opposing law schools' main purpose of educating only lawyers. While this sort of change may seem disconcerting, it might result from ordinary but well-considered commercial decisions that competitively meld students' academic requirements with new scholarly paradigms and state-of-the-art delivery of instructive matter.[152] In turn, this might feasibly cause, for example, an online

149. *Cf.* Bednash et al., *supra* note 129, at 297 (stating that "[f]aculties" in Ph.D. nursing programs "strive to create an intellectual community"); Ulrich Boser, *Return on Educational Investment 2014: A District-by-District Evaluation of U.S. Educational Productivity*, CTR. FOR AM. PROGRESS 1, 9 (2014), https://cdn.americanprogress.org/wp-content/uploads/2014/07/ROI-report.pdf (discussing the effects of educational funding on schools' productivity); Ibrahim Duyar et al., *Accountability*, ENCYCLOPEDIA OF EDUCATIONAL LEADERSHIP AND ADMINISTRATION 9–10 (Fenwick W. English ed., 2006) (describing the effects of accountability policies in K–12 education).

150. *See* Douglas & Johnson, *supra* note 55, at 31–35 (discussing various ways to have effective online learning in the legal academic field); Weise & Christensen, *supra* note 62, at 11–12 (providing ways in which online learning can use direct assessments to test "mastery of any competency").

151. Becker, *supra* note 1, at 225–26; *see also* CONN. BAR ASSOC. TASK FORCE ON THE FUTURE OF LEGAL EDUC. AND STANDARDS OF ADMISS., *supra* note 69, at 21 ("Law schools should be encouraged to search for better ways to evaluate practical skill development, problem-solving and the exercise of judgment in lawyering."); Weise & Christensen, *supra* note 62, at 20 ("The guesswork goes away, as instructors access a dashboard that reflects immediately the concepts that a student might be failing to grasp.").

152. *See* Weise & Christensen, *supra* note 62, at 26.

graduate level legal degree to help students attain legal work at sensible wages.[153] This phenomenon could affect the course of future legal practice development through its ripple effects elsewhere.[154]

f. Step Six

The next step of the re-engineering effort should be standardization; without it, the project could fail due to application of uneven endorsement measurements. Because the ABA both accredits most law schools directly and steers the accreditation sanctioning bodies for some other legal study programs, the ABA should rise to carry the principal burden of Step Six. At present, the ABA offers opposing positions about online study resources for learners enrolled in juris doctor and other paralegal or legal studies programs. These positions ought to be reassessed and reformed into a coherent policy. The ABA's inconsistency in tolerating web-based distribution of paralegal educational materials while concurrently disavowing the same to law students may fuel law students' discontent in their inability to take full advantage of the good aspects associated with online instruction.[155] Continuing disregard for this obvious contradiction works against the objective of building an integrated strategic legal education construct.

The ABA can address this matter by proactively reviewing its own internal norms within the framework of being a major component of the proposed holistic legal education strategy. Beyond that, the ABA can advance legal accessibility of the content distribution styles for most juris doctor, legal studies, or paralegal studies degree programs.[156]

Evaluation at this constructive stage may require measurement adjustments since students' grasps of realistic competencies can be

153. Becker, *supra* note 1, at 226.

154. *See generally* Weise & Christensen, *supra* note 62 (pointing out how economic forces are affecting not only legal education, but also legal practice).

155. *See Standing Committee on Paralegals*, *supra* note 83, at 8; Becker, *supra* note 1, at 52.

156. *See generally* A.B.A, *Section of Legal Education and Admissions to the Bar*, *supra* note 58 (showing the ABA's influence on paralegal programs because of its accreditation powers); AMERICAN BAR ASSOCIATION, *Standing Committee on Paralegals*, *supra* note 83 (demonstrating how the ABA serves as a network for paralegals, lawyers, and those with legal needs).

remarkably different amongst the degree programs.[157] But the advantages of engaging at Step Six could sharpen understanding of whether the full spread of legally oriented degree programs will steer its various graduates in the direction of legal jobs needed to support the public's need for accessible legal services.[158]

g. Step Seven

The data gained in Step Six can support exploration in Step Seven of several educational theories, any of which the planners may decide to connect with their scholastic labors. By way of illustration, the education productivity theory could support both regular people in attaining justice and instructors in their efforts to improve accessibility to legal education.[159] Application of this theory could lead the proposed reformation architects to assume that participating institutions might utilize their resources to benefit their own alumni and to help underprivileged Americans with legal issues.[160]

Surprisingly, the legal professional society has not yet paid attention to the education productivity theory. Yet, the theory could notionally back the modernization of legal education, especially if the planners universally acknowledged its catalytic potential for deliberate transformation.[161] For instance, even though some higher learning institutes host both juris doctor and other legally-related degree programs, they have not yet created courses where both can conjointly prepare for the imminent likelihood of their cooperative legal work arrangements. Likewise, online MLS degree program

157. *See* CONN. BAR ASSOC. TASK FORCE ON THE FUTURE OF LEGAL EDUC. AND STANDARDS OF ADMISS., *supra* note 69, at 20–21 (discussing how realistic competencies can differ amongst the degree programs); Weise & Christensen, *supra* note 62, at 21.

158. *See* CONN. BAR ASSOC. TASK FORCE ON THE FUTURE OF LEGAL EDUC. AND STANDARDS OF ADMISS., *supra* note 69, at 20–21.

159. *See* U. S. CONST. pmbl. *See generally* THE SCIENTIFIC BASIS OF EDUCATIONAL PRODUCTIVITY (Rena F. Subotnik & Herbert J. Walberg, eds., 2006) (discussing various approaches to educational research that focus on results in policy and training).

160. *See* Becker, *supra* note 1, at 23–24.

161. *See generally* Herbert J. Walberg, *A Psychological Theory of Educational Productivity,* PSYCHOL. AND EDUC. (F. H. Farley & N. Gordon, eds., 1981) (discussing educational productivity measurements and application); Boser, *supra* note 149 (utilizing data to measure educational productivity in K-12 schools and suggest reforms).

overseers have not facially aligned their students who may feel called to nonlawyer legal advocacy, although some authorities have advised doing so. Yet, the rate of hire of any rank of legal degree-holders is relevant equally to both the well-being of the legal services segment of the general economic structure and the desired legal didactic strategic framework. Hypothetically, non-juris doctor degree programs could assert their curricula as innovative, sensible, and legally viable selections for those who want legal careers sans the expensive commitments that have distressed countless law students. For these reasons, the widespread unfamiliarity of relevant educational theories to date seems astonishing.

V. THE BOTTOM LINE

The monetary and professional difficulties enveloping modern legal practice are immense, and they are growing exponentially. At the same time, the public is becoming progressively more unsatisfied at the protracted unavailability of quality legal services for ordinary citizens. Legal academia does not appear to have embraced the scope of change needed to address these matters, which both independently and collectively threaten the conventionally staid practice of law.

The QDA study revealed the need for a closer inspection of e-learning for law students. Such attestation ought to be investigated more seriously as part of the work needed to embark on a full and fearless assessment of the present legal academic system.[162] Within the modern context of supplying the nation's legal needs, the justification supporting the scarcity of research into e-learning's potential use in legal education needs to be articulated. The authors recommend an immediate and comprehensive review of the legal skills that are needed throughout the twenty-first century in conjunction with an assessment of the entire scope of formal legal education to determine how well legal academia is poised to prepare all levels of legal students to assist citizens in properly accessing justice.

162. *See* Douglas & Johnson, *supra* note 55, at 46.