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# The Death of Academic Support: Creating a Truly Experiential, Integrated, and Assessment-Driven Academic Success and Bar Preparation Program (Part I of II)

Laura Dannebohm

Adam Lamparello

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**THE DEATH OF ACADEMIC SUPPORT: CREATING A TRULY EXPERIENTIAL, INTEGRATED, AND ASSESSMENT-DRIVEN ACADEMIC SUCCESS AND BAR PREPARATION PROGRAM (PART I OF II)**

Laura Dannebohm<sup>†</sup> and Adam Lamparello<sup>††</sup>

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<sup>†</sup> Assistant Dean for Student Advancement and Assessment, Indiana Tech Law School.

<sup>††</sup> Associate Dean of Experiential Learning and Assistant Professor of Law, Indiana Tech Law School. The second part of the article will provide, among other things, specific outcome measurements for students.

“For students who enter law school with less strong LSAT scores, academic backgrounds, and analytical skills, then, how well they do on the bar exam will *reflect how well the law school acted to provide necessary academic support.*”<sup>1</sup>

## I. INTRODUCTION

For too long, academic support programs have been viewed as the unwanted stepchild of legal education. These programs have existed in the dark shadows of legal education, reserved for students deemed “at risk” for satisfactorily completing law school or successfully passing the bar examination, and focused on keeping students above the dreaded academic dismissal threshold. The time has arrived for the remedial—and stereotypical—character of academic support to meet its demise and to be reborn as a program that helps *all* students become better lawyers, not just better law students.

To be sure, academic competency is critical to professional success, but including professional competency in the mission of an academic success program will enhance the educational and professional outcomes of all students. In this article, we propose a groundbreaking academic *success* program that has three core components:

- *The Assessment Focus.* The progress of *all* students, not merely “at-risk” students, should be continuously monitored through the use of formative and summative assessments that are tied to the achievement of real-world learning outcomes, including, but not limited to, analytical thinking, legal writing, problem solving, and strategic judgment.
- *The Experiential Component.* The experiential component focuses on curricular innovation and *competency-based* instruction that invests in the success of *all* students, and that more closely connects academic support programs to real world learning outcomes and lawyering tasks.
- *The Integration Requirement.* Academic success programs should be integrated with doctrinal and skills courses across *and* throughout the curriculum to enable collaboration with doctrinal and skills faculty on, among other things, the quality and efficacy of formative and summative assessments and student attainments of core legal competencies.

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1. Elizabeth Rindskopf Parker & Sarah E. Redfield, *Law Schools Cannot Be Effective in Isolation*, 2005 BYU EDUC. & L.J. 1, 44 (2005) (emphasis added).

In addition, as detailed below, using feedback loops enables law schools to measure student and cohort attainment of learning outcomes, evaluate the effectiveness of formative, reflective, and summative assessments, and ensure that faculty feedback is specific, timely, and relevant.<sup>2</sup>

Integrating academic support into and throughout the curriculum should be part of a broader strategy by law schools to “[d]evelop new ways of balancing responsible curricula and pedagogies, *cost-effectiveness*, and alternative revenue streams by strongly encouraging and supporting *experimentation and innovation among law schools*.”<sup>3</sup>

Ultimately, the relevance—and necessity—of designing comprehensive academic support and bar preparation programs reflects the realities of legal education today: larger numbers of incoming law students are less prepared, bar passage rates are falling at many law schools, and writing skills are underdeveloped.<sup>4</sup> When academic support programs are restricted to one segment of the student population or limited in their pedagogical purposes, *all* students are deprived of a resource that can maximize outcomes and preparedness for the bar examination. Academic success programs should no longer serve a *negative* function (to help students avoid dismissal or substandard performance), but should embrace a *positive* mission that improves the skills of even the brightest students.

In this article, we propose a groundbreaking academic success program that was adopted and implemented at Indiana Tech Law School, and that has revolutionized the way legal education is delivered. Part II discusses the flaws underpinning many academic support programs today, and examines the consequences, including the perception that academic support is only for “bad students,” and the restrictive focus on academic rather than *professional* competency, which has undermined its pedagogical

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2. See *infra* Part III.D.2.

3. Paul L. Caron, *ABA Task Force on the Financing of Legal Education Issues Final Report*, THE LAW PROFESSOR BLOGS NETWORK: TAXPROFBLOG (June 20, 2015) (emphasis added), [http://taxprof.typepad.com/taxprof\\_blog/2015/06/aba-task-force-on-the-financing-of-legal-education-issues-final-report.html](http://taxprof.typepad.com/taxprof_blog/2015/06/aba-task-force-on-the-financing-of-legal-education-issues-final-report.html).

4. See Ry Rivard, *Lowering the Bar*, INSIDE HIGHER ED (Jan. 16, 2015), <https://www.insidehighered.com/news/2015/01/16/law-schools-compete-students-many-may-not-have-admitted-past>.

value.<sup>5</sup> Part III sets forth the innovative academic success program at Indiana Tech Law School.<sup>6</sup> The program incorporates experiential, integrated, and assessment-driven components in a manner that transcends the boundaries between academic success and the broader curriculum, and bridges the divide between legal education and the practice of law. After all, law schools have an ethical obligation to ensure that graduates can competently and ethically practice law, and legal education will “serve the public interest by . . . encouraging more attention to *services, outcomes, and value delivered to law students.*”<sup>7</sup>

## II. THE DEATH OF ACADEMIC SUPPORT

If law schools seek to enhance access to the legal profession by admitting students with entering credentials that suggest they may struggle to complete law school or pass the bar examination, they must do so responsibly. Admitting students with very low entering credentials without providing, among other things, comprehensive academic support and bar preparation is unwise, unfair, and unethical. For that, and many other reasons, law schools must focus on each student’s individual outcomes by creating an educational experience that trains students in core legal competencies and empowers students to meet the challenges they will face in the legal profession.

Academic support programs have for too long been viewed through a remedial lens, and “at-risk” students have been subject to the stigma—and stereotype—that accompanies enrollment in an academic support course.<sup>8</sup> Of course, it should go without saying that academic support should include—but not be limited to—providing intensive and individualized assistance to at-risk students. However, the quality of applicants—and the median LSAT scores at

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5. See *infra* Part II.

6. See *infra* Part III.C.2.

7. AM. BAR. ASS’N TASK FORCE ON THE FUTURE OF LEGAL EDUC., REPORT AND RECOMMENDATIONS 2 (2014), [http://www.americanbar.org/content/dam/aba/administrative/professional\\_responsibility/report\\_and\\_recommendations\\_of\\_aba\\_task\\_force.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/report_and_recommendations_of_aba_task_force.authcheckdam.pdf) (emphasis added).

8. See, e.g., AM. ASS’N OF LAW SCHS., NEW STUDENT ACADEMIC SUPPORT AT WASHBURN UNIVERSITY SCHOOL OF LAW, (2014), <http://lawschoolasp.org/docs/washburn.pdf> (“[T]he terms ‘academic support’ and ‘academic success’ . . . have come to be understood to refer to remedial activities .”).

law schools—is decreasing across the country.<sup>9</sup> Furthermore, given the evidence suggesting that LSAT scores matter, particularly when combined with law school grade point average, academic support programs will need to assume a broader role in preparing students to meet the demands of law practice.<sup>10</sup> The table below summarizes bar passage rates based on LSAT and law school grade point average.

LSAT, GPA, AND BAR PASSAGE <sup>11</sup>		
GPA (Average)	LSAT	Predicted Bar Passage Rate
3.47	139	85%
3.47	142	90%
3.15	139	Less than 50%
3.15	154	Over 90%
2.83	139	Less than 14%
2.83	166	Over 90%

Furthermore, the recent decline in law school applications has led some law schools to lower their admissions standards, thus increasing the number of at-risk students, particularly at the twenty-fifth LSAT percentile.<sup>12</sup>

9. See Natalie Kitroeff, *The Smartest People Are Opting Out of Law School*, BLOOMBERG (Apr. 15, 2015, 10:15 AM), <http://www.bloomberg.com/news/articles/2015-04-15/the-smartest-people-are-opting-out-of-law-school>.

10. Nicholas Georgakopoulos, *Bar Passage: GPA and LSAT, Not Bar Reviews* 10 (Ind. Univ. Robert H. McKinney Sch. of Law, Paper No. 2013–30), [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2308341&download=yes](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2308341&download=yes) (analyzing data from two sittings of the bar exam for the graduating class at a law school).

11. See *id.*

12. See Erica Moeser, *President's Page*, 83 BAR EXAMINER 4, 7–11 (2014), [http://ncbex.org/assets/media\\_files/Bar-Examiner/articles/2014/830414-abridged.pdf](http://ncbex.org/assets/media_files/Bar-Examiner/articles/2014/830414-abridged.pdf); see also David Frakt, *Parsing the Bloomberg Businessweek Article on Law School Admissions*, FACULTY LOUNGE (Jan. 8, 2015, 8:10 AM), <http://www.thefacultylounge.org/2015/01/parsing-the-bloomberg-businessweek-article-and-the-ncbe-report.html> (pointing out that the drop in scores at the twenty-fifth percentile of incoming students for some bottom tier schools is cause for some alarm).

25TH PERCENTILE LSAT SCORES <sup>13</sup>	
School	Decline in 25th Percentile LSAT Scores
Charlotte	148 to 141
Faulkner	148 to 142
Florida Coastal	146 to 141
Thomas Jefferson	149 to 144
Touro	149 to 145
Valparaiso	147 to 141
University of Dayton	150 to 145
Whittier	150 to 145
Suffolk	152 to 145

Given the entering credentials of a substantial number of first-year law students, and the recent decline in bar pass rates, the importance of developing a comprehensive and pedagogically sound academic success program cannot be overstated.<sup>14</sup> As one commentator noted, “[f]or students who enter law school with less strong LSAT scores, academic backgrounds, and analytical skills, then, how well they do on the bar exam will *reflect how well the law school acted to provide necessary academic support.*”<sup>15</sup> However, academic success should not be restricted to helping at-risk students. Instead, it should be a resource that enhances the skills of all students.

A responsible academic support program must focus not only on implementing sound teaching methods and devoting sufficient resources, but also on avoiding the negative stereotypes that students in academic support programs engender. Stereotype threat is traceable to the perception that academic support programs are primarily, if not exclusively, *remedial* in nature. One commentator explains as follows:

Given the damaging power of stereotype threat . . . academic support is potentially a double-edged sword. As soon as students get their class ranks, the majority find

13. Moeser, *supra* note 12, at 8–11; *see also* Frakt, *supra* note 12 (noting that 24% of the incoming class at a school with a low 25th percentile LSAT score must have scored even lower); Kitroeff, *supra* note 9 (noting the drop in LSAT scores at the bottom of the class but performing only cursory analysis).

14. *See* Staci Zaretsky, *As Bar Exam Scores Continue to Plummet, Early Scores Reveal Worst Performance in Decades*, ABOVE THE LAW (Sept. 18, 2015, 12:45 PM), <http://abovethelaw.com/2015/09/as-bar-exam-scores-continue-to-plummet-early-results-reveal-worst-performance-in-decades/>.

15. Parker & Redfield, *supra* note 1, at 44 (emphasis added).

themselves in a place in the class none of them have ever been before—remember, most law students excelled in college, many without breaking a sweat. Now, however, half of them find themselves in the bottom half of the class. Word gets around quickly: being at the bottom of your class means you're going to fail the bar. An academic support program that appears to be remedial can reinforce this stereotype, actually putting students *more* at risk of bar failure because of the stereotype threat implications.<sup>16</sup>

Academic success personnel should reject the remedial paradigm that characterizes many programs, and instead should “design an academic support program that creates a positive stereotype, creating a stereotype boost for the participants.”<sup>17</sup> In other words, academic success programs should aim to enhance the skills level of all students, regardless of class rank or entering credentials. Although this would mean students of varying skill levels in the same classroom, academic success personnel can meet this challenge by, among other things, focusing on small group instruction, providing students with individual faculty mentors, and creating individualized academic success plans for each student.

Removing the stigma associated with academic support will improve the learning outcomes of all students, particularly those deemed at risk to fail the bar examination.<sup>18</sup> As one scholar stated, “[r]esearch into stereotype threat suggests that once a negative stereotype has been dissolved, either by changing the individuals’ sense of affiliation or rebranding the test as something unrelated to the stereotype, at-risk individuals will perform on par with their peers.”<sup>19</sup>

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16. Catherine Martin Christopher, *Eye of the Beholder: How Perception Management Can Counter Stereotype Threat Among Struggling Law Students*, 53 DUQ. L. REV. 163, 171 (2015).

17. *Id.*

18. See Amy Jarmon, *Reducing Stigma*, LAWPROFESSORSBLOGS.COM: L. SCH. ACAD. BLOG (June 30, 2006), [http://lawprofessors.typepad.com/academic\\_support/2006/06/reducing\\_stigma.html](http://lawprofessors.typepad.com/academic_support/2006/06/reducing_stigma.html) (“One of the problems that often plagues ASP programs is the stigma that can attend students’ participation in academic support efforts. Because academic support at the undergraduate level is usually directed at those students who are struggling in their studies, law students often perceive ASP programs as remedial in nature, reserved for those who cannot perform adequately in law school without special help.”).

19. Christopher, *supra* note 16, at 176.



Furthermore, there is a plethora of information within legal and non-legal academic settings that support using an integrated model of instruction to, among other things, bridge learning and skill gaps, enhance transferability of skills to other contexts, and prepare students for law practice.<sup>20</sup> Although the MacCrate Report, Carnegie Reports, and the Clinical Legal Education's Best Practices for Legal Education<sup>21</sup> make much-needed suggestions to improve legal education, law schools have been slow, if not reticent, to adopt such changes.<sup>22</sup> This is troubling in part because the Carnegie Report expressly endorsed an integrated model of legal education. Nelson Miller states as follows:

[F]or law schools, the dynamic should not be competition among knowledge, skills, and ethics proponents for equal (or superior) footing within the curriculum. Indeed, the great insight of the Carnegie Report is that it recognizes

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20. Charity Scott, *Collaborating with the Real World: Opportunities for Developing Skills and Values in Law Teaching*, 9 IND. HEALTH L. REV. 409, 414–15 (2012) (“The collaborations discussed in this article offer real-world contexts that promote this deeper engagement in learning. In addition, they allow the integration of the three domains (or ‘apprenticeships’) of professional competency and identity that the Carnegie Report advocated be integrated in legal education: (1) knowledge (including cognitive and analytical skills); (2) interactive behavioral skills (including problem-solving, client-oriented, and communication skills); and (3) professional values and ethics. These three domains reflect what competent lawyers should know and how they think, what they should be able to do, and how they should act as professionals. *Real-world collaborations help to integrate the three Carnegie apprenticeships in one course, rather than keep them siloed in different courses.*”) (emphasis added) (quoting ROY STUCKLEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP 141–42 (2007)).

21. See SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, AM. BAR. ASS'N, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM 386 (1992) [hereinafter MACCRATE REPORT], [http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/2013\\_legal\\_education\\_and\\_professional\\_development\\_maccrate\\_report.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/2013_legal_education_and_professional_development_maccrate_report.authcheckdam.pdf) (stating that law schools should focus more on developing practical skills); see also *id.* at 135 (suggesting a list of fundamental skills needed to competently practice law); WILLIAM M. SULLIVAN ET AL., CARNEGIE FOUNDATION, EDUCATING LAWYERS 10 (2007) [hereinafter CARNEGIE REPORT], [http://www.albanylaw.edu/media/user/celt/educatinglawyers\\_summary.pdf](http://www.albanylaw.edu/media/user/celt/educatinglawyers_summary.pdf) (suggesting that law school is comprised on three apprenticeships: analytical and practical skills training, and professionalism); see also *id.* at 13–14 (identifying the development of legal analysis, practical skill, and professional identity as the three central elements of legal education).

22. See Mitchell D. Hiatt, *Why the American Bar Association Should Require Law Schools to Increase and Improve Law Students' Practical Skills Training*, 45 CREIGHTON L. REV. 869, 874–75 (2012).

the value not only of balancing those three dimensions of law practice but of *integrating* them. While the 1992 MacCrate Report encouraged the development of skills and ethics across a law school's knowledge dimension (perhaps as an accompaniment), the Carnegie Report stresses more clearly that there must be an *integration of knowledge, skills, and ethics*.

In that respect, the Carnegie Report is an endorsement, not an indictment, of law school programs that sufficiently value skills and ethics instruction to make them an integral part of the curriculum.<sup>23</sup>

The lack of integration is closely related to a qualitative and quantitative analysis of curricular efficacy.<sup>24</sup> For example, despite the ongoing criticism of graduates' writing skills, law schools nationwide devote less than six credits to required legal writing courses.<sup>25</sup> This may be responsible in substantial part for the American Bar Association's decision to adopt a rule *requiring* students at all law schools to take six credits of experiential courses.<sup>26</sup> This change reflects what research and common sense have long advocated: to prepare students for the real world, legal education must teach the skills needed to be a competent lawyer and the values needed to be an ethical legal professional.<sup>27</sup>

Despite the ABA's move to integrate doctrine with practice, many law schools have continued to segregate academic support programs from the broader curriculum and separate the analytical from the practical. However, "thinking like a lawyer," although

23. Nelson P. Miller, *An Apprenticeship of Professional Identity: A Paradigm for Educating Lawyers*, 87 MICH. B. J. 20, 21 (2008) (emphasis added).

24. See generally Harriet N. Katz, *Evaluating the Skills Curriculum: Challenges and Opportunities for Law Schools*, 59 MERCER L. REV. 909, 917–18 (2008) (summarizing ways to integrate practical skills into the curriculum).

25. See ASS'N OF LEGAL WRITING DIRS./LEGAL WRITING INST., REPORT OF THE ANNUAL LEGAL WRITING SURVEY 7 (2014), <http://www.alwd.org/wp-content/uploads/2014/07/2014SurveyReport-Final.pdf>.

26. See AM. BAR ASS'N, *Chapter 3: Program of Legal Education* § 303(a)(3), in 2015–2016 STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS (2015), [http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2015\\_2016\\_aba\\_standards\\_for\\_approval\\_of\\_law\\_schools\\_final.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2015_2016_aba_standards_for_approval_of_law_schools_final.authcheckdam.pdf).

27. See generally Angela McCaffrey, *Hamline University School of Law Clinics: Teaching Students to Become Ethical and Competent Lawyers for Twenty-Five Years*, 24 HAMLINE J. PUB. L. & POL'Y 1, 1 (2002) (discussing the incorporation of practical skills and ethics training into the curriculum).

essential, is not the same as *practicing* like a lawyer. Requiring students to gather facts, forcing them to apply the law to complex legal problems, and enabling them to interact with hypothetical (and real) clients in litigation and transactional contexts teaches students the nuances of persuasive advocacy in a profession that is characterized by indeterminacy and uncertainty.

The best way to maximize academic *and* professional skill development is through an integrated model of teaching.<sup>28</sup> This is measured by stated learning outcomes, cross-curricular collaboration, inter-curricular cohesion, and assessment-driven learning which measures progress on a continual basis. Research suggests problem-solving skills are more efficiently developed if integrated within the doctrinal subject matter.<sup>29</sup> It is not a stretch to draw the conclusion that integrating doctrine with skills, or learning by doing, will maximize student learning outcomes.<sup>30</sup> As one scholar notes, “[l]earning in context’ is the most effective way to engender long-lasting learning and genuine understanding.”<sup>31</sup>

At Indiana Tech Law School, the faculty has implemented an integrated model of skills instruction and experiential learning across the curriculum.<sup>32</sup> This not only develops academic and practice-ready skills in students, but also specifically helps students develop problem-solving skills that transcend subject matter and can be transferred to other contexts, much like in the practice of

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28. See Deborah Maranville, *Infusing Passion and Context into the Traditional Law School Curriculum*, 51 J. LEGAL EDUC. 51, 59 (2001) (“Complete learning requires integrating both the concrete and the abstract, as well as action and reflection.”).

29. See generally Richard E. Mayer & Merlin C. Wittrock, *Problem Solving*, in HANDBOOK OF EDUCATIONAL PSYCHOLOGY (Patricia A. Alexander & Philip H. Winne, eds., 2d ed. 2006).

30. Michele Mekel, *Putting Theory into Practice: Thoughts from the Trenches on Developing a Doctrinally Integrated Semester-in-Practice Program in Health Law and Policy*, 9 IND. HEALTH L. REV. 503, 519 (2012) (“[W]hile building and maintaining a truly doctrinally integrated, high-credit, capstone practicum program can be resource intensive, it builds the type of bridge to practice that the recent critiques of legal education have urged, and it provides participating students with an advantage in today’s very challenging legal employment market.”).

31. Scott, *supra* note 20, at 414.

32. See *Experiential Learning*, INDIANA TECH LAW SCHOOL, <http://law.indianatech.edu/academics/experiential-learning/> (last visited Jan. 30, 2016) (setting forth the philosophy and pedagogical approach underlying Indiana Tech Law School’s integrated experiential learning curriculum).

law.<sup>33</sup> The academic success program at Indiana Tech Law School is designed to avoid the deleterious consequences associated with stereotype threat and isolated skills instruction and to promote experiential learning through a program that invests in the academic and professional outcomes of each student. Below is a detailed description of the program's three components: assessment, experiential education, and integration.

### III. A REVOLUTIONARY AND RIGOROUS ACADEMIC SUPPORT PROGRAM

Indiana Tech Law School's academic support program is predicated upon a belief that the line between academic success and failure is largely attributable to a student's work ethic, which is directly affected by the student's perception of their own abilities *and* their value in the group.<sup>34</sup> To address this issue, the academic success program at Indiana Tech is neither remedial nor reserved for "at risk" students. Rather, the program strives to improve the skills of every student through a comprehensive program that consists of nine credits of required academic and bar success courses (*Foundations of Legal Analysis I* through *VI*) spanning six semesters. As described below, the program incorporates experiential, integrated, and assessment-driven components to provide instruction that is relevant for every law student—and relevant to the practice of law.

#### A. *The Assessment-Driven Component*

##### 1. *Developing Learning Outcomes*

Any assessment program must begin with educational objectives—or outcomes—that underpin a program of legal education.<sup>35</sup> The Law School's academic success program is based

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33. See Stephen Nathanson, *Developing Legal Problem-Solving Skills*, 44 J. LEGAL EDUC. 215, 222–23 (1994) (discussing six principles that effectively train students to transfer legal problem-solving skills).

34. See Paula Davis-Laack, *Grit: A Critical Success Strategy*, 87-DEC WIS. LAW. 49, 49 (2014) ("Grit is also an important predictor of success. Gritty students tend to outperform their less gritty peers, and grit scores are associated with higher GPAs.").

35. Johanna K.P. Dennis, *Ensuring a Multicultural Educational Experience in Legal Education: Start with the Legal Writing Classroom*, 16 TEX. WESLEYAN L. REV. 613, 619–21 (2012) (discussing the importance of an assessment-driven and outcome-

on seven learning outcomes that focus on maximizing doctrinal, legal writing, and practical skill attainment:

- *Knowledge of Major Content Areas of Substantive Law.* Graduates will understand the fundamental legal principles from all first-year and upper-level doctrinal courses (required and elective), including courses on bar-tested subjects.
- *Critical and Context-Based Analytical Skills.* Graduates will demonstrate the ability to think critically, which will include the proficiency in, among other things, making logically valid arguments, synthesizing facts and legal principles, applying the law to the facts, distinguishing unfavorable facts and law, gathering and identifying facts, drafting persuasive factual and legal narratives, and analyzing legal issues in a variety of litigation and transactional contexts.
- *Legal Research Skills.* Graduates will demonstrate the ability to comprehensively, effectively and efficiently conduct legal research using digital and other media. This will include, but not be limited to: formulating a research plan; understanding the difference between binding and persuasive authority; locating primary and secondary sources; and efficiently researching case law, statutes, and administrative regulations.
- *Persuasive Writing and Oral Communication Skills.* Graduates will demonstrate the ability to communicate persuasively in oral and written form, which will include proficiency in, among other things, drafting a persuasive factual narrative and legal analysis, rewriting and revision, distinguishing unfavorable facts and law, addressing counterarguments, making strategic concessions, making policy arguments, writing clearly and concisely, applying persuasive writing techniques to a variety of litigation and transactional documents, advocating before trial and appellate courts, and resolving disputes in alternative dispute resolution forums.
- *Professional and Soft Skills.* Graduates will demonstrate proficiency in professional skills including, but not limited to, client interviewing, advising, and counseling, interpersonal communication, negotiation, strategic decision-making, organization and time management, creativity, listening skills, “outside the box” thinking, problem-solving, working collaboratively and efficiently, and interacting with individuals from different cultural and socio-economic backgrounds.

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based legal education).

- *Professional Responsibility and Appreciation of Diversity.* Graduates will demonstrate cultural competencies, respect for diversity, and respect for the ethical requirements of the profession. Furthermore, graduates will gain an understanding of and incorporate into their practice the values, attitudes, and behaviors as reflected in the relevant rules of professional conduct, the policies of the American Bar Association, and the expectations of the profession.
- *Self-Sufficiency and Entrepreneurship.* Graduates will demonstrate the ability to be self-sufficient and entrepreneurial, and possess the business, financial, and technological skills to establish a solo practice, attract and retain clients, manage and record costs, and practice competently, efficiently, and ethically.

A discussed below, the achievement of these outcomes, and other legal competencies, is made more likely through the use of formative and summative assessment which allows teachers to continually monitor student progress.

2. *Formative Assessments Help Maximize Learning Outcomes, Maintain Diversity, and Ensure Responsible Access to the Profession*

The value of assessment-based legal education cannot be overstated. One commentator highlights the nine goals, or best practices, for assessment-driven instruction:

- (1) The assessment of student learning begins with educational values.
- (2) Assessment is most effective when it reflects an understanding of learning as multidimensional, integrated, and revealed in performance over time.
- (3) Assessment works best when the programs it seeks to improve have clear, explicitly stated purposes.
- (4) Assessment requires attention to outcomes but also and equally to the experiences that lead to those outcomes.
- (5) Assessment works best when it is ongoing, not episodic.
- (6) Assessment fosters wider improvement when representatives from across the educational community are involved.
- (7) Assessment makes a difference when it begins with issues of use and illuminates questions that people really care about.
- (8) Assessment is most likely to lead to improvement when it is part of a larger set of conditions that promote change.

(9) Through assessment, educators meet responsibilities to students and to the public.<sup>36</sup>

The chart below summarizes course-specific learning outcomes for the fall 2015 semester.

COURSE-SPECIFIC LEARNING OUTCOMES							
1. Knowledge of Major Areas of Substantive Law 2. Critical Thinking and Context-Based Analytical Skills 3. Legal Research Skills 4. Persuasive Writing and Oral Communication Skills 5. Professional and Soft Skills 6. Professional Responsibility and Appreciation of Diversity 7. Self-Sufficiency/Entrepreneurship							
Course	1.	2.	3.	4.	5.	6.	7.
Civil Procedure	X	X				X	X
Contracts	X	X					X
Criminal Law	X	X		X			X
Professionalism	X				X	X	X
Property	X	X				X	X
Torts	X	X					X
Experiential Legal Writing I		X	X	X	X	X	X
Experiential Legal Writing II		X	X	X	X	X	X
Experiential Legal Writing III		X	X	X	X	X	X
Experiential Legal Writing IV		X	X	X	X	X	X
Experiential Legal Writing V		X	X	X	X	X	X
Experiential Legal Writing VI		X	X	X	X	X	X
Foundations of Legal Analysis I		X			X	X	X
Foundations of Legal Analysis II		X	X	X	X	X	X
Foundations of Legal Analysis III		X			X	X	X
Foundations of Legal Analysis IV		X	X	X	X		X
Foundations of Legal Analysis V	X	X		X	X		X
Foundations of Legal Analysis VI	X	X		X	X		X
Constitutional Law	X	X		X		X	
Professional Responsibility	X	X		X		X	
Business Organizations	X	X				X	
Commercial Law	X	X					
Wills, Trusts, and Estates	X	X					
Criminal Procedure	X	X		X	X	X	X

36. *Id.* at 619–20.

Evidence	X	X		X			X
Advanced Legal Research		X	X		X		X
Administrative Law	X	X				X	
Employment Law	X	X					
Landlord and Tenant Law	X	X				X	
Indiana Practice and Procedure	X	X			X		X
Alternative Dispute Resolution		X			X	X	
Mediation Clinic		X			X	X	X
Indiana Constitutional Law	X	X				X	
Juvenile Law	X	X				X	
Federal Income Tax	X	X			X		
Intellectual Property	X	X					
United States Supreme Court Amicus Program		X	X	X	X	X	X
Law Clerk Program		X	X	X	X		X

Some of the formative and summative assessments used by faculty include: midterm and final examinations, quizzes and short essays, litigation and transactional drafting assignments, simulations, seminar-style papers, and role-plays.<sup>37</sup> The Law School's assessment-driven and outcome-focused curriculum enables faculty members to identify students who are struggling to master fundamental legal concepts, and who have difficulty with legal analysis, writing, and other practical skills. Faculty can then choose to work with the student on these issues or refer them to academic success personnel for further skill development.

#### *B. The Experiential Component*

Academic success programs should focus on legal, not merely academic, competency. The skills needed to competently practice law include the following:

- analysis and reasoning;
- strategic planning;
- problem solving;
- practical judgment;
- evaluation, development, and mentoring;
- fact finding;
- researching the law;

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37. All syllabi for the fall 2015 semester have been completed in accordance with the law school's policy and approved by the Associate Dean for Faculty.



- networking and business development;
- questioning and interviewing;
- writing;
- creativity and innovation;
- organizing and managing others (staff/colleagues);
- negotiation skills;
- speaking;
- developing relationships within the legal profession;
- providing advice, counsel, and building relationships with clients;
- influencing and advocating;
- listening; and
- organizing and managing (own) work.<sup>38</sup>

To maximize student attainment of these skills *and* effectively engage struggling students, academic success programs need not—and should not—be disconnected from the doctrinal and skills curriculum. Instead, the curriculum should strive to integrate practical skill instruction, including legal writing and oral advocacy, into first-year and upper-level doctrinal courses. Ways may include, but are not limited to:

- performing research for a clinic that is filing a brief in a pending case;
- drafting pleadings, motions, and briefs; or
- conducting client interviews and role plays.

In addition, academic success courses should be integrated into the broader curriculum to ensure that concepts are re-enforced and students are receiving ongoing feedback in critical thinking and legal writing skills. This will underscore the importance of academic success programs for *all* students and create an educational climate that enhances preparedness for law practice. As discussed below, Indiana Tech Law School maximizes student achievement of learning outcomes and core lawyering competencies by integrating academic support into and throughout the law school curriculum.

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38. See Marjorie M. Shultz & Sheldon Zedeck, *Predicting Lawyer Effectiveness: A New Assessment for Use in Law School Admission Decisions* 26–27 (2008), [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1442118](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1442118).

### C. *The Integration Component*

Associate Dean Nelson Miller explains that there are three methods by which to integrate courses and subject matters to achieve a cohesive and competency-based curriculum. The first method “mix[es] knowledge, skills, and ethics courses throughout the curriculum.”<sup>39</sup>

Associate Dean Miller describes the second method as follows:

Another way to integrate dimensions of legal education is to do so within each course. Doctrinal courses like contracts, torts, criminal law, and property can include skills and ethics dimensions in which students research, write, plan, resolve, and advocate. Students can observe and practice political, social, economic, and moral counsel in doctrinal classes, while reflecting on their emerging professional identities. Saturating first-year doctrinal courses with practical skills and professional identity is a good approach because it is from that mix of doctrinal study with professional context that covenant, justice, prosperity, compassion, and consent take authentic rather than abstract shape.<sup>40</sup>

The third method of integration is “by module carried across the curriculum,”<sup>41</sup> which enables students to continuously develop their skills.

Indiana Tech’s curriculum incorporates the above methods in a manner consistent with the Carnegie and MacCrate Reports, *and* goes one step further.<sup>42</sup> As discussed below, beginning at orientation and continuing through all three years, academic success, doctrinal, and skills courses are united by real-world hypotheticals that require students to simultaneously acquire *and* apply foundational legal concepts to real world drafting assignments and simulations (vertical integration). Furthermore, drafting assignments are chronologically sequenced to mirror law practice (horizontal integration). In addition, Indiana Tech Law School devotes *thirteen* credits to required legal writing courses over six semesters, more than *double* the average of ABA-approved law

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39. Nelson P. Miller & Heather J. Garretson, *Preserving Law School’s Signature Pedagogy and Great Subjects*, 88-MAY MICH. B.J. 46, 46–47 (2009).

40. *Id.* at 47.

41. *Id.*

42. See CARNEGIE REPORT, *supra* note 21; see also, MACCRATE REPORT, *supra* note 21.

schools nationwide.<sup>43</sup> Furthermore, summative, end-of-semester assessments are transformed into formative assessments that are used to evaluate each student's progress in the subsequent semester and identify areas where students need particularized instruction. This approach to integration results in a program of legal education that is predicated on comprehensiveness, continuity, and cohesion. The centerpiece of this model is the cross-curricular hypothetical, which enables collaboration between doctrinal, skills, and academic success faculty.

1. *Academic Success Across the Curriculum: The Cross-Curricular Hypothetical—Horizontal and Vertical Integration*

It is well established that “[e]ngaging with struggling students, giving them new and different tools to study material and perform on exams, is proven to be effective in improving struggling students’ grades and bar passage rates.”<sup>44</sup>

Indiana Tech Law School employs this approach in meaningful and pedagogically sound ways. A highlight of the Law School’s program of legal education is its cross-curricular model, which is in its second year of full implementation. On the first day of classes, students receive a multi-issue fact pattern which includes issues from all first-year doctrinal courses, and, over the course of three semesters, litigate a hypothetical case from start to finish. The cross-curricular model is based on principles of *horizontal* and *vertical* integration.

a. *Horizontal Integration*

Horizontal integration, a term created by Indiana Tech Law School when designing the cross-curricular hypothetical, simply means that drafting assignments and simulations in the cross-curricular hypothetical are sequenced chronologically to mirror law practice. In the first semester of the students’ first year, students perform an initial client interview, conduct legal research, and

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43. See ASS’N OF LEGAL WRITING DIRS., *supra* note 25 (stating that law schools dedicate an average of 5.71 credits to required legal writing courses); cf. BARBRI, STATE OF THE LEGAL FIELD SURVEY 5 (2015), [http://www.thebarbrigroup.com/files/white-papers/220173\\_bar\\_research-summary\\_1502\\_v09.pdf](http://www.thebarbrigroup.com/files/white-papers/220173_bar_research-summary_1502_v09.pdf) (stating that 41 percent of attorneys and 51 percent of faculty members believe that writing is the most important skill needed for successful lawyering).

44. Christopher, *supra* note 16, at 169.

draft a retention agreement, a predictive memorandum, and complaint.

In the second semester, students draft a motion to dismiss, an answer, a first set of interrogatories and document requests, a motion to compel discovery, and a motion for summary judgment. The second semester concludes with an oral argument before a panel of fictional district court judges.

In the fall semester of their second year, students review the fictional district court's decision on the motion for summary judgment, draft an appellate brief, and perform oral arguments before a fictional appellate court. Furthermore, as discussed in more detail below, additional cross-curricular hypotheticals are given in the second and third years, which require students to draft litigation and transactional documents.

*b. Vertical Integration*

Vertical integration simply means that assignments are timed to coincide with relevant topics that are being covered in doctrinal courses. For example, in Contracts, students study contract formation principles (offer, acceptance, and consideration) immediately before drafting a retention agreement for their fictional client. In Civil Procedure, students study personal jurisdiction, subject matter jurisdiction, venue, and pleading rules immediately before drafting a complaint. The charts below demonstrate how the cross-curricular hypothetical is integrated into first-year doctrinal courses.

INDIANA TECH LAW SCHOOL					
1L INTEGRATION OF THE CROSS-CURRICULAR MODEL					
Fall 2015	Criminal Law	Contracts	Legal Research Component	Experiential Legal Writing I	Civil Procedure
Aug 24 to Aug 28	Intro, BYRD & Justifying Punishment	Basis of Contractual Obligation	Relative Weights of Authority	Courts, Precedents Rules & Pre-Assessment	Due Process: Notice & Opportunity
Aug 31 to Sept 5	<i>Actus Reus</i>	Basis and Consideration	Case Law	Rule Structure & Synthesis	Due Process: Hearing & Access
Sept 7 to Sept 11	Client Interview	UCC	Binding & Persuasive Authority	Rule Explanations & IRAC/CRAC	Due Process: Personal Jurisdiction

<b>Fall 2015</b>	<b>Criminal Law</b>	<b>Contracts</b>	<b>Legal Research Component</b>	<b>Experiential Legal Writing I</b>	<b>Civil Procedure</b>
Sept 14 to Sept 18	Rape & Intentional Homicide	Promissory Estoppel & Restitution	Research Design & Planning	Rule Applications & Organization	Due Process: Contracts, Contracts, Cyberspace
Sept 21 to Sept 25	Intentional & Unintentional Homicide	Retainer Agreement	Electronic Legal Research & Citation	Fact Gathering & Selection	Subject Matter Jurisdiction & Venue
Sept 28 to Oct 2	Felony Murder & Homicide Review	Statute of Frauds & Parole	Multi-Issue Research	Question Presented, Brief Answer & Facts	Subject Matter Jurisdiction & Venue
Oct 5 to Oct 16	Homicide & Midterm Review	Interpretation, Implied Terms & Warranties	Bluebook Citation Continued	Legal Analysis Section	Complex Litigation, Venue & Forum
Oct 12 to Oct 16	Midterm & Harm-Causation	Avoiding Enforcement	Secondary Sources	Predictive Memo—Discussion Section	Rule 8: Allegations
Oct 19 to Oct 23	Attempts	Avoiding Enforcement & Justification for Non-Performance	Statutes & Citations	Predictive Memo Feedback Loop	Rules 8 & 11: Policing the Proceeding
Oct 26 to Oct 30	Conspiracy	Justification for Non-Performance	State Statutes	Discussion Section Revisited	Rule 26: Discovery Tools & Scope
Nov 2 to Nov 6	Capital Punishment & Self-Defense	Third Parties & Consequences of Non-Performance	Identifying Relevant Law	Writing and Rewriting: Macro and Micro	Complaint
Nov 9 to Nov 13	Defense of Property & Law Enforcement	Consequences & Expectation Damages	Memo 3 Research: Planning	Brainstorming Memo 3	Rule 26: Discovery Tools & Scope
Nov 16 to Nov 20	Duress, Insanity & Intoxication	Expectation Damages & UCC Alternative	Pull It All Together	Memo 2 Feedback Loop	Judge, Jury, Joinder, Class Actions
Nov 23 to Nov 27	Theft & Related Offenses	Alternative to Expectation Damages	Citation Review	Effective Oral Presentations	Joinder & Class Actions
Nov 30 to Nov 4	Review	Alternative to Expectation Damages & Review	Review	Oral Presentations and Memo 3	Response & Precluding Claims & Issues

Spring 2015	Experiential Legal Writing II	Property	Torts	Foundations of Legal Analysis II	Experiential Legal Writing II
Jan 11 to Jan 15	Persuasive Writing	Introduction to Property	Assault & Battery	Reviewing First Semester Exam Performance	
Jan 18 to Jan 22	Drafting Motions to Dismiss, Part I	Life Estates & Defeasible Estates	Intentional Infliction and False Imprisonment	Reviewing First Semester Exams (cont'd)	
Jan 25 to Jan 29	Drafting Motions to Dismiss, Parts II & III	Future Estates	Trespass to Land	Know your Audience & Rule statements	
Feb 1 to Feb 5	Drafting Motions to Dismiss, Parts IV & V	Rule Against Perpetuities	Trespass to Property and Conversion	Facts, Inferences & Analysis	
Feb 8 to Feb 12	Motion to Dismiss	Concurrent Ownership	Negligence Duty	Analysis: Reasoning & Counters	
Feb 15 to Feb 19	Drafting Discovery & Answer	Recording & Title Searching	Negligence Special Duties	MC Assessment: Property & Torts	
Feb 22 to Feb 26	TO RIGHTMOST COLUMN→	Answer	Negligence Breach & Cause in Fact	Critical Thinking: MC Assessment	Motions in Limine, Parts I & II
Feb 29 to Mar 4		Selling Property	Negligence Proximate Cause	Critical Thinking: MC Assessment	Discovery & Motion for Summary Judgment
Mar 7 to Mar 11		Restraints on Alienation	Discovery	Reviewing Torts/Property Midterms	Motion for Summary Judgment & Motion in Limine
Mar 14 to Mar 18		Spring Break	Spring Break	Spring Break	Spring Break
Mar 21 to Mar 25		Eminent Domain	Contributory Negligence	Cross-Curricular: Designing Motion to Compel	Motion for Summary Judgment & Disputed Facts
Mar 28 to Apr 1		Nuisance	Comparative Negligence	Motion to Compel	The Rewriting Process

Spring 2015	Experiential Legal Writing II	Property	Torts	Foundations of Legal Analysis II	Experiential Legal Writing II
Apr 4 to Apr 8		Landlord-Tenant	Joint & Several Liability & Contribution	Motions for Summary Judgment	Revision & Oral Argument, Part I
Apr 11 to Apr 15		Adverse Possession	Assumption of the Risk	Practice Exam	Revision & Oral Argument, Part II
Apr 18 to Apr 22		Zoning and Takings	Age, Intoxication, Other Defenses	Practice Exam Review	Motion for Summary Judgment (with oral arguments)

The sequencing of assignments enables students to represent both parties to the hypothetical litigation, and to analyze the legal issues from the perspective of both plaintiff and defense counsel. Additionally, the sequencing of doctrinal topics allows students to acquire, analyze, and apply foundational legal concepts to documents they will encounter in law practice. In essence, the cross-curricular model teaches students to *practice* like lawyers.

After every assignment in the cross-curricular hypothetical, students receive individual feedback from doctrinal and legal writing professors with detailed rubrics that collaboratively assess substantive legal knowledge and writing ability. Next, students engage in substantial re-writing based on the feedback they receive. By requiring students to draft many of the litigation and transactional documents they will encounter in practice, the cross-curricular model helps students understand the context within which law is practiced. In addition, students develop the legal competencies needed to effectively and ethically represent future clients. The charts below summarize the assignment sequencing and due dates for Indiana Tech Law School's Fall 2015 cross-curricular hypothetical, and shows where Indiana Tech Law School's academic success courses (*Foundations of Legal Analysis I–VI*, discussed in more detail below)<sup>45</sup> are placed in the curriculum.

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45. See *infra* Part III.B.2.

<b>FALL SEMESTER—FIRST YEAR</b>		
<b>Course</b>	<b>Assignment</b>	<b>Due Date</b>
Criminal Law	Client Meeting	September 8
Contracts	Retention Agreement	September 17
Legal Research	Multi-issue research assignment	September 24
Experiential Legal Writing I/ <i>Foundations of Legal Analysis I</i>	Predictive Memorandum	October 8
Civil Procedure	Complaint	November 10

<b>SPRING SEMESTER—FIRST YEAR</b>		
<b>Course</b>	<b>Assignment</b>	<b>Due Date</b>
Experiential Legal Writing II	Motion to Dismiss for Lack of Personal Jurisdiction and Failure to State a Claim (under Federal Rules of Civil Procedure)	February 9
Property	Answer	February 18
Torts	Discovery	March 3
<i>Foundations of Legal Analysis II</i>	Motion to Compel Discovery	March 11
Experiential Legal Writing II	Motion for Summary Judgment	April 15

The cross-curricular model extends into the second and third years, thus enabling students to further develop their legal reasoning, writing, research, and communication skills.

In the fall semester of the second year, the cross-curricular model focuses on hypothetical litigation involving a claim under 18 U.S.C. § 1983, and interweaves social justice issues into course assignments. The chart below sets forth the assignment sequencing.



<b>FALL SEMESTER—SECOND YEAR</b>		
<b>Course</b>	<b>Assignment</b>	<b>Due Date</b>
Experiential Legal Writing III	Memorandum (issue: interlocutory appeal of a denial of summary judgment on qualified immunity grounds under 18 U.S.C. § 1983)	September 10
Professional Responsibility	Memorandum (issue: the presence of an actual or apparent conflict of interest)	October 1
Constitutional Law	Motion in Opposition to Summary Judgment	October 26
<i>Foundations of Legal Analysis III</i>	Review and partial rewrite of Motion in Opposition to Summary Judgment	November 21

In the spring semester of the second year, the cross-curricular hypothetical focuses on transactional drafting. The hypothetical involves two individuals who agree to form a limited liability partnership, which includes an anti-assignment clause. The agreement provides that, upon the death of either co-owner, the entire interest in the LLC will transfer to the surviving owner. Shortly after the agreement is signed, one of the co-owners assigns his rights in the LLC to a third party. At the time of the assignment, the unsuspecting co-owner contracts a rare illness and decides to draft a will bequeathing the entire LLC to his children. When the co-owner dies, the third-party files a complaint asserting a one-half interest in the LLC. The cross-curricular hypothetical ends with the filing of an answer by the deceased co-owner's children.

The hypothetical enables students to draft an LLC Operating Agreement, a Contract Assigning Rights to a Third Party, a will, a complaint, and an answer. Below is a summary of the assignment sequencing and due dates for the transaction-based cross-curricular hypothetical.

SPRING SEMESTER—SECOND YEAR		
Course	Assignment	Due Date
Business Associations	LLC Operating Agreement (with anti-assignment clause)	February 11
Commercial Law	Contract Assigning Rights (on behalf of one co-owner in violation of the anti-assignment clause)	March 3
Wills, Trusts, and Estates	Last Will and Testament (on behalf of the other co-owner of the LLC)	March 24
Experiential Legal Writing IV	Complaint (alleging breach of the anti-assignment clause)	April 14
<i>Foundations of Legal Analysis IV</i>	Answer	April 28

The cross-curricular model in the third year focuses on litigating a dispute in a criminal context. The fall 2015 hypothetical focuses on an alleged illegal search of a digital device by law enforcement. Students are required to draft a memorandum and motion to suppress in Evidence and Criminal Procedure class, respectively. In doing so, every student is required to compile a portfolio of all graded writing assignments in the cross-curricular hypothetical, including rewrites. Thus, the culmination of work over the three years not only provides each student a portfolio of work by which to measure their progress and proficiency in legal writing and other professional skills, but it also provides them documents to show potential employers the competencies they have acquired.

Finally, the cross-curricular model is consistent with the processes governing *how* students learn and process information, typically referred to as metacognition.

[T]here is a body of research related to how children learn that supports curriculum integration . . . . The brain organizes new knowledge on the basis of previous experiences and the meaning that has developed from those experiences. The brain processes many things at the same time, and holistic experiences are recalled quickly and easily. “The human brain . . . actively seeks patterns and searches for meaning through these patterns.”

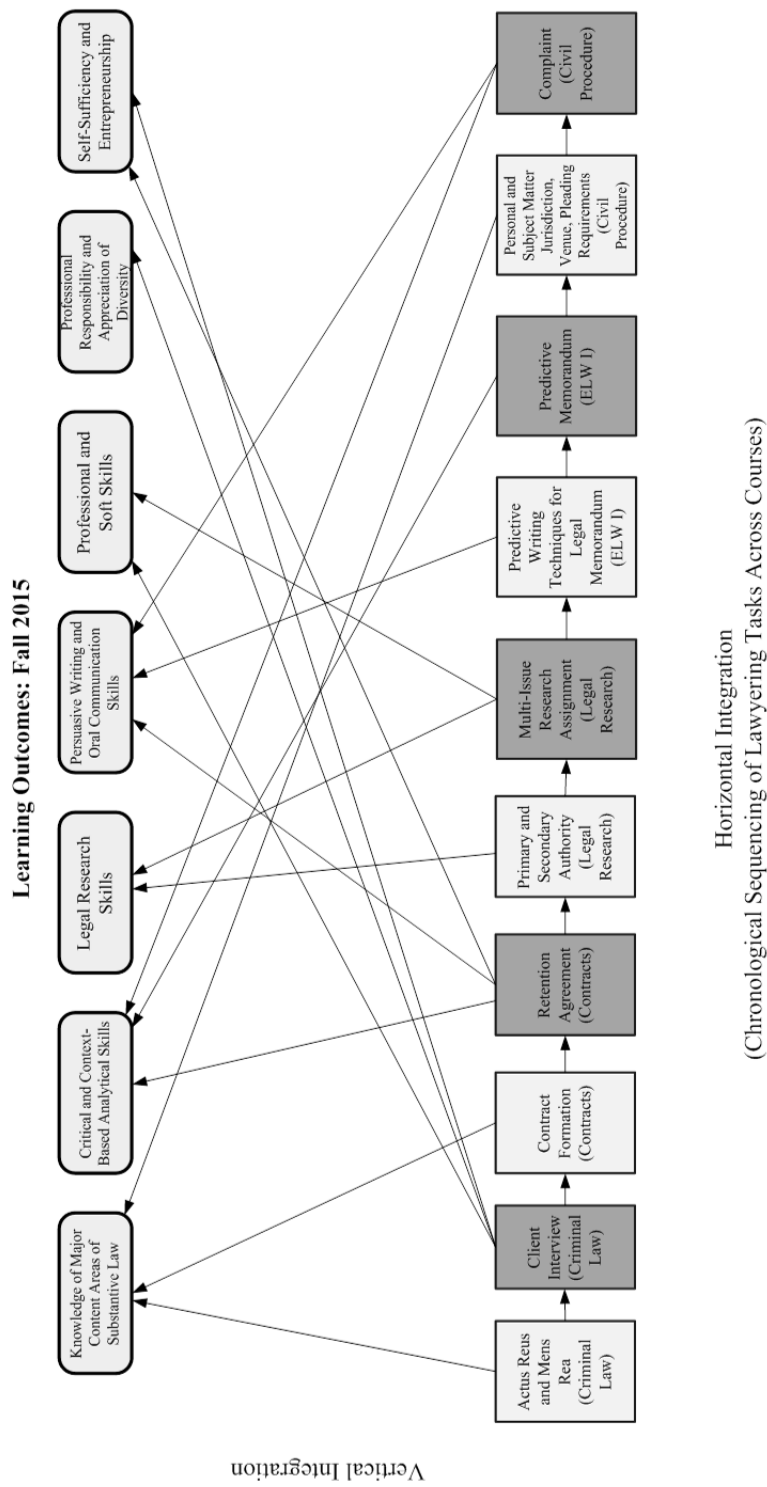
In fact, the brain may resist learning *fragmented facts that are presented in isolation*. Learning is believed to occur

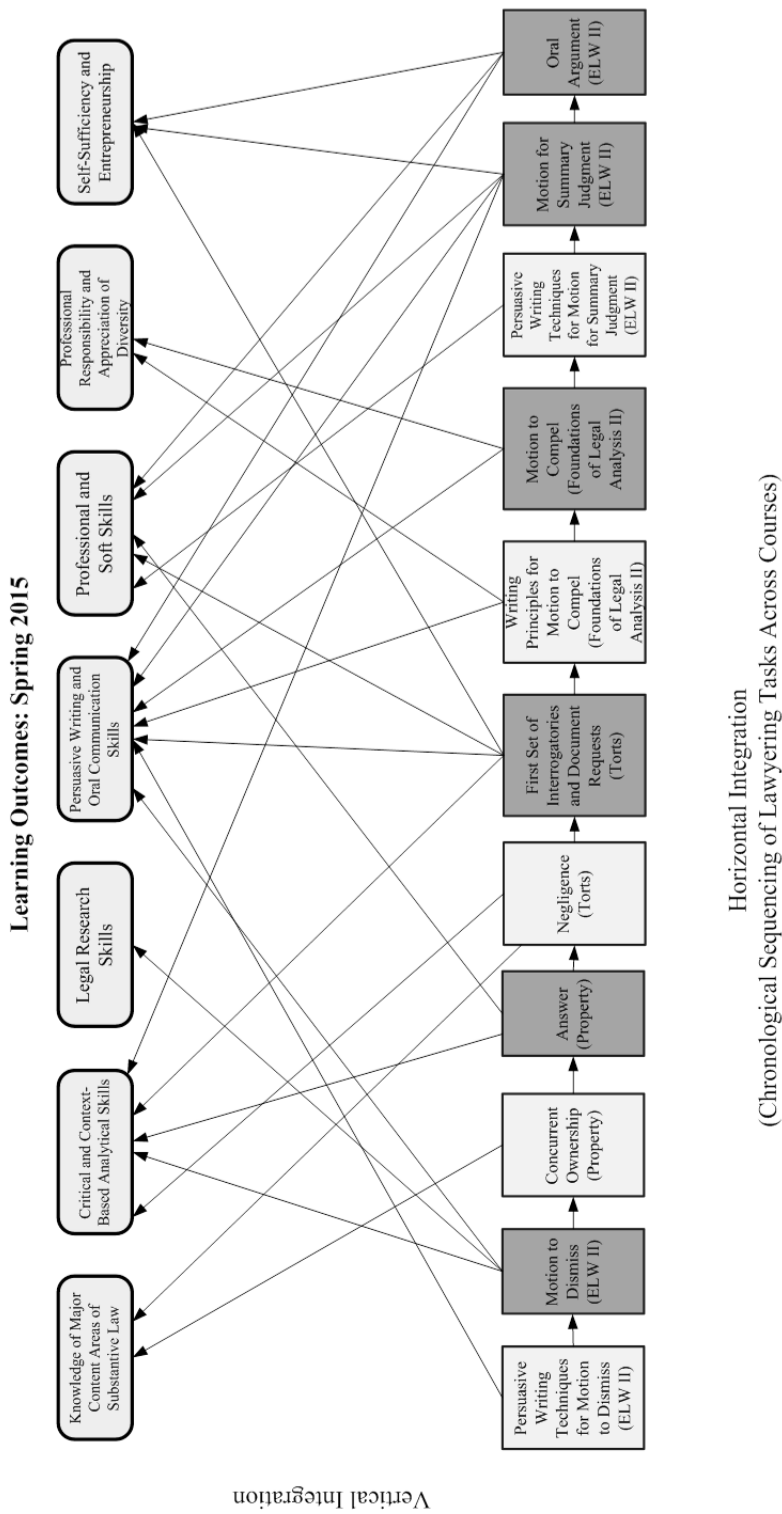
faster and more thoroughly when it is presented in *meaningful contexts, with an experiential component.*<sup>46</sup>

By integrating doctrine, skills, practice, *and* academic success concepts, law schools can enhance the quality of each student's learning process maximizing the outcomes of students. The diagram below shows the outcomes (and competencies) that students attain in the first-year cross-curricular model:

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46. Kathy Lake, *Integrated Curriculum*, in SCHOOL IMPROVEMENT RESEARCH SERIES (1994) (emphasis added) (quoting B. SHOEMAKER, INTEGRATIVE EDUCATION: A CURRICULUM FOR THE TWENTY-FIRST CENTURY 13 (1989)), <http://educationnorthwest.org/sites/default/files/integrated-curriculum.pdf>.





## 2. *Academic Success Throughout the Curriculum*

Studies demonstrate that “[p]rograms focusing on improving academic preparation must start early in a student’s life, must be intensive, and must persist during all levels and grades of schooling.”<sup>47</sup> Indiana Tech Law School’s academic success program is administered by an experienced legal educator, spans six semesters, and, in addition to inclusion in the cross-curricular hypothetical, focuses on academic success and bar preparation. The chart below summarizes Indiana Tech Law School’s six academic support courses, which total nine credits.

ACADEMIC SUPPORT COURSES		
Course	Credits	Topics
Foundations of Legal Analysis I	One	Time and Stress Management, Case Briefing and Analysis, Outlining, Legal Reasoning and Analysis, and Test-Taking Skills
Foundations of Legal Analysis II	One	Legal Reasoning and Analysis, Test-Taking Skills, Writing and Research Techniques
Foundations of Legal Analysis III	One	Legal Reasoning and Analysis, Test-Taking Skills, Writing and Research Techniques
Foundations of Legal Analysis IV	One	The Multi-State Performance Test (MPT)
Foundations of Legal Analysis V	Two	The Multi-State Bar Examination (MBE)
Foundations of Legal Analysis VI	Three	Comprehensive Bar Review—the MPT, MBE, and Indiana Essay Questions

Students with a grade point average of 3.25 or above (calculated on a non-cumulative basis) may waive out of Foundations II & III, but no student may waive out of Foundations I, IV, V, & VI. Below is an in-depth description of the courses.

### FOUNDATIONS OF LEGAL ANALYSIS I (ONE CREDIT)

*Foundations I* focuses on developing student competency in the following:

- the structure of the state and federal court system;
- the different parts of a judicial opinion;
- briefing cases;
- analytical and logical reasoning skills;

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47. Parker & Redfield, *supra* note 1, at 69.

- legal analysis (e.g., extracting the rule of law from a case, distinguishing holdings from dicta, and the role of policy);
- applying the law to a given set of facts;
- legal writing and research skills;
- organizing and synthesizing cases;
- distinguishing relevant facts from irrelevant facts, primary versus secondary authority, and binding versus persuasive authority;
- principles of statutory interpretation;
- test-taking skills for law school exams, including issue spotting and analyzing legal issues from competing perspectives;
- strategies for answering multiple-choice questions;
- outlining; and
- time and stress management.

*Foundations I* begins during orientation where students are presented a legal hypothetical in which they are approached by a client to help the client resolve a legal matter. Spanning the course of eight hours over three days, the hypothetical is used to jumpstart their law school academic career, as well as begin to establish their professional identity. For example, the first issues discussed in the context of the hypothetical are the importance of time management for a practicing lawyer when taking on new tasks. The students then transfer this concept to creating their own law school schedule which maps out study time, work hours, family time, and class time.

Then the students return to the hypothetical to discuss the professional persona they want to project to their client. They are then taught that their professional persona as a lawyer begins with their first day of law school. Proper decorum in a law school class environment is reviewed with the students.

The students continue to work through the hypothetical and learn how to identify the different parts of a judicial opinion. In addition, students are required to brief cases relevant to the hypothetical. The doctrinal professors then conduct mock classes to acquaint students with the law school classroom and discuss the legal issues presented in the hypothetical. Put simply, the hypothetical is the vehicle by which students develop context-based analytical skills. The orientation period ends by debriefing the experience and then connecting it to, and introducing, the *Foundations of Legal Analysis I* course and their first year cross-curricular hypothetical.

*Foundations I* departs from the hypothetical model used during orientation, but does take part in the first year cross-curricular hypothetical as a portion of the class. *Foundations I* picks up on topics not covered during orientation, such as note-taking and outlining skills, test-taking skills, etc. and also further develops skills jumpstarted in orientation. However, *Foundations I* is partnered with their first year doctrinal courses to teach these skills to make this skill development relevant. The formative assessments outlined below are developed in conjunction with doctrinal faculty. Some assessments are even administered during the doctrinal course and then deconstructed as a skills lesson in the *Foundations I* course.

Additionally, through a contractual agreement with BARBRI, essay and multiple-choice questions are available to provide additional student practice. These exercises are coordinated between the *Foundations* and doctrinal professors. One of BARBRI's tools is BARBRI AMP, which is a powerful, interactive online software program that students have access to at Indiana Tech Law School. This online learning program adapts to each student's learning habits, provides performance feedback, identifies knowledge gaps and areas most in need of improvement, and thereby focuses study time more efficiently. It helps students to learn faster and retain information longer. Used as a formative assessment tool, it reinforces the black-letter law of bar-critical classes and ensures a strong foundation in these subjects.

The formative assessments during this course include the following:

- logical Reasoning and Writing Assessment;
- three case-briefing assignments covering all three first-semester doctrinal courses;
- three essay practice exams covering all three first-semester doctrinal courses; and
- one multiple-choice assessment covering all three first-semester doctrinal courses.

An individualized academic success plan is created for every single law student based on the formative assessments administered during the *Foundations I* course. The plan is reviewed at least once a year with the student. This academic success plan is driven by the results of formative and summative assessments administered within the *Foundations* courses, as well as from referrals from doctrinal professors based upon class performance. This is



designed to ensure all students are working to their fullest potential.

#### FOUNDATIONS OF LEGAL ANALYSIS II (ONE CREDIT)

*Foundations II* focuses on the same outcomes and objectives as *Foundations I*, but provides individualized instruction to each student based on weaknesses identified in his or her performance on first-semester assessments and examinations. Students who obtain a grade point average of 3.25 or higher after the first semester are eligible to waive out of *Foundations II*. However, students who waive out of the course are still required to meet with law school personnel to review their individual academic success plans.

The course begins by using the summative assessments from their first-term doctrinal courses as a formative assessment tool as they continue on to their second semester of law school. This inter-curricular cohesion effectuates skill transference between doctrinal courses. Students self-evaluate their summative assessments from the first term not only to revisit their substantive strengths and weaknesses, but also to review the structural and organizational aspects of the exam they communicated on the writing portions. They identify what they need to work on to be more successful in the second term. Often these weaknesses are not just individual problems but can be seen to some degree in the entire cohort, which will drive the emphasis of the teaching in the rest of the *Foundations II* course. Individual academic success plans are updated after students self-evaluate how they performed in their first term to ensure they do better the second term. The deficient areas within the cohort are then remedied using second-semester course content, in partnership with the doctrinal professors. Any individual problems that cannot be addressed through *Foundations II* are addressed through small group or one-on-one instruction, and outlined in their individual academic success plan.

Formative assessments include the following:

- self-evaluation of their first semester summative assessments;
- practice essay exams based on second-semester doctrinal courses;
- legal writing assignments that require students to research various legal issues and predict how a court is likely to rule on those issues;

- multiple-choice exams based on second-semester doctrinal courses; and
- one “umbrella” practice exam that includes legal issues from all second-semester courses.

#### FOUNDATIONS OF LEGAL ANALYSIS III (ONE CREDIT)

*Foundations III* continues to tailor instruction and assessments based on the individual weaknesses of each student and the identified cohort needs. Theoretically, this class will be smaller than the *Foundations II* course as students meet their academic success plan goals to improve their grades, thus possibly making them eligible to waive out of this third semester course. Students who achieve a second semester GPA of 3.25 or better are eligible to waive out of this class. This course revisits the individual academic success plan and updates are included as students continue to hone skills necessary to be successful in law school.

The range of formative assessments is similar to *Foundations II*. However, students shift from an individual approach to improving their academic success to a more collaborative approach as a way to continue working on skills. Students are teamed up to work through assignments as a law firm. This collaborative approach helps students apply academic success skills in a different, and perhaps more interesting way, and helps students develop ‘soft’ skills, such as interpersonal communication and problem-solving. Ultimately, this approach prepares students for clinics, externships, and the practice of law.

This course’s emphasis is placed on reinforcing critical analysis skills, including reading comprehension, issue identification, separating relevant from irrelevant facts, articulating the specific rules of law being tested, and critically applying relevant law to relevant facts and reaching a correct conclusion. This skill area is developed so students perform better in their doctrinal classes and upper level writing classes, but also to ensure development of skills needed for the *Foundations IV* class, which focuses on performance testing.

Students with academic needs that cannot be addressed through *Foundations III* are addressed through small group or one-on-one instruction, and outlined in their individual academic success plan.

BARBRI AMP and other formative assessment tools BARBRI offers will continue to be available to our students for traditional

upper level bar-critical courses. Formative assessments include the following:

- group problem-solving exercises;
- practice essay exams based on upper-level doctrinal courses;
- legal writing assignments that require students to research various legal issues and predict how a court is likely to rule on those issues;
- multiple-choice exams based on upper-level doctrinal courses; and
- one “umbrella” practice exam that includes legal issues from all upper-level courses.

#### FOUNDATIONS OF LEGAL ANALYSIS IV (ONE CREDIT)

*Foundations IV* will begin the students’ formal preparation for the bar exam and focus exclusively on the Multistate Performance Test (MPT), which is tested in Indiana and a majority of other jurisdictions. However, all of the skills honed during Foundations I through III are relevant to the skills needed when completing an MPT. Thus, the courses are a continuum of skill development, building on previous course work. Academic success plans are reviewed again, particularly because some students may have waived out of Foundations II and/or Foundations III.

The MPT requires examinees to: (1) sort detailed factual materials and separate relevant from irrelevant facts; (2) analyze statutory, case, and administrative materials for applicable principles of law; (3) apply the relevant law to the relevant facts in a manner likely to resolve a client’s problem; (4) identify and resolve ethical dilemmas, when present; (5) communicate effectively in writing; and (6) complete a lawyering task within time constraints. Thus, the formative assessments for this course include four full-length Multistate Performance Tests with individual feedback. By completing these assignments, Indiana Tech Law School prepares students for the MPT and helps students develop proficiency in the types of skills, such as predictive and persuasive writing, that are needed for law practice.

Following the end of *Foundations IV*, students must complete BARBRI AMP modules for two Multistate Bar Exam (MBE) subjects during the summer between their second and third year as they ramp up the intensity of bar preparation through their final year of law school.

FOUNDATIONS OF LEGAL ANALYSIS V—BARBRI EXTENDED BAR REVIEW (TWO CREDITS)

*Foundations V* uses BARBRI's Extended Bar Review materials to ease students into bar preparation by allotting more time for instruction and applied practice by sharply focusing on contextualized substantive review of the most heavily tested MBE doctrines. Students gain a strong conceptual understanding and in-depth knowledge of highly tested doctrines across three MBE subjects and are taught how to develop, use, and apply a flexible, yet strong, analytical framework to solve bar exam problems.

Students must complete BARBRI AMP modules for three additional MBE subjects as part of this course. They will also receive a preliminary diagnostic exam at the beginning of the term that includes one bar-style essay and 100 MBE-style multiple-choice questions as a baseline exam. Based upon this exam, academic success plans are reviewed and revised.

Formative assessment during the course includes:

- preliminary diagnostic exam;
- periodic quizzes;
- midterm exam; and
- comprehensive final exam.

Furthermore, faculty mentors are assigned at this point to help students transition through this last phase of law school and beyond to the bar exam and the practice of law.

FOUNDATIONS OF LEGAL ANALYSIS VI—BARBRI EXTENDED BAR REVIEW (THREE CREDITS)

*Foundations VI* continues the use of BARBRI's extended Bar Review materials, focusing on the MPT, two additional MBE subjects, and Indiana Essay Questions. Students must complete BARBRI AMP modules for two additional MBE subjects as part of this course. Based upon the comprehensive final exam in *Foundations V*, academic success plans are updated to reflect areas still in need of development, which their bar mentor can use when working with the student. Formative assessments include the following:

- fifty question diagnostic/baseline exam;
- periodic quizzes;
- midterm exam; and
- comprehensive final exam.

### POST-GRADUATION

After graduation, and pursuant to the Law School's agreement with BARBRI, Indiana Tech Law School pays for each student's bar review course.

Additionally, Indiana Tech Law School continually monitors and supports graduating students' progress in preparing for the bar exam through the bar mentoring that began at the beginning of the student's final year of law school. The school will also offer an individualized, post-graduation study plan based on the *Foundations VI* post-assessment. Based on cohort needs, periodic workshops to review bar skills may be offered to students studying for the bar exam, as well as ongoing individual assistance.

### THE WRITING CENTER—AN ADDITIONAL RESOURCE AT INDIANA TECH LAW SCHOOL

In addition to the formalized academic success program described above in the *Foundations I–VI* courses, Indiana Tech Law School recently launched a new Writing Center beginning with the fall 2015 semester. The Writing Center will be staffed by legal writing faculty and provide individual and group instruction—through periodic writing workshops—to interested and at-risk students on a weekly basis throughout the academic year. As part of their teaching responsibilities, members of the legal writing faculty will spend approximately four hours per week assisting students with legal writing, research, and reasoning skills. In addition, qualified upper-level students and an adjunct writing specialist may eventually be hired to work in the Writing Center.

The Center's focus will depend on the needs of each student, but will include instruction in the following areas:

- legal reasoning and analysis;
- beginning and advanced writing techniques (predictive and persuasive);
- grammar and style rules;
- organizing a legal argument using IRAC/CRAC (large and small-scale);
- writing in a concise and straightforward manner;
- rewriting and revision, including for repetition, sentence length, word choice, and clarity; and
- applying writing techniques in light of the document being drafted.

The Writing Center will be available to students in two ways. First, students who perform poorly on a pre-course diagnostic assessment given by legal writing instructors during the first week of classes will be required to schedule weekly (or bi-weekly) sessions in the Center with one of the legal writing instructors. Students may also be assigned to the Center based on their performance on cross-curricular assignments, or on other assignments in legal writing or doctrinal courses that suggest the need for additional assistance. However, the Center will also be available to any student who wishes to improve their writing skills.

*D. Referral Process and Feedback Loops*

No competency-based, outcome-driven curriculum would be complete without a system in place to ensure effective and efficient delivery of the program. Although Indiana Tech Law School integrates academic success and experiential writing programs into the curriculum, inevitably there are students who need additional services. A process to refer and track student contact with faculty and academic success staff has also been implemented at Indiana Tech Law School. Furthermore, to ensure the student learning outcomes are met, the Law School assembled the Program Assessment Committee to carefully monitor and assess the program of legal education, and to propose changes where needed.

*1. Referral Process and Tracking of Student Contact*

Indiana Tech Law School has created a fully electronic system of referral and tracking of students needing additional academic success services, such as group work, one-on-one tutoring, or the Writing Center. The goal of the referral and tracking process is to ensure that students receive services on a consistent and continuous basis.

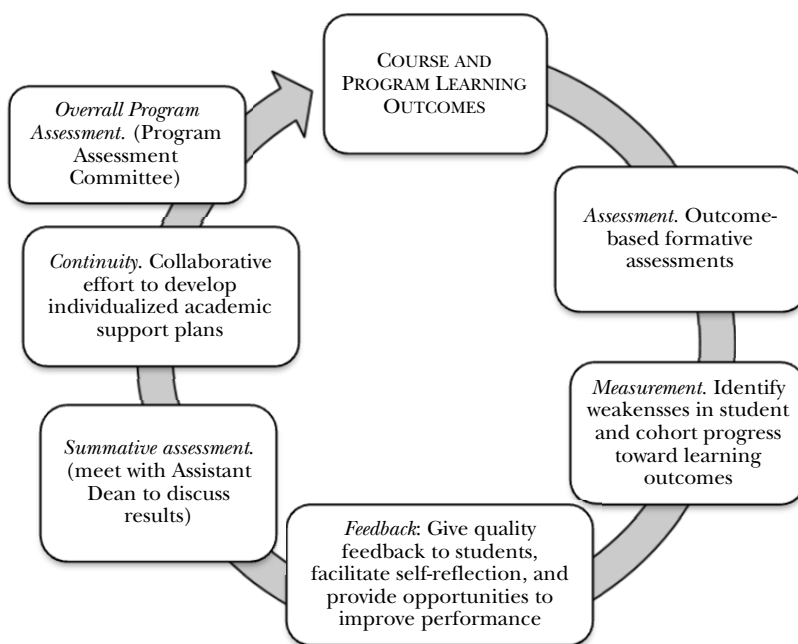
Currently, Indiana Tech Law School's Assistant Dean for Student Advancement and Assessment accepts e-mail referrals from faculty for further services. These referrals can be made by faculty following in-class formative assessments or other classroom observations. Through a collaborative effort between the faculty member, the Assistant Dean, and the student, services are identified and offered. Those services are documented on the student's individual success plan, which is shared with the student and kept as an electronic spreadsheet. Although this system is

electronic, ultimately, we foresee a more fully electronic referral and tracking system on the internal portal that houses all of this information in one place where reports can be drawn. Links will be posted on the internal portal for faculty to complete a referral form. Once submitted, an alert to the appropriate personnel will be sent for follow-up. Additionally, a link to create an academic success plan will send the information to a database where all information from referrals and success plans will be housed so reports could easily be drawn. A fully electronic system would better ensure no interruption of services offered to students.

## 2. *Measurement of Student Performance Through Feedback Loops*

A final part of the process that completes a fully integrated system is a process to assess the services and methods used to meet Indiana Tech Law School's program outcomes.

To ensure the depth and thoroughness of this evaluation, feedback loops are used to measure student and cohort attainment of learning outcomes, evaluate the effectiveness of formative, reflective, and summative assessments, and ensure that faculty feedback is specific, timely, and relevant. Indiana Tech Law School's feedback loop model strives to achieve five core objectives: (1) outcome measurement; (2) individualized and cohort assessment; (3) feedback quality and continuity; (4) assessment efficacy; and (5) overall program assessment. The diagram below summarizes the process of evaluating the students and overall quality of the program of legal education.



The end-of-year report provided to the Dean and faculty includes an analysis concerning the efficacy of formative and summative assessments, particularly in achieving course-specific learning outcomes. The report will include data measuring student progress and, where appropriate, suggestions for changes.

Ultimately, this evaluation process is made possible by the size, dedication, and collegiality of its faculty. Perhaps most importantly, it reflects Indiana Tech Law School's commitment to providing an educational experience that combines the best practices of traditional approaches with competency-based pedagogies that meet the needs of its students and the demands of a changing legal profession.

#### IV. CONCLUSION

Academic support programs can provide "well-developed law school pedagogy around analysis, critical thinking, and oral and writing skills in the context of an extraordinarily appealing subject-matter."<sup>48</sup> Relegating an academic success program to the dark corners of legal education perpetuates a stigma that undermines

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48. Parker & Redfield, *supra* note 1, at 72.



the program's objectives, understates its relevance in the curriculum, and undervalues the program's potential to serve students of all skills levels. The recent expansion of academic success programs reaffirms these principles:

ASP has grown from its initial roots in one school's summer program, to a body of teaching pedagogy that is incorporated into virtually every American law school. Today, schools offer a broad range of programs including individual tutorial services, first-year programs that assign third-year mentors to lead student study groups, programs that teach academic support through the substantive law, and programs that assist students throughout their three years of law school.<sup>49</sup>

The integration of academic success courses with the broader curriculum is an essential component of creating a program of legal education that maximizes student attainment of learning outcomes and acquisition of core legal competencies. Indeed, curricular cohesion and the principled unification of all components of legal education—thinking, writing, and doing—is part of a pedagogical foundation that will train students to *practice* like lawyers.

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49. Leslie Yalof Garfield, *The Academic Support Student in the Year 2010*, 69 UMKC L. REV. 491, 498 (2001).