

A Call, and Roadmap, to Create Legal Research Classes that Meet the Experiential Standard

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Alyson M. Drake, [The Need for Experiential Legal Research Education](#), 108 **Law Libr. J.** 511 (2016).

Experiential learning is currently one of the buzz words of legal education. Recent changes to the *ABA Standards and Rules of Procedure for Approval of Law Schools* have focused greater attention on learning outcomes and assessment and increasing opportunities for learning and practicing skills that students will use as attorneys. In fact, ABA Standard 303(a)(3) requires a minimum of 6 credit hours of experiential course work.

Traditionally, experiential learning was widely thought to be the domain of law school clinics and externships, or field placements. However, the increased credit hour requirement for experiential learning has caused law schools to review their curriculum and determine whether sufficient experiential learning opportunities exist to meet the minimum requirement. Accordingly, there is a push to design new courses, or redesign existing courses, to meet a third type of experiential learning termed simulation courses, as described in ABA Standard 304. In order to qualify as a simulation course under the standard, a course should provide an experience “reasonably similar” to client representation although the student is not working with a real client.

Professor [Alyson M. Drake’s article](#) calls for the creation or retooling of stand-alone research classes that will meet the requirements to be designated as experiential classes. An increase in the number of research classes categorized as experiential will provide two benefits. First, and most importantly, it can serve to provide additional legal research instruction beyond the first year of law school. It will also support the mission of law schools to expand course offerings that meet the experiential standard.

Although classes in legal research have traditionally been sparse and under-valued in law schools, this approach does not match the necessity for proficiency in legal research needed as a practicing attorney, or the amount of an attorney’s time that is devoted to legal research. Professor Drake notes that newer attorneys spend approximately 35% of their time on legal research. More experienced attorneys spend approximately 18% of their time doing research. In contrast, Professor Drake notes that hiring attorneys often assess new attorney research skills as needing improvement. Providing more legal research instruction, in a format that closely mimics the work of a practicing attorney, will produce students who are better prepared to transition to practice.

Professor Drake’s article provides a very useful overview of the history of this shift in the ABA Standards and legal education in general. Similarly, the article also provides a breakdown of the Standards and how they can be interpreted in regards to experiential education and, in particular, simulation courses. This background and analysis of the standards is quite useful for those seeking to understand the context of the shift toward increased experiential learning as well as those seeking to create experiential learning opportunities in legal research courses.

Finally, Professor Drake discusses several current legal research teaching methods and how they might

be retooled to satisfy the requirements of Standard 304. She breaks down the components of different pedagogical structures, highlighting which components are likely to already meet the requirements, which aspects might not, and recommending ways in which those components might be restructured to meet the standard.

Professor Drake begins with the “traditional legal research course,” described as “those where the lecture takes place during class time.” (P. 529.) Some classroom practice is usually included, but the balance between lecture and practicing skills can vary significantly. A traditional class of this sort may be the most challenging to convert to an experiential model. However, Professor Drake offers several changes to a traditional class that could support its meeting the ABA requirements for an experiential class. These include ensuring the balance between lecture and practice weighs most heavily toward practice, using assignments that closely approximate problems likely to occur in practice, and limiting class size so that the professor can provide “direct supervision.”

Professor Drake goes on to discuss key components of flipped, online, and specialized legal research courses and outlines several suggestions for how these courses can be retooled to meet the experiential requirements. Her article is a call to create experiential legal research courses, but it goes farther by providing a roadmap that can be used to design new classes or restructure existing classes. Legal research is a critical lawyering skill; however, it is also an area where hiring attorneys believe new attorney skills are lacking. This gap between the necessity of efficient and effective research and ability at law school graduation creates an opportunity for the growth of legal research courses in the curriculum.

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