

Combating Junior Lawyer Fallout — Part II

Law360, New York (April 1, 2011) -- In [Part I](#) of this series, I discussed how junior lawyers need to be trained with practical skills now, more than ever. Yet, the junior lawyer training model has changed. Clients are no longer willing to pay for the junior law firm lawyer to be trained. Work is being disaggregated and sent overseas or it is being performed by lawyers at lower rates or by nonlawyer professionals.

Given the diminishing demand for legal work and clients' unwillingness to pay for training, law firms are reluctant to incur the financial obligation of training. In turn, firms are reducing the size of their incoming class of associates. Thus, the key stakeholders in the profession are no longer willing or able to assume the cost and responsibility for training junior lawyers. The result is Junior Lawyer Fallout.

Many would say that the true answer to solving the junior lawyer training problem is simply to reduce the number of incoming lawyers. If we reduce the incoming pool of lawyers, the training problem might go away. While this may be true, it has not happened. In fact, law school class sizes have increased and new law schools continue to open. While the junior lawyer training problem grows, I propose a three-pronged approach to resolve the training conundrum and rethink the future of legal education.

Law School Class Time Should be Two Years, Not Three

Law school class time should be reduced from three years to two. Law school has become prohibitively expensive and many in the profession agree that the current law school curriculum no longer prepares law students for practice. Legal education has increasingly come under scrutiny by The Carnegie Report, among others, that urge law schools to integrate practical training into the traditional law school analytical courses to better prepare students to contribute as lawyers.

My suggestion is to collapse the second and third years into one. Northwestern University School of Law has been progressive in recognizing the simultaneous deficiency and opportunity in law school education and it has created an accelerated JD program in two years, with a full semester of experiential learning in the third year.

Reducing law school class time from three years to two would greatly help the growing problem of law student debt and the increased recognition that law schools are inadequately preparing law students for practice. The shortened curriculum would also allow law schools to focus on what they do best — educating students in substantive law and thoughtful analysis to enable a student to “think like a lawyer.”

A Public Service Internship Should be Required in Lieu of the Law School Third Year

A one-year public service internship, immediately following the first two years of law school, should be required in lieu of the third law school year. Law schools would help facilitate the internship placements that students would apply for, like with law firm and clerkship positions.

Law schools would conduct a weekly seminar with students grouped by internship types, providing a forum for discussion and questions.

Law school tuition for the third year would be de minimis because law students would be working off-site and the law school involvement in the internship would be merely supportive — not supervisory, as in the typical law school clinical model. Judicial clerkships would count as one type of public service internship and would continue to be paid while many other public service internships may be unpaid.

The notion of law students gaining practical training in an area of interest for a year while contributing to public service makes intuitive sense and is a direction the profession should pursue. In addition to filling the practical training gap, the benefits to standardizing a public service internship are considerable for all parties involved.

The public service employer benefits from the contribution of entry level lawyers. The law students benefit from gaining hands-on training and doing interesting work in an area aligned with their interest. And the profession benefits by practically training its pipeline of lawyers and getting lawyers focused on public service at the outset.

Outsourced Core Competency Training Should be Required in Both Practical and Specialized Skills

During the public service internship year, outsourced core competency junior lawyer training should be required in both practical and specialized skills. We live in an increasingly outsourced world. The legal profession has already embraced effective outsourcing in two aspects of lawyer knowledge training.

One example is what Barbri has done for bar examination preparation and the other example is what the National Institute for Trial Advocacy has done for deposition and trial preparation. If junior lawyer training were outsourced by a trusted source, it would bring significant cost savings to employers and avoid the need for each employer to reinvent the wheel in training. It would also create efficiency and standardization to a process that has greatly varied in quality.

Building on recommendations from the Critical Issues Summit report, law schools, the bar and the bench should collaborate to develop standardized core competencies of skills and knowledge for lawyers. These core competencies could then be taught in a series of outsourced junior lawyer training sessions over the course of the public service internship year. The training sessions would have two components.

First, a core curriculum of practical lawyer training would include developing skills in writing, communication, basic quantitative, business management, ethics, professionalism, client relations, project management, teamwork, leadership, work/life balance, mentoring, time management and networking.

Second, there would be training in practical skills for substantive specialties including litigation, corporate, real estate, trusts & estates, intellectual property, family law and others. Participation

or certification by the American Bar Association, state bar associations or other governing bodies in the legal profession would be necessary to ensure a high quality core competency curriculum for the outsourced training.

For graduating law students with law firm offers, the law firm may pay for the outsourced series of training sessions, like they currently do for Barbri or NITA. This training investment would be significantly less costly than what firms currently outlay for their internal training. Law firms who pay for training may, in turn, require a one or two-year commitment from incoming lawyers to enable the law firm to recoup its investment, similar to companies that require a time commitment when they pay for their employees' MBA degrees.

For graduating students without offers, they would pay out-of-pocket but the combined cost of a minimal third year law school tuition coupled with the outsourced training sessions would be significantly less expensive than up to \$48,000 they would otherwise pay in a third year of law school tuition.

Questions Remain

The recommendations to shorten law school from three years to two, institutionalize the public service internship, and require outsourced core competency junior lawyer training are significant, requiring considerable analysis and refinement.

Many questions remain. Will law students in a two-year model miss out on law school teachings that cannot otherwise be learned? Would law schools be better suited to facilitate the public service internship through an expanded clinical program and is there a way for law schools to achieve this without being prohibitively expensive? Can law schools teach all they need to teach in two years and if not, should the first year summer be used for more class time?

Can law schools, the bar and the bench collaborate effectively to develop standardized core competencies of skills and knowledge training for all lawyers? Should the outsourced core competency training be treated as an expanded version of continuing legal education that would continue throughout a lawyer's career? Who should qualify as a trusted provider of outsourced core competency training? Would the two-year law school tuition plus the public service internship and outsourced training result in students incurring significantly less debt than they do now?

Conclusion

Reducing the law school curriculum by one year addresses the mounting realization that the current law school model is outdated. It is prohibitively expensive and unresponsive to the needs of the profession that demands more practically trained lawyers from the outset. The notion of employing entry-level lawyers in public service internships and supplementing their learning through outsourced core competency training is a way to train junior lawyers with practical skills more cost effectively and efficiently.

With these changes, graduating law students would gain hands-on training and knowledge under a new system that would develop the practical skills of entry level lawyers — a burden that the stakeholders in the profession have no longer been willing to assume. In turn, entry level lawyers will bring value to the marketplace, as they enter it.

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