LEARNING COMMUNITIES:
A NEW MODEL FOR LEGAL EDUCATION

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ABSTRACT
This article makes the case that learning communities can improve legal education through their unique ability to integrate the three core apprenticeships: theory, practice, and professionalism. They also offer students a collaborative learning experience while instilling “soft skills,” building an appreciation for diversity, and fostering creativity. Although the learning community paradigm has been widely used in undergraduate education and in some graduate programs, it has not been adopted by law schools for a variety of reasons, including resource issues, the composition of law faculties, and curricular limitations. Despite these structural obstacles, the current crisis in legal education has ignited a strong interest in increasing opportunities for experiential learning and has opened the door to fundamental reforms. Accordingly, this is the perfect moment to consider the potential benefits of learning communities.

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INTRODUCTION

This article makes the case that learning communities can help improve legal education through their unique ability to integrate the three core apprenticeships: theory, practice, and professionalism. Learning communities also offer students a collaborative learning experience while instilling “soft skills” and fostering creativity. They restructure the curriculum to blur the line between courses and discipline, creating intentional communities united by information sharing, social interaction, and problem solving. Students and faculty participate in the co-production of knowledge around themes that may include academic topics, current events, and professional identities.

Although the learning community paradigm has been widely used in undergraduate education and in some graduate programs, it has not been adopted at the law school level for a variety of reasons, including resource issues, the composition of law faculties, and curricular limitations. Despite these structural obstacles, the current crisis in legal education has ignited a strong interest in increasing opportuni-

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1 WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007) [hereinafter CARNEGIE REPORT].

2 See generally Daniel Goleman, Leadership That Gets Results, HARV. BUS. REV., Mar.–Apr. 2000, at 78 (examining importance of “emotional intelligence” for effective leadership).

3 A former co-director of the National Learning Communities Project at Evergreen State College described a learning community as “the purposeful restructuring of the curriculum by linking or clustering courses that enroll a common cohort of students. This represents an intentional structuring of the students’ time, credit, and learning experiences to build community, and foster more explicit connections among students, faculty, and disciplines.” Barbara Leigh Smith, The Challenge of Learning Communities As a Growing National Movement, PEER REV., Summer/Fall 2001, at 4, 4 n.1, available at http://www.aacu.org/publications-research/periodicals/challenge-learning-communities-growing-national-movement.

ties for experiential learning and has opened the door to fundamental reforms that would have been unimaginable only five years ago. Accordingly, this is the perfect moment to consider the potential role of learning communities, which are based on the social constructivist understanding that both knowledge and learning are products of their social context. In the words of Erich Fromm, it is time to “let go of certainties.”

Part I of this article offers a brief discussion of the current challenges facing legal education and some of the reforms that have been undertaken to increase the perceived value of a legal education and produce graduates who are practice ready. Part II examines the theory of learning communities and the multiple benefits they offer in terms of student outcomes and overall pedagogical goals. It discusses how learning communities address many of the recent critiques leveled against legal education and suggests ways to implement the learning community model with the law school curriculum. By way of example, Part III then describes a newly developed program at Temple Law School in Law & Public Policy that combines theory, practice, and professionalism through the use of field placements, innovative web-based course materials, and leadership training. Based on collaborative work, peer review, and information sharing, the Program engages students in policy reform and provides them with a platform to launch their ideas and, hopefully, their careers.

I. LEGAL EDUCATION: A PERIOD OF CRISIS AND REFORM

There is no question that legal education is undergoing a period of crisis. The contracting legal sector job market, combined with high tuition and crushing student loan debt, has led many to question the

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6 See infra text accompanying notes 36–41 (describing social constructivist theory).


value of a law degree.9 Enrollment figures for first-year law students are the lowest since the 1970s, when there were thirty-nine fewer ABA-accredited law schools.10 Facing the specter of over three dozen empty law schools, legal educators have been asking hard questions and instituting numerous reform measures designed to control costs and produce practice ready graduates.11

Central to many of the new reforms in legal education has been an increased emphasis on experiential learning.12 In 2007, before the global recession, two influential reports underscored the importance of skills training in legal education and called for an increase in experiential learning opportunities: Educating Lawyers: Preparation for the Profession of Law, issued by the Carnegie Foundation for the Advancement of Teaching (the “Carnegie Report”);13 and Best Practices for Legal Education: A Vision and a Road Map, prepared by members of the clinical community.14 These reports were by no means the first time that legal education was pressed to integrate practice opportunities throughout the curriculum,15 but this time the recommendations fell on more receptive ears, as BigLaw was forced to retrench and clients balked at

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9 See generally Brian Z. Tamanaha, Failing Law Schools (2012) (analyzing the crisis and providing recommendations for reform).
12 The Alliance for Experiential Learning in Law was convened in 2011 at Northeastern University School of Law and now has members from over 113 law schools and legal service organizations. Alliance for Experiential Learning in Law, NE UNIV. SCH. LAW, http://www.northeastern.edu/law/experience/leadership/alliance.html (last visited Aug. 8, 2014).
13 CARNEGIE REPORT, supra note 1.
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paying high fees for what was basically on-the-job training for first-year associates.16

In response to the increasing demand for experiential learning from the bar, bench, and students, law schools across the country have implemented innovative programs designed to bridge the theory–practice divide, including remote externships, add-on practicum credits, and skills courses linked with doctrinal courses.17 Some law schools have fundamentally altered the structure of their curricula by introducing distance learning,18 accelerating the Juris Doctor (JD) program to two years,19 and entirely reshaping the third-year curriculum.20 Although the speed of reform seems to increase with each report of declining Law School Admission Test (LSAT) takers, the new developments have largely left in place certain basic assumptions about student learning and the nature of knowledge.21

For example, attempts to bridge the perceived divide between theory and practice may simply serve to reinforce the divide rather than collapse it. Efforts to add a skills component to a traditional doctrinal course or to link a doctrinal course with a skills course are a step in the right direction because they decrease the fragmented nature of much of legal education and introduce the opportunity for active learning and reflection. But, ultimately, the creation of a “bridge” maintains

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19 Over a dozen law schools now permit students to accelerate the JD and receive a law degree in two years, and these programs accelerate the degree, rather than reduce the requirements, as has been suggested by commentators. See TAMANAH, supra note 9, at 20. President Obama has even weighed in on the subject, saying that law school should be only two years. Dylan Matthews, Obama Thinks Law School Should Be Two Years, The British Think It Should Be One, WASH. POST (Aug. 27, 2013), http://www.washingtonpost.com/blogs/wonkblog/wp/2013/08/27/obama-thinks-law-school-should-be-two-years-the-british-think-it-should-be-one.


the false dichotomy between theory and practice that has consumed so much energy in the legal academy and has led to status distinctions among faculty.22

The linkage of doctrinal courses with skills courses is based on the observation that theory elucidates practice, and practice reinforces theory. Legal educators increasingly recognize that one without the other will make, at best, only half a lawyer, and neither is sufficient to provide a lawyer with a sense of professional identity.23 However, theory and practice simply represent two sides of the same coin. As with any binary construction, they each depend on the other for meaning.24 What we consider doctrinal coursework helps define what we label as skills training, just as skills training defines where doctrinal instruction stops. As explained below, the learning community model provides an excellent opportunity to move beyond this artificial split and to combine elements of theory, practice, and professionalism into one integrated course of study.

II. LEARNING COMMUNITIES: THEORY AND IMPACT

Learning communities intentionally suspend the traditional boundaries between courses and subject areas as they engage a cohort of students and faculty in new and challenging ways.25 Focused on the collective goal of learning and problem solving, they are inherently collaborative enterprises that depend on information sharing and a diverse range of experience and expertise within the community.26 The existing research on learning communities shows strong student outcomes in terms of overall engagement, graduation rates, academic performance, and interacting with diverse people from different backgrounds.27

23 See Carnegie Report, supra note 1, at 12-14 (advocating professional identity and values training).
25 For a definition of a learning community, see supra note 3, quoting a former co-director of the National Resource Center for Learning Communities.
26 Oscar T. Lenning et al., Powerful Learning Communities: A Guide to Developing Student, Faculty, and Professional Learning Communities to Improve Student Success and Organizational Effectiveness 7 (2013).
27 One review of the existing research concluded that “[p]articipating in learning communities is uniformly and positively linked with student academic performance, engagement in educationally fruitful activities (such as academic integration, active and collaborative learning, and interaction with faculty members), gains associated with col-
The modern learning community developed in the 1980s as a method of instruction designed to increase student engagement and foster life-long learning.\textsuperscript{28} At the undergraduate level, Evergreen College in Washington has long been the leader in the field and hosts the Washington Center on Learning Communities.\textsuperscript{29} By 2013, learning communities were so widely adopted that \textit{U.S. News & World Report} published a ranking of the top institutions known for their learning communities.\textsuperscript{30} Among graduate programs, learning communities are frequently used in the field of education.\textsuperscript{31} Certain professions have also adopted the model as a means of providing continuing education for their members, thereby underscoring the emphasis on life-long learning and “communities of practice.”\textsuperscript{32}

A. Theories of Knowledge and Learning

Unlike some of the current reforms under way in legal education, contemporary learning communities were not developed in response to a specific shortcoming in higher education.\textsuperscript{33} They were not created to provide interdisciplinary opportunities or address diversity issues or provide venues for collaborative learning, although they have been demonstrated to further each of these goals.\textsuperscript{34} The rationale underly-
Learning communities is much more fundamental. It is based on an understanding of the nature of knowledge and learning that differs radically from traditional learning theories that prioritize the individual as the appropriate unit of instruction. Learning communities reflect the social constructivist view that knowledge is socially constructed and learning is the shared production of meaning. The focus of social constructivist learning theory is the situated context—the community is where learning occurs and knowledge is co-constructed by its members.

Social constructivism rejects the individualistic focus of traditional post-secondary education, including law school. The social constructivist understanding of knowledge production and the importance of culture on development are generally credited to Lev Vygotsky, a Soviet-era educator and psychologist. Interest in the work of Vygotsky was rekindled in the 1980s around the same time that social anthropologists Jean Lave and Etienne Wenger began writing about knowledge as a cultural practice situated within “communities of practice.” According to Lave and Wenger, communities of practice serve as social learning systems where knowledge is co-constructed through a process of participation, rather than discovered by individual learners.

Social constructivism is probably the least well known of the three most prominent schools of learning theory: behaviorism, cognitive constructivism, and social constructivism. Behaviorism views learning as the response to external stimuli and assumes a relatively passive learner who absorbs a predefined body of knowledge. Cognitive constructivism, on the other hand, considers learning to be an internal

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36 Id. at 269, 272.
37 Id. at 272.
38 Id. at 268, 272–73.
process where learners actively construct knowledge systems based on preexisting cognitive structures. In both cases, the relevant unit of instruction is the individual who can be said to discover or assimilate knowledge.

It is easy to see how contemporary law school instruction reflects both views. Certainly, there must be times when students, especially in the first year, feel as if they have stumbled into Skinner’s box. The ritual of a large lecture class is a form of conditioning, with the recitation of facts, incessant questioning, and ever-present potential for public shaming. Efforts over the last twenty years to humanize legal education have made the Kingsfield method of learning by ordeal less prevalent. The demise of professorial bullying has left room for teaching styles and strategies that focus on the internal process of cognition and facilitate the assimilation of knowledge without the types of extrinsic motivation employed by behaviorism. Of course, despite the shift in teaching styles, students remain extremely sensitive to the extrinsic motivations of grades and jobs.

As law school has moved further away from the Paper Chase model of how to make a student “think like a lawyer,” there has been an increased focus on the importance of teaching within legal education. And there has been sustained interest in the legal education literature regarding different learning “styles.” Instructors are now urged to adopt a range of modalities in the classroom that address each of the

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45 See generally Lauren Slater, Opening Skinner’s Box: Great Psychological Experiments of the Twentieth Century (2004) (describing B.F. Skinner’s “operant conditioning chamber,” in which he conducted experiments on positive and negative reinforcement of behavior).

46 John Jay Osborn, Jr., The Paper Chase (1971); Orin S. Kerr, The Decline of the Socratic Method at Harvard, 78 Nw. L. Rev. 113, 113–14 (describing the waning popularity of the Socratic method as practiced by “[f]ictional characters such as Professor Kingsfield of The Paper Chase” in law school classrooms).


different learning styles: visual, auditory, and kinesthetic.\textsuperscript{50} In each instance, however, the relevant unit of instruction remains the individual learner—not the community as a whole. Even when law school classes provide opportunities for collaborative learning, the stated rationale is that collaboration enhances an individual’s ability to recall information and helps build useful skills.\textsuperscript{51} Through this lens, collaboration is seen as a tool for individual learning—not the production of knowledge.

B. Building an Intentional Learning Community

As explained in Part A above, the learning community model provides a structured form of instruction that reflects the social constructivist understanding of knowledge and learning.\textsuperscript{52} It allows educators to create an intentional community organized around a common theme or purpose that is based on collaboration, problem solving, and the shared production of meaning.\textsuperscript{53} However, in addition to these theoretical justifications for learning communities, there are also strong pragmatic arguments that can be made in favor of adoption.\textsuperscript{54}

In 1985, Patrick Hill, an official at Evergreen State College, explained that learning communities are “a vehicle for responding to a whole cluster of fundamental ills besetting higher education today.”\textsuperscript{55} The “ills” that he identified included: the lack of adequate interaction between faculty and students, the mismatched expectations of faculty and students, inadequate faculty development, the fragmented nature of the curriculum, the growing complexity and interdisciplinary nature of contemporary problems, the attrition rate, and shrinking resources.\textsuperscript{56} Nearly forty years later, these issues persist and have been joined by the growing student debt crisis and the continued disparities experienced by students from under-represented backgrounds and

\textsuperscript{50} See M.H. Sam Jacobson, \textit{A Primer on Learning Styles: Reaching Every Student}, 25 SEATTLE U. L. REV. 139, 139 (2001) (“The days of \textit{The Paper Chase} are over, or so the law schools at Harvard and other universities announce.”).

\textsuperscript{51} Elizabeth L. Inglehart et al., \textit{From Cooperative Learning to Collaborative Writing in the Legal Writing Classroom}, 9 J. LEGAL WRITING INST. 185, 190 (2005).

\textsuperscript{52} See supra text accompanying notes 36–41 (discussing social constructivism).

\textsuperscript{53} See Smith, supra note 3, at 4 n.1 (defining a learning community as “the purposeful restructuring of the curriculum by linking or clustering courses that enroll a common cohort of students”).


\textsuperscript{55} Hill, supra note 33.

\textsuperscript{56} Id.
Learning Communities

Research indicates that participation in a learning community can positively affect student outcomes across a range of different measures, including student engagement, retention, and academic success.\footnote{57}{Kelley Holland, Where the Student Debt Really Hits, CNBC (July 1, 2014, 8:00 AM), http://www.cnbc.com/id/101797721# (discussing business school and law school debt).}

This Part outlines the core elements of learning communities. Some of the components discussed below may appear more structural whereas others represent clear pedagogical choices, but they are all designed to further student engagement and intellectual development through a collaborative experience.

Theme or Purpose

Learning communities are organized around a particular theme or purpose. For example, a learning community can be organized around a specific topic, such as federal drug policy, or it can be purpose-driven, such as how to reverse the trend of mass incarceration.\footnote{58}{See Zhao & Kuh, supra note 27, at 118, 124, 127, 132.}

Learning communities can also be organized around a common interest or profession, which are referred to, respectively, as common interest communities or communities of practice.\footnote{59}{See Barbara Leigh Smith & Jean MacGregor, Learning Communities and the Quest for Quality, 17 Quality Assurance in Educ. 118, 120 (2009).}

Community

The community members form a cohort and develop a sense of shared identity through their participation in the community and collaboration with other members, including faculty. The members can be chosen through a variety of ways. In the case of common interest communities, members are chosen or self-select because of a preexisting identification.\footnote{60}{See Lave & Wenger, supra note 40, at 29.}

Curricular-based learning communities are formed when students enroll in the program, although in some cases students may have to apply and be accepted to the program.\footnote{61}{Smith & MacGregor, supra note 59, at 122.}

Once participants are chosen, there are numerous exercises that can help build a sense of community, including social activities and shared online platforms that exist outside the normal classroom environment.\footnote{62}{See infra Part III.B.}

\footnote{63}{Smith & MacGregor, supra note 59, at 121.}
Collaboration

The community learns and produces knowledge through collaboration. This process involves information sharing and active learning. With a sense of shared identity, the students are not in competition with each other under the theory that a “rising tide lifts all the boats.” The success of one member inures to the benefit of the community, and an individual’s success is seen as a product of the community. Accordingly, the community can take both pride in and credit for the successes of its individual members. Group projects, mission statements, peer-on-peer review, and other activities are designed specifically to further this collaborative nature.

Integration

Learning communities are organized across disciplines and can include a wide range of activities and tasks. Organized on the understanding that individuals learn through their experiences and interactions with others, learning communities do not attempt to bridge the theory–practice divide, but rather to collapse it. This form of integration can be described as praxis, where community members not only translate theories into action, but also produce theory through action and reflection.

Personal Authority

The reflective practice that is part of praxis underscores the importance of personal responsibility and personal authority in learning communities. Individual members bear responsibility for their participation and ultimately the success of the whole community. This responsibility helps individuals develop their sense of personal authority, which may include expertise. In the law or professional context, the

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64 Id. at 124.
66 Smith & MacGregor, supra note 59, at 120.
67 Zhao & Kuh, supra note 27, at 118.
69 Smith & MacGregor, supra note 59, at 124.
70 Katerine Bielaczyc & Allan Collins, Learning Communities in Classrooms: A Reconceptualization of Educational Practice, in 2 INSTRUCTIONAL-DESIGN THEORIES AND MODELS: A NEW PARADIGM OF INSTRUCTIONAL THEORY 269, 288 (Charles M. Reigeluth ed. 2011) (explaining “diverse expertise”).
development of personal authority or expertise may also include exploring professional identity and values.71

Diversity

The collaborative process within a learning community necessarily values difference and divergent thought. The lived experience of an individual member directly informs the community’s ability to solve problems and produce novel solutions. In this way, diversity of background and perspective enriches the collaborative process, while teaching the members of the community to value—not simply tolerate—their individual differences.72 The integrated nature of learning communities also makes them easy to adapt for different learning styles.73 The structure also allows room for differing levels of participation, recognizing, for example, that a member’s personality may make that member less likely to participate in discussion.74 As their senses of personal authority grow, however, members are encouraged to engage in activities that may be outside their normal comfort zones.

Transparency

Keeping the community engaged in collaborative problem solving and knowledge production requires direction and structure that will foster a sense of shared identity while encouraging personal responsibility. In order to maximize engagement, the goals and standards of expected behavior are designed to be transparent and available to all the members of the community.75 Accordingly, instructors do not play “hide the ball,” but instead are expected to communicate their goals and expectations to the other members and entertain constructive feedback.76

71 See infra text accompanying notes 110–15.
73 For a general discussion on various learning styles, see Jacobson, supra note 50.
74 Lillian Cunningham, Myers-Briggs: Does It Pay to Know Your Type?, WASH. POST (Dec. 14, 2012), http://www.washingtonpost.com/national/on-leadership/myers-briggs-does-it-pay-to-know-your-type/2012/12/14/caed51a3-3fcd-11e2-bca3-aad9b7e29c5_story.html.
76 Id.
Authenticity

To the extent possible, learning community assignments and tasks are designed to be both authentic and legitimate. The requirement of authenticity means that assignments and tasks reflect actual practice as experienced in the disciplines or professions addressed by the learning community. The requirement of legitimacy speaks to scope and scale, recognizing that the assignment or task should be appropriate and achievable given the development and capabilities of the members.

C. Law Schools: Specific Applications

After a quick overview of the core elements of learning communities, it is easy to see their potential applicability to legal education. Many of the “ills” identified by Hill in 1985 apply equally to present-day law schools. In addition to these general complaints, there has been sustained criticism of legal education from within the legal academy on a number of fronts concerning methodology, goals, and outcomes. Recently, law students have also entered into the fray, expressing concern over the value of their degree in light of large student debt burdens that many of them incur to attend law school and the weak entry-level job market. Some newly minted JDs have given voice to these concerns through litigation and often-inflammatory “scamblogs.” Meanwhile, tens of thousands of potential law students have voted with their feet by choosing not to enter law school.

The scamblogs capture the views of only the most disaffected law graduates. The annual Law School Survey of Student Engagement (LSSSE Survey) offers valuable empirical insight regarding areas where

77 Charles Anderson & Velda McCune, Fostering Meaning: Fostering Community, 66 HIGHER EDUC. 283, 287 (2013) (discussing the “the need for the authenticity and value of learning tasks”).
78 See id. at 286-89.
79 Hill, supra note 33.
80 SPENCER, supra note 15, at 1949–2063 (providing a historical perspective on complaints regarding legal education).
82 Lauren Carasik, Renaissance or Retrenchment: Legal Education at a Crossroads, 44 Inn. L. REV. 735, 740 (2011) (citing student “vitriol”).
84 Carasik, supra note 82, at 745.
law students are less engaged. For example, only thirty percent of third-year students reported working with a faculty member on a project outside of course requirements. Forty-three percent of third-year students have not taken a clinical or worked on a pro bono project during their time in law school. Forty percent of law students reported that their legal education has contributed only some or very little to their acquisition of job- or work-related knowledge and skills. Based on research conducted at the undergraduate level, participation in a learning community has a strong correlation with higher rates of engagement, retention, and academic success. Accordingly, learning communities may help law students engage and participate more broadly in the intellectual life of the law school.

Learning communities can also address a number of the different critiques that have been leveled against legal education in recent years. This part summarizes some of those schools of thought and outlines how the learning community model can address the perceived shortcomings. As noted earlier, some of the criticisms go to methodology or student outcomes, whereas others question the stated goals or values of legal education. In each instance, it seems that learning communities have something to offer.

Teaching Methodology

There has been a sustained and varied critique of teaching methodology within legal education primarily related to the fact that law instruction has never fully shed Christopher Langdell’s vision of “law as science.” This critique has included calls for a range of innovations, including experiential learning opportunities, integrating theory and practice, collaborative exercises, teaching to different learning styles, peer instruction, and reflective practice—all of which are core elements of a learning community. Moreover, the social constructivist underpinning of the learning community actually adds another just-

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86 Id. at 8.
87 Id.
89 Zhao & Kuh, supra note 27, at 118.
90 Carasik, supra note 82, at 785 (“Because most law professors model their teaching on the instructional methodologies they experienced in law school, they have little exposure to pedagogical advances.”).
91 See supra Part II.B (explaining core elements of a learning community).
tification to bury the “law as science” paradigm once and for all. Social constructivism holds that knowledge is a cultural practice and not a static body of information that students discover through a chain of detached reasoning.92

Although some educators have long advocated experiential learning as a way to address different learning styles, the present-day push to increase experiential offerings in law schools has been precipitated by the weak entry-level job market.93 Experiential learning is considered a way to make graduates “practice ready” and return lost value to the law degree.94 The understanding that experiential opportunities will both enhance a student’s learning and her job prospects is consistent with the important role experiential work plays in learning communities. Experiential learning is integral to a learning community because, under constructivist theory, experience and practice are both necessary to produce knowledge.95

Interdisciplinarity

In an increasingly connected world, the practice of law has become more complex and interdisciplinary. As legal scholars pioneered a number of new and exciting “law and” fields of inquiry, law schools often lagged behind in their curricular offerings.96 A movement in favor of interdisciplinarity has led to the development of many joint degree programs and the ability to cross register for courses in other schools within the same university.97 A learning community is, by its nature, designed to be interdisciplinary. For example, a learning community organized around drug policy would study not only the current laws regulating illegal drug use but also the economics of the drug

92 See supra text accompanying notes 36–41 (describing social constructivist theory).
95 See supra text accompanying notes 36–41 (describing social constructivist theory).
trade and legalization, the science of addiction, the history of illegal drugs, drugs in literature and popular culture, the collateral consequences of drug policy, the sociology and psychology of drug use, the impact of race, the rise of mass incarceration, and the emergence of the private prison industry. The inquiry would cut across disciplines to help students develop an integrated understanding of the issue.

Before the current rise in interdisciplinary studies, law had begun to make a concerted effort to introduce business literacy throughout the curriculum.98 During this current period of weak employment figures, there has been increased attention paid to the sector of the entry-level market referred to as “JD-preferred” or “JD-advantage” jobs that are primarily located in the business field.99 These jobs consider a law degree to be value added, but do not require bar passage or a JD.100

The increasing trend toward interdisciplinarity and the increased importance of JD-advantage jobs has led some in the legal academy to reexamine the role of legal education. Is its role primarily to educate lawyers to enter practice and represent clients? Or does a legal education potentially have a much broader mission? For example, Carrie Menkel-Meadow persuasively argues that law schools should educate students to “provide not only legal justice, but social peace and creativity in solving the many challenges that our society is currently facing.”101 The interdisciplinary nature of a learning community, with its emphasis on creative problem solving, presents an opportunity to introduce law students to a wide variety of non-legal settings where they would be able to use the perspectives and skills gained from a legal education.102 In this way, a learning community opportunity can broaden their vision with respect to the range of employment opportunities that would allow them to use their legal training.

98 In 2013, the Law School Survey of Student Engagement included questions designed to measure students’ financial literacy. See LAW SCH. STUDY OF STUDENT ENGAGEMENT, supra note 85, at 8.
100 Id.
101 Carrie Menkel-Meadow, Crisis in Legal Education or the Other Things Law Students Should Be Learning and Doing, 45 McGeorge L. Rev. 133, 134 (2013).
102 Smith & MacGregor, supra note 59, at 122.
Diversity

There is a deep literature on issues of diversity in legal education. Students of color, LGBT students, students with disabilities, female students, and other students from under-represented backgrounds have all experienced difficulty in law school. Often their experiences and perspectives are not reflected in casebooks or at the front of the classroom, requiring them to practice a form of multi-consciousness as they assimilate rules and regulations that contradict their lived experiences. Although law schools have made tremendous strides at practicing inclusion, there remains much work to be done to move beyond tolerating diversity to actually valuing diversity. The structure of a learning community relies on the participation of diverse members to produce novel solutions. And the individual members are valued precisely for the different experiences and backgrounds that they bring to the community.

Humanizing Law School

Beyond questions of diversity, law school can be a fairly inhospitable place for just about everyone. In response to reports of high levels of lawyer career dissatisfaction, depression, substance abuse, excessive work, and suicide, a movement has emerged with the express goal of “humanizing law school.” Humanizing research considers the way that the structure of legal education contributes to these disturbing lawyer outcomes. For example, students report considerable stress over grades, which, in this weak job market, will make or break their

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104 Deborah Rhode notes, “women, particularly women of color, are less likely to speak in class, report fewer opportunities for faculty mentoring, and experience higher levels of dissatisfaction, disengagement, and self-doubt than men.” Rhode, supra note 81, at 452.


chances of securing a job upon graduation. The importance of class rank and grade point average (GPA) intensifies the atomistic and at times alienating experience of law school. Assuming that it is not possible or desirable to eliminate grades entirely, it is essential for a learning community to be exempt from any mandatory curve. Freedom from the curve will suspend structural competitiveness and allow students to participate as equals.

Professional Identity

One of the factors driving the movement to humanize law school is that law students and lawyers report a lack of purpose, along with eroding standards of professionalism. The Carnegie Report described professionalism and professional identity training as the “third apprenticeship” necessary to prepare students for the profession and concluded that law schools were currently failing. The Carnegie Report called for an integrated curriculum that combined theory, practice, and professionalism. The need to emphasize professionalism and professional values has been eclipsed by the strong turn toward experimental learning driven by the job market and declining enrollments.

Deborah Rhode has made a strong case that professional identity and values instruction is needed now more than ever in our nation’s law schools. She has also examined the question of leadership training, which is all but non-existent in legal education. Identifying a disturbing paradox, Rhode has observed that “[n]o occupation in America supplies a greater proportion of leaders than the legal profession, yet it has done little to prepare them for this role.” The immersive and interdisciplinary experience offered by a learning community can provide students a supportive environment to consider issues of professional identity, as well as present ample opportunities for modeling and learning “soft skills.” Leadership training can also be made

109 Carasik, supra note 82, at 754 (reporting that law students can “believe that they are nothing more than the sum of their grades and class rank”).
110 Carnegie Report, supra note 1, at 28.
111 See id. at 8.
112 Rhode, supra note 81, at 450 (describing ethics instruction in law schools as “legal ethics without the ethics”).
113 Deborah Rhode, Lawyers as Leaders 25 (2013).
114 Id.
part of the collaborative process, allowing students to try on different leadership styles and reflect on their effectiveness.\textsuperscript{115}

Creativity and Innovation

A discussion of the role of creativity and innovation in legal education is relatively new. Although legal educators are often urged to employ innovative classroom techniques and engage in innovative scholarship, students are not expected to stray far from the approved text. Indeed, students who go off on divergent tangents are considered to be wasting valuable classroom time, and their creativity will not be rewarded on the exam. The legacy of “law as science” has left law students racing to digest vast amounts of largely historic material while extrinsic rewards are meted out for the students who excel at convergent thought and are able to divine the “right” answer.\textsuperscript{116}

When compared with the dynamic tech industry or the study of entrepreneurship, law school today can seem downright backward looking.\textsuperscript{117} It is no wonder that some of the best and brightest are no longer choosing to attend law school. In addition to the student debt issues and the job market, law school may be unattractive simply because it is not a place that nurtures creative thought or encourages innovation.\textsuperscript{118} Some recent scholarship has urged law schools to prepare students to represent entrepreneurs, but it is time for law schools to prepare students to be entrepreneurs, whether in law, business, policy, or a related field.\textsuperscript{119}

The learning community model actually depends on creativity and innovation for its survival. The collaborative co-production of knowledge requires divergent thought and is based on the combined efforts of a diverse range of participants. Some learning communities have

\textsuperscript{115} Smith & MacGregor, \textit{supra} note 59, at 135 (describing “[l]earner-centered leadership”).

\textsuperscript{116} George W. Goble, \textit{Law As Science}, 9 Ind. L.J. 294, 298–99 (1934).


\textsuperscript{118} Lippe argues that today, “young people look at their more engaged contemporaries at Google and ask: ‘Why law at all if I can’t really apply my skills?’” \textit{Id.}

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expressly adopted a goal of effecting change, often promoting creative solutions for longstanding problems.\footnote{Lenning et al., supra note 26, at 7 (describing type and scope of learning communities).}

Caveats

Despite the ability of learning communities to address many of the challenges facing legal education today, they do not offer a silver bullet by any means. Learning communities are resource intensive and require a commitment of faculty time and energy that might not be feasible in the face of declining tuition dollars. On the other hand, declining enrollments have produced excess capacity at many law schools, perhaps increasing the likelihood that faculty may take on innovative teaching projects.

Moreover, it is highly unlikely that learning communities would replace the standard law school curriculum in toto. Law faculties have been notoriously resistant to curricular change,\footnote{Steven C. Bennett, When Will Law Schools Change?, 89 Neb. L. Rev. 87, 10307 (2010).} and learning communities represent a radical restructuring of not only faculty time, but also their relationships with students. The highly integrated nature of a learning community may be especially daunting to faculty members who see themselves as either doctrinal instructors or skills instructors. The expected level of student interaction makes learning communities inappropriate vehicles for adjunct faculty, although adjunct faculty, as well as alumni, often play a supporting role as mentors or coaches. In terms of course creation and preparation, learning communities can also be highly idiosyncratic depending on the interests of the faculty members involved. Accordingly, a given learning community structure is generally not easily adoptable like a casebook.

Learning communities may best benefit legal education by augmenting the existing curriculum and providing students with an immersive experience that combines all three of the core apprenticeships. They can also serve as laboratories for innovative teaching methods. Some of the core elements of the learning community model could easily be transferred to other courses or programs, such as collaborative work, peer-on-peer review, and greater reflection on professional values.\footnote{See Oscar J. Salinas, Law School Learning Communities: A Community of Learners for the Benefit of All Learners, Law Teacher, Fall 2012, at 28, 29 (discussing application to legal education).} The emphasis on personal authority and diversity could help inform aspects of the intellectual life of the wider
law school. To the extent that the law school itself operates as a common interest community, all interaction between faculty and students could be enhanced by a shared sense of identity and purpose.

III. A LAW AND PUBLIC POLICY MODEL

This part details the design and development of the Temple Law & Public Policy Program (the “Program”) that was started in 2012. It offers an example of how the learning community model can be used to enrich the law school curriculum and improve student outcomes. Organized as an integrated learning community, the Program is focused on the intersection of law and public policy. It intentionally blurs the lines between coursework, social events, and leadership training, while combining the three core apprenticeships identified by the Carnegie Report: theory, practice, and professionalism.\(^{123}\)

The Program was developed after consultation with a broad range of stakeholders, including alumni, students, employers, and administrators from career planning and student affairs. Its goals are twofold: (1) to equip students with new skills and competencies necessary to succeed in the ever-changing legal services market, and (2) to expose students to a range of policy work on the federal, state, and local levels.\(^{124}\) Although the job market was a primary impetus for the creation of the Program, the focus on policy and “how change happens” addresses a longstanding student demand for work that makes a meaningful difference in the lives of others. In this way, the Program strives to harness the creativity, optimism, and commitment to change that so

\(^{123}\) The Carnegie Report recommends that law schools offer an integrated, three-part curriculum: (1) the teaching of legal doctrine and analysis, which provides the basis for professional growth; (2) introduction to the several facets of practice included under the rubric of lawyering, leading to acting with responsibility for clients; and (3) exploration and assumption of the identity, values, and dispositions consonant with the fundamental purposes of the legal profession.

\(^{124}\) All information and documentation regarding the Program is on file with the author. For more information, please refer to the Program website at http://www.law.temple.edu/pages/Academics/Experiential_Learning_Programs/Law_and_Public_Policy_Program.aspx.
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many students express when they first come to law school—before they are trained to “think like lawyers.”

The learning community structure allows the Program to incorporate many of the suggestions that have been advanced by the various critiques of legal education outlined above in Part II. For example, the Program is based on information sharing and collaborative work. Value for diversity is hardwired into the structure by creating pockets of expertise for each student. Professional identity and values are included across the Program with curricular elements that are both express and embedded. The emphasis on personal authority reinforces the students’ understanding of their identity as legal professionals. Through these choices and others, the Program endeavors to model the type of creativity and innovation that it hopes to foster in its students.

A. Overview

The Program starts in the summer of a student’s 1L or 2L year with an immersive and academically rigorous experience in Washington, D.C. Each entering class is limited to eighteen students, who are referred to as Law & Public Policy Scholars. During the summer, the students live, learn, and work in D.C., as they build community and explore professional goals. They then transition back to the main campus in Philadelphia where they can continue with upper-level courses, additional internships, publications, conference presentations, and a semester-long program in D.C. during their third year. Many of the students have remained involved with the Program even after graduation, serving as mentors, mooting students before conferences, and contributing to the Program’s online community.

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125 See supra text accompanying notes 46–47 (discussing style of teaching exemplified by the fictional Professor Kingsfield).
126 The Carnegie Report refers to a “hidden” curriculum of values, but embedded seems to be a better word in the context of learning communities that stress transparency. CARNEGIE REPORT, supra note 1, at 29.
128 Id.
129 Temple Law School is located a little over two hours north of Washington, D.C., which made the choice to start the Program in D.C. an easy decision. For students who are interested in public policy, public service, and public interest work, D.C. offers a strong market for legal internships.
The focus during the summer is how change happens on the federal level, as examined through the lens of comparative institutional analysis.\textsuperscript{130} The students intern full-time at government agencies and advocacy organizations, as well as in positions on Capitol Hill.\textsuperscript{131} The students meet twice a week in the evening for classes and have at least one event scheduled each weekend.\textsuperscript{132} During the summer, the students receive credit for two separate courses: Institutional Decision Making and Law & Public Policy I.\textsuperscript{133} Their coursework presents a thematic approach to current issues in Law & Public Policy, including religious freedom, the war on drugs, LGBT rights, health care reform, and student loan debt.\textsuperscript{134} The course materials purposefully disrupt the “single institutionalism” of legal education and instead highlight legislative, regulatory, and market-based solutions.\textsuperscript{135} The materials are web-based and designed to be “sticky,” with extensive use of hyperlinks to original materials, video clips, and a wide range of media sources.\textsuperscript{136}

Each student is also required to write a policy paper or white paper that proposes a policy solution to an existing problem that is either legislative, regulatory, or market-based. The policy paper exposes the students to a different type of legal writing. The basic structure of the paper is similar to a Congressional Committee Report. It outlines the current law, the reasons for change, and the suggested solution. The papers engage the students in crafting a blueprint for change that for many was the reason they decided to attend law school.

The Program continues in the fall with Law & Public Policy II. After spending the summer thinking globally, the students return to Philadelphia to act locally and consider how change happens at the municipal level. The course focuses on timely and pressing issues facing the city of Philadelphia, as identified by a liaison to the Philadelphia City Council. The students work in collaborative teams to study

\begin{footnotes}
\item[131] For a list of internships, see Law & Public Policy Program, supra note 127.
\item[132] See supra note 124.
\item[133] See id.
\item[134] See id.
\item[135] See generally Neil K. Komesar, Law’s Limits: The Rule of Law and the Supply and Demand of Rights 24 (2001) (discussing “single institutionalism” as an analysis that details the deficiencies of one institution, but fails to consider alternative and institutional settings).
\item[136] See supra note 124.
\end{footnotes}
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some of these issues and present novel suggestions for reform. In the spring, students have the option of spending a semester in Washington, D.C., where they secure a full-time internship and take a seminar titled, “Meet the Policy Makers.” The seminar is designed as a capstone course that gives students the opportunity to meet in a small group with policy makers and industry leaders to discuss innovative solutions to complex problems.

Throughout the school year, students are encouraged to market their policy proposals through conferences, op-ed pieces, blog posts, and other publication opportunities. Students have published pieces in *The Atlantic*, the *Washington Examiner*, *Forbes Online*, numerous ABA publications, as well as traditional law reviews. Students have also presented their papers at conferences at home and abroad, including Atlanta, Boston, Brussels, Budapest, Minneapolis, Philadelphia, and Washington, D.C. In order to defray the cost of some of the travel expenses, the students hold an annual continuing legal education update where the students present their policy papers and alumni of the Program serve as moderators.


To help foster and model creativity and innovation, the Program rejects many of the standard components of legal education, including the casebook, oral arguments, law review notes or comments, and mock competitions, in favor of new exercises and practices that are designed to equip the students for today’s dynamic job market and changing legal profession. Web-based materials, policy briefings, blog posts, white papers, conference presentations, and collaborative projects all stress new competencies that will not only help students transition from law school to today’s practice environment, but also keep them engaged in their legal studies on multiple levels.

B. Incorporating the Core Components

The following takes a more detailed look at some of the different aspects of the Program, organized by reference to the core components of a learning community outlined above in Part II.

Theme or Purpose

The Program is focused on the intersection of law and public policy, specifically "how change happens."\textsuperscript{139} The choice of a broad organizing principle brings together students who may have very different individual areas of interest (e.g., financial reform, civil rights, health care) but who are committed to change. The students become familiar with comparative institutional analysis, social movement theory, and public choice theory, as they explore avenues and methods of reform on the federal, state, and local levels. They are encouraged to see themselves as change agents who have the capacity to propose meaningful and attainable reforms. The Program is inherently forward looking and endeavors to promote creative solutions to real issues. The goal is to produce proposals for reform that are novel, high quality, and appropriate.\textsuperscript{140}

Community

A strong sense of community is one of the defining features of the Program. The students all identify as Law & Public Policy Scholars, although they are composed of separate classes designated by the year

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\textsuperscript{139} See Law & Public Policy Program, supra note 127.

\textsuperscript{140} These three characteristics comprise the standard definition of creativity: novel, high quality, and appropriate. Patrick Colm Hogan, Cognitive Science Literature and the Arts: A Guide for Humanists 59 (2003).
they begin the Program. Understandably, the strongest relationships tend to be formed among the students who start the same year because the shared experiences in Washington, D.C. help cement a sense of community and group identity. In addition to classes, these shared experiences include plays, baseball games, historic tours, alumni receptions, and leadership seminars.

Each entering class is limited to eighteen students in order to maximize the opportunity for individualized instruction and counseling. Generally, two-thirds of the students have just finished their first year of law school, with the balance composed of second-year students. Currently, the demand for the Program exceeds the available openings, and students are chosen primarily based on their demonstrated interest in public policy. The students are selected in February in order to provide ample time for their job search. Those who do not already have internships are provided immediate assistance with cover letters and resumes, as they work to identify potential internships in Washington, D.C.

Part of building community, as well as a brand, is a sense of history or tradition. For this reason, the newly admitted students are required to attend several informational sessions where, among other things, they are introduced to students from the earlier classes and learn about their accomplishments (e.g., internships, publications, conference presentations). Those students then serve as role models and resources for the entering class.

Collaboration

In order to leverage the collective knowledge of the group, the Program fosters a culture of collaboration and information sharing where knowledge becomes a form of social currency. The sense of shared identity helps to reinforce this collaborative environment where individual achievements are celebrated as a matter of group pride. Assignments also require students to share information and drafts with one another, as well as sometimes work in teams.142

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141 For example, the 2014 class of Law & Public Policy Scholars is composed of those students who started the Program in the summer of 2014. It includes both first- and second-year students. Accordingly, some of the 2014 Scholars will graduate in 2015 and others will graduate in 2016.

142 With respect to their policy papers, students are required to distribute their paper topics and abstracts to the group. Lightning rounds where students have five minutes
Each class of Law & Public Policy Scholars has its own closed Facebook page that serves as an online collaborative platform. The visual immediacy that allows students to share links to articles and photos from their smartphones is a powerful tool for creating community and encouraging collaboration. Students post breaking news and articles that are relevant to the course or a colleague’s policy paper, often prompting considerable discussion. They have also used the site to post “selfies” with well-known politicians and to live blog from events, such as the protests outside the U.S. Supreme Court on the day the marriage cases were argued.\footnote{Denny Lee, \textit{Trying to Testify Before the Court}, N.Y. Times (Mar. 27, 2013), http://www.nytimes.com/2013/03/28/fashion/marriageequality-trying-to-testify-before-the-court.html.} The day the \textit{Windsor} and \textit{Perry} decisions were announced, the students were posting furiously to Facebook while following the action live on \textit{SCOTUSblog}.\footnote{See United States v. Windsor, 570 U.S. \underline{__}, 133 S. Ct. 2675 (2013); Hollingsworth v. Perry, 570 U.S. \underline{__}, 133 S. Ct. 2652 (2013); \textit{Case Page on Hollingsworth v. Perry}, \textit{SCOTUSBlog}, http://www.scotusblog.com/case-files/cases/hollingsworth-v-perry (last visited Sept. 14, 2014).} The recent \textit{Hobby Lobby} decision elicited conversation that continued for weeks.\footnote{See \textit{Burwell v. Hobby Lobby Stores, Inc.}, 573 U.S. \underline{__}, 134 S. Ct. 2751 (2014).} Once the students graduate, they migrate to the closed Facebook page for the Program alumni, where they continue to have active discussions and share career advice.

Integration

The Program was specifically designed to integrate theory, practice, and professionalism and meet the clear challenge laid out by the Carnegie Report to address all three of the core competencies. Accordingly, the Program provides the students with a rigorous academic component, actual practice experience, and ample opportunity for reflection. These experiences are not cabined off in separate courses, but organized as part of the whole. Experiences from the internship become part of the classroom discussion, just as the classroom discussion informs the internship. The emphasis on personal reflection helps the students establish their professional identity as they navigate the Program.

In addition to integrating theory, skills, and professionalism, the Program takes a cross-disciplinary approach to the policy issues to present their topic, ensure that the students are familiar with all the topics, and are on the lookout for relevant information or resources.
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presented throughout the course. For example, a discussion of health care reform would include not only the controversy surrounding the Affordable Care Act\(^\text{146}\) but also materials from the fields of economics, public health, sociology, bioethics, and history. This background allows the students to engage in a contextual analysis of the proposed policy reform and explore the potential for unintended consequences.

Personal Authority

The Program supports active engagement with issues of professional identity and professional development through class discussion, course materials, alumni mentors, a Myers-Briggs workshop, media training, and leadership seminars.\(^\text{147}\) As part of their reflection on professional identity, the students are asked to consider not only what type of law they want to practice, but also what type of lawyer they want to become.\(^\text{148}\)

To assist students with their job search, the Program adopts a portfolio approach to skills development. Students are encouraged to assemble a range of diverse writing samples and experiences that show multiple competencies. They are also urged to catalogue and reflect on their expanding skill sets on a regular basis. During the summer, students are given ample opportunity to network through receptions and happy hours, and they are encouraged to practice handing out their business cards. Their policy topics serve as an immediate ice-breaker because each student has direction, purpose, and a level of expertise. Media training helps the students manage their online presence and make strategic use of social media to advance both their policy ideas and their careers.\(^\text{149}\)

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\(^{148}\) With the increasing importance of JD-advantage career paths, this reflection includes considering the role of lawyers in non-legal jobs or on interdisciplinary teams. Students also consider special sensibilities at play in these settings, recognizing that other professions may have preconceived notions about working with lawyers.

\(^{149}\) This training includes making the most of LinkedIn to mine professional contacts. See Workers of the World, Log In, Economist (Aug. 16, 2014), http://www.economist.com/news/business/21612191-social-network-has-already-shaken-up-way-professionals-are-hired-its-ambitions-go-far.
Diversity

The tagline that the students have adopted for the Program reads: “where all great minds don’t think alike.” It reflects that the Program attracts students with a range of political and ideological preferences, as well as students from very diverse backgrounds. To bridge this divide, a founding principle of the Program is that students must practice “dialogue, not debate.” In other words, class discussion is not a contest to be judged by a neutral third party with a clear winner and loser. Class discussion is designed to expose problems, consider other perspectives, suspend bias, and explore points of interest convergence.150 The goal is always to be constructive and respectful of other opinions and seek commonality across differences.151

Authenticity

Transparent policies and authentic assignments help model professionalism. For example, in advance of each class, an agenda is circulated that outlines the topics and provides prompts for discussion. Borrowing from Roberts Rules of Order, every Agenda begins with a recap of the last class and ends with “New Business” where students can share observations and raise concerns.152

In terms of assignments, the policy papers and collaborative policy projects are authentic in the strictest sense of the word because they engage a real-life policy concern and make suggestions for reform. In a number of instances, the papers and proposals have attracted the


151 A number of TED talks have proven very helpful, especially one that asks the students to consider, “What does it feel like to be wrong?” The answer, it suggests, is that no one actually knows what it feels like to be wrong because everyone is convinced that they are right. Karen Schulz, On Being Wrong, TED (Mar. 2011), http://www.ted.com/talks/kathryn_schulz_on_being_wrong?language=en.

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attention of policymakers,\textsuperscript{153} and the majority of students have presented their papers at academic conferences.\textsuperscript{154} The papers have also served as a springboard for other writing projects, including blog posts, op-ed pieces, and articles.\textsuperscript{155} In Spring 2015, the Program will launch its own blog, The Law & Public Policy Scholar, to provide the students and the alumni of the Program with a permanent (and authentic) outlet for their work.\textsuperscript{156}

IV. Conclusion

The increased emphasis on experiential learning presents an opportunity for law schools to pursue new modes of instruction. Law schools are experimenting with remote externships, add-on practicum credits, and linking doctrinal and skills-based courses in novel and exciting configurations. Learning communities represent a promising way to collapse the persistent theory-practice divide while integrating fundamental questions of professional identity, ethics, and professionalism. They are based on a contemporary theory of learning where knowledge is understood to be ultimately a collaborative enterprise that requires both diversity and innovation.\textsuperscript{157} Accordingly, learning communities create environments where diverse students learn collaboratively, allowing them to build lifelong relationships, as well as an appreciation for life-long learning.\textsuperscript{158}

Research on the undergraduate level has established the efficacy of learning communities in terms of student engagement, retention, and achievement.\textsuperscript{159} Although research is required to gauge their effectiveness for law students, there are strong theoretical and pragmatic arguments in favor of a role for learning communities within legal education. The learning community structure responds to many of the recent critiques of legal education by accommodating new teaching

\textsuperscript{153} Students have been contacted by Congressional staff, who have asked for copies of their policy papers. One student was asked to review pending legislation in his area of expertise for a member of Congress. Another student was approached by both a state legislator and a city official for advice regarding how to draft legislation prohibiting conversion therapy.

\textsuperscript{154} See supra note 138 (listing the conferences where students have presented).

\textsuperscript{155} See supra note 137 (listing examples of these publications).


\textsuperscript{157} See supra text accompanying notes 36–41 (discussing social constructivist theory).

\textsuperscript{158} For a discussion of the theory of lifelong learning, see Peter Jarvis, Globalization, Lifelong Learning, and the Learning Society (2007).

\textsuperscript{159} See Zhao & Kuh, supra note 27, at 124 (summarizing the research).
methodologies, fostering collaboration and respect for diversity, and exploring issues of professional identity and values. It can also empower students with a sense of self and purpose that will help them chart their careers as they navigate the difficult entry-level job market.