

First Year Curriculum Reform Proposals

Curriculum Reform Working Group
September 20, 2006

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I. Overview Documents

A. Proposals – Key Elements

Background

The Curriculum Reform Working Group (the “WG”) was appointed by a resolution of Faculty Council in March 2006. Its membership is:

Chair:	Lisa Philipps
Faculty:	Shelley Kierstead (Director, LRW Program) Sonia Lawrence (ADFY) Patrick Monahan (Dean) Janet Mosher Robert Wai (Associate Dean) Stepan Wood
LL.B students:	Stephanie Ostreicher (Class of 2007) Lori Thomas (Class of 2008)
Admin. Support:	Mya Bulwa

The WG’s mandate is to continue the work of recent Committees on curriculum reform to develop a more detailed proposal for reforms to the first year program that could be approved by Faculty Council by November 2006 at the latest, and implemented in September 2007.

The full WG met 11 times between May and August, 2006. Many additional sub-group meetings took place to develop various aspects. We consulted extensively with faculty members over the summer. The proposals received broad and enthusiastic support from faculty members at a meeting held on August 31, 2006. The WG received invaluable input from its two student members during the summer, as well as helpful suggestions from the Chair of student caucus. Consultations with the wider student body and student caucus in September have resulted in further improvements to the proposals.

Curriculum reform to achieve a variety of objectives is contemplated by the Law School’s Strategic Plan (*Making a Difference: Plan for the Law School 2006-10*). That document is the product of extensive research and discussion by the Strategic Planning Committee and has been approved by Faculty Council. Thus the WG has conducted its

process on the basis that there is a strong consensus about the need for some changes to improve the curriculum, with a focus initially on the first year. We have taken seriously the need to be clear about the objectives of reform and to ensure that proposals are well designed to achieve those objectives (see the paper on Objectives of First Year Curriculum Reform).

The starting point for our work was the December 2005 Discussion Paper titled “Proposed New Format for Delivery of the First Year Curriculum” (the “DP”), and the comments of faculty, students and staff on that document. However the WG was given a wide scope to reconsider the DP and we have refined and altered those proposals in many respects. We have attempted to provide as much detail as possible about the proposed reforms while also leaving significant scope for individual instructors to define their own teaching methods and approaches.

Many difficult choices had to be made in reaching these proposals. We are eager to hear further responses to the ideas in this document and welcome your comments and proposed changes. We urge readers to be conscious of the inter-connected nature of the proposals and how a change will affect other aspects.

The Proposals

The following is a brief summary of proposals that are described in more detail in the full package of documents.

1. New Course on *Ethical Lawyering in a Global Community*: This course will integrate an introduction to legal ethics and professionalism with an introduction to the international, comparative and transnational (ICT) dimensions of contemporary Canadian law and lawyering. The course will be delivered in two segments: (i) an introduction to the legal profession in the first week of the Fall term, and (ii) a two-week intensive at the beginning of January that will explore the ethical challenges for lawyers posed by the increasingly transnational and multicultural character of Canadian society and law. The course will have approximately 39 contact hours in total. Four full-time faculty members will be assigned as lead instructors in the course, with one of these acting as Course Director to ensure overall coordination. The plan is for each lead instructor to be assisted by doctoral students who would participate in all teaching sessions and would facilitate small group discussion of case studies. Students will be evaluated in both parts of the course through non-examination formats. Instructors in other first year instructors would be expected to have a presence in the program. The 4 lead instructors will be responsible for assigning grades in the course following the January segment.

2. Partial Shift to Full Year Courses: The Working Group has moved away from the December 2005 proposal to teach all substantive courses over a full year, principally because we could not find a way to avoid an evaluation crunch in April. There are strong arguments for teaching the Perspective Option in the Winter term (rather than eliminating it or moving it to a January intensive term, ideas discussed at earlier stages). Nor could

we identify another Winter term course that could be accelerated or moved to the upper years. The Working Group believes it is not desirable to have students writing final evaluations in 7 courses simultaneously in April. We have moved instead to a hybrid model in which two courses would be taught over a full year, while four courses plus the Perspective Option would remain semesterized.

Full year courses:

(i) Legal Process: This full-year course will integrate material from LRW and Civil Procedure with enhanced skills development, professional responsibility and dispute resolution elements. The course will examine professional responsibility in both adversarial and non-adversarial contexts. It will devote more time to introducing basic concepts and skills in alternative dispute resolution. The course will have a total of 93 hours of classroom contact time. This is very close to the combined 96 hours of classroom time in LRW and Civil Procedure (note that the two courses combined have 104 credit hours, but only 96 classroom contact hours). Time savings will be achieved through the use of online tutorials for teaching basic legal research skills, and by dealing with complementary LRW and Civil Procedure material together. Use of case studies will assist students to obtain a contextualized learning experience and to reflect on lawyering roles and ethical challenges in various dispute resolution processes. The Legal Process course will use multiple forms of evaluation including a research competition, research and writing assignments, advocacy and other skills exercises, and an examination. Instructors in LRW and Civil Procedure will cooperate in the design and delivery of the Legal Process course, but will generally divide their teaching and evaluation responsibilities in a manner similar to the current arrangement. One exception to this relates to the proposed segments on mediation and negotiation, where involvement of Civil Procedure instructors and/or other full-time or adjunct faculty will be required.

(ii) Public Law and Constitutional Law will be merged into a single course taught over the Fall and Winter terms. Instructors in these courses have been consulted in order to draft a proposed common core curriculum. This course will have a total of 80 scheduled contact hours. While this is less than the 91 hours currently allocated to Public Law and Constitutional Law together, instructors in these courses have indicated that time savings should be possible through rationalization of material covered in the two courses. It is proposed that any final examination in the course not be worth more than 67% of the course grade, and that at least two different formats be used for evaluation in the course. This course will not be taught in small group format (the proposals build in small group experiences elsewhere in the program). However the allocation of 80 hours over the full year is intended to allow some flexibility for instructors to deliver the course in ways that include some small group activity.

Semesterized courses:

(i) Contracts, Criminal and Torts will be taught for 4 hours per week starting in the second week of the Fall term. In each section one of these courses will be taught in the combined lecture/small group format. It is proposed that each course have a total of 56

scheduled teaching hours (compared to 52 currently). The additional 4 hours are allocated to permit instructors to give feedback (graded or ungraded) to all students on their learning (see “Assessment”, below). Instructors will be required to set aside these 4 hours in some fashion on their course syllabi as time that will not be used to cover new material, but to engage in feedback activities (including potentially canceling class to allow time for marking). There will be no mandatory graded mid-term in any of these courses. Finally, it is hoped that instructors in these courses will consider how they could pick up themes raised in *Ethical Lawyering in a Global Community*. The WG is recommending that the law school find ways to support faculty members who would like assistance in developing their course curricula to integrate professional responsibility and/or ICT material.

(ii) Property will be taught for 5 hours per week in the Winter term, starting after the January intensive, and will have a total of 56 classroom hours (compared to 52 currently). Again, the additional hours are intended to be used to provide feedback to students (graded or ungraded) on their learning (see “Assessment” below). Thus instructors will be required to set aside the extra 4 hours in some fashion on their syllabi as time that will not be used to cover new material, but to engage in feedback activities (including potentially canceling class to allow time for marking). Property will not be taught in small group format (the proposals build in small group experiences elsewhere in the program). It is hoped that Property law teachers will discuss whether and how they could pick up ICT and/or professional responsibility themes addressed in the Ethical Lawyering course (Parts 1 and/or 2). The Working Group is recommending that the law school find ways to support faculty members who would like assistance in developing their course curricula to integrate professional responsibility and/or ICT material.

3. Perspective Option: This will be offered in the Winter term. The objectives of the program will be rationalized to focus on providing students with a sustained exposure to critical and interdisciplinary perspectives on law, and to develop scholarly essay writing skills. We are proposing that all PO courses be capped at 22-23 students, that course materials must consist mainly of secondary literature that goes beyond doctrinal analysis, that PO courses be evaluated by a 20 page scholarly paper for at least 75% of the grade, and that PO courses must include instruction and feedback on how to write a scholarly paper in law. Existing PO courses that do not fit this description would be moved out of the PO rubric, and may be shifted to the upper year curriculum. For example, the existing skills-oriented Dispute Resolution courses would no longer be offered within the PO rubric but the WG is recommending that upper year offerings in this field be expanded. All students will be introduced to alternative dispute resolution through a dedicated component in Legal Process.

4. Legal Theory Seminar: This would be offered as an optional alternative to the Perspective Option for students with a background and/or special interest in pursuing theoretical or interdisciplinary approaches to their legal studies. It would commence in the Fall term and would function as a tutorial-style reading group focusing on some aspect of legal theory, jurisprudence, or interdisciplinary (“law-and”) studies as determined by the Faculty Supervisor(s). During the Winter term students would focus

on writing a research paper to be graded by the Faculty Supervisor. Groups would meet approximately 12 times over the duration of the year. Completion of a Legal Theory Seminar would count as a student's Perspective Option. Enrollment would be limited to 15 students per group.

5. Assessment Reforms: A key objective of curriculum reform is to improve our pedagogy by providing students with more frequent feedback and more varied forms of assessment across the program as a whole. This goal will be advanced in several ways.

(a) Academic regulations will be introduced to require that in the full year courses (Legal Process and Public/Constitutional Law), final evaluations may not count for more than 67% of the course grade (this regulation will be drafted in a way that preserves the ability to conduct mid-term evaluations on a no-downside-risk basis). In addition these courses must employ at least two evaluation formats (eg. examination plus participation; or examination plus written assignment). Finally, all students must receive feedback on their work at some point during the course, whether graded or ungraded, in a form that is designed to help prepare students for later evaluations in the course.

(b) Academic regulations will be introduced to require that in semesterized courses all students receive feedback on their work by a specified date in the term (week 11 in the Fall term; week 10 in the Winter term). Such feedback could be graded or non-graded, but should be designed to help prepare students for later evaluations in the course. Administrative coordination will be needed to ensure that instructors set any due dates or test dates at the start of the term, and that students are not faced with unmanageable conflicts between courses.

(c) The mandatory 25% mid-term in the Fall term courses will be eliminated.

(d) The course in Ethical Lawyering in a Global Community will be evaluated entirely through non-examination methods.

(e) All Perspective Options will be evaluated primarily through a 20 page scholarly paper.

(f) The Working Group is recommending that as part of the implementation process for these reforms, the Standing Committee on Teaching and Learning (SCOTL) organize an information session for first year (and other) instructors on "Providing Feedback on Student Learning". This session should aim to improve our collective understanding of what constitutes quality feedback, and also our pragmatic strategies for delivering such feedback to a large class.

6. Scheduling and Workload Issues

The WG has developed a tentative plan for timetabling of the new first year curriculum (See “III. Scheduling and Allocation of Hours”, p.74). We have been mindful of several pragmatic and logistical issues in crafting these proposals.

The first of these is the shortage of seminar rooms in Osgoode’s building. The Law School has a renovation plan for the building that will add new seminar space. Pending those renovations, however, we will need to find enough rooms for the small group work which is envisioned at various times in the year. The WG consulted with Ms. Karen Willoughby who has responsibility for timetabling and academic room bookings within the Student Services office. She was confident that provided sections can do their small group work at different times, as occurs presently in courses that are taught in small group format, we can find enough rooms to accommodate the first year activities (though possibly not always in small seminar rooms). The WG notes that the increase in small group activity should be most noticeable in the first week of the Fall term, and during the two-week January intensive. During the balance of the Fall term only one course will have a small group format every week (consistent with current practice). In the Winter term, only the PO will be taught in small group format every week. The other courses will be taught in the regular sections, with flexibility for instructors to incorporate some small group activity where possible.

A second concern is related to student workload and the number of classroom contact hours in the first year program. The December 2005 DP had proposed a significant number of additional classroom hours. It is important to note that adding more time in the classroom can impact on student workload in different ways depending on the amount of reading and other work that must be done to prepare for or follow up on the classroom time. Nonetheless, the WG is sensitive to the need for a weekly schedule that is manageable for students and these proposals would keep classroom hours very close to current levels. The proposed new course in Ethical Lawyering in a Global Community would add 39 classroom hours in total to the first year program (9 hours in the first week of the fall term; 15 hours per week in the intensive January term). However, it should be noted that readings for the course will have to be more selective and less heavy than is usually the case in a course taught over a full term or year. The nature of an intensive course is that more of the work must happen during class time, since there is less time outside the classroom. Time savings will also be achieved in other areas. In particular the merging of Public Law and Constitutional Law will result in a saving of 11 classroom hours. In addition, the PO will be reduced for some students from 39 hours to 26 hours of classroom time (i.e. for those students who previously opted for a 3-hour PO). Finally, 4 additional contact hours have been scheduled for each of Contract, Tort, Criminal, and Property. However the proposals are very clear that this time is to be used not for covering additional material, but for providing feedback to students on their work. One suggested use of the 4 hours, for example, is simply to cancel class time while the instructor provides feedback on a mid-term assignment or exam. Instructors will be accountable to the Associate Dean’s office (as well as students in their classes), to

indicate in their course syllabi distributed at the start of the term, how they will use these extra 4 hours.

A third issue relates to the integration of academic work with the social and administrative activities that also form a vital part of Orientation week. Discussion of these proposals has led to a productive dialogue with the President of the Legal & Literary Society about the need to take all these elements into account in planning. The proposals envision students starting both Ethical Lawyering in a Global Community and Legal Process during their first week, for a total of 14 classroom hours. However students would NOT start Torts, Contracts, Criminal, or Public/Constitutional Law until the following week. The proposed 14 hours is very close to the approximately 13 hours of class time currently scheduled during the first week of term. Nonetheless, we agree with the comment that Orientation week may be too heavily scheduled and that many entering students could benefit from more unscheduled time to deal with matters such as housing, IT connections, books, parking, etc. In addition, in order for the proposed new academic program to succeed, it will be necessary to schedule social events in a way that allows students adequate time to prepare for classes during the first week.

The WG recognizes the value of new students getting to know their classmates and beginning to form friendships, a central goal of social orientation activities. We believe these same objectives will be promoted by the proposed course in Ethical Lawyering in a Global Community. As detailed in the Course Proposal, the opening segment of the course has been designed to ensure active discussion, increased faculty-student contact, and small group work with other students. The WG believes that in addition to serving academic goals this format will assist students to find friends and feel at home at Osgoode. For all students, but perhaps especially those who are less available for or interested in evening social events, the program should serve as a useful complement to events organized by the Legal & Literary Society.

In light of these comments the WG is making two further recommendations. First, we recommend that the Law School find ways to reduce the hours scheduled for information sessions and other administrative matters during Orientation week. Assistant Dean (First Year) Sonia Lawrence has indicated that it should be not be difficult to find other modes of delivery, or other time slots within the first two or three weeks of term, to address many of these matters. Second, the WG is recommending that the Assistant Dean (First Year) work with the Orientation committee to ensure that social activities are timed in a way that encourages students' full engagement with their academic work in the first week. In particular, leaders of the Orientation Committee and Legal & Literary Society have expressed openness to the idea of spreading evening social activities over the first two weeks of term, and perhaps shifting one event to an afternoon in the first week. The WG believes some reorganization of social orientation activities along these lines would greatly assist in successful implementation of these proposals.

7. Evaluation of the Reforms

The WG is recommending that the Academic Policy Committee (APC) should monitor the implementation of curriculum reforms, and should report to Faculty Council on their impact one year following implementation.

B. Objectives of First-Year Curriculum Reform

The Curriculum Reform Working Group (WG) has taken seriously the need to be clear about the objectives of this reform exercise, and to design proposals that will demonstrably advance those objectives. Ultimately the WG decided that the following objectives are most important in this round of reform. The order of presentation in this list is less significant than the observation that all 5 are interrelated and overlapping.

1. Encouraging critical and reflective approaches to the study of law from the time students enter the program, and more systematically throughout the first year.
2. Incorporating legal ethics and professional responsibility into the curriculum.
3. Ensuring that all first year students are introduced to the transnational and globalized character of law.
4. Better integration of skills development into the curriculum, especially high order research, analytical and communications skills.
5. Improving pedagogy through increased use of active learning methods, more feedback, and more varied forms of assessment.

In defining these objectives we were strongly influenced by the Law School's Strategic Plan (*Making a Difference: Plan for the Law School 2006-2010*). Other influences include the December 2005 Discussion Paper on First Year Curriculum Reform, the inaugural Osgoode Course Design Institute and associated materials, results from the 2005 and 2006 Law School Survey of Student Engagement, previous curriculum reform reports including the Brooks Report (*Notes on Osgoode's Present Curriculum and Possible Directions for Change*, 1993) and the Slattery Report (*Improving First Year*, 1999), scholarly literature on legal education, developments at other law schools, and the ideas that faculty members and students have conveyed during this process.

The balance of this paper elaborates briefly on these 5 objectives in order to explain the history and thinking behind them, and how each will be advanced by the proposals. We also take this opportunity to discuss alternative options that the WG considered but ultimately set aside (see "Paths not taken").

1. Encouraging critical and reflective approaches to the study of law from the time students enter the program, and more systematically throughout the first year.

This first objective reflects a strong consensus on the WG, and we believe in the larger Osgoode community, that our first year program should introduce students to critical and interdisciplinary perspectives on law, and should reflect a diversity of social realities. These themes also pervade the Strategic Plan and inform many of its specific recommendations. Indeed the Strategic Plan identifies the following as “core values” of the Law School:

- celebrating diversity
- encouraging critical perspectives
- pursuing interdisciplinary inquiry

(at 7-8; other core values are “innovation” and “commitment to lifelong learning”)

Previous curriculum reform reports have also identified a need to integrate critical and interdisciplinary perspectives into first year (see esp. Brooks, 44-60). The challenge is to find effective and engaging ways of achieving this goal. As noted by Brooks (11-12), one of the issues here is the wide range of interests and prior learning among the first year class. While some students crave this material and may be alienated by the doctrinal focus in much of first year, others need to be persuaded as to why critical reflection is needed in working with legal rules.

Previous curriculum reform exercises generated innovations such as Frameworks for the Study of Law, followed by Legal Dimensions. While those programs had some advantages and produced many excellent sessions, neither succeeded over the long term.

Many colleagues have worked individually to incorporate materials on social context, legal theory and interdisciplinary knowledge in teaching their own courses. The mainstreaming of critical perspectives within individual subjects appears to be on the rise at Osgoode. Yet there is lingering concern about whether this fully meets the need for a systematic approach that reaches all first year students consistently, and that sends a clear institutional message about the pedagogical importance of this material.

These issues are central to our distinctive history and identity as an educational institution and should, in the WG’s view, be addressed in any major exercise in curriculum reform. There are three aspects of the proposed reforms that the WG believes will advance Objective 1.

(i) The program on Ethical Lawyering in a Global Community: While the topical focus of the program is on professional responsibility in the context of domestic and transnational law issues, it is designed more generally to encourage critical and reflective approaches to the study of law from the moment students enter law school. The WG has focused especially on making the opening 3-day segment of the course accessible and engaging for new law students with a wide range of backgrounds and interests. The

proposed January term offers a sustained encounter with theoretical and interdisciplinary materials, grounded by a case study that builds on doctrinal knowledge gained in the Fall term.

(ii) The proposed reforms to the Perspective Option are designed in large part to enhance it as a vehicle for achieving Objective 1.

(iii) The proposed Legal Theory Seminars are intended to enrich our legal theory curriculum in the Fall term of first year for students who have a strong interest in pursuing a scholarly legal education. It is designed to foster intellectual community, and aims both to satisfy and to stimulate student appetites for theory and critical reflection.

Paths not taken:

(a) A 2 week Introduction to Law course: Such a course had been suggested in both the Brooks Report (1993) and the DP. The WG explored this idea and attempted to develop a proposal for such a course that would combine some coverage of basic skills and knowledge with an introduction to critical perspectives on law. However we struggled with how to ensure such a course would improve on what many Fall term instructors already do in the first two weeks of their courses, especially in light of resource constraints. The WG ultimately decided that in order to be worthwhile such a program would need to be taught mainly by full-time faculty members, and largely in small group format. This would very substantially increase the amount of teaching resources devoted to the first year program, at the expense of upper years and the graduate program. In addition, once the decision was made to retain some semesterized courses, the idea of reducing the Fall term by 2 weeks became less attractive. The WG decided that the most compelling reason to offer such a course would be to ensure early learning and reflection about professional responsibility. We believe this goal can be achieved via the introductory one-week segment of Ethical Lawyering in a Global Community.

(b) An even more structured PO: Some colleagues urged more extensive changes to the PO, specifically that we determine a list of core courses in legal theory/jurisprudence/legal sociology etc. from which students could choose each year. The WG ultimately rejected this proposal because (i) we found it was difficult to decide what should and should not be included on such a list, and saw a risk of conveying an implicit hierarchy of 'core' versus peripheral or other perspectives on law; (ii) we were concerned this approach may displace or pre-empt other possible courses that advance the broad objectives of the PO equally well; and (iii) a core list would be prone to create staffing challenges that may force significant redistribution of teaching resources from the upper years to the first year, and may create pressure to recruit instructors with less than ideal expertise in a particular field.

2. Incorporating legal ethics and professional responsibility into the curriculum

The need for more and better education in legal ethics and professional responsibility has long been discussed at Osgoode (see for example Brooks, 60-68). At present some instructors address professional responsibility issues in their courses, though practices are

inconsistent (Faculty Council passed a Resolution some years ago that all courses should devote at least one hour of classroom time to issues of legal ethics and professional responsibility). A course in the Legal Profession is offered as a Perspective Option to first and upper year students.

The Law School Survey of Student Engagement (“LSSSE”) indicated in both 2005 and 2006 that Osgoode students were significantly less likely than their peers at other North American law schools to report that their program encouraged the ethical practice of law (Q.8(b)). Some Osgoode students also offered comments on this topic, including the following (from 2005 and 2006):

“We are taught to be mere tools of our clients. We are not taught about our duty to advance the interest of the entire community... Only discussions about legal ethics revolves around rationalizing, and not critical self-reflection about our duty and role.”

“...Ethics should also be integrated into the core curriculum. Overall, there is a need for the humanization of legal education.”

“I find that my main complaint at law school is the drive toward practicing law in a corporate/large firm setting. For people, like myself, who prefer to practice in a public interest/NGO setting, this can leave us feeling alienated.”

“My school encourages a business and financial focus above social justice and contribution the community despites its reputation as a socially conscious institution. This is profoundly disappoint to those of us who entered law school because we are interested in law as a tool for social justice and equality...”

“My experience about law school is deeply saddened me and made me even more cynical about law and lawyers...Each course on family law, contracts, torts, etc. should have ethical component to it...Who is preparing the community lawyers, lawyers for small unserved communities, for Indian reserves...”

Comments such as these may not represent the views of all students, but nor are they isolated to one or two respondents. At least some of our students see a need for more professional responsibility education.

The Strategic Plan highlights the importance of professional responsibility education in several passages. It defines the Law School’s mission to include “preparing LLB students for any professional role they might choose [including various types of public interest work]”; “learning about the role of law and lawyers in society...and how to assist clients with a high degree of ethics...”; “to instill...an understanding of the barriers standing in the way of equal access to the justice system”; and “to impart a sense of the profession’s public responsibility to serve all sectors in society, as well as the skills and knowledge needed in order to serve constituencies not legally represented” (pp.5-6).

