

Report of the Curriculum Committee for the 2022-23 Academic Year

This year's Curriculum Committee mandate includes the following item:

Bearing in mind that, in the course of the introduction of a mandatory course on *Indigenous Peoples and the Law*, the *Legal Process* course was moved out of the first-year program, to continue consideration of the role of *Legal Process* in the law school curriculum, and to consider further options for reform associated with rethinking Legal Process.¹

Background and Deliberations

As the mandate itself indicates, the task here was set by the changes made to the first year program this year as a result of Faculty Council's adopting the recommendations made in the final report of last year's Curriculum Committee. As a result of choosing to create two new mandatory first year courses—Introduction to Indigenous Peoples and the Law and Indigenous Peoples and the Law—Faculty Council removed the Legal Process course from the first year program. This year the Committee engaged in deliberations and consultations aimed at determining whether the Faculty should still require students to take Legal Process, and, if so, when. In this report the expression 'Legal Process Issue' will be used to denote this element of the mandate.

The Committee met to discuss these issues and agreed that there was a relatively limited set of options available to address the Legal Process Issue. In addition, Committee members consulted with Faculty and with students to solicit additional views about these questions.

Substance of the Issue

The main constraint on solving the Legal Process Issue is the one already noted: there is no room in the first year program for any additional courses, so any move to require Legal Process for all students would require either (i) removing a different course from the first year program or (ii) mandating students' taking the course in their second or third year. In addition, the Committee was cognizant throughout its deliberations of the fact that Legal Process has been used to satisfy various graduation requirements imposed on students by the Law Society of Ontario and Federation of Law Societies of Canada. This externally-imposed constraint dovetails with the widely shared view that Legal Process offers students an important perspective that forms a valuable constituent of the JD program which is not available easily in other courses.

There was effectively no appetite for the first option, although some members of the Faculty raised a question as to whether or not some set of reforms to the first year Legal Research and Writing course might somehow offer a solution to the Legal Process Issue. In the course of its deliberations and in consultation with other members of the law school community, the Committee determined that changes to the Legal Research and Writing course were outside of its mandate for this year, properly considered, and that any such changes ought to be considered and undertaken only in the context of an inquiry dedicated to that specific question. The Committee expresses some openness to a future version of itself being asked to engage in that sort of inquiry.

¹ The mandate also includes proposing a curriculum for next year, which is done in a separate Report.

Given the tight constraints in the first year program, the Committee determined that the solution to the Legal Process Issue would require creating some kind of mandatory course in the upper year program. However, the Committee also appreciated the input, made both by students and Faculty members, that the Legal Process course that existed until this academic year might not be an ideal course for upper year students, and that upper year students might have both more knowledge of the substantive law and more diversity of interests than first years, so that, rather than simply moving the already-existing version of Legal Process to the upper year program, a better approach would be to think of a way to allow students to learn about legal process broadly construed (in a way that satisfies the graduation requirements noted above and also addresses the view that legal process is a valuable element in the JD program).

The Committee's recommendation² is therefore that upper year students (as of 2023-24, which is to say students in the graduating class of 2024-25) be required to satisfy a new Legal Process Requirement.³ The requirement would operate much in the way that the current International/Comparative/Transnational requirement operates. To wit, each year the Associate Dean, JD Program would designate a basket of courses as courses satisfying the Legal Process requirement. The Associate Dean, JD Program would endeavour to ensure that there are sufficient spots in courses satisfying the requirement so that students would easily be able to satisfy the requirement in either their second or third year. (So, to be clear, students would have the option to take a course satisfying the new requirement in either of their second or third year.⁴) In addition, the Associate Dean would endeavour to 'front load' courses fulfilling this requirement, which is to say to offer more of them in the fall semester than the winter semester, with an eye to allowing students to fulfil the requirement as soon as possible, to allow them to leverage the knowledge that they gain through satisfying it to their advantage in other courses. Of course we anticipate that there will be winter semester offerings.

Although the list of courses that fulfill the requirement would be expected to change from time to time, it is anticipated that current courses (or courses already scheduled for next year) including Criminal Procedure, Criminal Process, and Alternative Dispute Resolution would satisfy the requirement. In addition, at least one section of an upper-year 'general' Legal Process course should be offered every year and satisfy the requirement, and the Associate Dean should endeavour to offer a practically-oriented course in Civil Procedure and Practice, dedicated more closely to civil practice.

Resolution

That a new upper-year Legal Process graduation requirement be added to the JD Program that must be satisfied by all JD students by taking, in either their second or third year, one course designated by the Associate Dean, JD Program as satisfying that requirement.

² Which was initially put forward by former Faculty member and Associate Dean Justice Lorne Sossin.

³ Other graduation requirements can be found at <https://handbook.law.utoronto.ca/jd-academic-program/jd-degree-requirements>

⁴ There was some suggestion about the possibility that the course should be required in the fall semester of second year, but ultimately this was set aside in favour of increased student choice.