

## LEGAL EDUCATION, LEGAL STUDIES AND BUSINESS LAW

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The title of this article may lead the reader to assume that it is concerned with three isolated and independent fields of academic endeavor. The goal, however, is to present those three terms as parts of a coherent structure for one major educational enterprise. These terms are actually in a descending structural order, with the first including the other two and the second including the last. Each of the terms in the article will be defined and placed in an integrated structure for legal education.

As with most such attempts at a rational structuring of an ongoing human activity, this attempt at description contains some mildly subversive proposals. The chief new proposal is that most of the teachers who read this journal should be called Professors of Legal Studies, even if their class assignment for the current term includes only courses denominated business law. That the term "legal studies" is no stranger to the American Business Law Association can be seen by reading its 1976 descriptive brochure, which uses the term no fewer than five times.

Because the reader was promised only *mildly* subversive proposals, it must be quickly added that this article is *not* concerned with advocating any of the following in *terrorem* suggestions:

- (1) that there be any modification of currently existing courses;
- (2) that business law not be taught as a subject; or

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(3) that most of us teaching law outside law school be moved from the schools of business.

First, we must define the academic field of "legal education." As long as legal education is narrowly viewed as training within a law school accredited by the Association of American Law Schools all other forms of educational enterprise related to law will necessarily be considered beyond the pale, both by those teaching in law schools and those outside law schools.

The best current example of this parochial meaning of the term "legal education" may be found in an August 6, 1975 joint memorandum to professors of business law from the executive director of the A.A.L.S. and the editor of the *Journal of Legal Education*, entitled "Invitation to Subscribe to the *Journal* . . ." It states, in part:

As its name [*Journal of Legal Education*] indicated, the audience for which the *Journal* is edited are those who profess the law in our law schools. Thus the articles carried in the *Journal* are concerned primarily with legal education. However, this is not its sole content. . . .

This is another area in which you [*i.e.*, business law professors] have interests in common with law teachers. . . .<sup>1</sup>

The solution to the problem created by this narrow definition is not a continuation of the unproductive conflict among all the participants in education dealing with law, but rather a more satisfactory definition which can serve to open the door to mutually beneficial cooperation which will better serve society's interests.

A broader definition of legal education appears in a recent article sponsored by the American Bar Foundation:

Legal Education . . . encompasses all education about law. With increased and renewed interest in teaching the law to the nonlawyer, other terms such as law-focused education and law-related education have also emerged. We prefer 'legal education' to be used generically. Professional legal education then becomes a subset of legal education.<sup>2</sup>

<sup>1</sup> M. Ruud & J. Murray, "Invitation to Subscribe to the *Journal of Legal Education*", (August 6, 1975 memorandum to professors of business law).

<sup>2</sup> Levine & Tapp, *Legal Socialization: Strategies for an Ethical Legality*, 27 *STAN. L. REV.* 1, 3-4, n.8 (1974).



The subsets of legal education — all education about law — may be arranged along a spectrum based on generality and vocational depth. The first subset is the most general, and the last is the most specific. The general categories of legal education are as follows: general legal education, technical legal education, and professional education.

Figure 1

DIAGRAM OF THE STRUCTURE OF LEGAL EDUCATION

THE FIELD AND ITS SUBSETS	TYPICAL CURRICULUM CONTENT	SAMPLE ORGANIZATIONAL DESIGNATIONS
<b>GENERAL</b>	Introduction to Law Law and Society Legal History Comparative Law Jurisprudence Nature of Law Legal Concepts	<b>LEGAL STUDIES DEPARTMENTS</b> (or areas, or programs in collegiate, secondary and elementary education)
<b>TECHNICAL</b>	Law for Accountants Law for Marketing Business Law Law for Journalism Law for Health Science Administrative Law School Law	
<b>PROFESSIONAL</b>	J. D. Program LL.M. Program S.J.D. Program Continuing Legal Education Legal Assistant's Education Legal Librarian's Education Court Administrator's Education	<b>LAW SCHOOLS</b> (or colleges of law or departments of law)

Figure 1 first defines the three subsets of legal education and then explains the reason why, after examining the typical curriculum content of each, two organizational designations emerge: "legal studies departments" and "law schools."

General legal education means developing the literacy of the citizen and general scholar in society's legal institutions and how they affect the average person. It includes, for example, most elementary, secondary, and collegiate education about the law, and higher education courses on an introductory level—whether undergraduate or graduate—about the general functioning and limits of legal institutions. It might also include efforts to keep the public abreast, through the media and public forums, of crucial changes and developments in law that have a wide impact.

Technical legal education means training people in the legal aspects of their vocations. Police officers, accountants, hospital administrators, and business managers all have vocations which include substantial contact with the law. In each case, a large area of the vocation is not directly legal.

Professional legal education means training future lawyers, judges, and legal scholars. It also includes continuing legal education for attorneys. In each case, the person so trained is expected to spend most of his time actually working with the law in a creative way. Of our subsets, professional legal education is perhaps the most specific and, with reference to the law itself, is vocationally the deepest.

The three subsets may be seen as complementary parts of the whole of legal education. *Most significant of all is the fact that such a division of areas of concentration assumes no hierarchy of status among the subsets.* It simply describes what exists in legal education in terms of its major components without attempting to assign comparative values or worth to the parts. Additionally, there is no logical reason why a person teaching in one of the subsets cannot teach in one of the others, provided he meets its legitimate requirements.

With that definition of legal education and its subsets in our minds and hearts, we—everyone in legal education—should be ready for consideration of the second term in our title, "legal studies."

First, we are able to define legal studies in terms of legal education:

Legal Studies is education about law addressed to either the general or technical subsets of legal education and therefore is concerned primarily with the necessary legal education of (a) citizens and the general scholar and (b) lay appliers and enforcers of limited areas of the law.

Second, we are in a position to think rationally about the position of business law as a subject in the broader scheme of things. Administratively, "business law" is currently anything and everything the speaker wants it to be. In my school, the term covers everything from a course cross-listed with the history department dealing with the broad history of the law—not specifically related to "business" at all—to a blistering, one quarter circuit of what accounting and marketing majors need to know to pass the law section of the CPA exam and distribute merchandise with due regard to legal rights and liabilities. The only common thread in the current administrative use of the term "business law" seems to be that the people who teach this wide range of courses are usually "housed" in the schools and departments of business administration—hence the term "business."

Order can be brought out of this chaotic situation by applying our understandings of the terms "legal education" and "legal studies" to our final term in the title of this paper, "business law." First, because we "business law" professors are not training lawyers and jurists, we are not in the subset of professional legal education. Second, when we are teaching citizens and general students in our school populations without regard to their specific vocational concerns we are teaching in the general legal education subset. Third, when we are teaching law courses specifically designed for different vocational specialties, *e.g.*, accounting, finance, law enforcement, or government administration, we are teaching in the technical legal education subset.

Currently we call business related legal courses, "business law." What do we call our non-business courses which we should offer to our academic communities? Moreover, what do I call myself when I am teaching students who are interested in other technical legal education subjects—like hospital law for nurses—or teaching students of the liberal arts who wish to alleviate their legal illiteracy through a general legal education experience? Fortunately, the answer lies in the fact that "business law" courses, and all the other courses we have been discussing, are either

general or technical legal education. A term is available to describe academic activities encompassing these two subjects. *That term is legal studies.*

*The course or courses properly called business law should be taught by a professor of legal studies.* So, too, should the courses called Hospital Law, Legal Environment, Legal History, Constitutional Law, Administrative Law, Legal Concepts, Urban Law, Law in Society, International Law, Consumer Law, Criminal Justice, and all the rest in the general and technical subsets of legal education.

But what about specialization so that a teacher can gain expertise in subjects such as the law of business organizations or accounting and law? A professor of legal studies should specialize in some closely related set of courses both for professional growth and for the sake of greater effectiveness in the classroom. The title, however, should remain professor of legal studies, regardless of specialization. The professor of mathematics does not drop his title to become a professor of college algebra simply because he has been assigned that particular course during an academic session. If an individual is teaching only "true" business law courses as defined above, he should still recognize his structural position within legal education and insist that he be called professor of legal studies. Also, the use of this term by one who teaches only courses for accounting, marketing, and management majors opens the door for future service to the school community over the whole broad range suggested by the subsets of general and technical legal education.

The scheme proposed may have many benefits. For example, the American Bar Association's Special Committee for Youth Education for Citizenship, which has been working for years to bring the subset of general legal education to millions of elementary and secondary school students—90 percent of whom will never see a college, let alone a college law course—recently has been reported as recommending that colleges take the lead in this effort through disciplined, academic legal instruction of school teachers.<sup>3</sup> The school teacher population of the United States

<sup>3</sup> Maxwell, Henning, & White, *Law Studies in the Schools*, 27 J. LEGAL EDUC. 157, 166 (1975).

approaches two and one half million people at the present time. This could well mean the establishment of not only courses and series of courses for school teachers, but also degrees such as Master of Education (or Arts) in Legal Studies. A person holding such a degree would be the representative of legal education within the middle and high schools and on the curriculum staffs of school systems charged with helping to bring needed legal education experiences to all our population.

This is an exciting time to be working in legal education, legal studies, and business law. If we can remember the unified structure suggested by this article and apply the truths implied by that structure, this will also be a constructive time for us and for our society.