



Critical Issues Summit

*Equipping Our Lawyers:
Law School Education, Continuing Legal Education,
and Legal Practice in the 21st Century*

Additional Recommendations

To create the Final Recommendations of the Critical Issues Summit, conferees were divided into six different breakout groups over the course of two days: law schools, generational learning styles, bar associations, CLE, in-house professional development, and mandatory CLE. Each group was tasked with reporting out three key recommendations for improving lawyer training and development in its area. The resulting 18 recommendations, approved by all conferees in plenary session and subsequently edited by Reporter Chuck Bingaman to eliminate duplications, comprise the Final Recommendations of the Summit.

Although reporting out only three key recommendations, each breakout group generated a wide range of recommendations for action. The Reporter and the Summit organizers agreed that, although these “additional recommendations” were not part of the Summit’s official work product, they should be included in the final report of the Summit to provide context and to offer further ideas for improving lawyer training and development.

Additional Recommendations from the Law Schools Breakout

1. Law schools should expose law students early on to representing under-represented clients and the problem solving skills it takes to serve them well.
2. Law schools should consider creating more clinics for law students with personal injury case focuses.
3. The bench and bar should create and coordinate a national lobbying effort to give lawyers loan forgiveness opportunities in exchange for serving under-served clients comparable to those for medical and dental graduates.

4. Law schools should develop models for effective partnerships between law school faculty, practitioners, and judges to integrate professional values and layering skills with legal doctrine. (Do not Inns of Court offer one such model?)
5. Teach communication skills (e.g.: listening, verbal, written, non-verbal, with clients and others) intentionally and as appropriate through all three years of law school.
6. Law schools should provide rewards, awards, and incentives that recognize and value good teaching.
7. Law schools should focus explicitly at all levels of curriculum to connect book learning to a contextual experience of application, encouraging local bar associations to provide service hour credit and grant MCLE credit for time contributed to experiential learning at law schools, e.g.:
 - a. Drafting simple contracts;
 - b. Drafting simple complaints and handling responsive negotiations;
 - c. Drafting requests to admit and performing client interviews.
8. Explore and investigate methods, both commercial and open-source, to make skills-based methods and materials available broadly for teaching practical legal skills.
9. Establish a program where each law student is paired with a practitioner for the duration of law school and where there is assessment of the value of such programs.
10. Law schools, bar groups, and others should establish open and continuing dialogs about their needs, goals, and methods so they can serve each other's needs more effectively.
11. The bar and bench, working with the law schools, should establish transitional programs with separate streams for solos/small firms and for large firm lawyers. One size does not fit all.
12. Law schools should consider broadening their curricula to expose students to other legal systems' approaches to common problems of contracts, family law, torts, etc. in a world of globalization. See, for instance, curriculum of McGill School of Law. See www.law.mcgill.ca.
13. Law schools should be teaching lawyers how to deal with cultural conflicts that come into play with a diverse range of clients in the modern world. E.g. conflicts of law, cultural issues, international legal norms.

14. Law schools that want to prepare students for the global economy should be working now to create curricula for actually doing so.

Additional Recommendations from the Generational Learning Styles Breakout

1. Legal educators need to make one definition of “educator” as translator between generations. They need to teach Gen Y that “getting it right” is important. Employers and schools must identify what is important and what is negotiable.
2. Legal educators must make education dynamic, engaging, and interactive. They must understand generational learning styles, and apply adult learning theory to their teaching methods.
3. Law school and CLE providers must become more “outcome oriented.” Each course should have learning objectives and a checklist of benefits. They should explore professional development certificate programs.
4. Law schools and CLE leaders must involve younger generations in planning learning experiences. Pair older—baby boomer—instructors with younger instructors in planning and teaching.
5. Law schools and CLE providers should train baby boomer teachers about educational goals, what audiences want, and what generational issues may arise.
6. MCLE rules should award credit for a full range of teaching methods, including experiential learning (case studies, simulations, etc.) rather than favoring lecture as the assumed way of delivering content.
7. The organizational structure, funding, and content of ongoing public legal education should be redesigned to meet the needs of lawyers not receiving in-house training. The bar should consider graduated credentials (i.e. in five-year increments), the importance of experiential learning, and specialization v. consumer protection.
8. Should we measure outcomes of CLE and training in terms of effectiveness with different generations?
9. Law firms need to provide better “knowledge management” for the “just in time” knowledge generation.
10. Law firms need to re-conceive career tracks so there is not an escalator but rather a matrix or lattice where one can move in various directions.
11. All legal educators have responsibility to understand and build into teaching their understanding of generational differences and how to use such understanding to

enhance educational effectiveness. It is important to know and understand other generations' language.

12. ALI-ABA should create a process for identifying the knowledge, skills and competencies that need to be left behind by the baby boomers who are retiring.
13. Law firms should evaluate candidates based on portfolios of practical legal experiences.
14. Law school teaching styles should change to be more interactive, more visual, and more team-oriented.
15. Lawyers should be taught teaching and mentoring skills.

Additional Recommendations from the Bar Association Breakout

1. An entity or group should be assembled to conduct an in-depth review of the work already done on lawyer competencies to identify those competencies that virtually all lawyers should have.
2. All stakeholders—practicing bar, courts, law schools, and CLE entities—to establish an alliance for the purpose of assigning responsibilities to ensure that such competencies are achieved.
3. Stakeholders should consider periodic assessment in a flexible way through law school and continuing into law practice. For example: examination following first year of law school; two-year conditional license; MCLE courses that include an assessment measurement.
4. There should be a Summit on “best practices for new attorney programs.”
5. All jurisdictions should explore a combination of mandatory mentoring and CLE attendance for newly admitted attorneys.
6. Consider using different teaching methods for the upper years of law school to allow for skills practice management.
7. Formalize process for reviewing the competencies tested in bar exams, e.g. every five years.
8. Survey new lawyers and their principals on the knowledge and skills that they believe would have better equipped them to enter the practice of law so that the bar exam reflects the relevant competencies.

Additional Recommendations from the Continuing Legal Education Breakout

1. CLE must always seek to meet the wants and needs of the consumers. See the new survey of practitioners' wants conducted prior to this Summit. [The executive summary of that document is included in this Final Report; the full survey may be seen at www.equippingourlawyers.org.]
2. Face the fact that the CLE survey shows that the large majority of practitioners want to be taught with lectures, and they are not clamoring for "skills" training. Realize as well that consumers do not always know what they want or tell surveyors clearly what they want and need. Also, there may be approaches to career-long professional education that they would want if it were offered.
3. Current economy is resulting in firms emphasizing older, more experienced lawyers; result is more young law graduates being unemployed and having little prospect for future employment as lawyers. The economy also pushing people to graduate school, including law schools.
4. Practitioners and judges should push for updating of MCLE rules to avoid having them constrict what can be given credit and thereby limiting what will be taught as opposed to what needs to be taught.
5. Because law firms need qualified people with new skills, CLE providers should consider more certificate curricula.
6. CLE providers should offer differentiated training that is values based and that measures actions rather than merely attendance.
7. CLE providers should consider offering CLE programs IN law schools so that students can take part and be exposed to practice oriented training.
8. Adapt delivery of CLE education to meet skills sets of "gaming" (as in computer games) generation.
9. Create a rating system for CLE sponsors and courses, perhaps Internet based, that allows users to make informed decisions.
10. CLE regulators should accredit training in mentoring and coaching techniques.
11. CLE providers should provide testing in online courses to make sure people are paying attention and learning.
12. Legal educators should provide instructional guidelines and training for teaching skills.

Additional Brainstorming by Continuing Legal Education Breakout

- CLE is not in person, so geography or time do not govern

- Segmentation allows people to access just modules, do just in time learning
- CLE is delivered on different devices (thumb drives, DVDs)
- But some forms of CLE are not accessible in rural areas
- New software allows functions like bookmarking relevant content
- New technology allows self-paced learning
- Quizzes
- Self-testing could be more sophisticated, allowing “branching” or linking to Internet resources if the user answers a question incorrectly
- Simulations using Flash are also possible
- Videos ~ YouTube; Second Life (but time and cost of development is high)
- Why is CLE low-cost? The fact that it is mandatory in most states, and is offered as a member benefit of some organizations
- We view CLE as one market, but it isn’t. There is room for higher-cost, more sophisticated CLE
- The 50-state system is a problem—some western states are considering whether a northwest state accreditation is possible
- People do attend live events for richer networking opportunities
- What about underserved lawyers? Who are the underserved lawyers? Legal services, self-funded nonprofits, public defenders, but also those in need of specialized training may be underserved by the CLE system
- Replace hard copy materials with online or materials usable on Sony readers, etc.
- Use WIKI technology to produce content
- Listservs can be one of the most useful vehicles for sharing and learning
- Need to include technology training as fulfilling the mandatory requirements
- Just in time checklists
- Alberta—lawyers must submit their own study plan (innovative; helps set learning objective)
- Video conferencing (Montana uses for “mini-CLEs”)
- Online study guide
- State-funded facilities for technology

Additional Recommendations from the In-House Professional Development Breakout

1. Define and publish best practices for in-house training including identifying learning objectives and assessing whether they have been met, coaching faculty on effective adult education techniques, requiring preparation by students, etc.
2. Encourage consortiums of mid-sized law firms to co-develop training programs.
3. Develop curricula to enhance specific competencies—“CLE in a Box.”

4. Encourage law schools to see law firms as their clients and to build competency training into their curricula.
5. Look for ways to partner with clients to create win-win training and relationship opportunities; focus on experiential and skill-building training.
6. Create a WIKI or blog to gather information and suggestions on an ongoing basis about needs for professional development for attorneys.
7. ALI-ABA should seek grants for sponsoring further research and communications on training ideas.
8. Firms should consider the McKenzie model whereby young lawyers must be at or above the bar in each of five areas by a certain time and significantly above the bar in at least two areas to be eligible to advance in the firm.
9. Firms should augment the McCrate Report's list of competencies by adding leadership, networking, team building and participation, and understanding client businesses.
10. Competencies should be thought of in terms of tiers, flexibility, roles, and career stages.
11. Form a multi-disciplinary forum consisting of legal employers, law schools, bar admissions, bar associations, CLE providers, and regulators plus several more (CE experts, clients, etc.) on bridge-the-gap issues and to study possible solutions.
12. Form a forum to establish model rules for curricular and mentorship elements that could be promoted for adoption in states and provinces.

Additional Recommendations from the Mandatory CLE Breakout

1. Some organization or group should propose a mandatory CLE mission statement based on the values of promoting lawyer competence and protecting the public interest.
2. Define the expected outcomes for MCLE for all stakeholders and devise methodologies for assessing and measuring the extent to which those outcomes have been achieved.
3. Encourage regulators with their governing bodies, as an organization, to create a definition of "practice of law" to use in updating what courses and delivery methods can be accredited.

4. Encourage regulators and CLE providers to explore benefits of teacher training with possible incentives.
5. Encourage providers and regulators to incorporate methods of teaching appropriate to the learning objectives in the various types of law.
6. MCLE regulators should provide that PowerPoint slides do not constitute adequate written materials for MCLE accreditation.
7. CLE providers and MCLE regulators should identify, value, develop, and recognize great CLE instructors.
8. MCLE administrators should be encouraged to adopt a standard 60-minute hour for purpose of accreditation.
9. MCLE administrators should seek to minimize differences among MCLE rules in various jurisdictions.
10. CLE providers and administrators need to dialog about the inherent tension between (1) expanding CLE to include non-traditional topics like skills, technology, and professional development, and (2) the dilution of CLE—even when the rules change to include the non-traditional topics.