

INSIDE HIGHER ED

Faculty and Pedagogy in the Hybrid J.D.

Two law schools have started American Bar Association-approved hybrid J.D. programs this fall. Here's how professors have shaped the curricula.

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[The University of Dayton](#)

Largely online J.D. degrees, long restricted by the American Bar Association, are growing in number this fall. Five universities have so far received permission, in the form of “variances” from the ABA, to operate an accredited J.D. program outside of current distance education restrictions.

Two of those universities, the University of Dayton and the [University of New Hampshire](#), started their inaugural hybrid J.D. terms this fall. They are joining [Syracuse University](#), which began offering a program in January of this year,

and Mitchell Hamline School of Law, which launched its program in 2015.

Southwestern Law School received a variance from the ABA but chose not to offer the program, the admissions office said.

The two new degree programs offer an early look at the pedagogy and the faculty role in online legal education at the J.D. level. Because legal education often involves substantial dialogue between faculty and students, administrators say they are working hard to bring a high level of interaction to the online programming.

“This makes law school accessible to people that just couldn’t go to law school otherwise,” said Andrew Strauss, dean of Dayton’s law school. Specifically people in rural areas, he said, who are not within commuting distance to a law school, and nontraditional students could benefit.

The Dayton Model

Administrators at Dayton say they worked hard not just to provide students with the interaction and Socratic methodology necessary to learn law -- but to use digital tools to actually improve how law is taught.

“I think it’s going to be a superior method of pedagogy,” said Strauss. “Everyone has realized for 100 years that the way to teach law is interactively. They can’t sit there and passively listen to lecture and learn law.”

Each week students complete an asynchronous and synchronous portion of their course. For a typical course, students may be doing 110 minutes of asynchronous work on their own time before coming to a 1.5-hour live online class. In the asynchronous portion, students may watch a prerecorded video of a professor talking with “students” or “lawyers” played by actors. Every 3 to 5 minutes, administrators say, the professor will prompt the student to respond, either by answering a multiple-choice question, writing a written response or engaging in some other interactive component.

After students have completed the asynchronous, prerecorded portion, only then are they able to plug in to a live class, conducted by a professor over Zoom's conferencing tool. The program builds in 10 on-campus visits, ranging from a weekend to a week, during the four-year degree program.

Victoria VanZandt, a professor of law at Dayton since 2005 who teaches residential and online classes and is dean of the online J.D., says that she's found the technology to be easy to use and versatile. For live sessions, she can break the class into smaller groups and pop herself into each of them to hear what students are talking about. This semester she is teaching Legal Pro I, a legal research and writing course, to both online and residential students.

VanZandt said making sure students have networking opportunities and a sense of community was very important to her. "I've been very intentional in my course to make sure that my students feel a sense of community," she said. "I've been amazed at how much personality comes out. Even with the class of 20, I still feel like I have that same rapport with them as I do with my residential students, which I thought may not translate, but it has."

Strauss said that the Socratic method, the traditional method of teaching law that depends on calling on students to answer questions without preparation, is great for the student being called on, but the rest of the class might not be able to follow along vicariously. Because the asynchronous format demands interaction from every student, no one is left out. "What we've done here is come up with a modality that keeps students accountable and keeps them engaged," he said. "It's very intentional in a way that teaching isn't always, very thought-through pedagogically."

VanZandt says she has personally changed her residential class with methods she's learned from teaching her online class. "There's a lot more accountability built into the asynchronous format than there is my residential course," she said. "With my online students, the program is gated, so they can't move to the next assignment until they've uploaded something or until I know they've watched the video or answered the questions in the asynchronous format."

In the past, she says, she would ask her students in residential classes to go home and draft a section of their paper, but not to turn it in. In order to build in more accountability, she has taken to having students do more work, such as drafting, in class, and asking students to show her what they've completed.

Both Strauss and VanZandt said that working with a course designer helped make all the material more intentional, as faculty members had to decide what should be covered in the asynchronous and synchronous formats. The University of Dayton worked with the online program manager 2U to develop the degree.

“2U was able to bring to the table some things that would have been very hard for us to do ourselves, particularly around the tech,” Strauss said. “Could we have done it? Yeah, we could have done it, but not at the same level of quality with their experience in doing online programming.”

“A very, very strong point of working with online course developers is they know what they’re doing. I’ve been teaching this course in one iteration or at one institution or another since 1996,” VanZandt said. “There’s an intentionality in the course creation that provides professors the opportunity to reflect on something they’ve taught a million times and think about ‘what is the best way to deliver this content to students?’”

New Hampshire's Model

The University of New Hampshire chose to offer a hybrid J.D. specifically in intellectual property and technology law.

The administration pursued a hybrid degree so that working professionals in IP and tech, who had already been coming to the university previously, would not have to upend their lives to pursue a legal education.

“We’ve found that a variance is necessary because what we want to do is make a legal education accessible to people who are working professionals in the intellectual property and technology space,” said Megan Carpenter, dean of the law school.

The program offers online courses, in-person courses and courses that utilize both online and in-person elements. Students are required to come to campus four times per year, for four days each, to complete the in-person components.

Unlike UD’s embrace of both asynchronous and synchronous formats, online courses at UNH are mostly the former.

“This is a very intentional design of our program because, first of all, we have people from all time zones across the United States,” said Carpenter. Second, she said, people

learn best at different times of day, and the asynchronous format can provide more flexibility. “I have taught in a variety of part-time programs, and it’s sort of depressing because you have people, they’re working all day and then they come to law school and they spend all evening in class, and they’re tired and they never see their families.”

The asynchronous online classes utilize both videos and PowerPoint presentations. Course designers aimed for a “knowledge check” or quiz every 1.5 to two minutes. The university worked with iLaw, an online program manager specifically involved in legal education, to develop the degree. UNH faculty will produce nearly all of the courses in cooperation with iLaw, with the exception of one or two courses produced solely by the company -- namely a course on preparing for the bar exam, Carpenter said.

Ken Randall, the president of iLaw and former dean of the University of Alabama Law School, said that iLaw generally uses software that can replicate the classroom experience. “We’ll use software that has, in a sense, decision-making trees. So that if a student gives one answer, then the analytical questioner goes down the path with that student,” he said. “In addition, we’ll use student actors sometimes so that students can observe what’s going on in a traditional classroom, and then they’ll be asked to give their answers if in that setting.”

“When you teach online, you really have to think about the whole scope at one time, and creating a course that’s based on very particular learning objectives,” Carpenter said. “I think it has made me a better teacher and a better communicator.”

Faculty Concerns

Diane Klein, a professor at the University of La Verne College of Law and president of the American Association of University Professors chapter there, said that some of the most salient concerns around online education for faculty surround intellectual property, student success and faculty labor.

“Legal writing positions are already held by people who are sometimes second-class citizens in the legal academy and also distressingly more predominantly women and faculty members of color in [positions] that are often less compensated,” she said.

“I’m concerned that a distance education model that is still going to produce large volumes of written material that have to be read and graded and feedback given in order for it to be educationally effective, that that work will even more be done by the most precarious faculty members in the legal academy.”

Furthermore, Klein said, the online education model isn’t likely to benefit the students who need it the most. “All but the most faculty-intensive forms of online education see disproportionate dropout, noncompletion and nonpersistence among the students who we most want to draw into law school in the interest of diversifying the profession,” she said.

Klein also said that the lack of intellectual property rights for faculty members in some aspects of online education threatens further stratification between tenured and tenure-eligible faculty and everyone else.

“What’s happening with these intellectual property rights when instructional material is being created inside of a proprietary system, like Blackboard for example, where either Blackboard or the university itself is asserting very aggressive intellectual property rights for themselves in a way that is completely different than the way that tenured and tenure-eligible faculty in a more traditional setting regard their own intellectual property rights in the materials they create?” she asked.

VanZandt said that many faculty members in legal education are not enthusiastic about online learning. “You’ll find extreme resistance within law school faculty [to online education], and the reason I say that is we’re entrenched in tradition,” she said. “I do think it is the future of education. I don’t think it’s for everyone.”

Strauss said that even if the ABA granted more variances, many law schools would not be able to get an online J.D. approved by their faculty, for reasons he believes are affected by nostalgia. “There is a mythology around legal education that people are pretty invested in,” he said. Leaving home, being called on with no warning, sweating in front of the class and telling your friends how terrible the experience was is all part of the mythology, he said. “It’s part of this sort of club that lawyers feel like they’re a part of. I think that there’s some kind of sense of sort of emotional attachment to the status quo and that people are reluctant to, sort of, to want to change that.”

VanZandt says she's enthusiastic about her own involvement in the program. "I don't really feel like I'm automated, because it's a truly hybrid course," she said. "My students see me once a week for one class, and the other class is prerecorded." The ABA has said that observers should begin to expect even more of these programs. "Technology has evolved to make distance learning even more a more robust pedagogy," the association said in a statement. "As the council has had experience with variances that provide it with some confidence that well-designed distance learning programs lead to acceptable to excellent outcomes, Standard 306 [which describes standards for distance education] has been amended to provide increased opportunities. It is likely that evolution will continue and even more space for distance learning will become permissible without the need for a variance."

https://www.insidehighered.com/digital-learning/article/2019/10/02/how-instructors-have-shaped-curricula-two-hybrid-jd-programs?utm_source=Inside+Higher+Ed&utm_campaign=e23efddcf9-InsideDigitalLearning_COPY_01&utm_medium=email&utm_term=0_1fcbc04421-e23efddcf9-200040001&mc_cid=e23efddcf9&mc_eid=20a6b0e480