

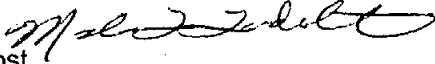
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To: Lee L. Huntsman
Provost

November 13, 2001

From: Marsha L. Landolt 
Dean and Vice Provost

Re: School of Law 10-year Review

Summary and recommendation. The Graduate School Council met with the internal members of the School of Law review committee on April 5, 2001 and with representatives of the School of Law on April 19, 2001. The review team and the Council recommended continuation of three LLM tracks: Taxation, Asian and Comparative Law, Law of Sustainable Development. Enrollment in the Law and Marine Affairs track was found to be weak, eliciting the recommendation that students no longer be admitted. The latter suggestion was unopposed by the School and will be implemented.

The School conveyed a limited vision as to its mission and potential influence, articulating a largely professional training role for itself. By contrast, its strategic plan states a goal of becoming one of the top ten Law Schools in the nation. At the time of the review, the School was unreceptive to suggestions as to how that ambitious goal might be attained. The contrast between the School's limited focus and high aspirations led the Council to conclude that the aspirations were largely rhetorical.

It is recommended that the School undertake a serious examination of its contributions to a university that insists on educational excellence and scholarly preeminence and that it adjust its activities accordingly. This review should be tackled in the first two years of Dean Knight's tenure.

The self-study, Professor Veronica Taylor's assessment of the Asian and Comparative Law program, review committee report, and the School's two responses are attached.

Background. The School of Law offers an LLM program with independent tracks in Asian and Comparative Law, Taxation, Law of Sustainable Development and Law and Marine Affairs. It also offers a PhD whose recipients study Asian and Comparative Law. The Master's program seeks primarily to prepare practitioners for specialty practice. There are approximately 150 students in the Master's program, about 2/3 of whom are full time. Roughly 60 Master's degrees are awarded annually; a small number of PhD degrees (2-3) are awarded each biennium. LLM enrollment is accounted for primarily by the Asian and Comparative Law and the Taxation tracks. Taxation is self-sustaining; all other tracks in the LLM are state-supported.

The **Asian and Comparative Law** program was the School's first LLM. It accounts for approximately one-third of the LLM enrollment and 100% of the PhD enrollment. It is well regarded internationally. The self-study presented this program as a research program (as opposed to one oriented primarily toward practice) and as a "key part of the Law School's strength in Asian law." The program "has played an important role in nearly all international activities that relate to East Asian within the University." A major requirement is a comparative [thesis length] research paper on an original topic. A major factor in admission's consideration is "the candidates statement of purpose and research objectives." Due to the requirement for fluency in an Asian language, very few of the students in the track are US citizens or permanent residents. The program primarily educates Asian lawyers in American law to a much greater extent than it does American lawyers in Asian law. It has produced a cadre of lawyers and law faculty in Asia. [Quotes are taken from the self-study.]

The review committee found this track to be the premier one academically, but stated that the School had not capitalized on its strengths. Veronica Taylor, recently recruited to lead the program, came to the same conclusion in her evaluation of the program, which was written prior to her joining the University (enclosed). Given her views and her new leadership role, this program can be expected to strengthen. The review committee encouraged the School to maintain its investment in the program and to expand it to better encompass emerging Asian economies. This goal might be facilitated if the program were made self-sustaining or if it could generate a larger fraction of its support from tuition. Alumni of the graduate program were seen as a largely untapped source of financial support.

The goals of the **Taxation** program are to "produce proficient leaders of the tax law and tax accounting bar; to be a leading voice for positive change by making meaningful contributions to critical public discourse on tax laws; to provide broad access to tax education and expertise to legal professionals and consumers of legal services; and as a self-sustaining program, to fulfill these rolls while generating sufficient revenues to meet its own expenses." This track accounts for approximately two-thirds of the LLM enrollment. Courses are now offered at both the Tacoma and Seattle campuses. While the program states that it seeks to "attract the best and brightest law students from around the country," the large majority of students are local practitioners. The review committee recommended that this program be encouraged to develop a research, public policy and scholarly component to compliment its practice orientation. It was thought that doing so could extend the appeal of the program beyond the Puget Sound region. [Quotes from the self-study.]

The **Law of Sustainable Development** program focuses on international development law. The self-study states that the program allows students "to obtain in-depth interdisciplinary training, taking advantage of the University's unusually rich course offerings in areas of the student's interest including: economics, political science, international studies, sociology, public health and environmental studies." This track has an enrollment of only 4-6 students. The review committee was not enthusiastic about continuing this program, in large part due to its small size and the lack of information provided in the self-study. However, the committee accepted Dean Hjorth's arguments regarding the strength of the program and the international reputation of its principal faculty member, Professor Prosterman. The Council recommended that the track be retained.

The track's strength apparently derives in significant part from the existence of the Rural Development Institute, which, according to its web page (<http://www.rdiland.org/>), is an independent 501(c)(3) corporation with Professor Prosterman as president. The institute has a staff of 15 plus 6 JD research assistants and practical experience in a number of countries, most notably China, the Russian Federation and the Kyrgyz Republic. While it is described as working at the intersection between law and public policy, the focus of the Institute seems to be on practice/intervention. The Rural Development Institute and its relationship with the LLM track was not described in the self-study.

The **Law and Marine Affairs** program offers an interdisciplinary approach to the law and policy of the oceans in which students take approximately half their courses from the School of Law and half from the School of Marine Affairs. The program seeks to prepare graduates for specialty practice. Only one faculty member in the School of Law teaches in this program. The program, originally designed to enroll 15 students annually, currently enrolls 3-4. Low enrollment is attributed to poor demand for the specialty. The review committee, while saluting the "admirable perseverance" of the faculty associated with this track, noted the lack of student interest and the lack of support from the School. It recommended that this track be terminated. Dean Hjorth agreed with the recommendation. The University of Oregon offers a certificate in Ocean and Coastal Law—a reasonable alternative to this LLM program.

The review committee recommended that:

1. The LLM tracks maintain an emphasis on teaching and research excellence, while improving connections with the profession and increasing involvement with the important issues of our time. These are features that, in the review committee's view, characterize top tier law schools.
2. The School become more engaged with the broader University and draw upon the institution's strengths. The committee found the School to be insular even towards the legal scholarly community and, with a few notable exceptions, impermeable to many at the University.

3. The School aggressively generate financial resources beyond those derived from the state and tuition to support research and student financial assistance and to attract high quality faculty.
4. The graduate programs and decisions concerning their future be incorporated into the strategic vision of the school. The review committee agreed with the recent American Bar Association accreditation report, which stated that the graduate programs "have been commenced independently in response to windows of opportunity or individual faculty interest rather than as a part of a strategic vision of the role of graduate education in the Law School."
5. The School develop a focus beyond the Northwest and become a truly national/international graduate program. With the exception of the Asian and Comparative Law track, which almost exclusively enrolls Asian nationals, the review committee found that the graduate program's clientele is local.

While citing some individual exceptions, the review committee noted a lack of impact that limits the School from being considered among the nation's top schools of law. The committee recommended that the Law School develop a research infrastructure that will ensure:

1. A scholarly/academic research component in every program.
2. An intellectual agenda that integrates important subgroups of the Law School faculty/student body with others on the campus focusing on similar issues. This would require consolidation and creation of a critical mass of faculty and students in areas in which the Law School believes it has some comparative advantage.
3. Adequate staffing and resource support for graduate programs and research. Both the 1990 and 2001 review committees recognized the need for a stronger financial base for scholarly activity. One of the more significant impediments to attaining external funding was evident in Dean Hjorth's description of the reluctance of many faculty members to accept corporate funding as presenting a potential conflict of interest even though the funds could be used to support or endow research activity. It is difficult to see how the School will attain the prominence sought in its strategic plan while maintaining such a position.

Consistency of findings for 25 years. The **1977 and 1990 review committees** agreed, in the words of the 1990 committee, that there was a need for "a more academic direction in the graduate programs." The 1990 committee noted that the School had a strong emphasis on vocational rather than scholarly studies. It also noted that research funding in the school was sparse. The **2001 review committee** reached similar conclusions.

In response to the 2001 report, Dean Hjorth rejected the committee's findings and recommendations regarding the research and scholarly climate of the School, arguing that the LLM program exists separately from that climate and focuses on the preparation of practitioners, not scholars. He argued that in addressing the intellectual/academic climate of the School the review committee had invaded the province of the JD program. This argument contrasts with the self-study's description of the role that the Asian and Comparative Law program seeks to play; it is also at odds with its description of the link between the scholarly accomplishments of the faculty and the academic reputation of the Taxation program. More seriously, it denies the synergy between research and educational programs that lies at the heart of a research university. What seems to be missing in the School is the ability to see the components that need to be assembled so as to promote such synergy and the value that intellectual and disciplinary diversity would bring to educational programs as well as to faculty research.

The degree of disjunction between the views of the School of Law on one side and those of the review committee on the other is rare. That it has persisted for 25 years and three separate review committees is unprecedented. The present and past review committees have argued that law exists to serve society and that social context and policy should not be neglected by the scholarship of a school of law. The review committees' views do not in any way suggest that faculty in schools of law should not study and teach case law as they have done, it only suggests that the academic and intellectual climate would be enriched if the School were to consciously and strategically broaden its vision.

Fortunately, the School now appears to be moving in a direction that will produce the sort of scholarly activity and program enrichment advocated by the current and previous review committees. Dean Knight met with representatives of the review committee (Dick Zerbe and Bill Laveley), Debra Friedman, John Slattery and me on October 31, 2001. He clearly embraced the direction that has been advocated and he described changes he seeks to make within the School. The School has a considerable distance to go, but is completely capable of re-envisioning its activity so as to achieve the strategic goal of becoming a top tier School of Law.

The Graduate School Council made the following specific recommendations for action, which are being undertaken:

1. That the Law and Marine Affairs track be discontinued.
2. That the other LLM tracks be retained.
3. That the School undertake an evaluation of its scholarly efforts in relation to the norm at the University (including other U.W. professional schools) and that it align these efforts with its strategic plan. It would be timely to complete this review within the next two years.

The Council did not make a specific recommendation regarding the PhD program. The PhD, and possibly the LLM programs, should be revisited upon receipt of the School's internal review and strategic plan.

Attachments

c: Richard L. McCormick, President
Debra Friedman, Associate Provost for Academic Planning
W. H. Knight, Jr., Dean, School of Law
Roland Hjorth, Professor, School of Law
Richard Kummert, Professor, School of Law
John L. Slattery, Associate Dean for Academic Programs, The Graduate School
Members of the Law Review Committee:
Professors Margaret Levi, (Political Science) (Chair)
William Laveley (Sociology)
Richard Zerbe (Public Affairs),
James Barnes (Public and Environmental Affairs, Indiana University)
John Ferejohn, (Political Science, Stanford University)
Graduate School Council
Augustine McCaffery, Assistant to the Dean, The Graduate School
Heidi Tilghman, Assistant to the Dean, The Graduate School
David Nixon, President, Graduate and Professional Student Senate