

The Emerging Worldwide Emphasis on Teaching Ethics and Professionalism

Spring 2011 Workshop of
The National Institute for
Teaching Ethics & Professionalism
April 29, 2011
Opening Session

<http://www.teachinglegalethics.org/content/worldwide-emphasis-legal-ethics>

Clark D. Cunningham Georgia State University <http://law.gsu.edu/ccunningham>

A Word for Our Sponsors

- Louis Stein Center for Law & Ethics at Fordham University
- W. Lee Burge Endowment for Law & Ethics at Georgia State University (Clark Cunningham, Tiffany Roberts)
- Center on the Global Legal Profession at the Maurer School of Law, Indiana University-Bloomington (John Steele)
- Mercer University School of Law Center for Legal Ethics and Professionalism
- Nelson Mullins Riley & Scarborough Center on Professionalism at the University of South Carolina (Michael Virzi)
- Holloran Center for Ethical Leadership in the Professions at the University of St. Thomas School of Law (Neil Hamilton, Jerry Organ, Verna Monson)
- ABA Standing Committee on Professionalism (Steven Sorenson)

And an additional sponsor for this workshop

- Ethics Across the Professions Initiative, McGeorge School of Law, University of the Pacific (Paul Paton)

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Excerpted from:

When and how should legal ethics be learned?

Nigel Duncan, Clark Cunningham,

Tony King and Paul Maharg

Learning in Law Annual Conference

2011

UK Centre for Legal Education

www.teachinglegalethics.org/content/when-and-how-should-legal-ethics-be-learned

(copy & modify)

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CANADA

- Federation of Law Societies: 2009 Task Force Report on the Common Law Degree
- <http://www.teachinglegalethics.org/content/task-force-report-canadian-law-degree>

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CANADA

- Effective 2015 the “Federation will accept an LLB or JD degree from a Canadian law school as meeting the competency requirements if the law school ... meets the following criteria ...
 - The academic program includes instruction in ethics and professionalism in a course dedicated to those subjects and addressing the required competencies.”

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- **Ethics & Professionalism.** The applicant must have demonstrated an awareness and understanding of the ethical requirements for the practice of law in Canada, including
 - The duty to communicate with civility
 - The ability to identify and address ethical dilemmas in a legal context
 - And

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Familiarity with the general principles of ethics and professionalism ... including

- Circumstances that give rise to ethical problems
- The fiduciary nature of the lawyer's relationship with the client
- Conflicts of interest
- Duties to the administration of justice

And

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- An awareness of the importance of professionalism in dealing with clients, other counsel, judges, court staff and members of the public
- The importance and value of serving and promoting the public interest in the administration of justice.

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David Edmonds, Chairman
UK Legal Services Board

As a minimum, I think that we will be looking at a changed and earlier emphasis on the teaching of professional ethics and wider responsibilities to the client, a point I hear repeatedly from practitioners.

Lord Upjohn Lecture, to be published in
45 Law Teacher- the International Journal of Legal Education 1 (2011)

Nigel Duncan, City Law School

Economides/Rogers Report

The work of the Education & Training
Committee of The Law Society of England
& Wales

- Focussing on “ethics”, the Committee published a report titled “Preparatory Ethics Training for Future Solicitors” by Kim Economides and Justine Rogers (December 2008)
- <http://www.teachinglegalethics.org/content/economides-rogers-report>

29 January 2011

Implementation of the Economides/Rogers Report

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Raises concerns about impact of inadequate training on practice standards across the full range of work carried out by solicitors and recommends:

- The Law Society seek consensus with legal educators for revision of undergraduate legal degree to make ethics and professional responsibility instruction mandatory
- If legal educators cannot reach consensus, admission to vocational stage of training to be conditioned on knowledge, understanding and commitment of core values of Solicitor's Code of Conduct

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AUSTRALIA

- National government
 - Is establishing a Tertiary Education Quality and Standards Agency
 - Awarded grant to Australian Learning & Teaching Council (ALTC) to develop Learning and Teaching Standards
- ALTC appointed Sally Kift and Mark Israel as Discipline Scholars in Law to develop Threshold Learning Outcomes (TLOs)

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Threshold Learning Outcomes as approved
by Council of Australian Law Deans on 22
Nov 2010

[http://www.teachinglegalethics.org/content/
australian-learning-outcomes-law](http://www.teachinglegalethics.org/content/australian-learning-outcomes-law)

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TLO 1 Knowledge

Graduates of the Bachelor of Laws will
demonstrate an understanding of ...

- The principles and values of justice and of ethical practice in lawyers' roles

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TLO 2: Ethics & Professional Responsibility

Graduates of the Bachelor of Laws will demonstrate:

- an **understanding** of approaches to ethical decision-making
- an **ability** to recognise and reflect upon, and a developing **ability** to respond to, ethical issues likely to arise in professional contexts
- an **ability** to recognise and reflect upon the professional responsibilities of lawyers in promoting justice and in service to the community, and
- a developing **ability** to exercise professional judgement [emphasis added]

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Head of Law School commenting on TLO 2:

“we will for the first time have a clear statement not only about the importance of **knowledge** of ethical principles and values ... but also some commitment to the development of students’ **skills and abilities** in the vitally important area of ethical reasoning.” [emphasis added]

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USA

- **Current ABA Standard 302(a)(5):**
 - “A law school shall require that each student receive ... substantial instruction in the history, goals, structure, values, rules and responsibilities of the legal profession and its members.”

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USA – ABA STANDARDS REVIEW COMMITTEE – APRIL 11 DRAFT

- **301 Objectives**
 - “A law school shall maintain a rigorous educational program that prepares students for ... effective, ethical and responsible participation in the legal profession.”
- <http://www.teachinglegalethics.org/content/proposed-aba-accreditation-standards>

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302 (b)(2)(ii) Learning Outcomes

- “shall include competency as an entry-level practitioner in ... the exercise of professional judgment
 - Consistent with the values of the legal profession and
 - Professional duties to society
 - Including recognizing and resolving ethical and other professional dilemmas.” [emphasis added]

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302 (b)(3) Learning Outcomes

- shall include ... a depth and breadth of other professional skills
 - Sufficient for effective, responsible, self-reflective and ethical participation in the legal profession

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302 (b)(4) Learning Outcomes

- shall include ... knowledge and understanding of the following values:
 - Ethical responsibilities as representatives of clients, officers of the courts, and public citizens responsible for the quality and availability of justice
 - The legal profession's value of justice, fairness, candor, honesty, integrity
 - And ...

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302 Learning Outcomes – Knowledge and Understanding of

- The legal profession's values of justice, fairness, candor, honesty, integrity, professionalism, respect for diversity and respect for the rule of law
- Responsibility to ensure that adequate legal services are provided to those who cannot afford to pay for them.

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303 (a)(1) Curriculum

A law school shall offer a curriculum that ...
requires every student to complete
satisfactorily at least:

One course in professional responsibility
that includes substantial instruction in the
history, goals, structure, values, rules and
responsibilities of the legal profession and
its members

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303 (a)(3) Curriculum (and at least ...)

One faculty-supervised, rigorous course
after the first year

that **integrates doctrine, theory and skills
and ethics**

And **engages students in performance** of
one or more professional skills identified in
Standard 302 (b)(3) [emphasis added]

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