

Should American Law Schools Follow the Medical School Teaching Model

By [Sherwood Ross](#)

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The outstanding record compiled by the trial advocacy teams of the Massachusetts School of Law at Andover (MSLAW) in recent years is directly attributable to the school's innovative teaching methods, the team's coaches believe. Otherwise, how explain the law school's moot court victories over so many formidable law school opponents, including the best of the Ivy League?

Founded in 1988, the law school has rejected the teaching methods of the American Bar Association (ABA) to instead stress courses that prepare graduates to function in the everyday world of law—and that seems to be paying off in advocacy competitions. The primary innovative teaching approach used by the law school is one long used successfully by medical schools nationally but ignored by law school educators. "The medical school model is 'see one, do one, teach one,'" says Coyne, associate dean of MSLAW and director of the trial advocacy program. "Students see a surgery, do a surgery, and teach a surgery. Our students don't just read about the law."

In 2008, MSLAW swept all four top places in the Thurgood Marshall Mock Trial Northeast Regional competition at Newark. "I do not know of any other law school that has ever done that," says Coyne. (In the finals, MSLAW teams faced other MSLAW teams.) This past March, MSLAW won the New England competition of the American Association of Justice, (formerly the American Trial Lawyers Assn.), considered the most prestigious of the competitions. In the last five years in the Thurgood Marshall competition, MSLAW teams have finished nationally in third place three times, second place twice, and first place once. There are more than 200 law schools in the country.

Coyne attributes the success of MSLAW's students to using teaching techniques borrowed from U.S. medical schools, to law professors who spend more time in the classroom with students than in working on their own scholarly research, to early advocacy training that continues throughout the academic year, and also to hard work.

"We start advocacy training the first day students arrive, preparing them for the time they will be advocates in trial procedures in the court room or advocates for their clients in the conference room," Coyne says. To begin with, he explains, "We devote more time to actually teaching students than at a law school where professors spend a lot of time doing scholarly research that no one else is ever going to read. There's no doubt about it: our professors are in the classroom more and they teach more because we are a student-centered institution."

In 1995, the Justice Department formally charged the ABA with fixing law professors'

salaries, among other Sherman Anti-Trust Act violations. Justice asserted the ABA acted to further “the self-interest of professors instead of improving education.” In 1996 the ABA entered into a consent judgment agreeing to reform its practices and to stop dictating a number of dubious, costly and illegal regulations to schools. Yet, in 2006, the Justice Department charged the ABA with violating provisions of the decree and called for it to take remedial action as well as to pay Justice \$185,000 for its enforcement troubles.

Velvel points out that MSLAW relies on a small core of full-time professors supported by many lawyers who teach in their specialties and judges who bring the years of their experience on the bench into the classroom. Relying on adjunct professors contrasted to full-time research professors saves the law school money and enables it to reduce tuition to about half that of the typical New England law school.

“Our theory is that students need to do more than understand the law: they need to be able to explain it. When you have the ability to teach others what the law is, that’s when you’ve brought the mastery of law to the next level,” Coyne adds. “When we graduate students they haven’t learned just what the book says but have spent two years mastering advocacy so they will be effective advocates of their position.”

The Massachusetts School of Law was founded to provide a quality, affordable education to students from minority, immigrant, and low-income households who otherwise would be unable to enter the legal profession. The Wall Street Journal referred to MSLAW as “The Little Law School That Could” and renowned jurisprudence scholar Brian Tamanaha at Princeton University has called upon the nation’s law schools to shift their teaching approach from the ‘academic’ or research model to one designed to train “good lawyers,” citing MSLAW’s example. MSLAW’s dean Velvel has been cited by The National Jurist magazine as “one of the most influential people in legal education over the past 15 years” and The National Law Journal has honored Velvel for his contributions to law school education reform. Tamanaha, the Chief Judge Benjamin N. Cardozo Professor of Law at St. John’s University and a member of the Institute for Advanced Study at Princeton University for 2007-08, wrote:

The accreditation process is justified as the means to insure a quality legal education so that the public will be served by competent lawyers. Oddly, in the very period in which law schools were being instructed to boost their professors’ pay (to attract highly qualified professors) and to cut their teaching hours (so they could do more academic research, which would presumably enhance their knowledge and teaching), the American Bar Association also produced the MacCrate Report, arguing that law schools were doing a poor job of training lawyers. The reason for this failure: law professors were occupied with academic matters while neglecting practical legal training for their students.” Tamanaha advocated that “Money now allocated to scholarship and research leaves would instead go to clinics and other practice training; professors would teach 15 hours or more a week; faculty would be hired for the desire and ability to train lawyers, not for scholarship; more law schools would look like Massachusetts School of Law (which the ABA has mightily resisted). Schools built around this alternative model would produce capable lawyers at a much lower tuition, which would be good for the students and good for society.”

Law deans and law professors have for scores of years been notorious for not liking and for demeaning the actual practice of law, for having little experience with it and therefore little knowledge of the required skills,” Velvel and MSLAW professor Kurt Olson write in their

book, "The Gathering Peasants' Revolt in American Legal Education"(Doukathsan).

A growing number of law schools, following MSLAW's lead, are among those revolting against ABA standards and are teaching law students practical competencies such as:

- # The ability to write trial court memoranda, motions and appellate briefs, motions, and to draft discovery documents, including interrogatories.

- # The ability to speak articulately whether in courtrooms or at hearings and to effectively argue motions in the court room.

- # The ability to interview clients, to be sensitive to their needs and desires, and to ferret out facts relevant to their cases.

- # The ability to arbitrate and mediate cases and to bring into play professional attributes such as civility, politeness, and promptness.

"The ABA's accreditation standards, basically drawn by and drawn entirely for the professoriate, had no requirement that students be taught needed professional skills (such as) how to conduct pretrial proceedings and trials, how to draft various kinds of legal papers, etc.," the co-authors say. Instead, ABA — the principal accreditor of law schools—focuses on teaching inputs that are largely about the professors, not the students. Such rules include "limiting hours of teaching, limiting overall workloads, demanding large, full-time faculties via the method of computing the student/faculty ratio and a requirement that most of a student's hours be taught by full timers, requiring tenure and sabbaticals, requiring plush facilities and large libraries," Velvel and Olson write.

But teaching methods are not the only reason for the success of MSLAW's advocacy teams. Coyne believes, "Our students have a greater work ethic than students at other schools. It came to us that a model for the students is 'play hard, work harder, fear nothing.' We believe there is no reason for anyone ever to outwork you. They may be smarter but if you have to work 22 hours a day to beat your opponents that's what you need to do. And that's what we do."

"Our students are used to hard work. They have overcome a lot of challenges to get to this point and if they work extraordinarily hard they can beat the best students of the best law schools anywhere in the country. Our success in trial advocacy competitions is proof to us that our approach is capable of producing outstanding lawyers," Coyne concludes.#

Sherwood Ross is a media consultant to the Massachusetts School of Law at Andover. Contact him at sherwoodross10@gmail.com

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