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## High School Legal Education: High School Law Curriculum: Critical Issues

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## HIGH SCHOOL LAW CURRICULUM: CRITICAL ISSUES

BY MORTON S. TENENBERG<sup>1</sup>

In an extraordinarily brief period of time the members of the Golden Gate Law Review's High School Curriculum Project have not only produced a series of promising units about selected topics in American (and California) jurisprudence, but have carried out the enlightening process of having these initial components tried out in regular high school classrooms by certified teachers. Thus at quite an early stage in curriculum development -- much earlier than in some heavily funded and publicly heralded social studies projects -- the Law Review Curriculum staff has been in a position to observe the practical fruit of their labor. As a consequence, they have discovered an issue central to effective curriculum development and implementation: it is one thing to design and write materials for students; it is quite another to insure that these materials are used in the manner intended. Somewhere between design and implementation "slippage" occurs and somehow even the most carefully and artfully constructed sequence often cannot be recognized by its authors when put into practice in classrooms.

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This "slippage" between design and implementation would appear to be a natural and anticipated consequence of the problem inherent in communication of complex notions from authors to teachers, from persons closely associated with the workings of a particular area (law, in this case) and others whose connections with the same area have been incidental and infrequent. This has certainly been the case in every national social studies curriculum development project in the last decade and the problem, to be sure, has not been confined to the field of social science education. The difficulty, however, would appear to be further compounded whenever the curriculum designers intend that the materials be used in a manner that requires teachers to assume essentially different roles in class than the ones to which they are accustomed.<sup>2</sup> Under these circumstances normally anticipated "slippage" may increase considerably since the teacher using the curriculum materials will be interpreting their function from a reference frame which does not overlap in significant places with the reference frame used by the designers. Furthermore, the

2. J.C. Grannis, *The Social Studies Teacher and Research on Teacher Education*, 34 *Scientific Education* 3 (1970); T.W. Parsons and F.R. Shaftel, *Thinking and Inquiry: Some Critical Issues in Effective Thinking in Social Studies*, 37th *Yearbook of the National Committee of Social Sciences* (1967).

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teacher's interpretation will be supported and reenforced by his own customary pattern of behavior in the classroom, and the possibilities of change, either in teaching style or frame of reference, are minimal.

This would appear to be the case with the curriculum emerging from the Golden Gate Law Review Project. Though the units produced to date are not as yet integrated into a consistent whole,<sup>3</sup> there is, nonetheless, a clear indication that the instructional objectives for the series of units are of a kind unlikely to be reached through traditional classroom methods. The reason for this is that the project intends the students not only to learn about a given subject area - in this case our system of law - but, more fundamentally to learn how to do things in relation to that system. To readers unfamiliar with the problems of curriculum construction the difference between learning about something and learning how to relate in action to that something, may appear academic, minute, or non-existent. To those educators who have struggled for years to make social sciences education more responsive to individual need, the difference is obvious and of quantum magnitude, possessing enormous implications for classroom strategies and the roles of students and teachers. In order

3. *A grossly premature expectation for early stages in curriculum development.*

for students to learn to work in relation to our system of law - to use it appropriately, perhaps even to try to change it - two requisites must be met:

- (a) Students must have the opportunity to practice the skills involved; otherwise any knowledge gained is merely academic and little has been done to assist students to apply their learning to any reality outside of the social studies class period.
- (b) Students must learn "how the system works" in the sense of knowing its basic structure and the general relationships among its parts; otherwise their practical knowledge will be tied to the particulars of specific issues, cases, and procedures, and they will not have learned the general principles governing the system so that they can operate effectively in new as well as familiar legal situations.

These requisites cannot be met in classrooms where the basic role of the teacher is that of "information giver" and that of the student is passive "receiver." That the members of the Golden Gate Curriculum Project have seen this so clearly and so early in their work is fortuitous. It is reflected in the unusual activities suggested in several of the preliminary units; the pervading use of actual court cases and realistic situations to capture student interest and reveal, progressively, how the "system works"; and the involvement of students in the application of principles to new cases. It

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gives promise of future development of an instructional "package" organized around lucid and valuable objectives, carefully structured to assist both teachers and students to assume altered classroom roles.

### RECOMMENDATIONS FOR FUTURE DEVELOPMENT

What needs to be done? These recommendations are made:

1. Members of the Curriculum Project have now had sufficient experience with their preliminary units to write an instructional mandate for themselves. Such a mandate should state the project goals in terms of what it is desired that students be able to do by the end of their experience with the completed curriculum. Collectively, these statements must genuinely reflect the full scope of project goals and must, therefore, include reference to increasing student ability to deal appropriately with unfamiliar legal situations as well as those appearing in the curriculum.
2. The present units need revision; additional ones need to be constructed; and all components must be sequenced so that they build upon each other in a useful progression. The instructional mandate suggested above can function as a guide to developing as much internal consistency in approach as possible within and across unit sequences. It is anticipated that the existing unit on contracts might serve as a partial model for altering other components since it appears to be

the one most consistently aligned with the project's ultimate instructional goals. In creating an integrated final product, members of the project should think of a curriculum as much as possible as an extended sequence of student activities leading progressively to specific competencies rather than as a series of materials, information, or topics.

3. It is recommended that the curriculum project view itself as engaged in two related but distinct enterprises:

- (a) The production and/or selection of a set of written and other kinds of materials for student use (including, perhaps, items developed in other projects);
- (b) The production of a Teaching Plan addressed to the teacher explaining how student materials are to be used, and presenting recommended sequences of class activities and recommended procedures to be followed in carrying them out.

4. A careful analysis of the desired role for teachers should be undertaken in order that it be clearly explicated and molded in the Teaching Plan. Despite recent trends in the use of "discovery" and "inquiry" oriented techniques, the customary professional posture of the high school teacher is that of subject expert assisting students to learn about some scholarly field or discipline. When it comes to the area of jurisprudence, however, it is unlikely that many social studies teachers initially have the specialized knowledge and

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experience to qualify them as experts in "the way the law works." Furthermore, as indicated earlier, the curriculum under consideration here is designed to have students learn how to relate to our system of law, not just to know about it. Most social studies teachers lack specialized experience in interacting with our legal system and may not, therefore, assume the expert role here as effectively as others whose "business" is the law.

These remarks are not intended to minimize the importance of classroom teachers to the attainment of the project's objectives. On the contrary, they are intended to focus attention on teacher roles which are essential to the success of the completed program. The roles of the teacher would appear to include:

- (a) assisting students to experience continuity among curriculum activities;
- (b) extending or otherwise modifying recommended procedures with classes exhibiting extraordinary learning needs;
- (c) guiding student learning by clarifying objectives, raising questions and issues, focusing student discussion, monitoring student progress, assisting students to develop good strategies for asking questions and analyzing situations, accumulating pertinent information, finding relevancy and structure; and fin-



ally,

- (d) helping students to explore ways in which they can genuinely relate to our legal system.

The problems facing the curriculum designers are those of organizing student materials and sequences of classroom activities, and presenting procedures in a Teaching Plan in ways which clarify and maximize such roles for teachers while at the same time making adequate provision for using the expertise of those in our society who know and are related to the processes of law.

5. Under any and all future developments it is hoped that the project will continue to use actual cases and realistic situations to which high school youth can personally relate as a means for revealing "how the system works." The Law Review must persist in its efforts toward the objective of having students learn how to interact with, as well as to know about our legal system. It should extend to its exploration of ways in which people associated with the legal profession can assist in attaining the curriculum's most valuable goals.

These are the current strengths of the program; it would be most unfortunate not to capitalize upon them since their simultaneous occurrence is unusual.