

Making a Difference

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The Switch to Remote Learning

In the newly robust digital world, HLS is finding new ways to deliver excellent legal education

By Elaine McArdle

As the COVID-19 pandemic raged across the globe last year, affecting every aspect of human society, Harvard Law School found itself at a pivotal moment in legal education. From the crisis, and the challenges and opportunities of remote learning, it has wrested pedagogical innovations that are transforming legal education.

“HLS has long been a leader in legal education, in the forefront in developing active, inductive Socratic learning and in pioneering clinical education. While we are online, the faculty are working hard to identify creative, experimental tools and approaches, some of which may enhance and deepen their tried-and-true techniques when they return to the classroom,” says John F. Manning ’85, dean of Harvard Law School. “During this pivotal moment, we intend to preserve the best of legal pedagogy as it’s developed over many years and to see what new things we might learn about how to deliver excellent legal education.”

“Many faculty know that this will be, hopefully, a once-in-a-lifetime moment, and that we and the students will talk one day about that period where this happened,” says Professor and Deputy Dean I. Glenn Cohen ’03. “But rather than saying, ‘Okay, I’m just not going to invest a lot, I’ll just do what I normally do,’ the view of the faculty is that while this year is definitely going to be different, we owe it to our students to make it great.”

Ruth L. Okediji, the Jeremiah Smith, Jr. Professor of Law and co-director of the Berkman Klein Center at Harvard, agrees. “For many of our students this is the first inexplicable challenge, the first widespread disruption of life as they know it, and that they as a generation have faced. I think

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PHOTO: STEPHANIE MITCHELL

Harvard Law School Dean John Manning ’85 created an Online Teaching Working Group last spring to identify best practices for remote learning and study how they apply to law school classrooms and clinics.



PHOTO: JACOB GERSEN

After the U.S. Supreme Court postponed its oral arguments for March 2020 because of the pandemic, Professor Jeannie Suk Gersen had students in her constitutional law class hold a mock oral argument via Zoom. The experiment, she pointed out, “showed that it was totally viable to have court hearings online during a lockdown.”

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it's important for students to know how much we have invested to provide not just a consistent quality of education, but arguably even better."

The Switch

Last March, as the pandemic escalated, HLS moved all 260 of its spring courses and clinical offerings online in 12 days. In mid-April, seeking to consolidate and build on the lessons of that experience, Manning created the Online Teaching Working Group to identify best practices for remote learning and study how they apply to law school classrooms and clinics. Co-chaired by Cohen and Associate Dean and Dean for Academic and Faculty Affairs Catherine Claypoole LL.M. '98, it also includes Professors Christopher Bavitz, Molly Brady, William Fisher '82, Crystal Yang '13, and Associate Dean for Student Services Jessica Soban '07.

On June 3, Manning announced that in the interest of public safety, fall term 2020 would be online, a decision that many peer law schools didn't reach until August. "I really think that by making the decision early, the dean was able to buy us time to build an outstanding program," says Cohen. "We're really happy that we had that time to invest and think and build."

This past summer, Leah A. Plunkett '06, who was the chief architect of one of the nation's first accredited hybrid-online J.D. programs, joined HLS as the Meyer Research Lecturer on Law and as special director for online education, a new role created by the dean to respond to the challenges and opportunities presented by teaching and learning remotely. She is taking a year's leave from the University of New Hampshire School of Law, where she is associate professor of legal skills and director of academic success.

Throughout the spring and summer, the faculty and administration worked with purpose and resolve to shape a superior educational experience that was more



PHOTO: JESSICA SCRANTON

Professor Ruth L. Okediji, the Jeremiah Smith, Jr. Professor of Law at HLS and co-director of the Berkman Klein Center at Harvard, says, "The pandemic has forced really important conversations to take place, about pedagogy, about student engagement, and about what it really means to be in community."



PHOTO COURTESY OF LEAH PLUNKETT

Leah A. Plunkett '06, who was the chief architect of one of the nation's first accredited hybrid-online J.D. programs at the University of New Hampshire Law School, joined HLS last summer as the Meyer Research Lecturer on Law and as special director for online education.

than just a reaction to the pandemic. They spent months analyzing what worked well or didn't when the school pivoted to remote learning in the spring, and imagining the future of legal education in all its possibilities.

The law school's new Learning Experience & Technology team (LXT), led by Plunkett, was created to support this sort of innovation. Cohen describes it as a "SWAT team" to help faculty think about how to adapt effective in-class pedagogy to the online medium and put it into action. Comprised of technologists and experts in instructional design, the LXT team met with faculty members to discuss specific goals for their classes and reshape them for the remote environment.

Many HLS faculty and staff are thought leaders in open access and digital learning. "In many ways, HLS is already leading in online legal education spaces," Plunkett says. "They are so mindful and humble about the challenges we face, and they feel just as proud as ever to be bringing legal education to HLS students."

In partnership with Information Technology Services, the LXT team assisted the faculty by creating Zoom studios in their homes, providing training to ensure the quality of video and audio, and developing a "crash plan" should technology fail in the middle of class.

Faculty “completely understand the production nature of all of this,” says Plunkett. “One way I look at it is, we’re taking Broadway hits and turning them into Hollywood blockbusters. The heart of the stories and the characters aren’t different but the mode of delivery, the timing, the pacing—those production aspects are different.”

Some faculty are building in written work asking students to relate concepts from class to aspects of everyday life, something Brady has long found effective for in-person classes, too. When she teaches land use, for example, she has students look up their childhood home and determine its zoning designation. “These are opportunities to build engagement, and a lot of our colleagues are thinking about how to help students see the law in action when we can’t be in the classroom,” Brady says.

Clinics

Within the clinical program at HLS, the new digital reality has expanded the horizon of opportunities. For example, remote externships have been broadened so that students now may work at nonprofit and government offices across the country and students are not limited to working locally. “I feel an energy across the law school, not just in the clinical programs but across the whole faculty. There’s something energizing in having to shake things up and have to try new teaching methods,” says Lisa Dealy, assistant dean for Clinical and Pro Bono Programs.

The lower-income populations the clinics serve have been particularly hard-hit by the pandemic, and the clinics have found themselves inundated with work, Dealy says, while some of their work has shifted, too. The Harvard Legal Aid Bureau and other advocacy groups worked for a statewide moratorium on evictions that was implemented in April 2020, and then got it extended from August to October 2020. The Prison Legal Assistance Program is working with clients in prisons, where COVID-19 is rampant, while the Legal Services Center and Criminal Justice Institute, among



Professor I. Glenn Cohen '03 co-chairs the Online Teaching Working Group, created by Harvard Law School Dean John F. Manning '85.

others, are also assisting clients affected by the virus.

On to the Future

“We know this is not the HLS many students were expecting when they submitted their applications, but everyone is deeply committed to making this an exceptional semester,” says Cohen. “Faculty who have been in teaching 20 years longer than I have are proving themselves to be committed innovators, and we hope that some of what we learn is not a one-off but something we’ll take back to our bricks-and-mortar courses when we come back to campus.”

Recognizing that an online learning experience may not be optimal for all students, HLS offered an additional deferral period for newly admitted J.D. and LL.M. students and extended the deadline for returning students to apply for a leave of absence. Manning also announced the creation of an up to \$1 million Technology Assistance Fund this past June to help students with technological challenges participate more fully in online learning. In addition, the HLS Student Services team and many others across HLS are working to support students in myriad ways and help them connect to the wide array of services available across HLS and Harvard University.

Plunkett is convinced that many of the norms and practices of the newly robust digital world will persist after people again convene in physical spaces. For her, this can open up new ways to think about what it means to get a legal education anywhere in the country. “This is not a light moment nor a moment that anyone would have wished to come about in this way,” says Plunkett. “But for people who are passionate both about the necessity of legal education to preserve the rule of law in a democracy and about rising to the full scope of the moment for doing that, there is much that can be accomplished during this time of challenge.”

This story, originally published in August 2020 in Harvard Law Today, has been condensed for space.

Blended Gifts—Practical and Imaginative

Blended gifts simply refer to a combination of giving strategies—often, a current donation combined with a gift designed to be executed sometime in the future. There are two reasons why blended gifts are appealing. First, this strategy lets donors enjoy the satisfaction of making an impact today while also benefitting Harvard Law School tomorrow. Second, blended gifts can meet specific needs in highly satisfying and personal ways because of the different ways gifts can be combined.

Assets and Timing

No matter which gift options are selected, you choose which assets to give and when to give them. Each type of asset can have a different impact on taxes as well as on personal planning, goals, and needs.

Here are some frequently used options:

- **Cash**—You qualify for a tax deduction for the amount of the gift, up to 100% of adjusted gross income for the year 2021.
- **Appreciated stock**—You qualify for a tax deduction for the fair market value of the appreciated stock and entirely avoid any capital gains tax on the appreciation.
- **IRA required minimum distributions**—If you are over 70½, you can transfer up to \$100,000 per year from an IRA directly to Harvard Law School. Although there is no charitable deduction, distributions are excluded from income and count toward the annual required minimum distribution, if one is due. This option does not apply to 401(k), 403(b), and other retirement plans, though these may be rolled into an IRA, which will then qualify.
- **Retirement plan assets**—You can make Harvard Law School the beneficiary of assets held in an IRA, 401(k), or other retirement plans. Since these assets are considered “income in respect of a decedent” (IRD), it is beneficial to keep them out of the estate.



Arch of Hauser Hall in Winter.

PHOTO: PHIL FARNSWORTH

IRD assets are highly taxed and have the potential of being taxed twice in very large estates—once in the estate and again to the beneficiary (a child, for example). Leaving these assets to Harvard Law School avoids this taxation.

- **Real estate** (a residence, vacation home, or other property)—Like stock, real estate can appreciate substantially over many years. Making a gift of real property can provide an immediate tax deduction for the fair market value of the property and avoid capital gains tax on the appreciation. This is a good choice for donors who find property ownership increasingly burdensome due to property taxes, maintenance, and insurance. You can also contribute real estate, retain the right to use the property for your lifetime if it is a personal residence or farm, and receive a current income tax deduction.
- **Life insurance**—Donating a policy that has outlived the original purpose for which it was purchased is an easy way to give to charity without a current outlay of cash. The simplest option is to make a deferred gift by naming Harvard Law School as the beneficiary. It is also possible to make a gift of a paid-up policy and to receive a current income tax deduction.

Often, the choice of assets and giving strategy will determine the timing of your gift. Blended gifts typically combine the enjoyment of a current gift with the satisfaction of a lasting charitable legacy. The structure of blended gifts is very flexible and your personal goals and preferences will determine how you chose to proceed to create a successful result.

Simple Ways to Make a Blended Gift: Two Examples

Making the Most of an IRA

Martin, age 75, consistently supports HLS with annual gifts. Now retired, he is pleased that he can comfortably make a gift from his IRA each year that counts toward his required minimum distribution (RMD) and pay no tax on the distribution. For him, it's an ideal way to support our work and avoid the tax he would have to pay if he received the RMD. HLS also does not pay tax when it receives the gift, so the full amount supports our work. Martin sees it as a rewarding way to make the most of his IRA funds.

After consulting with his advisor, Martin decides to take his giving one step further and create a blended gift by naming us the beneficiary of his IRA. The funds are still available to Martin if he needs them. At the end of his lifetime, HLS will receive the remaining funds in the account—an amount that will not be reduced by taxes. Martin informs us that he wants his gift to support student scholarships.

Appreciated Stock and a Legacy Gift

Connie has enjoyed investment success and owns substantially appreciated tech stock. Comfortable with her long-term financial outlook, she donates stock valued at \$50,000 to the Harvard Law School Annual Fund. She pays no capital gains tax on the stock's appreciated value—a welcome tax benefit.

In conjunction with making the gift of stock, Connie plans a blended gift by modifying her estate plan to include support for our work. Specifically, she designates that 25% of the value of her residuary estate be given to Harvard Law School to support our endowment fund. This arrangement meets Connie's goals of providing for loved ones through her estate and making a major gift to support Harvard Law School.

All examples in this newsletter are for illustrative purposes only.

Giving Techniques that Can Increase Income

The Charitable Gift Annuity

A charitable gift annuity is a contractual agreement between you and Harvard—part gift and part annuity. In exchange for your gift, we agree to pay a specified

annual amount to you and to another beneficiary, if you include one (two people maximum) for life. The annual payment percentage is fixed and is based on the annuitant's age, the gift amount, and when payments begin (deferring payments can provide a higher payment rate). Part of each gift qualifies for an immediate income tax deduction. Harvard's minimum for a gift annuity is \$25,000.

age(s)	present CGA rate	deduction*
75	6.7%	28.8% of gift amount
75, 75	5.9%	16.5% of gift amount

* The deduction amount was calculated using the federal 7520 rate of 0.6% for February 2021.

The Charitable Remainder Trust

With a charitable remainder trust (CRT), after you transfer property (cash or securities, for example) to the trust, the trust pays an income for life (or a period up to 20 years) to the named beneficiary or beneficiaries (there can be more than two). Your annual payment can increase as the trust principal appreciates; it can also go down if the trust assets do not appreciate. At the end of the trust term, the remaining amount is distributed to Harvard Law School as a gift and you can designate the purpose for which it is used. There is a great deal of flexibility regarding how benefits are paid and how beneficiary arrangements are specified. Your gift qualifies for a charitable deduction equal to the present value of the deferred gift we will receive. Harvard will be trustee of your trust and provide the trust document at no charge. Payout percentages typically range from 5% to 6.5%. Harvard's minimum for a charitable remainder trust is \$150,000.

What's Right for You?

Blended gifts are unique—in fact, they are as unique as you are. There are many options and combinations that can help you meet personal and charitable goals in highly individual ways. Any asset that you might use to make a gift can likely be included in blended gift planning. Please contact us if you would like to know more. Working together, we can help identify a blended gift strategy that fits your planning needs in a meaningful way. Thank you for thoughtfully supporting Harvard Law School.



PHOTO: MARTHA STEWART

The first snow of the season arrived a little early last fall.

Virtual Fall Reunion 2020

Early this past December, we were pleased to host our first-ever HLS Virtual Reunion for the Classes of 1960, 1965, 1970, 1975, 1980, 1985, 1990, 1995, 2000, 2005, 2010, and 2015. While it wasn't the in-person celebration in Cambridge everyone had hoped for, it was nevertheless an exciting and thought-provoking program and opportunity for reconnection for Harvard Law School alumni.

On Saturday, December 5, 2020, attendees were welcomed to the Zoom event by Dean John Manning '85—himself celebrating his 35th Reunion—who shared important updates from the Law School. Immediately following the Dean was a virtual version of “HLS Thinks Big,” featuring Professor Alexandra Natapoff, Professor Annette Gordon-Reed '84, and Professor Randall L. Kennedy, who brought their big ideas and thoughtful insights on issues of justice, government, and history. Lastly, we heard from the Law School's Professor and Deputy Dean I. Glenn Cohen '03 and Leah A. Plunkett '06, the Meyer Research Lecturer on Law and special director for online education, who discussed HLS's innovative transition this past fall to remote learning.

UPCOMING EVENTS

Virtual Spring Reunion 2021

We are pleased to announce our second Virtual Reunion this spring on Saturday, May 8, for the classes of 1991, 1996, 2001, 2006, 2011, and 2016. Our Reunions team is planning an exciting virtual program that will feature a Conversation with Dean John F. Manning '85, as well as a timely presentation on lessons learned in online teaching and learning by Professor I. Glenn Cohen '03 and Lecturer on Law Leah Plunkett '06, class-specific virtual social gatherings after the event for casual conversation, and an online Class Report (Virtual Red Book) for each Reunion class.

Harvard JD/MBA Virtual Reunion 2021

This special Reunion program will include a warm welcome from fellow alumnus Lawrence E. Golub JD/MBA '84, as well as remarks from Srikant Datar, dean of HBS, and John Manning JD '85, dean of HLS. The main program will also include a timely presentation on Deals in the Time of Pandemic from Guhan Subramanian MBA '96, JD '98, the Joseph H. Flom Professor of Law and Business at HLS and the H. Douglas Weaver Professor of Business Law at HBS.

For more information about the HLS programs or initiatives discussed in this newsletter, please visit the HLS website at: hls.harvard.edu/alumni/

For more information about Planned Giving, contact Charles Gordy, Director of Planned Giving, at:

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