

## *Trials of Fledgling CUNY Law School*

Newsday (New York)

November 13, 1988, Sunday, CITY EDITION

Copyright 1988 Newsday LLC



**Section:** NEWS; Pg. 19

**Length:** 1505 words

**Byline:** By William Douglas

### **Body**

---

The City University Law School at Queens College, established to provide nontraditional legal training, has run into a docket of very traditional academic problems.

The law school opened five years ago with fanfare and bold expectations. It was to teach public-interest law to women and minorities who might not have the grades to get into traditional law schools.

"CUNY's students are likely to be the best ever trained in the specific requirements of serving as public interest lawyers," boasted The National Law Journal in 1983.

Today, the aspiration has given way to concern about high failure rates on the New York Bar Examination, faculty unrest over tenure, criticism of school management and confusion over whether the school reports to CUNY or to Queens College.

The problems have created a rift between the school's faculty, some of whom fear that CUNY has become skittish about the law school's nontraditional approach to teaching public interest law, and CUNY officials, who contend that the school has operated too independently over the years.

"It's a bad situation, and it's really depressing," said John Farago, a faculty member. "As a lawyer, I try to figure out positive ways of working out adversarial situations. This is a tough one."

CUNY Chancellor Joseph Murphy has dismissed allegations that he and the Board of Trustees are having second thoughts about the mission of the law school. "That's simply not the case," Murphy said. "We are committed to the success of the law school."

The school's defenders, including officials, students and alumni, offer a positive view. School officials point out that 43 percent of the school's 1987 graduates landed jobs with public interest organizations. Five 1987 graduates are working as clerks for judges in the U.S. Court of

Appeals' Second Circuit, ranking CUNY third, behind Harvard and Yale, in the number of the prestigious clerkships. School officials point to curriculum changes they have instituted and also say that applications rose nearly 10 percent this year, from 1,071 for a class of 154 to 1,175.

But the school's problems are drawing the attention.

In 1986, only 43 percent of the 110 CUNY students who took the bar exam - the first CUNY law school graduates to do so - passed on the first try, well below the 66 percent rate achieved by the state's other law schools. Last year, about 25 percent of the 114 CUNY students taking the bar exam for the first time passed, compared to the statewide average of 73 percent.

The relatively poor performance dismayed law school officials.

"I certainly would have hoped the bar pass rate would have been better," Queens College President Shirley Strum Kenny said. "It caught us by surprise."

Law school officials say that 70 percent of the 127 1986 graduates and 50 percent of the 127 1987 graduates have now passed the New York Bar.

Haywood Burns, dean of the law school, traced the poor results in the first-time tests to the nontraditional course work, which he said did not prepare students for the traditional tests. In traditional law schools, Burns said, students study legal rules, precedents and court rulings and then undergo rigorous testing. CUNY law students do study the basics of law, Burns said, but also get more actual field work.

CUNY's 455 students include 56 percent women and 33 percent minorities. The students are divided into groups of 20, called "houses," which operate as mock law firms. Students work on everything from study techniques to simulated cases. In addition, fifth semester students are required to do two days of field work a week at public or private law firms.

CUNY's law school is one of three in the country devoted solely to the study of public interest law. The others are the New College in San Francisco and the District of Columbia School of Law.

Peter Gabel, the New College president, said the bar pass rate for first-time takers at his school is 45 percent. The passing average in California is 50 percent, he said. The average pass rate is lower than New York's bar because the California bar is tougher, experts say.

Gabel, who was a visiting professor at the CUNY law school during the 1985-86 school year, said, "It will take time for the CUNY law school to get the right balance of teaching their program while at the same time preparing people to pass a test."

But a recent draft of a confidential accreditation study conducted by the American Bar Association criticized CUNY's program for not testing students enough to gauge their progress and for a relaxed grading approach in the houses. The report noted that in the five-year history of the school, no student has ever flunked out of the program. The ABA has given provisional accreditation to the school.

Burns said that some of the questions raised by the ABA were resolved prior to the report, which was based on a study of the school last year.

After a faculty study last year prompted by the low bar scores, the law school modified its curriculum this year, expanding the more traditional courses such as torts and contract law and administering more tests.

To improve bar scores, the school is using a \$ 200,000 grant from the New York-based Diamond Foundation, a nonprofit philanthropic organization, to teach a course that prepares students for standardized tests.

"I wouldn't expect overnight results," Burns said. "These are changes that are healthy and will get good results. It may take a whole year to see the results."

A problem that may take longer to solve, Burns said, is the tenure issue, which many say reflects the central board's lack of faith in the school. Currently, six of the law school's 39 teaching faculty members are tenured.

Last fall, Homer LaRue and Vanessa Merton, two founding faculty members considered by most colleagues to be among the school's top instructors, were among six faculty members recommended for tenure by the law school administration. But Chancellor Murphy did not pass the recommendations for either LaRue or Merton on to the Board of Trustees.

Instead, Murphy notified the two that they would not be reappointed to their positions - in effect, firing them.

The faculty successfully challenged the dismissal and forced the issue before the trustees. The trustees dismissed the two in September, but Supreme Court Justice Edward J. Greenfield has ordered the school and the faculty to settle the dispute. A hearing is set for Tuesday.

"I don't know why they did what they did," said LaRue, who along with Merton has continued to teach at the law school. "I think I'm a good teacher and a good person."

While some faculty members believe the action related to the poor bar exam scores, others, including Burns, believe it is a sign that CUNY is having second thoughts about the school's nontraditional approach.

"They were looked upon as two of the best teachers and thinkers on the faculty," said Burns, who supported the recommendation that LaRue and Merton be granted tenure. "It has to be taken as a message to the program that if you do the things they do, you will not get credit for it. You have to act more traditionally."

Four faculty members who were eligible for tenure consideration this year took leaves of absence rather than go through the process.

"I didn't want to throw away my career for whatever reason the City University is doing what it's doing," said Patricia Williams, who is spending the year as a visiting associate professor at Stanford Law School. "Homer and Vanessa are excellent teachers and deserved to be tenured. It's obvious at the school that we don't know exactly what the tenure criteria are."

Part of that problem seems to stem from the governance structure of the school, according to the ABA report. Kenny said the lines of governance are "ambiguous."

"It wasn't clear whether the law school reported to the president of the college or the chancellor," Kenny said.

In the ABA report, Murphy, who lobbied for the law school when he was president of Queens College, contends he gave it too much freedom in its early days in hopes of success. The law school and CUNY officials are currently working on a new governance plan, Kenny said.

Despite the problems, many students say they are pleased with the school. "It's a good program," said Vilma Huertas, a 24-year-old third-year student. "It's not cutthroat like other law schools. In the long run, I feel we'll be up there in the bar scores with everybody else."

Some graduates credit the law school for giving them a quality education that led to immediate employment. But their praise was also tinged with criticism.

"There's too much concentration on the admission process and the curriculum as problems and not enough on the quality of the teachers," said Edwina Richardson, who graduated this year and is working for the Legal Aid Society. "Some are poor teachers - great practitioners, but poor teachers. There are only a few bad apples. But the school is so new, it cannot afford to have bad apples."

## Graphic

---

1) Photo-Joseph Murphy, chancellor of the City University of New York. 2) Newsday photo by Richard Lee-Shirley Strum Kenny, president of Queens College. 3) Newsday photo by Lee Romero-Queens College law professor John Farago, in his office with Nettie Strine, assistant to the college's business manager.

---

End of Document