From Competence and Capability: Standards Design Across the Lawyer Formation Pathway

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Abstract

Australia's entry-level lawyer formation pathway spans law school, practical legal training (PLT), supervised legal practice and post-admission development within a decentred regulatory architecture. Yet the standards governing these stages are not sufficiently aligned with the pedagogic work they must perform. Although framed in terms of competence, they do not adequately explain how legal capability is formed, demonstrated, assessed, supervised and progressively developed. This article proposes a five-part standards design model: field of application, legal task, legal skill, workflow or process, and work product or evidence of performance. The model treats capability as situated performance, linking legal context and tasks to the skills and workflows that produce observable outcomes. It distinguishes the pre-admission functions of law school, as the foundation for legal reasoning and disciplinary method, and PLT, as preparation for threshold professional performance. Using examples from constitutional law, negotiation, supervised practice and specialist continuing professional development, the article shows how the model can operate across the formation pathway without collapsing distinct stages into a generic competency system. Better differentiated standards would support threshold assessment, admission, supervision and continuing professional development.

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