

***Program Statement for Doctor of Juridical Science (S.J.D. Degree)***

This memorandum describes the program for a Doctor of Juridical Science (S.J.D.) at the Case Western Reserve University School of Law. The proposal was initiated by Dean Lawrence Mitchell and has his full support. The proposal was approved unanimously by the faculty of the law school at its regular meeting on October 5, 2011.

***General Description***

The S.J.D.<sup>1</sup> is designed to give foreign lawyers an opportunity to complete the highest degree in law. The one-year full-time program requires full-time attendance. This program is designed for students who hold a first degree in law from a foreign university. The program is open only to candidates who have completed an LL.M. degree. Only students who demonstrate outstanding ability in an LL.M. program (receiving the LL.M. degree from an American University with Honors or its equivalent) and who submit a thesis proposal will be considered for admission into the S.J.D. program. A candidate may submit as a thesis proposal the required research paper from the Foreign Graduate Seminar of our law school, provided that the applicant received Honors on the research paper. The student must

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<sup>1</sup> The S.J.D. is a doctoral degree in law; it is the highest degree offered by a law school. It is a professional degree, primarily intended for training students and practitioners to be law teachers. The S.J.D. is not required by U.S. law schools to teach law. It is required of professors in some foreign law faculties. Currently, the degree is offered by forty-five American law schools. Most candidates for the degree are foreign-trained lawyers.

It accomplishes two tasks beyond the practice-oriented training that the J.D. and LL.M provide. First, it provides the circumstances appropriate to the production of a monograph-length work of scholarship of publishable quality making a novel contribution to a field or subfield of scholarly literature. Second, the S.J.D. is primarily intended for those students and practitioners who wish to teach in a certain field or subfield of law at a law school. It is very rarely taken for furtherance of professional ends outside the academy, and in those few instances, the professional positions are usually research-focused.

demonstrate in the thesis proposal or in the Foreign Graduate Seminar research paper a thorough understanding of the subject matter and research skills necessary to pursue the topic and expand it into the S.J.D. thesis. The student also must demonstrate excellent English writing skills.

### ***Rationale and Mission***

The purpose of the degree program is to prepare a cadre of S.J.D. graduates who will return to their home countries to teach law or work in law reform for their governments at the highest level. Foreign governments and their lawmakers often look towards United States in reviewing and reforming their own laws and systems. Even when they do not adopt United States models, as is often the case, they frequently want to understand how their systems differ from those in the United States. Our S.J.D. graduates will be trained to teach law and serve in these capacities. The S.J.D. students will have the opportunity to interact with United States law students during the year in residency and be part of the culture of the law school. This mission is consistent with, and a natural growth of, the current international LL.M. program and the law school's integration of international legal concepts into many J.D and LL.M. courses.

### ***Requirements for Admission to the S.J.D. program***

- Candidates must have a first university-level degree in law.
- Candidates must have a strong academic record.
- Candidates must evidence a good command of English. Students whose first language is not English must submit a TOEFL test score of at least 100 or 7.5 on the IELTS. In the case of multiple TOEFL scores, the law school will rely on the most recent score.

- Candidates must have an LL.M. degree with Honors. However, completion of an LL.M. degree with Honors does not guarantee admission into the S.J.D. program.

The workload for the S.J.D. degree is comparable to the degree programs at other American law schools.<sup>2</sup> S.J.D. candidates must submit a thesis proposal along with an extensive detailed bibliography. (The thesis proposal may be the research paper submitted in fulfillment of the requirements for the Foreign Graduate Seminar at our law school. The research paper must have received an Honors grade in the seminar.) The thesis proposal must present a convincing case that the topic presents a current, unresolved issue worthy of an S.J.D. thesis. A candidate for admission to the S.J.D. program must secure the written agreement of a faculty member of our law school specializing in the area of law involving the student's research topic and willing to undertake close supervision of the student's thesis. The faculty member must state in writing that the candidate's topic is worth the attention of an S.J.D. thesis. An applicant who is not a student in the law school's Foreign Graduate Studies program may submit his/her thesis proposal to the Director of Foreign Graduate Studies who will review the thesis proposal and, after finding the proposal worthy, will circulate the proposal to members of the faculty teaching in the areas of the applicants' interests.

Admissions decisions will be based on the ability of the student to thrive in our academic program, as evidenced by the applicant's academic record and professional

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<sup>2</sup> See Cornell description: "[COURSEWORK](#)  
-- During their first year in residence, J.S.D. students must take an active part in one required course, The Cornell Graduate Colloquium (Law 7991), in which they must present their research in progress. During the first year a student's Special Committee chair may also require that the student successfully audit or complete specific courses or seminars that the Special Committee chair deems to be useful for the student's development as a scholar."

accomplishments, and on the candidate's ability to add to the richness of the academic and extra-curricular programs of the J.D. students. Admissions decisions will be made by a committee consisting of the Dean of the law school, the faculty member committed to serving as the candidate's thesis advisor, and two professors appointed by the Dean to serve on the candidate's thesis committee.

### ***Program Description***

The program will prepare foreign lawyers for teaching law and law reform positions in their home countries. Our program will take up to three years to complete. The first year following completion of an LL.M. degree will require residency and 20 hours of thesis credit. The thesis advisor may require the S.J.D. candidate to take additional courses applicable to the student's thesis topic. The proposal does not anticipate the need for any additional course offerings. During the required year of residency, the student is expected to complete the research necessary for the thesis and prepare a working draft of the thesis acceptable to the student's thesis committee. The S.J.D. candidate's thesis committee may require the student to remain in residency beyond the required year.<sup>3</sup> The candidate will be required to complete the S.J.D. thesis to the satisfaction of the thesis committee within two years following the required year of residency. If the candidate is not in residency, the candidate must be available to meet with the thesis advisor in the year(s) prior to submission of the completed thesis, as determined by the thesis advisor. The thesis advisor may meet with the candidate in person or by telecommunication; that decision will be made by the advisor and the candidate. A candidate's progress will be

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<sup>3</sup> The university has a standard policy allowing doctorate students to remain in residence while working on a thesis for up to three years. That policy allows the student to register for as few as three thesis credits each semester in the second and third years and be considered a full time student. That policy should fulfill the needs of every candidate. During that period the candidate can leave and re-enter the U.S. as desired and needed.

assessed annually by the thesis committee who will determine whether the candidate's progress is satisfactory and merits continuation in the program.

The completed thesis must be of publishable quality. Publishable quality may be demonstrated by (a) publishing a chapter or compilation in article format, (b) publication of dissertation as a book by an independent, reputable publisher; (c) presentation of a chapter or compilation of the work in a nationally/internationally-recognized conference that has a selection/triage process; or (d) presentation of a chapter or compilation of the work to the faculty of another U.S. law school and an expression of endorsement of the publishable quality of that work by both the dissertation committee and another peer school's lecture series committee. These are examples and not exclusive of demonstrations of publishable quality. Following approval of the thesis by the candidate's committee, the candidate will have to appear before the committee to defend the thesis.

### ***Demand For Our Program***

We have not undertaken a systematic marketing and feasibility study. However, we are aware that a significant number of our LL.M. graduates have gone on to other American law schools or English universities for an S.J.D. or Ph.D. degree. The director of our foreign graduate studies program has received requests over the past nineteen years from LL.M. graduates who wanted to stay here and pursue the higher degree. Those students who have gone on to other institutions for the highest degree are professors in universities in Saudi Arabia, Kuwait, Turkey and Thailand. Those students have received funding from their countries to study for the additional degree. It is likely that applicants will seek to study for

the S.J.D. degree in the areas of this law school's demonstrated excellence, *e.g.* Health Law, Intellectual Property, International Business Law, and International Public Law.

We anticipate admitting no more than two students per year into the S.J.D. program. Our faculty can accommodate that number, but no more.

### ***Marketing***

We expect enrollment in the S.J.D. program to be no more than two students per year. Our website will be our most effective marketing tool.

### ***Administration***

The S.J.D. program will be under the direction of Professor Lewis Katz, the John C. Hutchins Professor of Law and the Director of Foreign Graduate Studies.

Administrative support will be provided by the existing administrative structure within the law school. A small program will not put undue burdens on the operations of our Office of Admissions, Career Planning, or the Registrar. We are explicitly assuming that students in the S.J.D. program will not put any demands on our Career Planning Office because the successful S.J.D. candidates will be seeking to return to their home countries for employment.

We anticipate having no trouble administering a program of no more than 2 students a year with existing faculty and administrators.

### ***Tuition and Financial Aid***

No financial aid will be made available to the students from the law school budget for the S.J.D. program. We expect sufficient demand from countries where applicants have the ability to pay or where student tuition will be supported by their government or

employer. *Impact on J.D. Program, Facilities, and Support Services*

This program will have a positive impact on our J.D. program, and we can accommodate the size of program that we envision with existing facilities and administrative support.

Although the program will add additional costs and burdens to staff and faculty, we believe that those costs will be strongly outweighed by the benefits of the program. The non-monetary benefits of the program are likely to outweigh the non-monetary costs.

We believe that the presence of foreign lawyers in our classrooms has enriched the educational experience for all of our J.D. students and faculty. The founding of the Gund Foundation International Law Center is premised on the fact that our J.D. graduates must be prepared to practice law in a world in which they face great diversity of cultures and legal systems. Interacting with those from other legal cultures has enhanced the education of our J.D. students. Our foreign students have enriched the dialogue both within and outside the classroom. The S.J.D. students will be few in number but of the highest caliber student.

Moreover, our foreign graduates have become resources as we expand our international programs in the future. They have helped us establish the contacts we need to bring full resources of international scholarship to our faculty and to identify foreign faculty and students who can enrich our program at all levels.

We have adequate space for the additional two students per year. The only space requirement will be for law library carrels during the student's required year(s) of residency. We recognize, of course, that foreign students may require extra attention from faculty in their courses and as thesis advisors, but the faculty is willing to undertake that burden to

make our program work.

## **APPENDIX A**

### **SJD Description**

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Second, the S.J.D. is primarily intended for those students and practitioners who wish to teach in a certain field or subfield of law at a law school. It is very rarely taken for furtherance of professional ends outside the academy, and in those few instances, the professional positions are usually research-focused.

*II (B) Review of the FP by RACGS Member Institutions*

*(1) Academic Quality:* Competency, experience, and number of faculty, and adequacy of students, curriculum, computational resources, library, laboratories, equipment, and other physical facilities, needed to mount the program.

The S.J.D. program would be supported by three dedicated graduate-program staff, sixty-five full-time professors, thirty-one tenured professors, and ten academic centers or institutes. The library staff numbers eleven, and there are 26,778 linear feet of library materials, with 352 available student seats or carrels. There are two, thirty-computer labs, one of which is used for instruction; an on-site technical computer staff; and, an on-site, full-time computer program tutor.

*(a)* In addition to this analysis, for entry level graduate degree programs, academic quality assessment will focus on the adequacy of the answers provided in response to the following questions:

The S.J.D. is the highest professional degree offered by law schools. More than forty U.S. law schools offer the degree. While the S.J.D. degree is not a requirement for law teaching in the U.S., it, or a comparable degree, is required to teach in many foreign law schools, especially those in the Middle East. In addition to demonstrating competency in the areas of the student's specialty, the S.J.D. student is required to write and defend a thesis of publishable quality.

*i. Is the program distinctly different, both conceptually and qualitatively, from the undergraduate degree programs in the same or related disciplines? If so, is there a detailed listing of the specific differences?*

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There is no undergraduate law program in this country. The J.D. is a graduate professional degree designed to prepare American law students for the practice of law. The LL.M. law degrees at Case Western Reserve University are designed for foreign lawyers who wish to immerse themselves for a year in U.S. legal subjects or in our J.D. curriculum in International Business Law or Intellectual Property. Both J.D. and LL.M programs significantly differ from an S.J.D. program. Both J.D. and LL.M programs are focused on classroom instruction, not independent research and scholarship. Both J.D. and LL.M degrees are focused on the training of practitioners; the S.J.D. is focused on the training of law teachers for foreign universities.

*ii. Does the program emphasize the theoretical basis of the discipline as expressed in the methods of inquiry and ways of knowing in the discipline?*

The S.J.D. program assumes a first degree in law from a foreign university Faculty of Law and an LL.M. degree from a U.S. school. Both these degrees thoroughly familiarize prospective S.J.D. students with the theoretical bases of the discipline and its methods of inquiry, commonly referred to as “legal research” and “thinking like a lawyer.” Further examination of the discipline’s theoretical bases and methods of inquiry would issue from a monograph-length work of research in the S.J.D. student’s intended area of expertise. Additionally, the supervising professor may require the S.J.D. student to take additional courses in the relevant subject area to develop the student’s underlying qualification to achieve the required expertise.

*iii. Does the program place emphasis on professional decision making and teach the use of critical analysis in problem solving?*

It is assumed that prospective S.J.D. students will have engaged in, at a minimum, the professional decision making in which law students are trained during their first law degree, and the use of critical analysis that would support the proposal of a complex and novel contribution to a field or sub-field of legal literature. Only students who are capable of making that contribution will be considered for admission to the program.

*iv. Is the program designed to educate students broadly so that they have an understanding of the major issues and concerns in the discipline or professional area.*

An S.J.D. student will have been educated already broadly in the major issues and concerns of the discipline of law during his/her first law degree and during the student's work for the LL.M. degree. The purpose of an S.J.D. degree is to focus a student's research and thinking on a single issue or set of concerns of the discipline of law. It will be the function of the faculty dissertation supervisor to ensure that a student's research and thesis do not ignore related issues or concerns within the pertinent field or subfield. We anticipate that the student's thesis will be a comparative study evaluating the subject in his/her home country and the United States approach to the same issue. The student will be required to critically analyze both approaches and, where appropriate, bring in the law of other countries.

*v. Does the design of the program include a capstone experience, such as an exit project (which would not necessarily be a research experience)?*

The purpose of an S.J.D. program is research and the production of a monograph-length work of scholarship. The student will be required to defend his/her work before his/her thesis committee. We also anticipate that at the later stages of research and writing, the S.J.D. student will seek to participate in academic conferences.

*vi. Does the proposed program identify faculty resources appropriate for the research component of the program?*

Faculty pertinent to a student's proposals are expected to be identified by the student in his or her application, with the aid of the graduate program administration, when necessary. A member of the law school faculty with expertise in the student's subject matter must commit to guiding the student and providing oversight. The chair of the student's thesis committee must agree to undertake this task in writing and explain the professor's belief in the prospective S.J.D. student's ability to successfully undertake and complete the project, and that the proposed research would make a novel contribution to a field or subfield of legal literature.

*vii. Does the program curriculum offer what students need to know for competence at the expected level of professional expertise.*

A student admitted to the S.J.D. program will have already the basic competency in the subject matter of his/her expertise. The thesis advisor and thesis committee members will guide the S.J.D. candidate to produce a monograph-length work of legal scholarship. The thesis advisor will be a faculty member highly experienced in publishing works of legal scholarship. Publishing works of legal scholarship is fundamental to the career of a future law professor.

Application for American Bar Association (ABA) acquiescence to the S.J.D. program will be made in accordance with Standard 308 of the ABA standards for acquiescence.

(b)

*i. What admission criteria, in addition to the traditionally required transcripts, standardized test scores, letters of recommendation, and personal statements of purpose, will be used to assess the potential for academic and professional success in prospective students? The special consideration of student experience and extant practical skills within the admission process should be specifically noted.*

All students must possess an LL.M. degree from a U.S law school and a first degree in law from a foreign university. Students will have demonstrated outstanding ability in their LL.M. programs. The required LL.M. research paper must have demonstrated a thorough understanding of the subject and must exhibit promise for becoming a novel contribution to the literature. The issue posed by a research paper proposal must be current, unresolved, and otherwise worthy of a thesis.

As indication of such, the admissions committee will look for the LL.M. degree to have been completed with Honors (an LL.M with Honors does not guarantee admission), and for the candidate's whole academic record to be very strong. All candidates whose first language is not English must submit a TOEFL test score of at least 100, or the equivalent.

Further, the applicant must secure the written agreement of a faculty member specializing in the area of law involving the student's research topic who agrees to serve as the candidate's thesis advisor and provide supervision of the student's thesis. The faculty member must state in writing that the candidate's topic is worthy of an S.J.D. thesis.

Lastly, the applicant's professional accomplishment's or the applicant's ability to add to the richness of the academic and extra-curricular programs of J.D. students, will be considered.

Admissions decisions will be made by a committee consisting of the Dean of the law school, the the chair of candidate's thesis committee, and two professors appointed by the Dean to serve on the candidate's thesis committee.

*ii. If field/clinical experience is subsumed within the academic experience, how does that experience related to the academic goals of the professional graduate degree program? Provide a description of the involvement of supervisory personnel. Describe the level of communication between the field/clinical experience site and the academic department. Provide an outline of the anticipated student activities as well as student requirements.*

The S.J.D. is a research-focused degree designed for training legal teachers and only the most research-oriented professionals. As such, field/clinical experience is neither required nor encouraged.

*iii. If the faculty qualifications associate with the professional graduate degree program differ from national norms and the traditional standards of faculty excellence, how do such qualifications differ and why do they differ? Provide the specific qualifications of adjunct, part-time, and special faculty who do not hold traditional academic credentials. Also, give a rationale for such faculty without academic credentials to participate in the professional degree program as regular program faculty.*

The S.J.D is a research-focused degree designed for training legal teachers, and only tenured and tenure-track legal faculty, individuals highly experienced in publishing legal scholarship and in teaching law courses, will supervise the S.J.D. degree.

*iv. How does accreditation by the appropriate professional organization relate to the academic experience outlined in the program plan? Describe the specific aspects of the program plan, if any, that are necessary to achieve professional accreditation.*

In order to achieve professional accreditation, it is necessary that the American Bar Association Committee on Legal Education “acquiesce” in the offering of the degree. The American Bar Association requires that a program provide adequate administrative and

faculty support, adequate physical facilities, adequate law library support, and not detrimentally affect the diversity and richness of J.D. course offerings.

*v. What is the relationship between theory and practice as expressed within the proposed curriculum? Identify a set of core courses and show how the curriculum enhances the student's professional preparation.*

The S.J.D. is a research-focused degree within a professional field. While work done during the S.J.D. program may influence practitioners, exercise of theory is itself practice in the context of the legal academy. Core courses would be against the purpose of the program, research, unless the faculty member supervising the student's research determined that a student ought to fill out his knowledge with a course in an area pertinent to the research being conducted.

*vi. Does the number of credit hours required for graduation differ significantly from traditional graduate degree programs? How is the number of credit hours required for graduation influence by mandated professional experiences?*

The student will have successfully completed the Master of Laws with the required twenty-four credit hours. The S.J.D. candidate will spend at least one year in residency at the law school taking twenty hours of thesis credit.

*vii. Can it be demonstrated that the culminating academic experience, such as an exit project, thesis or dissertation, will contribute to the enhancement of the student's professional preparation? In support of the response here, provide a list of possible research projects, theses, or dissertation topics.*

The student will produce a publishable, monograph-length research paper that makes a new contribution to a field or sub-field of law. Producing such a paper will greatly assist a graduate in finding employment as a law professor.

It is most likely that applicants will seek to study for the S.J.D. degree in areas of Case Western Reserve University School of Law's areas of demonstrated excellence, e.g. Health Law, Intellectual Property, International Business Law, and International Public Law.

Based on examples from other S.J.D. programs, S.J.D. research papers could cover such topics as: the intellectual history of the international law as pertaining to a racial group; the politics of financial regulation; choice of law within international law; antitrust law's effects on the media industry; current bankruptcy policy; the application of Islamic law to petroleum contracts; an assessment of the incentive theory of patents; the privacy of electronic health records, etc. The law school anticipates that the S.J.D. thesis will be a comparative study of U.S. and western law and the student's home country.

*(2) Need for such a program: student interest; potential enrollment; societal demand; local, regional, national, and international needs.*

The S.J.D. program will accept a maximum of two students per year. The program will be very highly selective. Currently, there are forty five U.S. law schools offering S.J.D. degrees, and S.J.D. degrees are in high demand among foreign students. Various forces within the profession of law are working only to increase the demand for S.J.D. graduates, such as the growth of international law specializations (see 22 Penn. St. Int'l L. Rev. 417), and the increasing demand for specialized and interdisciplinary applications of law, especially as law relates to social sciences (see 33 J. Marshall L. Rev. 47). Therefore, demand for S.J.D. graduates to take faculty positions in foreign universities will only increase.

*(3) Access and Retention of Underrepresented Groups:*

Graduate legal degrees are usually taken by international students. S.J.D. students would almost always be international students of varied ethnicities. Currently, LL.M students are drawn from China, Japan, Kuwait, Libya, Nigeria, Philippines, Taiwan, Thailand, Turkey, the United Arab Emirates, and Vietnam. Our S.J.D. students will be international students who have studied in our LL.M. programs.

*(4) Statewide Alternatives*

An S.J.D. degree is not currently offered in the state of Ohio. Admission to the S.J.D. at Case Western Reserve University School of Law would be strictly limited only to students of the very highest academic potential.

Within our law school support for the S.J.D. program is very strong. The law school faculty unanimously approved the proposal. Administrative resources for the S.J.D. students would include a specially designated staff of three: the director of graduate studies; the assistant director of foreign graduate studies for administration; and a research and writing instructor for LL.M. students. Additionally, S.J.D. students would have the support of their tenured faculty supervisors, and in the frequent case that the advisor would be director of a center, the administrative support of that center.

*(5) External Support: Community, Foundation, Governmental, and other Resources.*

While endowment may be sought, the S.J.D. program can be fully supported from the operating budget. As part of the significant interdisciplinary initiatives of the law school, and the Case Western Reserve University's prioritization of the complete integration of the law school into the university's fuller community, S.J.D. students will have the full academic

support of the university as a whole. Furthermore, there are already established networks of support at the graduate level, where dual graduate degrees are already offered connected to each area of the law school's traditional areas of expertise.