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Letter from the Editors

The Spring semester can often feel just as busy as the Fall semester. It is often fast paced for those doing academic support and bar support. Often in the Spring, academic support professionals are busy meeting with students who may not have done so well or still meeting with those students who want to maintain their academic performance. Bar support picks up with supporting February bar takers. And for those who are doing both academic support and bar support, the semester often begins incredibly hectic. Then we transition into the lull of Spring Break before rapidly advancing to the end of the semester. However, as we transition through the Spring, it is also a good time to consider new ideas. This edition is filled with ideas for you to consider.

There are articles that encourage us to think about how we design our academic support programs, including how designs can support bar preparation, student autonomy, or how professionals work well on a team. Another article provides useful tips for those who are new to the academic support community. Other articles look at strategies we might incorporate into our classrooms from teaching techniques, to flipping the classroom, and to making more explicit connections to real life practice.

Other articles look at how we can assist students in developing mindfulness or how we can better communicate information to stressed students. There are also articles that help us think about exercises that can help our students learn better. There is also advice for how to use technology to communicate with current-day bar takers. Another article gives us advice for helping our students better communicate with us. Finally, we get useful advice for assisting our students in writing better.

The Spring is a great time for new ideas. We hope you find some ideas in this edition that give you a fresh start.

DeShun Harris
Executive Editor,
The Learning Curve

Brick-by-Brick: Building Bar Success with a Comprehensive Academic Skills Program

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The ubiquitous question on law school campuses today is: what does it take to help graduates succeed on the bar exam? The responses differ depending on who you ask, and many of those responses are more reflective of wishful thinking than long-term planning. Despite the wishes of many law school administrators there is no one-size-fits-all solution, and bar success cannot be accomplished in one semester and \$500, or even two semesters and \$5000. Bar success is built brick by brick, semester by semester, over the course of a law school career.

Bar success starts with academic success. Students who struggle throughout law school are likely to struggle on the bar exam. A single bar course cannot teach the critical thinking or writing skills that require years to master. But bar success also requires a dedicated, compassionate staff to guide students through their law school career and through the stressful, high-pressure bar preparation season. Again, bar success is built brick by brick: each brick contributes to the stability of the overall structure; while one loose brick may not cause the structure to fall, a structure missing numerous bricks will have foundation problems and is unlikely to withstand pressure.

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...bar success is built brick by brick: each brick contributes to the stability of the overall structure."

The Essential Bricks of Bar Success:

1) It starts with admissions.

The admissions team must be a part of the bar success team. What does this mean? Admissions cannot admit students in a bubble. Admissions must know what factors are critical to bar success, and consider them when crafting an incoming class. In addition to LSAT scores and UGPA, there are additional factors that impact student success and are unique to every law school. Bar success means understanding the hurdles faced by your particular students and working together to overcome these hurdles.

2) It continues during orientation.

Orientation is a magical time; incoming law students are excited and motivated to succeed, feelings that often recede as law school becomes less novel and more difficult. It is important to capture this magical moment and explain that bar success is a three-year (or four- or five-year, for part-time students) process; i.e., bar prep starts now. Orientation is the time to let students know that law school does not end at graduation, and elaborate post-graduate vacation and wedding plans should be planned for after the bar exam, not after graduation. Orientation is also the time to tell students that bar prep is expensive and they should be saving their pennies now. For nontraditional and working students, orientation is the time to tell them that they should be saving as much of their vacation and sick time as possible to use during bar preparation. It is also critical during Orientation to schedule a presentation from all members of the bar success team. The bar success team, and faculty, need to present a holistic view of law school accomplishment, bar success, and law practice readiness as one process.

3) First semester sets the stage.

First-semester study skills are sticky; if a student practices poor study habits in their first semester, it is very hard to break them of those dysfunctional habits later in their law school career. Law school study skills are not an extension of undergraduate or even

graduate school study skills, because law school is nothing like undergraduate or graduate education. Law school does not have the professional advisors, frequent feedback, and extra credit opportunities that have become prevalent on undergraduate campuses. Students need to learn how to monitor their learning, seek out feedback and support, and accept constructive criticism. Adding a mandatory course, such as UMass School of Law's Academic Skills Lab, or required, structured study groups, led by an upper-class student, focuses new students on productive study skills and provides the foundation for success in law school.

4) Committees dealing with curriculum, academic standards, and attrition must look at what helps students succeed on the bar.

Most law schools have a committee that manages academic standards and attrition. Law school academic standards should take a deep dive into the academic records and statistics on student success and use that information to craft standards that encourage student academic progress. It is important to note that many law school committees are entirely comprised of faculty members. Bar success teams should continue to push for their participation on these committees as much as possible. This helps foster open communication amongst all parties and keeps the entire campus community better informed.

Curriculum committees too often take the politically palatable path instead of making the hard choices that help students succeed. Structured course sequencing is not popular with students or faculty. Students do not want to take the difficult courses that focus on bar-tested subjects and enhance analytical skills. Faculty abhor course sequences that minimize electives, because it makes it harder to run the electives they want to teach. These political concerns need to be secondary to what helps students gain the thinking and writing skills required for success as practicing attorneys as well as on the bar exam.

"While law school should not be three years of bar preparation, bar preparation cannot be divorced from a legal education."

5) Bar prep cannot be a one-man show.

Bar success requires all hands-on-deck. All professors must know what is tested on the bar and how it is tested. Professors should be explicit about skills that are needed for success on the bar, as well as skills that are essential for success in practice. While law school should not be three years of bar preparation, bar preparation cannot be divorced from a legal education. People do not go to law school to just think deep thoughts about important topics; people go to law school to be lawyers. And in 56 states and jurisdictions, becoming a lawyer requires passing a bar exam. Some professors often relegate bar prep to that "other person" who is in the basement or in another wing of the law school, and is often underpaid and overworked. As long as going to law school is about becoming a lawyer, and becoming a lawyer requires passing a bar exam, everyone in the law school needs to be invested in graduate success on the bar exam.

6) Leadership begins with dean.

The dean of the law school is really the leader of bar preparation. Without a dean committed to graduate success on the bar, nothing else really matters. The dean needs to set the tone for the faculty, and encourage faculty engagement in student and graduate success. The dean needs to set the tone for the students, from the start of their legal education, that the dean and faculty are committed to helping them succeed on the bar if they are willing to put in the hard work. Most crucially, the dean is the person capable of securing the funding necessary to support bar success. A law school dean needs to recognize and appreciate the hard work of bar preparation staff and faculty, and pay them accordingly. Moreover, success on the bar is unlikely if graduates are struggling to pay for a post-graduate bar preparation course. While few law schools have the funds to completely fund post-

graduate bar preparation, most law schools must secure the funds to create programs that can support students during the post-grad bar preparation period. Even small bar stipends can make the difference for students struggling to pay for rent and food in June and July.

7) Hiring the right person (or people) for bar prep is your keystone.

Hiring the right person for bar prep is critical; effective bar preparation staff and faculty are the keystone that holds together your bar success structure. A director of bar preparation needs to be cheerleader, ringleader, and life coach. They need to be the cheerleaders who celebrate every student success, the ringleaders that foster the culture of hard work among students and graduates, and the life coaches for students struggling with the intensity and pressure of studying for the bar. In addition to the soft skills necessary to lead bar prep, the director needs to understand the research and statistics on bar success, and be a polymath of the law. A successful bar director needs to know, in detail, who succeeds on the bar, and why. They need to know the law, as it is tested on the bar, and be able to teach it to students who are exhausted, overwhelmed, and frustrated. Too many directors of bar preparation are underappreciated, and a person who feels unsupported is not going to be able to do everything it takes to help students succeed. And far too much of the time, bar directors are blamed for poor results on the bar exam when they were never given the tools to help their students and graduates succeed. There are no overnight bar success stories; despite what students hear, and some faculty might want to believe, bar success is a three-to-five-year project. An effective bar director requires more skills than almost any other position at the law school, and they need to be given the time to improve student skills.

"Bar prep programs need continual revisions and changes, because our students are different every year."

Conclusions and Suggestions:

- 1) Even strong structures need continual repair.** "The price of doing the same old thing is far higher than the price of change." Bill Clinton
Unlike the bar exam itself, bar prep programs are not one and done. Bar prep programs need continual revisions and changes, because our students are different every year. Just because your bar prep program had success, does not mean that success will continue without sustained support. Removing resources from bar preparation because of success on one bar exam is a recipe for future failure. Every class of students and graduates needs steady bar prep programming that they can rely on.
- 2) Build a bar prep program for the students you have, not the students you used to have.** "Success is not final, failure is not fatal . . ." Winston Churchill
Even the best bar prep programs are going to have years where the results on the bar exam do not match the time and effort put into student success. Sometimes the results are a fluke; it was just a tough year. Sometimes the results indicate a weakness in one of the essential parts of the program. Every year is a new year, and every group of students is unique; the same programs may not work for different cohorts. The bar prep staff and faculty need to know that their jobs are safe even if the bar results fluctuate from year to year. No one does their best work when they feel insecure about job security. Bar preparation is an institutional responsibility. Each professor and administrator in a law school builds bar success by making sure they contribute strong, solid bricks to the bar prep infrastructure.

Choose Your Own Academic Adventure: The Impact of Autonomy in Academic Support

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In the late 1970s, Edward Packard created a unique literary experience that allowed the reader to sit in the driver's seat of the story, making choices about the main character's actions to shape the plot's outcome. These wildly popular books, known as *Choose Your Own Adventure*, are lauded for capturing young readers' attention by harnessing their innate creativity. This interactive genre has stood the test of time and even expanded, now appearing in grown-up titles such as *My Lady's Choosing*, an interactive romance novel, and interactive YouTube videos that allow viewers to choose the course of action.

This non-linear and collaborative way of learning is in stark contrast to the historic first-year law school curriculum and perhaps the law school curriculum in general. If I think back to my experience as a first-year law student, I took a set of prescribed courses, learned using the Socratic method, and had one exam at the end of the semester to showcase my knowledge. To perform well, I used unguided trial and error to unlock the secrets of this one-size-fits-all environment. Since then, legal education has progressed. We now embrace an increasingly student-centered approach and use metacognitive strategies to bolster student performance. However, as a group, we are reluctant to relinquish control over students and pressure them to behave in a certain way to ensure their success. After all, they don't know what they need to do to pass the bar exam, we do.

This fixed mindset overlooks the impactful changes that can be derived from offering choices. In *Learning to Choose, Choosing to Learn: The Key to Student Motivation and Achievement*, Mike Anderson explains that, even in the youngest students, educational choices can have a beneficial impact on memory, prompt self-initiated revision and editing, and result in better organization. Grit, he explains, is likewise impacted by connecting diligent "work and interest," as opposed to "compliance under duress."

The studies conducted by Lawrence Krieger and Kenneth Sheldon support that choice positively impacts law students' motivation and satisfaction. The studies likewise show that greater perceived autonomy predicted a higher grade point average and improved bar exam results. Thus, our desire to universally control and direct students' behavior, particularly within the rigid first-year curriculum, may be doing more harm than good. If, as Daniel H. Pink says, "control leads to compliance" and "autonomy leads to engagement," our students are better served if we resist the urge to guide their every move.

As academic support professionals, we generally greet first-year law students in the fall with a series of one-size-fits-all workshops offered at just the right time in the semester. In the beginning, we teach how to read and brief cases, and we explain effective note-taking methods for law school. After students have learned a certain amount of doctrinal

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material, we discuss course summaries and, toward the end of the semester, we address exams. Although we may offer varied techniques in workshops by, for example, introducing the concept of a mind map instead of an outline or using CREAC instead of IRAC, the message is clear: there is just one path that leads to law school success.

What if, instead, we allow students a guided but independent approach that permits them to discover their own weaknesses and endeavor to improve them on their own time? As academic support professionals, we have inherent flexibility in what we teach and how we teach it. If our end goal is to produce empowered individuals who think critically, introducing greater autonomy requires consideration. The good news is that we do not need to overhaul the first-year curriculum or revamp an entire law school course to realize the value of student autonomy. This is the premise underlying James M. Lang's *Small Teaching*—we can create positive change through “small but powerful” modifications to our instructional practices.

Consider, for example, academic coaching that introduces effective learning techniques, allows students to try a skill, and encourages self-reflection so that students can identify their own strengths and weaknesses in a supportive environment. Completion of a questionnaire and a goal exercise with individualized feedback can set the stage for the students' own selection of academic support activities that empower them to improve. From there, students can engage in diverse work through exercises they select to best serve their individual needs.

- If students are concerned that their study techniques are generally ineffective, they can opt to complete a self-regulated learner worksheet which discusses spaced repetition, interleaving, and forced recall and causes them to consider whether their current approach utilizes a combination of those methods.
- Students looking to improve their exam-writing skills can select from exercises that demonstrate effective techniques, allow the students to try those techniques using practice problems, and prompt them to engage in self-evaluation for improvement of their performance.
- Students can make the most of their mid-terms by completing a guided self-evaluation that prompts them to design and articulate a plan for moving forward.
- Students desiring to sharpen their writing skills can select an editing exercise that allows for recognition and correction of grammatical errors and the elimination of unnecessary words.
- Students struggling with multiple-choice questions can select an exercise that sets forth multiple-choice strategies and guides them through questions that prompt articulation of why one answer is correct and the others are incorrect.

“...we can create positive change through “small but powerful” modifications to our instructional practices”

- If students are struggling with self-efficacy, they can select an activity that prompts them to write about their worries and develop a mantra they can repeat in times of stress.

Allowing students to select from these types of activities undoubtedly involves an increased commitment from the instructor because the loop can and should be closed with individualized feedback. If resources for individualized feedback are limited, a combination of workshops and exercises can be utilized to move away from the one-size-fits-all approach to academic support. In either case, transferring the responsibility for learning from the instructor to the students alters the students' energy toward their academic support experience. Just as *Choose Your Own Adventure* books prompted reluctant readers to devour the written word, allowing law students autonomy can shift their vision of academic support from something being forced upon them to something they are opting to do. As an added benefit, the learn-by-doing approach rooted in John Dewey's theory of education is credited with improving students' problem-solving skills. By inspiring students to become better learners on their own terms based on their own work, we are sending a very different message: there are numerous paths to success in law school and it is up to them to choose their own academic adventure.

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"...allowing law students autonomy can shift their vision of academic support from something being forced upon them to something they are opting to do."

What's Gonna Work? Teamwork: The Hallmark of Good Academic Success Programs

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For those of you with young children, you may recognize this title from the popular kid's show *Wonder Pets* where, before embarking on an adventure to rescue a pet in trouble, the team chants the familiar song ("What's gonna work? Teamwork!") over and over. But teamwork isn't limited to *Wonder Pets* and *Paw Patrol*; it can be exceedingly effective in legal education as well. My entire career in legal education has been spent teaching in the team-based programs of legal writing and academic support. A regular refrain from colleagues around the country is that teams do not function well. This is not a problem unique to a particular school or specific directors; rather, I think it demonstrates the reality that working on a team is not always easy. But teamwork is always a worthwhile pursuit for our students, and ourselves as academics. Successful academic support and writing programs are often those that, regardless of program model, function as a team. This essay sets out some observations on how to work well in teams, based on more than twenty years of experience with team teaching.

"Successful academic support and writing programs are often those that, regardless of program model, function as a team."

Check ego at the door: The teams that work well are humble ones, from the top-down. If the team's work is weighted down with unnecessary attempts to boost individual ego or wounded pride, the program will not reach its full potential. Each member has something useful to bring to the table; realizing that the work of the collective is what is desired, and not credit to any particular individual, is key to the team's success.

Meet regularly face to face: That almost seems obvious, but having heard accounts from many in various schools, we cannot assume this is always happening. Meeting in person helps minimize miscommunications and allows for the development and fine-tuning of ideas, lesson plans, and learning objectives. When faculty get to know each other, a sense of teamwork is fostered. The in-person meetings can also be used to strategize how to help a struggling student, deal with school politics, or serve as a steam valve for venting, without a written record of the discussion.

Reserve a time in each meeting for brainstorming: The real value of a team in skills and support teaching is the synergy of ideas, contributions of individual expertise, and the diversity of experience and viewpoints. The final product or teaching decision will be stronger with input from multiple faculty. Academic support teaching teams will no doubt have differences in years of practice experience, formal training in teaching, expertise in legal education, and a host of other relevant knowledge and experience indicators, but everyone, from seasoned hands to newbies, brings meaningful insight to this process. It is the blending of that training and experience that will best inform program design and execution.

Realize there will be disagreements, both personal and professional: It has been said that human conflict is inevitable but how we deal with that conflict determines our success. In the context of team teaching in a program that requires intensive work together, that conflict could manifest itself in disagreement about anything from the goals of the program itself to whether to give practitioners who come to talk to third year students about taking the bar an umbrella or a coffee mug! Much like the dynamics of a solid family, getting along well promotes the greater good. Seeing the positives in each person and their contributions and realizing we were not hired to be independent contractors in legal education, but instead workers in a group effort, helps keep things in perspective.

Appreciate the benefits of teaching in a team: All of us have had times when life gets in the way, and in those moments a team pulls together. Your fellow team members can teach a class for you, run a meeting, supervise a teaching assistant, or even hold student conferences in your absence. There is much talk of balance in our field, and academic support faculty have a built-in mechanism for achieving better balance through the culture and practical realities of teamwork in our programs.

Have a sense of humor: In most groups of two or more, someone can be counted on to inject humor where appropriate to any situation. That light-hearted approach with moments of levity allows the work of a team to be memorable. We all know these jobs are tough work, so we might as well make them fun whenever possible.

Celebrate victories together: Have a traditional end of semester lunch to both look back, as well as forward. Those semester lunches are a time of marking that another semester has passed, someone on the team published an article, another was promoted, etc. 'Celebration lunches' go a long way to cultivating and preserving a sense of team spirit.

So, if you find yourself in a team that is not working well, just try one or more of these suggestions. At my law school, we do not pretend to have achieved perfection in the inter-workings of good teams, but rather have had authentic experiences in team work, with all its triumphs and failures, and learned a lot from both. Being assigned to work on a team in legal education has the potential of being a real gift—giving our students the benefit of collective expertise in academic support, and us the opportunity to enjoy the teaching journey more and forge bonds with our colleagues that will last. And perhaps, one day, we will have our own theme song, too.

"There is much talk of balance in our field, and academic support faculty have a built-in mechanism for achieving better balance through the culture and practical realities of teamwork in our programs."

A New Fish in a Big Sea: Welcome to the World of “ASP”

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My work in ASP began nearly three years ago; I am still a baby fish in the ASP sea. This article discusses some of my experiences as a new fish in the big ASP ocean, three lessons I've learned about navigating the murky waters so far, and some of the challenges along the way.

Experience #1: Student meeting in my first week in ASP. “I don’t think law school is for me (cue the tears) but this is the only plan I’ve ever had for my life, so what do I do now?” Despite barely having my own life planned, Student A needs me to help put her life together. Okay, breathe...I can answer this...

Lesson #1: Put yourself in the student’s shoes. What does the student need to hear, or does she need to hear anything at all?

Does providing ‘help’ really mean that student A needs to hear what I think she should do with her life? I've learned that sometimes the power of listening is greater than the power of speaking. Asking questions and soliciting conversation from a student may allow them to create their own solutions without you telling them what you think is best. Many alternative dispute resolution classes emphasize the importance of listening and I've learned it is a powerful tool in my toolbox.

Experience #2: It is week eleven of thirteen in the fall semester and student B asks to create a study plan. They arrive to my office with no materials, are behind on their case readings for every class, have not started any outlines and never created a schedule. I immediately recognize the struggle with time management as I juggle class prep, grading, individual counseling sessions and administrative meetings. It is time to practice what I preach...

Lesson #2: Time management. Easier said than done.

There is an argument that today’s law student does not know how to manage their time but what about the current academic support professional? I've learned that I am not always the best at managing my time. I struggle with managing multiple duties as an academic support professional while also keeping up with essentials like sleeping, eating, and interpersonal relationships. While I work tirelessly to teach time management skills to students, I frequently ignore the same advice. Time management is an evolving process, to be learned and relearned throughout life, as responsibilities and time constraints change. This is a skill that needs to be modeled to students, and constant reevaluation of this skill benefits us in law school as well as in practice. Keeping a calendar, evaluating productivity levels, and taking advantage of the lull periods are incredibly important to maintaining oneself and a successful program.

Experience #3: Student C has a standing appointment with me every Monday morning at 10am. I've worked with him throughout the semester but, unfortunately, he does not

“Asking questions and soliciting conversation from a student may allow them to create their own solutions without you telling them what you think is best.”

perform well on final exams and is dismissed. I go home from work that day feeling defeated and doubting my abilities as an academic support professional.

Lesson #3: You can lead a horse to water, but you can't make them drink.

Cliché (I know) but true. So far in my career there have been several days that I've felt this way. I also know that I'm not alone in this feeling as I discussed this topic with many of my colleagues on several occasions. The guilt of "there must have been something more that I could have done" can consume a workday. I've learned that it is important to remember that I am only a small piece of the puzzle for a student. There is a constant conflict between an ASP's empathy for the student and the emotional stability required to cope with inevitable student attrition; I must be emotionally cognizant of the reality that certain deficits are extremely difficult to fully resolve.

While I've learned some valuable lessons during my swim so far, there are more challenges for this new fish to overcome.

Challenge #1: Making friends and networking with bigger creatures in the ASP ocean.

At my very first AASE conference in Fort Worth in 2017, I felt overwhelmed with the sheer number of attendees. It is often quite challenging for the new fish to connect with the sea turtles who have populated our surf for 10, 20, and sometimes 30 years. Established relationships between long-time members of the ASP community enrich our profession but are intimidating and sometimes scary for the new members who are just beginning to learn about the field. An increase of individual leadership opportunities for new members could help expand the social connections of our community and push us new fish to ask for advice from the many sea turtles gliding besides us waiting for a chance to help.

For example, Executive boards of AASE and the AALS ASP section could require that new members of the ASP community submit a proposal for a presentation within the first two years of their employment. While this approach may throw a new fish in the deep end, it also teaches them how to swim. In addition to the established social gatherings, another way to promote growth is through small group activities that require the well-known sea turtles to lead the discussions. AASE might organize more structured social events, such as scavenger hunts, competitions, and game nights, to bring our community together to further develop new fish-turtle mentorship. Perhaps even a new position on the AASE board, an ambassador to new members, could help provide additional guidance throughout the year.

Challenge #2: Practicing self-reflection and self-assessment

As a new fish in ASP, one of the most frequent questions I have is "am I doing this right?" After AASE, AALS, and regional ASP conferences, I return to my home base with new ideas I am excited to implement and affirmation that, maybe, I AM on the right track. However, once back at home, I find that I sometimes second guess my application of the new skills I was excited about just days or weeks ago. I imagine that I am not alone in this feeling and that we all need additional tools for better self-assessment. Additional training on applying self-assessment and self-reflection would

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"Part of the experience in the ASP community is transition and change..."

help not just the new fish, but the sea turtles who are enhancing their ASP offerings and expanding student services and want to know how to measure what works. This is an area where outside professional expertise, in the form of a one-day training, would help all of us in the ASP community.

Challenge #3: Managing the transitions and maintaining equilibrium during upheavals.

Part of the experience in the ASP community is transition and change: assistant directors move or become directors, lucky directors become faculty, programs expand, missions change, and bar exam performance fluctuates. Each one of these transitions involves new ways of interacting with the academy, students, colleagues, and peers. Challenges during these inevitable transitions include getting to know the student population, working with ASP-averse faculty members, understanding individual professor's teaching methods and philosophy, navigating institutional history and culture while collaborating with faculty and helping students, differing methods and increasing demands for data collection, approaches to individual counseling, and establishing rapport with members of the community. New fish need more guidance on techniques to thrive in their environment so that they can better acclimate to their new setting. Like the "New to AALS" seminar held at the beginning of each annual meeting, new fish could benefit tremendously if the 2019 AASE "Newbie" pre-conference explained the broader layout of ASP, the resources available to our community, and some general advice on thriving during the expected upheavals in a long-term career in ASP.

Thus far I've encountered some valuable lessons, had my fair share of challenges, and even avoided a few sharks along the way. I know that my journey will continue, and I'll trust the advice from our sage sea turtles guiding us through the currents. And to all the new fish joining in with me, as the great Ellen DeGeneres says, "just keep swimming."

Effective Teaching Strategies for 2L Remedial Courses

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In the past twenty years, law school academic support programs (ASP) have transformed from relatively new phenomena to a standard department in law schools across the country. Traditionally, these departments existed to assist students who faced cultural or economic disadvantages, academic difficulty, and those needing accommodations. In recent years, with respect to the wave of technology, ASP departments face an entirely new set of students, with a new set of challenges. Recent students have spent their developmental years immersed in technology, resulting in new thinking patterns and different ways of processing information. As a result, traditional teaching methods are no longer as effective as they once were.

Academic support faculty teaching second-year (2L) remedial skills courses face two distinct challenges. The first is bridging the gap between foundational skills students should have learned during their first-year such as IRAC, case-briefing, note-taking, outlining, and legal analysis. The second, and arguably more difficult challenge, is *how* to teach these skills to this group. Today's students are used to receiving information instantaneously. They have smartphones—with a touch of a few buttons they have access to quick music downloads, video streaming, news, text messaging and the internet at their fingertips. They can access information rapidly, resulting in shorter attention spans and little patience for traditional doctrinal course lectures.

The question then becomes, *how do we structure skills courses to ensure effective learning outcomes?* The answer is **variety**. I ask students to use my course as a survey, to identify their specific skill deficiencies, and to find a method of learning that works for them. The following is a list of teaching methodologies I utilize in my 2L Legal Analysis course to assist students in learning *how* they learn.

Lecture-Based with PowerPoints:

This is the most traditional teaching method I use in my course. Although, contemporary non-traditional students lack the attention span for lecture-based instruction, there is still value in this teaching method. To engage students, I pair my lecture with a PowerPoint presentation. PowerPoint slides are used only as a visual guide to highlight talking points and provide a roadmap to the lecture. The PowerPoint coupled with lecture helps student engagement while also allowing students to see where the lecture is headed and what to expect.

All PowerPoint slides and handouts are made available as hard copy in-class handouts and are also posted electronically on Canvas after class. This provides accessibility to all students. By coupling lecture with visual guides, and providing accessibility after class, students can then pair all teaching materials along with their hand-written notes in order to connect concepts.

The value of this teaching method is the likelihood of reaching various students. It gives students the option to learn via lecture, the visual use of PowerPoint slides and handouts, as well as the option to take notes on the PowerPoint slides and handouts throughout a class.

"Recent students have spent their developmental years immersed in technology, resulting in new thinking patterns and different ways of processing information. As a result, traditional teaching methods are no longer as effective as they once were."

"The value of this exercise is for students to identify that a well-written answer, regardless of the area of law, has common criteria."

Think-Pair-Share:

Think-Pair-Share tends to be the most collaborative approach I use in my course, and likely the most effective. It involves students reading a hypothetical and writing individual responses. After individually completing the assignment, students then pair-up in order to share their responses and approaches to the assignment.

The pairing-up process promotes learning by broadening student perspectives through engaged conversations with one another. It allows students to compare and contrast their written responses with their peers. The process requires students to evaluate their problem-solving approach and how it compares to their peers. There is great value in understanding how a fellow student approached a singular task similarly and differently.

After students share in pairs, we turn back to the large group. The pairs share with the class things they did similarly or differently, and also share what they liked from their partner's approach. The group discussion results in idea sharing that encourages students to try new strategies. The goal is for students to learn from one another. The collaborative in-class dynamic inspires students to adopt new practices in exam outlining, creating an attack plan, rule synthesis, and analysis. The value in this process is for students to encourage one another to explore strategies they have not tried before. Students must be willing to explore different approaches or methods that will help improve their writing in order to yield a different result with regards to their legal analysis skills.

Around the World Peer Editing:

Peer editing is perhaps the most impactful learning methodology I use in my course. I regularly provide individual written feedback to my students; however, I see the most growth in their written organization and analysis skills when they engage in peer editing in the classroom. Most educators are familiar with the peer editing process. It involves students exchanging papers and editing one another's work. The technique I use in my course involves a slight variation, which I like to call "Around the World Peer Editing".

In my Legal Analysis course, I have my students write on a variety of topics: Constitutional Law, Evidence, Property. Not all second-year students are taking the same courses, so allowing flexibility on which topics they write on is required. In preparing for Around the World Peer Editing, I select two written student responses per topic. For example, I select two student responses for Constitutional Law, two student responses for Evidence, and two student responses for Property. I title the first written response as "Answer A" and the second written response as "Answer B," then staple them together creating a packet.

The students then get into pairs. The answer packets for Constitutional Law, Evidence and Property are passed around the room. Each pair of students receives one packet (which includes "Answer A" and "Answer B"). Each student within the pair has five minutes to read the first answer, switch papers, and an additional five minutes to read the second answer. While reading the answers, I ask students to take notes on overall organization, issue-spotting, rule statements, and analysis. Based on the criteria provided, they are asked to rate each answer as a "good answer" or "better answer." The groups then continue to switch packets around the room, clockwise, and repeat the exercise above for each packet provided. Once complete, the class engages in group discussion. Each pair presents common themes in what makes a "good answer" and what makes a "better answer."

The learning outcome is understanding that regardless of the area of law, the better answer possesses concrete themes. The better answer is a well-written answer that has stronger organization, use of headings, clean and concise rule statements, strong use of facts in the analysis, and counterarguments when appropriate. The value of this exercise is for students to identify that a well-written answer, regardless of the area of law, has common criteria. Using clear IRAC can evolve your writing from a "good answer" to a "better answer."

Self-Assessment:

Self-assessment is the ability to reflect upon your own written work and assess areas of strengths and weakness in order to edit and improve, as needed. The skill of self-assessment is crucial for all law students, not only throughout legal education, but also for bar exam preparation and even more so, in the practice of law. Students will not always have the access to individual written feedback, so mastering this skill of providing feedback to oneself is invaluable.

In law school, it is okay to get things wrong. It is okay to make mistakes. When we get things wrong, we learn. We turn our weaknesses into areas of growths. I ask my students to imagine if all their areas of weakness became their areas of strength. The process of self-assessment is the tool we use to make this transition.

When teaching self-assessment, I provide a general self-assessment rubric along with a sample answer to the hypothetical. The rubric asks the student to self-assess their overall organization, issue-spotting, rule statements and analysis as it compares to the sample answer. For example, under “rule statements,” the student will write down the rule statement they used as compared to the rule statement the sample answer used. Once the side-by-side comparison for each category is complete, the rubric prompts students to rate themselves on a scale of “great” “good” or “needs improvement” for each area. The deliberate process of comparing their written answer to a sample answer in a precise manner is what moves students to prepare a more meaningful and effective rewrite. It is the process of grading one’s own work. My overarching goal is to get all students to the point of being able to self-evaluate. It is an invaluable tool and process.

Conclusion

The approaches I provide are only the beginning of exploring teaching practices that will result in effective teaching in remedial courses. Each semester brings a new set of students to the classroom with different needs. Understanding the needs of students is crucial in developing effective teaching strategies and meaningful learning outcomes. My goal is to effectively implement a variety of teaching strategies in each class; however, when I find a method that yields the most effective results for a specific class, I will repeat that method. It is a time where the needs of our students are changing, and it is important that we try to change with them.

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“Students will not always have the access to individual written feedback, so mastering this skill of providing feedback to oneself is invaluable.”

Flipping the Bar Classroom

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“...we decided to flip the classroom, and turn it into a distance-learning course.”

For the past few years, I have co-taught a pre-bar course for students in their final semester. The course covers some heavily tested doctrine, as well as the academic and test-taking skills needed to succeed on the essay, multiple-choice, and performance components of the bar exam. In order to deliver the doctrinal material, we gave lectures based off of outlines from a commercial bar review course. While we tried to mirror the traditional bar review lecture style of following the outline closely, we did permit questions during the lectures. Additionally, we interspersed practice questions throughout the lectures, and gave many examples. The result, (I like to think), was that students walked out of class with a fairly good understanding of the rules. The downside, of course, was that we didn't accurately reflect the actual experience of commercial bar review lectures, which are not interactive, even when students choose to attend live lectures. Additionally, while we tried to do MBEs and/or essays in every class, we often spent so much time on the doctrine that we were unable to do as much in-class practice as we would have liked to do.

This year, we decided to flip the classroom, and turn it into a distance-learning course. While we still meet once per week (as opposed to our traditional twice per week), the course is more than 1/3rd asynchronous, which means it meets the ABA's definition of a distance-learning course.¹ We purchased outlines from SmartBarPrep for each student. I then made my own video lectures working from those outlines. I made the lectures in PowerPoint by narrating slideshows, and exported them into a video file. (Although I use a Mac, I had our IT department install Parallels on my computer so that I could export PowerPoint files into a movie file, as that is only possible on Windows. If I had to do it all over again, I would probably just create narrated slides in Keynote and export those into video files instead of bothering with Windows on my Mac.) As the SmartBarPrep outlines are fairly truncated, I included examples throughout the lectures. I also used graphics to illustrate more complex points, but as I have absolutely no graphic design skills, the illustrations are a very rudimentary combination of clipart that I found through a Creative Commons search² and PowerPoint animations. I did not include any fancy animation software or high-tech graphic design programs. The result is boring, but seemingly effective, bar-type lecture videos. The videos are not exactly like commercial bar review lectures as they feature only a voiceover narration of slides, and do not depict me delivering lectures at a podium, as most commercial bar review videos do.

I spent a most of the summer creating the videos. It took me a few weeks to figure out what software to use and what my process would be. Once I got it down, I could make a few videos per week. Still, it took me at least two months to get them all done (on top of my other responsibilities). Our Office of Disability Services is currently helping me add closed captioning to all of them. (YouTube captions fairly well, but

definitely requires editing.) Once I got the hang of how to structure and produce the videos, I was able to make them relatively quickly. It would have gone even more quickly if I had developed a script for each one, as is best practice, instead of using the outline and adlibbing explanations, examples, and bar exam tips. I posted all of the videos on a playlist on YouTube.³ The videos vary in length from two and a half minutes to fourteen minutes. The longer videos are bar overview videos, such as a video on the MBE and a video on bar study planning. The doctrinal videos are generally under ten minutes in length. Students are typically assigned to watch 4-5 videos for each class.

In order to make sure the students do more than press play and walk away, I also created multiple-choice questions that accompany each of the doctrinal videos. The questions are not as complex as MBE questions. Instead, they are designed to highlight critical doctrinal points. In order to have the questions easily accessible alongside the videos, I uploaded all of the videos onto TedEd.⁴ Students are required to create free TedEd accounts in order to watch the videos and complete the questions. If they are unsure of an answer, the question points them to the place in the video that discusses the relevant rule. The TedEd platform also allows me to see who has viewed the videos and answered the questions. I keep track of which students have not watched the videos for each class period, as completion of this work factors into a students' participation grade for the course.

Students have generally responded positively to the videos. They are able to watch them on their own time, and at their own pace. Through YouTube's analytics, I am able to see points in each video where students tend to pause and rewind. I have also created a discussion forum on TWEN where students can ask doctrinal questions before (or after) class, so that they can come to class ready to work. TedEd also has a discussion board option.

In class, as is typical for the flipped classroom model, we focus on essays, MBEs, MPTs, and other skill-building activities. Requiring that students come to class prepared to dive in mimics the work they will do during the bar study period, where they have to figure out how to learn from outlines and videos, and will have to develop a system for memorizing large amounts of material. It also allows us to have rich conversations about the essays, MBEs, and MPTs, whereas in previous iterations of the course, students were largely doing that work at home. While they received individual feedback, they did not get the benefit of in-depth discussion about practice questions they have just completed. This method allows them to easily see where others are struggling, and can provide comfort as students generally struggle with similar issues.

The method is not perfect, and the videos definitely lack production quality. I'm not convinced it is the most pedagogically effective method, though it does mirror bar exam prep, which is a major goal of the course. Additionally, I miss having the students more than once a week. Even with a substantial number of credits, having class only once per week means that the course inevitably falls to the back burner, as students focus on what is in front of them more frequently.

"It also allows us to have rich conversations about the essays, MBEs, and MPTs, whereas in previous iterations of the course, students were largely doing that work at home."

“Requiring students to work harder outside of class to understand the doctrine helps me emphasize what I do best as a bar support professional - focus on exam skills.”

Yet, overall I think the change has been positive. Requiring students to work harder outside of class to understand the doctrine helps me emphasize what I do best as a bar support professional - focus on exam skills. We have been able to have more discussions regarding issue spotting, essay structure, and why wrong answers are wrong. I am hopeful that these bigger picture concepts will help students as they enter the bar study period, more than focusing primarily on doctrine during class time. I also expect that the extra work they have to do during the semester to become accustomed to learning through videos and outlines will ease their transition into bar study. This model has also made the class more enjoyable to teach, and I hope that my enthusiasm has transferred to the students and made the class more enjoyable for them as well.

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Keeping It Real: The Increasing Importance of Relating Law School Skills to the “Real Life” Practice of Law

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I’m relatively new to the world of Academic Support. In 2016, I joined the wonderful team at North Carolina Central University School of Law as an Academic Success Specialist where I was able to bring my passion for education and the law to law students. One of the classes I teach is Critical Thinking, a skills class designed to help first-year law students transition into law school through learning how to read and brief cases, how to write and analyze legal issues using IRAC/CRAC, and how to outline and synthesize material in preparation for studying for finals. I anticipated that my students would be as excited about starting law school and learning these new skills as I was to teach them; however, I was mistaken. My students were polite and enjoyable, but there was an underlying sense that they did not understand why we were discussing study schedules, time management, and how to read the law. After all, they had done well in undergrad, so why would they need to change their habits now?

All of this transformed, however, when I began to discuss my former life as a criminal defense attorney. My students suddenly became engaged as I related how being able to brief a case correctly and efficiently in law school will lead to an ability to research case law for a client’s legal problem. I was also able to demonstrate how being able to sift through a client’s account at an initial interview to find the relevant issue and pertinent facts is the same skill as reading through a law school essay prompt and identifying the issue and legally significant facts. Creating a study schedule and managing your time was not an exercise for kindergarten students, but rather an introduction into the life of managing a hectic case load where an attorney may need to be in multiple courts in one day, all while juggling filing deadlines, client interviews, and research assignments.

Even seemingly ordinary classroom etiquette skills are transferable to the legal profession. For instance, I draw a hard line on coming to class on time. I explained to the students that this was not me being difficult or unreasonable, but it was preparing them for the courtroom. You don’t show up to court late. Period. End of story. I have known several judges that would make you wait to the end of the day to have your matter heard (even if for a simple continuance) if you showed up late to court, even if your client had made a calendar call, because they viewed tardiness as a sign of disrespect to the court. As one of the partners told me one time, “five minutes early is on time, and on time is late.”

Turning in assignments on time is another must in my class. While undergraduate professors may have been more lenient, I view my job as helping to train future lawyers. A lawyer absolutely cannot miss a filing deadline. It not only hurts his or her client, but it also sets the attorney up for sanctions and potentially losing his or her license to practice. Starting good habits in law school is critical to success, but we need to make sure that we are connecting these habits back to why they are important as students

“Starting good habits in law school is critical to success, but we need to make sure that we are connecting these habits back to why they are important as student graduate into licensed attorneys.”

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graduate into licensed attorneys. As I began to explain that all of the skills learned in law school are transferable to the legal profession, my students became less resistant and more involved.

We are teaching a different generation of students: millennials. I hear a lot of grumbling around the law school hallways about millennials, myself sometimes included. However, the entering students aren't changing, so what can we do as legal educators to facilitate their transition to law school? Because these students have a different background, they are necessarily different learners. In a recent article, Judith Wegner discusses this new generation of learners by detailing that "they came of age during a time of rapid change, be it in educational philosophies (think 'No Child Left Behind'), technology (think iPhones and the Internet), or the economy (think the 'Great Recession')."¹ She goes on to discuss how these changes have affected students' relationships with leisure activities and reading, a critical skill for success as a law student and attorney. Students are spending more time watching television, on their smartphones, and on the Internet than reading.

Legal educators consistently say that these incoming millennial law students need to hold more accountability for their learning responsibilities. The newer generation seems to think they will be taught some great truth in law school while being passive learners, when law school has always been designed to be a more hands-on, active learning experience. I agree that we need more student accountability, but one way to do this as educators is to make our subject matter and our teaching more relevant.² By relating law school subject matter and skills back to the "real" practice of law, we make our teaching relevant to the millennial learner. Suddenly, the student sees these skills and knowledge as useful and becomes more engaged.

When I was in law school (not *that* long ago!), we were expected to read and brief our cases for class, outline for exams, and write using IRAC with no explanation of why. There was no discussion of how these skills might show up in "the real world" and benefit us as we became attorneys. It was only in retrospect after graduating and passing the bar exam that I truly understood how learning all of these skills was teaching me to "think like a lawyer" and, most importantly, how to be a lawyer. Making this connection sooner for students will not only underscore the importance of proficiency in these legal skills, but will also help our students "buy in" to the pedagogy of law school, ultimately helping them to become better students, better attorneys, and better advocates for their clients.

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Introducing Mindfulness and Cultivating Mindfulness Practice for Law Students

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Law school can and should be an exciting time for students, engaging in challenging new academic endeavors, establishing personal and professional connections, and embarking on a journey of growth and lifelong learning. However, with this flood of new experiences and opportunities, the idea of a stress-free law school experience is unrealistic. For some students, the stress is purely academic, triggered and experienced for the first time by the competitive culture of law school. For other students, this stress is compounded by responsibilities outside of law school and the struggle to find the mythical and elusive “balance” so often touted as both the path to and result of successful stress management. As legal educators preparing students for the practice of law, we must also acknowledge that lawyers rank among the most anxious, depressed, and suicidal professionals. Recognizing that law students and lawyers experience this inherent stress and anxiety in unique ways, introducing mindfulness and techniques for a mindfulness practice are ways to equip students for success in law school and beyond.

“‘[M]indfulness’ (or ‘mindful awareness’) means a certain way of paying attention--intentionally, moment-to-moment, with equanimity and without attachment--to whatever passes through the conventional senses and the mind.” Leonard L. Riskin, *Annual Saltman Lecture: Further Beyond Reason: Mindfulness, Emotions, and the Core Concerns in Negotiation*, 10 Nev. L.J. 289, 308 (2010). The benefits of a mindfulness practice for law students can include mental clarity, reduced stress and anxiety, and the opportunity to find joy and personal growth in the law school experience. As academic support professionals, openly acknowledging and communicating about the inherent stress in both law school and law practice may help students feel more receptive to exploring and cultivating a mindfulness practice. During individual student meetings or in Academic Support workshops, we have an opportunity to share our own experiences and our personal observations as a way of introducing and recognizing this inherent stress.

Jon Kabat-Zinn, Ph.D., is founding Executive Director of the Center for Mindfulness in Medicine, Health Care, and Society at the University of Massachusetts Medical School. Dr. Kabat-Zinn said, “The best way to capture moments is to pay attention. This is how we cultivate mindfulness. Mindfulness means being awake. It means knowing what you are doing.” JON KABAT-ZINN, *WHEREVER YOU GO, THERE YOU ARE: MINDFULNESS MEDITATION IN EVERYDAY LIFE*, 17 (1994). Mindfulness can be an empowering opportunity for law students to pay attention, to be more present and to be more aware. Cultivating a mindfulness practice for law students can ultimately help students find more joy and intentionality in the law school experience and, ultimately, in law practice. Creating opportunities for mindfulness can happen in a

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number of ways. Reserving time for a mindfulness moment at the beginning or end of a class can help introduce students to mindfulness practice. For students interested in further exploration, we can host mindfulness meetings, guided meditations or quiet mindful spaces for individual mindfulness practice.

Scott Rogers, founder and director of the Institute for Mindfulness Studies, the University of Miami School of Law's Mindfulness in Law Program, and co-founder of the University of Miami's Mindfulness Research and Practice Initiative, is an internationally recognized leader and expert in mindfulness in law. Rogers has published several helpful resources for law students, legal educators and practicing lawyers to learn more about cultivating and practicing mindfulness. In 2009, Rogers published *Mindfulness for Law Students: Applying the Power of Mindful Awareness to Achieve Balance and Success in Law School* and *The Six-Minute Solution: A Mindfulness Primer for Lawyers*. In 2012, Rogers co-authored *Mindfulness and Professional Responsibility: A Guidebook for Integrating Mindfulness into the Law School Curriculum*. Introducing these resources to law students, particularly early in their law school career during orientation or in an early workshop, is one way to help students explore the potential benefits of cultivating a mindfulness practice.

In addition to introducing and making relevant resources available to students, opportunities to practice mindfulness in the law school environment may also be helpful. Helping students understand the mental health and wellness benefits associated with focusing on attention, awareness and presence by leading mindfulness meditation exercises or guided meditations may encourage students to cultivate their own mindfulness practice. For example, the University of Miami School of Law offers “Mindful Spaces” made available to students through the Mindfulness in Law Program. See generally, Scott L. Rogers, *The Mindful Law School: An Integrative Approach to Transforming Legal Education*, 28 Touro L. Rev. 1189 (2012). These truly inspirational “Mindful Spaces” teach informal mindfulness practices and offer opportunities to learn and practice mindfulness. The goal of mindful spaces is to create a comfortable and relaxing environment for students to practice awareness, recharge and meditate. Mindful spaces could also be a place to offer guided meditations as a way to help students explore their own mindfulness practice.

As legal educators and professionals, acknowledging the high-stress environments of law school and law practice, and introducing the proven benefits and available resources, can often encourage students to explore mindfulness and cultivate a mindfulness practice. Creating opportunities for students to practice mindfulness is another way to support our students in the development of the skills and resources helpful in finding the joy and purpose in law school and law practice. Because of the nature of our interaction and engagement with students, academic support professionals are well-positioned to be leaders in this transformative work.

Student Stress and Combat Techniques

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External stressors and the ways it affects students

Law school during finals or bar prep is a stress-filled environment that can trigger different emotions in students, and the most common, and most alarming, is stress. Some students thrive upon stress, buckling down to prove to themselves, or more frequently, to show to their classmates that they are going to set the curve because of all the practice questions or notecards they have completed. However, other students can take this stress and compound it as they begin to compare themselves to their classmates. This comparison turns an already stressful environment into a type of personal attack, which shows them that how they study is not as effective, or that they are not doing as much or as well as their classmates. This enhanced stress could send these students into a downward spiral, triggering sleepless nights, panic attacks, or worse.

External stressors are a real factor in today's law school environment. A recent study concluded that "graduate students are more than six times as likely to experience depression and anxiety as compared to the general population."¹ Therefore, it is more important now than ever before to do what we can to help combat the environmental stressors associated with law school and the bar exam.

Emails, presentations, or videos links are all methods that could be effective in addressing some of the external stressors and simultaneously improve both the lives of the students and their success on finals and the bar exam.

Techniques to combat the stressors

Emails

Emails are the best way to reach as many students as possible. However, students can view emails in several ways. Some students, unfortunately, see a general email from an academic success professor as another distraction or unnecessary, and these students delete the emails without ever reading the message. Thus, this category of students explains why subject lines and read receipts are important. Subject lines should contain pertinent information, such as event name, dates, time, and room, all of which can be easily read on the students' phones. For example, a subject line stating: "Practice Bar, July 15, 9-4:30, room 200, RSVP by 7/10," easily tells the student the important information and any additional steps they need to take.

Other students read the messages as if they contain directions to the Holy Grail. These students tend to be extremely literal and necessitate all humor to be removed from the email. However, the students that are the key audience for informative emails are the ones who read the emails, finds at least one thing that applies to their situation or one thing that might help, and then acts upon it.

If an email contains a lot of information that is designed to help alleviate various stressors, it can get long quickly. When it gets too long, students tend to skim over it and miss any important details. This inevitably leads to reply emails asking questions that were answered in your original email. This is a reason why academic success professors should use bullet points to convey important information rather than long paragraphs, underline or bold key

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details, and carefully choose font colors (red is seen as aggressive and can harm performance,² whereas blue is soothing and green is encouraging³). As the main form of communication today, emails can be the most effective way of preemptively diffusing a stressful environment, such as finals week or bar prep. Thus, if the appearance of an email encourages a student to read it, then taking the time to ensure that it looks like a quick read becomes almost as important as the content.

Resources via online videos or links

If your program has a dedicated website, this would be a great place to post available resources. “Handouts” or links that provide various stress relief techniques, such as deep breathing exercises, safe chair exercises, or mindfulness reminders can give students options that could be useful to them individually. Even links to guided meditation videos⁴, or white noise⁵ can allow the students to try a variety of techniques that could diffuse a stressful situation.

Presentations

The above links could also be discussed briefly before a class or program session, with a bit of immediate practice. There are several ways mindfulness could be practiced in as little as three-to-five minutes. All you need to do is have the students sit comfortably and focus on their breathing.⁶ The goal is to bring the students to the present moment. Students are always going to be worrying about something, finishing their homework for their next class, another paper deadline, a job/family obligation, but by having them focus their attention to where they are currently, it will help with their retention and comprehension of the material.

Another technique is to begin a session with a short journaling exercise. An example that works for first-year law students or recent graduates preparing for the bar exam is to ask, why they went to law school in the first place? Or what is their long-term goal? Brief exercises like these will help to simply focus the mind. By tying these ideas into the big picture, it can help them focus on the now (i.e. their studying for the next few hours).

Additionally, it can be comforting to a student to know that they are one of many. Simply informing the current class that previous students experienced the same stress and frustrations and still had a successful outcome, can help a current student feel less alone. Knowing “it’s not just me” can be extremely comforting to a stressed-out student.

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Legal Methods Exercises for Law Students

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In spring semester, where should an ASP course begin for students who did not perform well on final exams in December? I start with three exercises to reintroduce three corner stones of legal method in a common-law system and help students gain comfort with legal uncertainty: statutory analysis, common law analysis, and analogizing and distinguishing precedent. While I intend to use these in the spring, they would also be suitable for an orientation session at the beginning of the school year.

Exercise 1: Statutory Analysis in a Nonlegal Setting: The Grocer's Rule

Also known as the Grocer's Problem, I adapted and expanded this exercise from a simpler one developed more than two decades ago by Liz Keller.¹ In turn, others have created new twists on my version. This exercise is literally colorful, whether you use photos of fruits and vegetables in a PowerPoint presentation or simulate the events using real produce as props.

The Statute and the Issue: The owner of a small grocery store distributes a new work rule to employees. This published rule serves as our "statute." The statutory text instructs employees to place newly arriving produce in the display cases adjacent to the sidewalk if the fruit or vegetable would tend to draw pedestrians into the store; otherwise, the produce should be stocked inside the store, at a place where repeat customers would easily find it during a regular shopping trip. The next morning, a supervisor, Kim, placed newly arrived red, shiny, washed apples in the outdoor display case, but an hour later he placed newly arrived bunches of carrots, unpeeled and still sporting a coat of dust from the soil, in a vegetable display case in the produce section of the store. Kim departs in the afternoon to run an errand and leaves an employee in charge. Where should the employee stock a newly delivered case of bright red, shiny, clean bell peppers?

Analysis: You can explain that Kim is like a state Supreme Court, having issued decisions in two previous cases: the cases of the apples and the carrots, serving as two precedents interpreting the Grocer's statute-like rule. The employee hopes to please the supervisor, so the employee must predict where Kim would place the bell peppers. But students should have little idea about whether to analogize the case of the bell peppers to the case of the apples or that of the carrots ("case" indeed takes on multiple meanings in this exercise) unless they can discover the reasoning of the previous decisions. What consistent rationale did Kim apply to reach his or her decisions regarding how the work rule would apply to the apples and the carrots? We can posit that Kim was not clear about the rationale, so students must speculate, and then must apply their chosen rationale to the new case, working in small groups.

Not surprisingly, different teams of students typically find that different rationales can explain the previous decisions, and different rationales can point to different conclusions in the new case. If the previous decisions were based on visual attractiveness, the bell peppers should reside in the sidewalk display bin, because they share many of the qualities of the apples on that rationale. However, if Kim based his previous decisions on the suitability of the produce to serve as a snack while walking home, most people would

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view the bell peppers as analogous to the carrots: not suitable for a quick hand-held snack but likely on someone's shopping list for a salad or stir fry.

Lessons: Look for the rationale, as well as the holding, of precedent; gain comfort with legal uncertainty; and examine all facets of the facts to determine whether two cases should be viewed as analogous or distinguishable under a given rationale.

Resources: For guides, photos, and citations to books that set forth or discuss the exercise, go to facebook.com and search for the Facebook page for "The Grocer's Rule." The "photos" menu item includes the slides of a PowerPoint presentation of the exercise.

Exercise 2: Common Law Analysis in a Nonlegal Setting: Rules for Lina

In this exercise a parent incrementally fashions rules for her high-school-age daughter's evening social activities, including a basic rule, a clarification, a new element, and an exception over the course of four cases. This fashion of rule-making closely mimics judicial development of a common law rule: incrementally, one case at a time.

The exercise invites students to: (1) recognize ambiguity in the holding of the first case; (2) find a clarification in the second case; (3) add a new element, or a supplementary rule, in the third case; (4) recognize an exception to a general rule in the fourth case; (5) synthesize the cases and outline the rules; and (6) apply the rules to an essay exam that raises two issues under the rules.

Case Analysis and Synthesis: In the first case, Lina is grounded when she arrives home at 11 pm, after enjoying pizza with a friend following a Friday night high school football game. But it is unclear which facts played a role in this disposition: Is 11 pm a bright-line curfew rule, or did her mother disapprove of the idea of socializing with those who hang out at that pizzeria, or would Lina have escaped criticism entirely had she called her mother to inform her of her plans after the football game? Many judicial opinions raise analogous questions, requiring synthesis with other cases to clarify ambiguity. For Lina, that clarification and opportunity for simple synthesis appears in the second case, where Lina is warmly welcomed home at the same time and after the same activities the next Friday night, because she alerted her mother to her plans by cell phone. A third case reveals the curfew – midnight – and adds policy concerns: Lina's mother wants her to stay safe and to get enough sleep to stay healthy. In the fourth case, Lina's mother makes an exception to the midnight curfew for a relative's wedding and reception, an important family event where Lina's mother was present.

Activities: After the class analyzes and synthesizes the cases through collaborative discussion, each student can fashion an outline organized around the two rules and the exception, while illustrating those rules with case summaries and statements of policy. The faculty leader can then distribute a model outline and an essay question that raises two new issues: (1) Did Lina return "home" before curfew when she and her date parked in her parent's driveway just before midnight, within view of her mother, although Lina did not say goodbye and enter the house until after midnight?; and (2) Will Lina's plans for the following Saturday night be consistent with the exception for an important family event? Lina plans to travel to a neighboring city with a friend and the friend's parents to watch Lina's brother play in a basketball game; they expect to return home after midnight. Writing their answers in two IRACs, students must spot each issue from the facts and argue both sides on each issue, reaching any reasonable conclusion on each.

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Lessons: In a single class session, this exercise provides an overview of several important study techniques: case analysis and synthesis, outlining, and essay exam-taking. As faculty leader, you can foster collaborative learning by asking students to discuss each new case and its implications as you present it. The essay question presents opportunities to support arguments with policy reasons and to recognize ambiguity in the reach of the exception for important family events. An optional step in the exercise: Divide the students into two sides to identify the issues in the essay exam and then to generate a debate between the groups on each issue. Armed with that discussion, each student can then express the rules and competing arguments in IRAC format.

Resources: Go to Facebook.com and search for the page, “Rules for Lina.” Under the menu item for “videos,” you will find entertaining video enactments of the four cases. Under “posts,” you will find all necessary written materials, including a written transcript of the video enactments, an outline and exam question with sample answer, and citation to books that set forth or discuss the exercise.

Exercise 3: Analogizing and Distinguishing Supreme Court Precedent on the Fourth Amendment

To help students gain comfort with legal uncertainty, I raise a question about when police must secure a warrant to conduct a search. The text of the Fourth Amendment does not address this question, but two Supreme Court precedents from 1925 provide helpful guidance. A subsequent case, however, lies precisely between the two precedents, raising an issue to which text and precedent provide no clear answer.

The Text, Precedent, and Problem – The first clause of the Fourth Amendment prohibits unreasonable searches, leading to a balancing test between the privacy interests of individuals and the needs of legitimate law enforcement. The second clause requires warrants to be issued on the basis of probable cause and to be limited and specific in scope, but it does not state the circumstances in which a warrant is required before conducting a search.

The limits of the text of the Fourth Amendment creates a need for judicial interpretation. In 1925, the Supreme Court determined that federal officers did not need a warrant to search a car if they had probable cause to believe it contained evidence of criminal activity. *Carroll v. United States*, 267 U.S. 132 (1925). The Justices reasoned that the ready mobility of the car made it impractical to obtain a warrant before searching, outweighing any privacy interests in the contents of the car. *Id.* at 153. Later that year, the Court held that federal officers needed a warrant before searching a home. *Agnello v. United States*, 269 U.S. 20 (1925). The Court distinguished *Carroll* because of the great privacy interests in the contents of a home and because a home is immobile. *Id.* at 31-33 (the Court later overruled *Agnello* in part, holding that the illegally seized evidence could not be admitted for impeachment purposes, *United States v. Havens*, 446 U.S. 620 (1980), but that holding is not relevant to our issue).

Sixty years after *Carroll* and *Agnello*, the Supreme Court confronted a new issue that lies precisely between the two precedents. In *California v. Carney*, police conducted a warrantless search, based on probable cause, of a fully mobile motor home that

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was parked in a public place and in which the defendant was residing. As in *Agnello*, the police searched the defendant’s home without a warrant, but like the automobile in *Carroll*, that home was fully mobile. For purposes of applying the Fourth Amendment, is the motor home more analogous to a standard automobile or to a stationary house or apartment?

Exercise and Resolution – Students should divide into two groups to develop arguments for each side and then debate the issue, invoking the reasoning of the precedents and pitting privacy interests against legitimate needs of law enforcement. After arguments on both sides, the faculty moderator can reveal that the California Supreme Court excluded the fruits of the search, finding the motor home to be more like a house because of the defendant’s great privacy interests in its contents. *People v. Carney*, 668 P.2d 807, 810-14 (Cal. 1983). Students representing the defendant feel vindicated. But wait: a 6-3 majority of the Supreme Court reversed, based not only on the mobility of the motor home but also on the reduced expectations of privacy in any motor vehicle in a public place, arising from pervasive state regulation of all motor vehicles. *California v. Carney*, 471 U.S. 386, 390-94 (1985).

Lesson - On the interesting legal questions, attorneys do not have certain answers, but they can make arguments that help the court arrive at its answer. A court’s answer is final when the losing party runs out of courts to which to appeal or lacks the resources to finance an appeal.

Resources – For photos of my PPT presentation on this lesson, a teacher’s guide, and excerpts of the state and federal Supreme Courts’ opinions, go to facebook.com and search for the page for “Exploring Legal Uncertainty with California v. Carney.”

Endnotes:

1. See Jane Kent Gionfriddo, *Using Fruit To Teach Analogy*, THE SECOND DRAFT: BULL. OF THE LEGAL WRITING INST., Nov. 1997, at 4.

Texts for Success: How to Assist Bar-Takers in the Modern Era

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The current generation of bar-takers has a unique obstacle to overcome when preparing for the bar exam. Unlike many bar-takers of the past, technology consumes all aspects of current bar-takers lives: computers, smartphones, television, apps, etc. Modern bar-takers can study for the bar without ever leaving the comfort of their beds. All of the lectures, practice questions, and outline materials are available at the click of a button.

This presents an equally vexing obstacle for those that mentor students for the bar examination: how can mentors eliminate the technology distraction from bar study? While elimination of the distraction in totality likely cannot happen, mentors can turn the obstacle into an advantage. For example, academic support professionals and bar mentors can use technology to engage with the bar-takers as they study.

The job of a bar mentor is two-fold; substantive/study assistance and often, a reference for questions about life during bar preparation. Many times, it can be difficult to break through the barrier of connecting with a bar-taker through e-mail or other impersonal methods. As times progress, the dependence on technology increases, especially amongst the generations taking the bar examination. Bar-takers are in a heightened state of stress and want answers immediately but often will not come to speak to mentors in person.

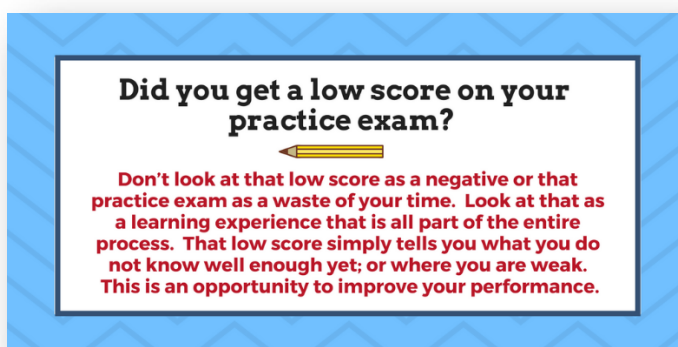
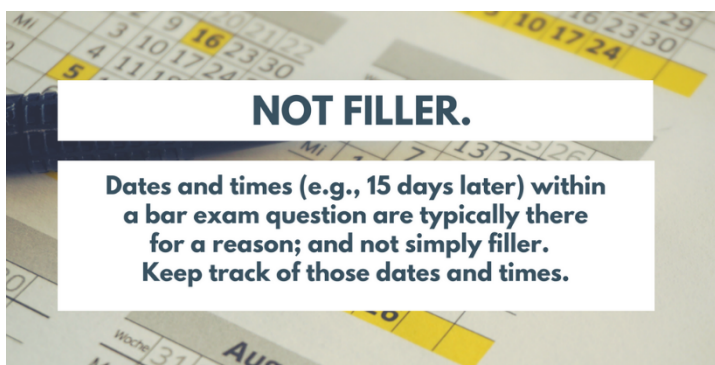
One way to utilize technology to engage bar-takers in a consistent and timely manner is through text messaging. Many students may elect to take the bar exam out-of-state or in the alternative, some students that are taking the bar in-state may elect to study for the bar off campus. Some mentors and Academic Support Professionals may not feel comfortable giving students their personal cell phone numbers. A texting program sponsored by the school that includes encouragement and tips to bar-takers can be effective in breaking down communication walls with the bar-taker and addressing bar-taker needs quickly without compromising personal boundaries.

A model for the texting program is as follows: every Monday through Friday of the ten-week bar exam preparation period, bar-takers receive a daily text message with a word of encouragement or a tip about MBE, MPT, or essay writing skills. These tips can include motivational quotes or tips related to specific components of the exam. Further, the tips can include reminders about additional programming the school offers to bar-takers. Additionally, alumni can also become involved by having "guest" texters; alumni can submit tips and techniques that helped them study for the bar examination.

Examples of potential text messages are listed below:

"While elimination of the distraction in totality likely cannot happen, mentors can turn the obstacle into an advantage. For example, academic support professionals and bar mentors can use technology to engage with the bar-takers as they study."

“By utilizing either the motivational, skills-based, or the doctrinal route, the school can encourage bar-takers to form good study habits.”



Various messages and uses can be adapted to fit a school’s individual needs. If the primary goal is to motivate bar-takers, then the skills-based advice can be kept to a minimum or completely excluded. In the reverse, if students are struggling with a particular skill area, the messages could focus on that skill. Further, the school could create sub-groups for each doctrinal bar-tested area where students could receive doctrinal tips and study methods. By utilizing either the motivational, skills-based, or the doctrinal route, the school can encourage bar-takers to form good study habits.

The program that has worked for our office to facilitate the text messages is Remind¹. It is an electronic database that is easy to follow and available in app format. Canva¹ is another great online program that allows you to create the graphics/messages to upload on the Remind program. The office is able to control the distribution of the text messages and pre-schedule the messages so that the program automatically starts sending messages and ends on specific dates. This is especially helpful so that certain messages, like the above-mentioned “low practice score” message can be timed to be sent when the bar-takers are receiving midterm scores from the commercial bar prep companies.

Bar-takers are able to download the Remind app to sign up, choose to send a sign-up text to a number that will automatically input their cell phone number into the program, or they may sign up through e-mail and receive the messages as an e-mail instead. This allows the bar-takers to have autonomy over their desired method of communication. Bar-takers have an option to respond to the text messages with various emoji’s; some use hearts, thumbs up signs, or smiley faces.

While we encourage bar-takers to limit their technology use during bar preparation, we elect to send the text messages during the lunch hour so as not to distract the bar-takers from their lectures or daily assignments. Additionally, it can also serve as reminder to get off their phones and get back to studying if they happen to be partaking in a social media excursion!

This program has been quite successful with bar-takers at Elon University School of Law. The program is entering its third iteration with the February 2019 bar-takers. Many of the participants sign up for the program prior to graduation, and none have withdrawn from the program in any iteration. Registration remains open throughout all of bar preparation, so the bar-takers can opt into the text program at any time. The text messages go out Monday through Friday, at noon, from December 28 through February 25.

The dependency on technology by bar-takers sometimes hinders learning but it can be invaluable to reach bar-takers throughout the bar exam preparation process. In the 21st century, technology has overtaken the traditional study methods of writing outlines and studying alone in the library for hours. A texting program geared towards study success is an achievable compromise of personal interaction through the medium most preferred by bar-takers.

Endnotes:

1. www.remind.com

2. www.canva.com

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Help Me, Help You: What You Should Know Before You Ask for Help

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I got an email the other day from a student who was having some difficulty writing his arguments. The student wrote that he kept rewriting his arguments in response to my comments but that he still had not been able to get them written satisfactorily. I could tell the student was frustrated and I could also tell that, for the moment, at least, I was the target of that frustration. Essentially, the student was telling me that he had changed things in accordance with my comments, but I still was not happy. Having been teaching for fifteen years, the frustration alone neither surprised nor upset me. However, I certainly know that there are times when it would and that there are colleagues who can and do get irritated by emails like this. So, I created a guide to help provide my students with tips on what they need to know about asking me for help. Although in the past I have given this information solely orally, I now plan to give this information to my students in a handout early in the semester. That way, we have built up a rapport and students are more familiar with me and hopefully recognize that my intent is only to be informative and not critical. Below are some of the tips that I give my students, along with explanations for each.

*"...if it is not
what their
professor asked
for, it cannot be
critiqued
positively."*

Time Spent Does Not Always Equate to a Better Grade: Often students will come to me upset about their score, and frustrated because they worked so hard and spent so much time on the assignment. The amount of time spent on an assignment does not always reflect the quality of your assignment. An example that I give to my students to demonstrate this is that if I ask you to build a pool on the right side of my house and you build a beautiful pool, exactly what I asked for, on the left side of my house, it's wrong. This helps students understand why an argument that they thought was good but was not what their professor wanted received a negative critique. To give further examples, I tell students that if they were told to write on one topic and they went beyond that topic, they did not follow directions and their work is incorrect. It does not matter how great they think the work is, or how much time they spent; if it is not what their professor asked for, it cannot be critiqued positively. I further explain that this is also true in practice because if they write a beautiful memo that their partner cannot understand or on a topic their partner did not ask them to, not only is it wrong, but they are costing the firm money because the firm cannot bill out their time for the initial memo they created and the correct one. All that being said, expertise takes time to acquire, so I implore students to cut themselves some slack.

I Don't Write Comments for My Health: There is little more frustrating than handing back an assignment and having a student immediately appear in my doorway, long before I know the student could have read any of the comments. Because of this, I tell students that if they just got a critiqued assignment back, they should read all the comments before they ask to meet with their professor. Professors are not writing copious comments out of a desire to keep the red pen lobby in business; they are doing it to explain the score students received. If students just look at the score and then immediately come to see their professor, what they are doing is asking the professor to verbally give them the comments that he or she has painstakingly written on the document. I explain that, intentionally or not, the impression they are giving their professor is that, although they know the professor spent a lot of time making comments, they just want the highlights. That's not respectful or helpful to you. Instead, I encourage them to read through the comments and see where they have questions. Not only

will this give them some time to release any frustration they have over their score, the comments themselves typically answer a lot of questions they may have about why they received it. Once they have reviewed the comments, they can talk to their professor about the questions that still remain and make the most of both their and their professor's time.

You May Think I'm an Idiot, but if You Want a Better Grade, You Need to Figure Out

How This Idiot Thinks: Having been a 1L at one time, I vividly recall thinking that my professors just did not understand how wonderful my work was. I tell my students that they, like I did, may not think their professor knows what she's talking about. One professor might love their work while yet another heavily critiques it. However, if they want a better result, they need to figure out how each professor thinks and what each wants. I encourage them to meet with their professors and be willing to work to give each professor what she's looking for. Students should write things out – be it an outline or a hypo answer or rule explanations, case summaries, and arguments –and show them to their professors to see if they are articulating ideas the way their professor wants. If not, they should change them. This will take time and a lot of effort, but it is productive. Although it may seem to students that they are making more mistakes, each mistake teaches them what not to do and further cements their knowledge of the subject matter. Also, showing their professors that they are willing to do extra work proves that they are taking this seriously. Most professors will go the extra mile for students willing to put in the effort to improve. Finally, learning to adapt to different audiences is important since in practice attorneys very often have multiple different supervisors – including clients and judges – who will want things in different ways. Their job as students and future attorneys is to learn what their audience wants and give it to them.

I'm Teaching You to Write to Someone with Just Enough Knowledge to Be

Dangerous: Students often feel like extra explanation is insulting to their reader. To counteract this, I explain that I am not teaching them to write to me, the person who has researched this topic, who has written the fact pattern, and who has talked about it for weeks with them. Instead, I am teaching them how to write to someone who has legal knowledge but not knowledge in this particular subject. I am teaching them to be the expert who has to teach someone else about this topic and to explain the arguments in a way that leaves their reader with no alternative but to reach the conclusion they have reached. In high school, my Advanced Algebra teacher used to quote the oft-quoted adage that, "To assume makes an ass out of U and Me." When students assume their audience has all the knowledge that their professor does, their analysis will be superficial because they feel they are at a disadvantage and do not know enough to be useful. Instead, students should consider they are writing to a law student in a different class or at a different school. They are writing to someone with the same basic knowledge they have, but who doesn't know this area of law as well as the student does. Whatever students are writing about, be it Torts, Contracts, or a Legal Writing problem in the State of Franklin, there is not a thought in their heads that the law did not put there. Their job as a writer is to convey that knowledge to their reader so she trusts them when they make their arguments.

I Use Socratic Critique: If you ask my students, both current and past, what they remember most about me, I'm sure most of them would say, "So what?" This is by far my most frequently written comment on students' papers and is designed to let the student know that he or she has not fully explained the analysis well enough. As a practical matter, it is useful because it is short, since when you are handwriting comments on twenty-five papers at a stretch, brevity becomes the soul of keeping your hand from cramping. But it is also short because it is easy to internalize. It is an easy way to convey to someone that they have not fully explained their idea. Just the other day, an alum sent me an email

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"I ask questions not because I do not know the answer, or because I think students do not know the answer, but because the answer is not clear from what was written."

telling me he was reading an opponent's brief and found himself writing, "So what?" in the margins in places where the analysis was not fully explained. Another student told me that as he studied for the bar exam, all he could hear was, "So what? So what? So what?" in his head. Comments like this make me incredibly happy because that is exactly what I am training students to do – learn how to edit themselves. Most of my critique, "So what?" included, is in the form of a question because I want students to think about what they did not say. I ask questions not because I do not know the answer, or because I think students do not know the answer, but because the answer is not clear from what was written. Most of the time when I read a student's work, I recognize that they understand the concepts about which they are writing. However, they are not conveying it in the way that I need to ensure that they understand the concepts and can make the arguments for someone unfamiliar with the topic and/or area of law. Questions like "So what?" help convey that and get students thinking about what you did or did not write.

I'm Better at This Than You Are: To quote Judge Judy, "They don't keep me here 'cause I'm gorgeous, they keep me here 'cause I'm smart!" I frequently, if gently, remind students to trust that I have the knowledge they want, and treat me as such. Although students can certainly disagree with their professors, they should keep in mind that they are in law school to learn the skills their professor has. This means that when addressing their professor, either in person or via email, they should remember to be respectful. They can, and may, be frustrated, but they should make sure that they do not project those frustrations onto their professor.

I'm Human and I Make Mistakes: In conjunction with the prior tip, I remind students that just because I am better at this, I am not flawless. It is entirely possible that when I was grading, I made a comment that does not make sense, or I made a mathematical error. If so, I tell them I am sorry about that. However, they should not assume that a mistake or two means that I no longer know what I am talking about. I assure them that I extend them that courtesy and ask that they please do the same for me.

You May Need Me Later: Finally, I inform my students that a lot of legal positions ask for Legal Writing references. That is something to consider when they approach their professors for help and when they interact with their professors on a daily basis. I assure them that this does not require that they fawn over their professor or shower her with false praise. Professors neither need nor want that. Instead, they should not burn a bridge they may need to cross later. This is true even if they transfer to a different school or leave law school altogether, since I have had students need references in both of those situations. However, there are multiple ways to write a reference. I can write a good, in-depth reference praising a student's skill and encouraging the recipient to hire her. I also know how to draft a letter that conveys to the reader if the student has been disrespectful or disdainful of my course but now suddenly has discovered she needs my help. Along those lines, I remind students that whenever a professor writes a student a letter of reference, she should thank the professor. If the student does not, she may find herself being called to task by that same professor when she needs help next.

Flow Charts: Patterns of Form and Content in Legal Writing

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I believe good writing consists of patterns and process, with an awareness of the former often begetting a useful and intentional approach to the latter. Like a set of Russian nesting dolls, a strong text consists of both large or macro structures and smaller, more subtle or micro structures. Those different structures then become, for the attentive author, a series of interlocking organizational levels within which that author may create patterns of meaning. Traditionally, the larger of those levels take their shape and arrangement from the content of the piece, whereas the smaller or more intricate levels are located in the piece's formal or technical attributes. While the majority of writers will prioritize the first of those categories over the latter, a good writer will recognize that those categories exist as two sides of the same whole that can work together so content dictates form and form concretizes or even enacts its content.

Like most others, law students probably learned about grammar and punctuation while in primary school and did so through a series of rules designed for memorization. Moreover, most law students did not enter law school to become professional writers. Yet, after only a few days or weeks, those students find themselves faced with the reality that they must learn the content of the law while also learning how to accurately convey that content in writing. Often overwhelmed by that realization and the subsequent one that most professors expect those students to have already cultivated those foundational writing skills, those students come to my office seeking guidance or feedback. But their unawareness of the symbiotic relationship between form and content often leads those students to ask the all-inclusive question: "can you just make sure my writing flows?"

Because "flow" encapsulates and, I think, minimalizes the amount of planning and structure that goes into a good piece of writing, I often ask students to articulate what they mean by "flow." The most common answer seems to be the logical progression of one's argument, but sound, sentence structure, and punctuation all come up as well. With the budding realization that "flow" is a loose description of the many elements involved in writing a text, those students are then ripe to begin relearning the layers of meaning in a text and how they interrelate. To facilitate that learning, I developed my "flow chart" of writing priorities" to help students first identify and then utilize the layers of meaning in a persuasive text.

That "flow chart" consists of the following levels:

1. **Audience:** A writer's first priority and allegiance are to his or her readers. This first level is often a moment of enlightenment for students as they are often so concerned with the difficulty of composing their texts that they never consider the effort one must expend to read a text. If a writer simply aims for self-expression, he or she can write a journal or diary. But if that writer wants to convey information to others, he or she must cater to his or her audience's preferences. Professors are often captive audiences forced to read whatever a student submits. If that student does not conform to that professor's expectations, the resulting grade will suffer. In the real world, though, the effect is even worse: the reader will simply stop reading.
2. **Idea:** Once writers have considered their audience, their next obligation is to write whatever best expresses their idea—even if that means subverting traditional rules for spelling, grammar, or punctuation. On occasion, a thought can best be expressed in a

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vernacular or phonetic spelling. Other times, a break from standard grammar may make one's point seem more immediate or emphatic. Conveying content is the most frequent goal of a written text, and, as such, one's allegiance should be to conveying that idea in whatever form best suits its effective transmittal.

"Conveying content is the most frequent goal of a written text, and, as such, one's allegiance should be to conveying that idea in whatever form best suits its effective transmittal."

3. **Form:** This category takes into account a text's structure and subdivides into categories within other categories.
 - a. **Genre:** On the formal level, one should begin by considering the genre within which he or she is writing. Writers must understand the expectations of their genre and then conform to or meaningfully break from them. Here, the cliché that "one must know the rules before breaking them" comes to mind. As law students soon discover, memoranda, notes, briefs, and research papers all have different shapes and expect different things from the writer. What might be skillful in one, may be unsightly in another.
 - b. **Section:** After genre, one must consider the expectations of the section he or she is writing. Like the differences between genres, the expectations for the form and content of different sections within a text are all different. For example, a Rule Statement and an Application both have different purposes, consist of different information, and take different shapes. Writers must know what they are writing before they can write it well.
 - c. **Paragraph:** Once writers have developed an awareness of their genre and section within that genre, those writers should then consider the shape and purpose of the paragraph they are composing within that section. For standard body paragraphs, I subscribe to the P.E.A.S. method, which stands for "Point," "Evidence," "Analysis," and "So What?" A standard body paragraph should, therefore, consist of a single idea, and the first sentence should immediately and directly introduce that idea. Following that topic sentence, the writer should then allow the reader to examine that topic through evidence, which can be a quote, statistic, fact, or example. Once the reader has perceived that evidence, the writer should take a few sentences to identify what in that evidence he or she wants the audience to pay attention. What details in that evidence matter? Finally, once the reader notices those important details, the writer should communicate why he or she brought up that information in the first place—or, even more explicitly, the writer should identify how that evidence supports or contributes to his or her argument.
4. **Grammar and Punctuation:** Next, we reach grammar and punctuation, which exist on the level of the sentence and word:
 - a. **Sentence:** The simple mechanics of a sentence consists of a subject and verb, which, most often, default to an actor and action. Each sentence is an occurrence or an event. As such, if writers can remember to locate their subject and verb, keep them close together, in that order, and at the beginning of their sentences, those writers will avoid the majority of errors that can arise in both the grammar and punctuation of a sentence.
 - b. **Word:** Word choice involves many variables, but one basic element involves considering the difference between the concrete and abstract. I find using proper nouns particularly important because legal writers, especially law students, can forget they are writing about real people with real lives. Terms like "plaintiff," and "defendant" or titles like "merchant" and "owner" tend to make people into types rather than humans with flesh, hopes, dreams, and families—and that abstracting process is problematic for a variety of reasons. Also, while linking verbs like "is" and "be" have their place because they essentially function as equal signs that bring two words or phrases as close together as possible, writers can often convey more precise meaning through action verbs. Consider the difference between "Alex is smart" and "Alex knows the difference between transitive and intransitive sentences." Both

abstract and concrete words serve a purpose, but the concrete convey more specific, tangible meaning. Thus, if the facts work for the writer, he or she should be as specific as possible. If the facts do not work for the writer, he or she should abstract the nouns and verbs until those words become diffuse enough to meet the standard or rule. Moreover, writers should consider the difference between the right or perfect word and the big word. Students are taught early to expand their vocabulary by using big words. Those students then often confuse big words with sophisticated writing. Sometimes the big word is the right word, but often a simpler, more concrete verb or proper noun will achieve its purpose in a more natural and understandable manner.

5. **Sound:** Once those other structures are in place, writers can then begin to consider the sound of their language. Short sentences are blunt and make a point, whereas a long sentence can convey a Whitmanesque breathlessness that can exhibit either excitement or dismay based on context. Writers should also consider the properties of rhyme, alliteration, assonance, and consonance. In brief, rhyme tends to equate to reason because it parallels terms and creates a pattern—and patterns equate to logic and thoughtful planning. Rhyme brings words together, such as in the famous, “If [the glove] doesn’t fit, you must acquit.” Alliteration, on the other hand, breaks words apart and stresses their individuality, such as in phrases like, “rest, residue, and remainder.” English-speaking audiences also tend to find assonance or vowel sounds soothing and consonance or consonant sounds harsh. For instance, consider the difference between the calming assonance of a phrase like “Oh, my poor baby” and the harsh clipped consonants of a phrase like “Take your things and get out.” A good writer not only chooses the word with the correct definition but also the word that carries meaning in its sound.
6. **Format:** Lastly, writers should consider how their information appears on the page. Is the text easy to read? Are the paragraphs too dense? Would headers or lists break up that information to give the reader’s eyes and mind a break or allow that reader to find the information in that document that is most pertinent for him or her or that he or she needs at that moment? Does the font change? Are page numbers included? Are those page numbers in the same font as the rest of the document? As the last category, formatting may seem and actually may be of less substantial importance than the other categories, but, like the clothes one wears to an interview, formatting is the first thing the reader sees and, thus, is the basis of that reader’s first impression of the writer and text—and we all know first impressions are hard to undo.

While I do not necessarily teach my students to consider “flow” *verboten*, I do push them to understand and work through the above categories so they can begin to pattern thoughtful texts and identify where they and, subsequently, their readers might lose those patterns. Therefore, while good writing may be simple, being simple can be difficult. Yet, a good flow chart can help guide legal writers utilize both the form and content of their texts so they convey a specific, patterned, and, ultimately, persuasive meaning.

“...while good writing may be simple, being simple can be difficult.”

Call for Submissions

The Learning Curve is published twice yearly, once in the summer/fall and once in the winter/spring. We currently are considering articles for the Summer/Fall 2019 issue, and we want to hear from you! We encourage both new and seasoned ASP professionals to submit their work.

We are publishing a general issue so we are considering all ideas related to academic support. If you have a classroom activity you would like to share, individual counseling techniques, advice for the academic support professional, and any other ideas, we want to hear from you!

Please ensure that your articles are applicable to our wide readership. Principles that apply broadly — i.e., to all teaching or support program environments — are especially welcome. While we always want to be supportive of your work, we discourage articles that focus solely on advertising for an individual school's program.

Please send your article submission to LearningCurveASP@gmail.com by no later than **August 5, 2019**. (Please do not send inquiries to the Gmail account, as it is not regularly monitored.) Attach your submission to your message as a Word file. Please do not send a hard-copy manuscript or paste a manuscript into the body of an email message.

Articles should be 500 to 2,000 words in length, with light references, if appropriate. Please include any references in a references list at the end of your manuscript, *not* in footnotes. (See articles in this issue for examples.)

We look forward to reading your work and learning from you!

-The Editors

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The Learning Curve is a newsletter reporting on issues and ideas for the Association of American Law Schools Section on Academic Support and the general law school academic support community. It shares teaching ideas and early research projects with a focus on models and learning environments that create positive learning experiences for law students.

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