2010

The Psychology of Hope: Legal Educators Must Strengthen Students' "Waypower" to Succeed

Cassandra L. Hill

Available at: https://works.bepress.com/cassandra_hill/2/
The power of hope is often undervalued, even though scholars have shown that hope is a key predictor of academic performance in law school.¹ On the first day of class, I strive to remove any doubt my students may have about their potential for success in law school. Many students have overcome insurmountable challenges to attend law school and some feel as if they are in school on a wing and a prayer. These students may have naysayers to their success. And test scores, mandatory grading curves, fail-out rates, and bar exam pressures present unhelpful and never-ending distractions to the learning process. So, after my introduction and overview of the course, I give the following affirmation to my class: “We cannot always control what happens outside of this classroom but, in here, we will be hopeful, supportive of one another, and excellent in all that we do. You will develop key lawyering, problem-solving, and writing skills and, over time, you will be equipped and ready for practice and the bar. I promise you--you will get there and be successful.”

A few years ago, while perusing the library shelves, I came across C.R. Snyder’s book, *The Psychology of Hope: You Can Get There From Here.*² I was instantly struck by the title, as it embodied my approach to teaching law students, first-year law students in particular. Snyder,

---


who is known as the father of hope theory, offers a new definition of hope that embodies three basic mental components: goals, willpower, and waypower. Goals are the outcomes we desire or something we want to obtain or attain. Willpower is the sense of determination and commitment that helps us move toward our goals and waypower is the mental plan or roadmap that we use to guide our thinking and reach those goals. According to Synder, “hope reflects a mental set in which we have the perceived willpower and the waypower to get to our destination. . . . [N]either willpower nor waypower alone is sufficient to produce high hope.” Applying this formula to legal education, if law students lack either the willpower or the waypower for their goals, they cannot have high hope to succeed.

I have found that at the start of school many first-year law students have a will to succeed, graduate from law school, and land that sought-after legal job. And this will is fueled by faculty’s enthusiasm and passion about their subject matter. A law student’s will to succeed, however, does not automatically translate into hopeful thinking. Law students also need to have mental waypower to adopt a truly hopeful attitude. This is where we, as legal educators, come in. We must strengthen our students’ waypower—their tools, strategies, and capacities to be successful law students and competent lawyers. And how do we accomplish this

---

3 Martin & Rand, supra note 1, at 204, 207.
4 SNYDER, supra note 2, at 5.
5 Id.
6 Id. at 6-9.
7 Id. at 10 (emphasis added).
8 See id.
10 SNYDER, supra note 2, at 269-71.
task? First, we should set high, but realistic, expectations for student performance. Second, we should equip our students with the skills needed to achieve stated learning objectives and then provide students with varied opportunities for formative assessment and practice. By taking these steps, we help law students establish a history or pattern of successfully reaching their goals, examples that students can rely on in the future. And our responsibility as educators to complete these critical tasks is rooted in hope theory.  

1. **Set high but realistic expectations for students**

Expectations or goals are the core competencies and outcomes we expect our students to achieve. Legal educators should identify specific learning goals (large and sub-goals) for students and share these objectives with their students. The goals should be clearly defined and concrete and should challenge students to excel and meet their maximum potential. We must hold our students accountable to and expect them to meet high, but attainable, standards of performance.

As educators, we do our students a disservice if we underestimate their abilities or set expectations or goals for them that are too low. We must inspire our students to do their very best and submit an excellent work product. It, of course, will not always be easy for them but as

---

11 *Id.* at 266-71 (discussing the hope formula and its application to the student-teacher relationship); Christine Pedigo Bartholomew & Johanna Oreskovic, *Normalizing Trepidation and Anxiety*, 48 DUQUESNE L. REV. 349, 372 (2010) (explaining specifically how legal writing faculty begin to teach the “pathways that will help to bridge the gap between school and practice.”).

12 GREGORY S. MUNRO, OUTCOMES ASSESSMENT FOR LAW SCHOOLS 142 (Inst. For L. Teaching 2000) (addressing how law professors should design their courses with high expectations of students); Sherri Lee Keene, *It Was the Best of Practice, It was the Worst of Practice: Moving Successfully from the Courtroom to the Classroom*, 48 DUQUESNE L. REV. 533, 541-42 (2010) (emphasizing how new professors should define their expectations, set attainable goals for their students, and inform students of their high standards).

13 See James B. Levy, *As A Last Resort, Ask the Students: What They Say Makes Someone An Effective Law Teacher*, 58 ME. L. REV. 49, 98-99 (2006) (concluding that law faculty’s expectations of students can greatly enhance or hinder students’ learning and acknowledging that students want faculty to hold them to high academic standards).
students struggle to solve a problem they can achieve that “ah-hah” moment. We cannot, and
should not, do the work for them.\textsuperscript{14}

Legal educators can model this practice of high, yet reasonable, expectations in small but
effective ways. For example, faculty should require students to meet assignment deadlines and
set their own timeline to complete projects. Faculty must insist that students develop key time
management skills, as tardiness can have drastic consequences for clients in practice.\textsuperscript{15} Also, in
the classroom, faculty could give students ample time to answer a question. Rather than moving
on to the next student with a raised hand, give the called-on student a chance to search his
memory or notes, think hard about the question, and provide a reasoned response. The silence
can be tense, at times, for some students, but by waiting for a response we tell the student that we
expect and believe he can answer your question. Or, after waiting some time, faculty can give
the student the option to ask a classmate for assistance. Either way, the student works hard to
solve the problem, even if he eventually seeks assistance.

In addition, we can use classroom exercises like peer editing to encourage students and
show our high expectations of their abilities. Some professors believe that first-year law students
do not have the skills to provide adequate feedback and a constructive critique of their peer’s
written work. After sufficient training, however, students can effectively assume the role of

\textsuperscript{14} Julia Glencer, Erin Karsman, Jan Levine & Tara Willke, \textit{The Fruits of Hope: Student Evaluations}, 48 DUQUESNE
L. REV. 233, 253 (2010) (explaining the theory that “a teacher cannot give away too much”); Kathy L. Cerminara,
249, 273 (1996) (“The academic support professional is someone to whom students can turn. But, like good
parenting, care must be taken to provide assistance in a way that encourages independence rather than fostering
dependence.”); Vincent Kovar, \textit{Complete the Learning Cycle with Peer Editing} (Mar. 3, 2010),
(“Remember, teachers should be coaches, not crutches. Doing the all the revision for your students isn’t helping
them learn, it’s depriving them of half the process.”)

\textsuperscript{15} Bartholomew & Oreskovic, \textit{supra} note 11, at 372 (proposing that “learning how to complete a project from a time
manageability standpoint” develops pathway thinking).
reader and teacher and, in my experience, provide quite helpful and insightful comments to their peers. When professors organize learning experiences that place students in the role of the teacher, such as asking students to give each other feedback, “students infer that the teacher respects their abilities.”

By setting high but reasonable goals for students, professors place students on the path to hopeful thinking about their development of key lawyering skills and careers as practicing attorneys.

2. **Give students concrete methods to achieve learning objectives and opportunities to practice**

In addition to setting expectations, legal educators should continue to infuse the traditional law school curriculum with engaging teaching methods and develop innovative ways to assess student performance. We introduce students to case reading and briefing, instruct them on how to derive explicit and implicit rules from cases, explain the importance of stare decisis, and train students to effectively employ rule-based and analogical reasoning, just to name a few. We must use a variety of teaching strategies to build students to the point where they can be assessed fairly and achieve success. By using different methods, we can reach a large group of students with diverse skill sets. For example, faculty can balance traditional lecture and the Socratic dialogue with exercises using interactive classroom response systems (clickers), oral assignments, collaborative group work, Power Point presentations, educational websites, video presentations, or low-tech visual aids such as charts or graphics.

---

Some faculty already use innovative methods to teach doctrine and train students to be competent and effective lawyers. Students may learn mnemonics to trigger their memories of key legal concepts and frameworks. For example, the mnemonic M-I-M-I-C (motive, intent, mistake, identity, and common scheme or plan) is often used to help students remember the possible exceptions to the hearsay evidence rule. And all law students learn to recite the acronym I-R-A-C when they sit down to write and organize an essay exam or complete a legal writing exercise.

In my legal writing class, I use a chart system to teach students how to develop and write sound legal arguments. Students learn to complete this chart for each element or factor of a claim or defense. They are instructed to provide the rule, specific factual support for each party, and related inferences in the designated boxes. Students then remember to identify and include the legal relevance or significance of a fact by articulating clear inferences in their writing assignments. In addition to this argument chart, I use a flowchart exercise to introduce students to the process of statutory interpretation using legislative history and canons of construction. Students identify and outline the key steps courts use to interpret a statute and then apply this process to a client hypothetical. Rather than requiring the students to write out a detailed answer, I engage other learning styles by holding a mock oral argument for the exercise.

Whether it is through a mnemonic, chart, flowchart, an oral presentation, or some other engaging technique, we must give students a concrete process or method they can apply to the next assignment, whether it is for class or in practice. A high-hope law teacher “constantly must be on the outlook for effective ways to impart information along with critical thinking.”17 When approaching a new legal issue, students should be able to readily rely on their wayppower or

17 Snyder, supra note 2, at 269.
planning capabilities and recall the steps they used in the past to successfully solve the problem and complete the task.¹⁸

In addition to adopting different teaching strategies, legal educators must use multiple forms of assessment to improve student learning and strengthen waypower thinking in law students. Rather than administering a single exam or assigning a writing project at the end of the course, we should design varied shorter exercises that give students many opportunities to practice relevant skills and receive constructive feedback on their performance.¹⁹ Legal writing faculty are experts at providing students with feedback and formative assessments. Most, if not all, legal writing programs are centered around research and writing assignments and based heavily on student-faculty conferences, faculty critiques, and revision tasks.²⁰ Doctrinal faculty can adopt the process-based approach of legal writing faculty and incorporate into their courses several exercises that require students to demonstrate what they have learned. Such exercises could include drafting assignments, oral presentations, papers, quizzes, and exams.²¹ This is just a sampling of the ways in which we can strengthen our students’ skill sets.

My proposed hope theory initiative for incorporating different learning strategies and constant practice conforms to the American Bar Association’s recent call for increased formative


¹⁹ Bartholomew & Oreskovic, supra note 11, at 377 (explaining that extensive e feedback and peer editing exercises teach students there is often more than one way to approach a problem).

²⁰ See Glencier, Karsman, Levine & Willke, supra note 14, at 254-58.

²¹ Munro, supra note 12, at 143, 151; see Terri L. Enns, Students Critiquing Novice Writing: Building Hope By Building Bridges, 48 DUQUESNE L. REV. 403, 417 (2010) (“Modeling learning as a process . . . gives students hope they too will improve[].”).
assessment measures in law school education.\textsuperscript{22} We have an obligation to equip law students with the tools and training needed to practice law effectively and a duty to adopt varied teaching strategies and formative assessment measures that reach a wider audience and give students the waypower to achieve course goals.

Students with high levels of hope tend to succeed academically in law school.\textsuperscript{23} To truly experience a state of hopeful thinking, law students need both the will to succeed and the way to achieve their goals. We, as legal educators, facilitate the ways for our students to reach learning goals. We do this by expressing confidence in our students and having high expectations of them and by teaching our students concrete methods for engaging in the lawyering process. We both challenge our students and prepare them for assessment (whether on law school or state Bar examinations) and the practice of law. And, as a result, we empower our students with the waypower and, in turn, the hope to succeed academically and professionally.


\textsuperscript{23} Martin & Rand, \textit{supra} note 1, at 217; Camille Lamar Campbell, \textit{How to Use a Tube Top and a Dress Code to Demystify the Predictive Writing Process and Build a Framework of Hope During the First Weeks of Class}, 48 DUQUESNE L. REV. 273, 295 (2010).