Winter 2010

Affective, Effective Feedback

Paula J Manning

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Welcome Back!

CORIE ROSEN & HILLARY BURGESS

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LETTER FROM THE EDITORS

Corie L. Rosen

Permanent Instructor in Law, Director, Academic Support Program, Arizona State University

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Assistant Professor of Law, Charlotte School of Law

Each issue of The Learning Curve seeks to address some essential topic in Academic Support teaching or scholarship. In this issue, we focus on feedback, the process by which ASP professionals show students how they can improve their work.

Feedback is one of the most essential aspects of learning in law school and other contexts; it is also an integral part of the services that academic support professionals provide their students. We know that giving feedback isn’t always straightforward and simple; academic support professionals must tailor their feedback to the needs of diverse audiences and to students of disparate ability levels. However, very few of us receive formal training on how to provide effective feedback.

We explored the educational psychology research and were surprised to learn that there is little literature addressing the way specific feedback methods either support or inhibit law student performance. We wanted more; the importance of feedback is well established in the sports and elementary education arenas and has been addressed by educational psychology literature since at least the 1970’s. Perhaps because much of the existing research is more than a decade old, at least some of it has remained unexplored by the law school community, and we saw this gap in scholarship as an opportunity to seek out articles addressing feedback methods in law schools today.

Recently, Malcolm Gladwell’s writings have highlighted deliberate practice, the process of practice and feedback, and have given those ideas a seat in the popular imagination. Gladwell’s popular writing has reignited a broad interest in feedback and we took his work, and the work of the scholars he sites, into account as we developed this issue.

We hope that this issue of The Learning Curve will encourage you to contribute to the discourse on this important topic. Especially in the first year context, it would be valuable to have more targeted research that seeks to understand which feedback methodologies are most effective and how best to integrate them into the 1L schedule. We hope that this issue provides a spring-board for those who wish to engage feedback as a topic, and we look forward to hearing about your ideas as to how we can provide the most effective feedback.
"Deliberate practice may not be much fun, but it does work, and it is, in effect, exactly what academic support programs push their students to do."

Corie L. Rosen
Permanent Instructor in Law and Director, Academic Support Program, Arizona State University

Hillary Burgess
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I. The Importance of Practice

Academic Support Professionals have long known what popular psychology has only recently begun to articulate: committed practice, followed by constructive feedback, followed by more committed practice, is a recipe for success. In fact, it is the only way to succeed at a difficult task, the only way to truly become expert at anything. Two recent books, Malcolm Gladwell’s Outliers and Geoffrey Colvin’s Talent is Overrated both rely heavily on well-vetted psychological research and seek to prove exactly this point; effective feedback in any context is half the battle. Without it, many of society’s greatest successes would remain ordinary people and so much hard work would be nothing more than unproductive labor. Gladwell and Colvin remind the world that, if a person wants to improve her skills in any arena, that magical interplay between hard work and feedback practice and feedback are essential. That combination of work, followed by constructive feedback, followed by work that takes the feedback into account has been identified as the crucial process in learning and mastering any new task, and has been termed “deliberate practice.” Geoffrey Colvin sums up its essence:

[Deliberate practice] is activity designed specifically to improve performance, often with a teacher’s help; it can be repeated a lot; feedback on results is continuously available; it’s highly demanding mentally, whether the activity is purely intellectual, such as chess or business-related activities, or heavily physical, such as sports; and it isn’t much fun.

Deliberate practice may not be much fun, but it does work, and it is, in effect, exactly what academic support programs push their students to do. The law school learning context, like the other contexts in which the importance of feedback have been studied, is an environment in which deliberate practice requires two parties: the law students who do the academic work and the teachers who provide the critical feedback instruction that helps students find their way to better, deeper practice and the improved mastery that ac-
II. How Deliberate Practice Works

Educational psychology teaches that there are three stages in the development of basic skills. First, students pass through the cognitive stage, during which students must think about each step of the mastery process and rely heavily on trial-and-error to accomplish their goals. Second, students pass through the associative stage. At this stage, students begin to organize material they have learned into distinctive chunks or areas. Third, students pass through the associative stage. In this stage, students develop automaticity, or an ability to engage material with less effort and more accuracy.

Law school asks students to not only pass through these stages, but to move beyond them, into domain-specific problem-solving territory in which students must apply the material that they have mastered to a new, problem-specific situation. In other words, we ask students to master the law and then to apply what they have learned to solve an issue-spotter-type hypothetical. Eventually, we hope, students will go on to use these skills to solve real-world legal problems. As learning tasks go, law school asks more than many other environments, and it asks students to perform the highest level learning tasks in very little time, and often with very little feedback. For many students, getting to the problem-solving stage isn’t easy, and when students enter academic support programs, many of them express dissatisfaction with the level of feedback provided by the law school environment.

Deliberate practice tells us two things: first, it tells us that anyone who engages in the process can improve, no matter how lacking his skills. Second, it tells us that instructor participation in the learning process is not just desirable or good; it is absolutely essential to the learning task. There are many students who believe that success, expert performance on law school exams and writing assignments, is the product of some kind of innate ability. Yet, “studies…explain expert performance in terms of acquired characteristics resulting from extended deliberate practice and that limits the role of innate (inherited) characteristics…”

Deliberate practice takes time, because it is, at its core, a kind of system of trial and error. The student tries something, and the instructor shows him where his work has erred, then tells him how he might make it better. The student then takes that feedback and works to incorporate it into the next trial, which he again gives to his teacher. That teacher again responds to the work, clarifying what the student is already doing well, and where the student will need to expend even more effort to achieve, and so on and so on until the student realizes his goal or meets the standard he is trying to reach. This is no minimal process. Despite our cultural conceptions of bright people as effortlessly gifted individuals who work less than others while at the same time achieving more, psychology tells us that, although there is, “a relatively widespread conception that if individuals are innately talented, they can easily and rapidly achieve an exceptional level of performance once they have acquired basic skills and knowledge,” this is not in fact so. “Biographical information disproves this notion.”
Success is then the product of effective engagement on the part of both the student and the teacher, and the crucial bridge between struggling and succeeding is feedback, or the process by which instructors explain the way that assignments fail or succeed, and the ways that work can be improved. And yet. Law schools do not always provide students the kind of directed feedback students need to support the deliberate practices methods that will enable them to move through the levels of mastery. We know many law schools produce depression and dissatisfaction at alarming rates. Whether it is lack of feedback which causes students to repeat poor performances, which in turn creates an environment of low decision-making latitude, or it is the depression and lack of autonomy that feeds students’ disinterest in listening to professor feedback and using it to develop a habit of deliberate practice, the connection between law student thriving and deliberate practice is a real and important one.

In his article, “Human Nature as a New Guiding Philosophy for Legal Education and the Profession,” Lawrence S. Krieger writes, “A distinct progressive energy has begun to pervade the landscape of legal education in the past few years. The movement toward humanizing legal education is maturing after less than a decade of organized activity, and other powerful initiatives with broadly humanizing purposes have simultaneously emerged.” Among these is a movement toward giving thoughtful, effective feedback. “In order to be motivated by a discrepancy between where you are and where you want to be, [one] must have an accurate sense of both her current status and how far [she] has to go.”

Research suggests that students need to understand both what they have done well, and what they have yet to achieve. This means that teachers must give direct, specific feedback, and must take the time to acknowledge strengths and weaknesses in student work. That kind of feedback, task-oriented feedback, encourages deliberate practice, which is what helps the student to improve. It is deliberate practice, after all, that we most want to encourage, since it is deliberate practice that is the key to success in every mastery-oriented field studied, from growing rice to flying planes, from composing concertos to playing chess. Academic support professionals are charged with giving that critical feedback to struggling students—arguably those who need it most.

Only through deliberate practice, that process of doing, erring, receiving feedback, and incorporating that feedback into subsequent efforts, will those students become better learners, stronger performers, and, ultimately, experts in the field.

**THE LEARNING CURVE...**

is a newsletter reporting on issues and ideas for the AALS Section on Academic Support and the general law school academic support community. The purpose of the newsletter is to share teaching ideas, early research projects, and to discuss models of learning environments that create positive learning experiences for law students.
AFFECTIVE, EFFECTIVE FEEDBACK

Paula Manning
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Undermining confidence, reducing autonomy or increasing student unhappiness might be unfortunate by-products of several commonly used feedback techniques. After taking a critical look at the effectiveness (or, as it turned out, ineffectiveness) of my feedback, I set out to find ways to support student autonomy and foster happiness through and discovered that simple changes in feedback methodologies produced exciting results. This article describes some of the work that inspired me and the changes I’ve implemented, in the hopes that others might begin to find ways to use feedback as a means to support, encourage and inspire students.

Any discussion of supporting student autonomy should probably begin with a nod to Ken Sheldon and Larry Kreiger, whose work describes the harmful effects of a legal education that dehumanizes students and destroys autonomy. In setting a goal of better supporting student autonomy, my objectives were to use feedback to do the things suggested by Sheldon and Kreiger, and others in the field. Specifically, I planned to: (1) build students up by showing appreciation, respect and understanding for their work; (2) develop students’ self-understanding and reflection skills—helping students to focus on non competitive, achievable learning goals, i.e., doing their best and learning the material—rather than on beating everyone else; and (3) to build self-efficacy, instilling in my students the belief that success was within their grasp, so long as they persisted in their efforts.

Through trial and error, and candid conversations with my students, I’ve altered my feedback to better accomplish these goals. Below are a few of the things I’ve learned and implemented.

1. It’s not just what you say, it’s how you say it.

Presentation matters. Many millennial students are impacted by the visual look and design of our feedback. In other words, what the paper or feedback looks like actually impacts how they feel about their work and whether they will read your feedback and internalize it. One of the most interesting discoveries I made was related to “the Big X.” In the past, I have used the Big X, crossing out irrelevant pages and paragraphs with a giant X through the “offending” material. After working with my students, however, I found that “the Big X” was perceived as the equivalent of writing “you didn’t do anything right” on the paper, certainly not the message I was trying to send. For some students, especially those that had worked hard on the material that I so casually crossed out, it even sent the message they should just stop trying altogether.

In lieu of “the Big X,” I now draw a line or bracket down the side of the irrelevant material, and give an explanation for why it doesn’t belong in the paper (e.g., “since the facts indicate there was a valid contract, formation wasn’t at issue here and so it wasn’t necessary to discuss offer,
acceptance or consideration). This technique is more effective than “the Big X” both because it shows respect and appreciation for the amount of time the student spent drafting the material; it provides guidance that will help the student master the skill, which will improve her belief that if she persists, she will achieve mastery; and it encourages the student to think about the reasons that portion doesn’t belong in the paper, which improves her reflection skills.

2. If you make it personal, they will take it personally.

“You didn’t use the facts” might seem like a relatively innocuous comment, but because the statement is directed to the student personally, rather than directed at the writing or skills deficiency, it actually may cause a student to internalize criticism in a way that hurts their learning.

A better choice would be “this analysis would be stronger if it addressed all of the available facts”. Not only does this statement take the focus off of the student and place it onto the skill, it also provides the student with an achievable learning goal—using all of the available facts.

3. Sometimes, less really is more.

As any good coach, marketing director or mass communications major can tell you, most people just can’t absorb more than a few key points at a time. Still, some students will insist that they want to know everything that is wrong, and, perhaps because they have so few opportunities to get feedback, we may want to tell them everything, all at once. Unfortunately, even fabulous feedback, if given all at once, can have unintended results. If the paper is filled with comments, students are sometimes overwhelmed, and so less likely to read and internalize the information. Some students assume that a paper covered with feedback means they haven’t done anything correctly, so they toss the paper out and start again—without reading comments. On the other end of the spectrum, are students who read all of the feedback, but are not able to absorb and implement many comments all at once. Those students expend a good deal of effort trying to understand comments, but with poor results.

Focusing on a few key points reduces the chance that students will reject or be frustrated by feedback that overwhelms them. Selecting a few key ideas to focus on also helps students build and master skills—which improves self-efficacy. Also, giving more focused feedback means there are fewer ideas to communicate and feedback can be written so that it is more visually appealing and effective; it allows for more white space. Since the absence of white space negatively impacts absorption, memory and retention, feedback is more effective when it doesn’t cover the paper.

4. Why ask Why?

If you abhor the rhetorical question in your students’ writing you may have some appreciation for the frustration students feel when they see the dreaded “Why?” or “So?” as a comment on their papers. Not only is it ineffective because it fails to provide instruction, but it may also be particularly destructive for Millennials (our current students) because of the premium many millennials place on transparency and communication, especially about expectations.

Explaining why a change is necessary produces better results, and reduces student frustration. An effective substitute is “please use the (facts, law, etc.) to explain the basis for this conclusion” or “effective analysis requires an explanation of why the facts are significant—try re-writing this section to accomplish that goal”. Both of these statements do a better job explaining the deficiency.
(being transparent) and the second even encourages reflective learning.

5. If you don’t have something nice to say. ..

Another key is to highlight successes—and mean it. In addition to telling students what they need to work on, it is also important to tell students what they are doing well, and to be specific. Far too often my only comment for a job well done was a quick “good” or “nicely done” written in the margins. By learning to be more specific about what was “good” it sends the signal that valuing and appreciating successes and strengths is as important as correcting weaknesses. Also, a specific explanation is more likely to be read and internalized than a simple “good” written in the margins of the paper—which means it is more likely that the behavior will be replicated in future documents. Each of the changes described above are really just an effort on my part to show respect and appreciation for, and understanding of my students’ effort and point of view. Ultimately I have learned that showing respect for the student’s effort makes it more likely the student will respect my effort—which means they are more likely to read, reflect on and thus absorb my feedback—my goal all along.

1 Sheldon and Kreiger
2 Schwartz, plus note re: importance of self efficacy
3 In her work on optimism and pessimism Corie Rosen explains that we can help out students develop optimistic explanatory styles by helping them to see that problems are not permanent, pervasive and personal. Her work taught me that feedback statement that are temporary, specific, and hopeful can help student move from a pessimistic explanatory style to an optimistic one.
4 This statement can be used to replace other seemingly innocuous but potentially harmful statements like “you are conclusive” or even “this is conclusive” (which doesn’t provide any explanation for what has really gone wrong).
5 White space cite and medical students info
6 Millenial characteristics

**Submission Guidelines**

The Learning Curve encourages readers to submit brief (500 to 2,000 word) articles explaining your interesting and practical teaching ideas. While we are primarily a publication targeted at ASP Professionals, please note that we have a wide readership. We encourage you to extrapolate your ideas and apply them to law teaching more generally, and we discourage articles that are focused solely on advertising a school’s program.

This year, we welcome two new editors to the Learning Curve, and say goodbye to Hillary Burgess, who has joined the faculty at Charlotte School of Law. Hillary’s work on the Learning Curve was integral to the publication’s reemergence and success. We congratulate her on her new position. She will be much missed.

The Learning Curve welcomes Jennifer Carr, Director of Academic Support at UNLV’s Boyd School of Law. Jennifer joins us as an Associate Editor. We are thrilled to have Jennifer, not only as an editor for the upcoming Learning Curve issues, but also as a contributor to this issue.

The Learning Curve also welcomes Heather Zuber, who joins us as Assistant Editor. Heather is Assistant Professor and Director of the Lawyering Skills Program at the Lincoln Memorial University College of Law.

Please join us in welcoming our new editors, and send us your submissions by e-mailing Corie Rosen at corie.rosen@asu.edu, or by e-mailing Jennifer Carr at Jennifer.carr@unlv.edu.

"Valuing and appreciating successes and strengths is as important as correcting weaknesses.”
Joyce Savio Herleth  
Director, Office of Academic Advising, Saint Louis University School of Law

Advising students regarding course and professor selection is a function of many different parties. Academic Support often gives advice, as do individual professors and specialty programs, and even lawyers and upper classmen. Given the many parties involved, however, there seems to be no specific advice-giving method, and advice ranges from the purely personal to the generic. I would suggest a slightly different approach – a three point process to help students pass the bar, take courses on topics they wish to specialize in, and make the most of the courses they take. An academic advisor ultimately needs to know how the student learns, how the professors teach, and how the bar tests in order to provide effective guidance.

Step One: Knowing Your Student.

Academic advising cannot rely on the notion of a “standard” law student. Part of understanding your student is understanding how she learns. Since 2001, when Prof. M.H. Jacobson published *A Primer on Learning Styles: Reaching Every Student*, more attention has been focused on students’ learning styles and their success at law school. Law students are diverse, and this diversity is undoubtedly reflected in differences in thoughts and expectations. Thus, learning about how students acquire and process information can help advisors guide students to the proper courses, in the same way that it can help professors more effectively teach to the entire population.

Knowing your student can start with understanding how a student takes in information. While there are many tests that can be used, a quick and useful test is the VARK. The VARK determines a person’s preference for taking in information — a learning style. The categories are visual, aural, read/write, kinesthetic and multimodal. Knowing a student’s learning preference may help a student select a professor whose style of teaching matches the student’s style of learning. In the absence of formal testing, an academic advisor should spend some time asking a student how he enjoys learning information. Whatever the method used, this is essential information.

Beyond VARK, however, you might wish to determine a few other characteristics of your student. Again, cover the basics — early bird; night owl? Does the student tend to fade in the late afternoon? Time of day is sometimes something that can play a huge role in attention span in any class. Likewise, you need to determine how the student organizes information once he receives it. Is he a top-down student, needing the big picture first, or does this student find that he needs to understand the small pieces before understanding the generalized whole?

The final piece is the student’s grade point average or rank. As noted below, taking bar courses may depend on the individual student — and the student’s academic strength could be significant in this assessment. Essentially all these pieces add to an understanding of the student and
her needs.

**Knowing the Professors**

Once you have an understanding of your student, you need to have a reasonable sense of how the various professors teach. Most academic advisors learn from the student body regarding how professors teach, and if those techniques are successful with the general population. This step may rely on more narrative data, and tends to be very subjective. For example, often students will brand a professor “bad” as a result of their exam, rather than making a reasoned review of his methodology in the classroom. One way to obtain more objective information is to ask specific questions regarding the course. Determining the basics — open or closed exam, multiple choice or essay, power point, TWEN postings, and the like — can give an advisor clues as to how the professor conducts his class. Relating past courses to future selection can also be an effective technique.

In a perfect world, you might want to survey the professors regarding basic information about their teaching styles. One advantage of having a professor survey is that the academic advisor can often be both diplomatic and non-emotional in suggesting one professor over another. Self-reporting also eliminates reliance on student reports and allows an advisor to counsel students based on information professors have given, obviously a politically correct position.

**Knowing the Bar**

Knowing the requirements of the state bar or bars is the last step of providing useful advice to registering students. Having a pre-printed form of general bar requirements is the most efficient way to determine which bar classes the student has already taken and which courses the students still wishes to take. This checklist approach can also provide a way to discuss how many bar courses are “enough” for a particular student. Using this process will also allow the advisor to encourage students to take specific bar courses that the advisor and law school deem essential. This conversation is not a universally applied formula; rather, the student needs to balance all her needs, desires, and the realities of her circumstances in making her course selection. For example, more bar courses might make sense for a struggling student in order to have more experience with that area of law prior to the bar.

The Art and Science of Advising

Ultimately the most important part of an academic advisor’s role is listening to the student. The art of asking questions, presenting options, and assisting students make good choices can be beneficial for both advisor and student.

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1 For example, Saint Louis University School of Law has different contact persons for each of its certificate and concentration programs. All can advise students regarding completion of those programs as well as choosing other general law courses.

2 As in, “you don’t need —— for the bar; take this course — it really helped me in practice.”

3 For example, mandatory advising sessions that stress that all students need to take the following electives.


5 As noted by authors Eric DeGroff and Kathleen McKee, about one-fourth of the sample population of first year students (of 177 respondents) in a study conducted at Regent University School of Law had learning characteristics which were associated with lower performance. These students, in essence, lacked that traditional analytical skill that successful law students often have. Learning Like Lawyers: Addressing the Differences in Law Student Learning Styles, 2006 B.Y.U. Educ. & L.J. 499 (2006).


At Loyola University Chicago, our academic support program centers around student tutors. The tutors are upper-division students who are paired with professors that teach required first-year courses. While most components of the academic support program are open to all first-year students, we also offer a more targeted program that begins in the spring semester. At the start of the second semester, we invite approximately the bottom 10% of the first-year class to participate in our Academic Enhancement Program (AEP). One component of the AEP program involves a "guided study group" led by student tutors.

The purpose of the study group format is to help students develop more active learning techniques, and to help them form support networks they might not otherwise have. We meet weekly in small groups of about 8-10 students in each group. The tutors take turns leading some of the sessions. The week before meeting with students, each tutor distributes an assignment to his or her group. The assignments must be something 1L students can directly incorporate into their exam preparation — for example, fill-in-the-blank outlines, flowcharts, discussion questions, or mini-hypotheticals. The assignment ensures that all members of the “study group” are prepared to actively engage in and contribute to the study group session.

The tutors act as study group leaders, using the assignment as a framework for the discussion. However, the session is primarily interactive; students help one another understand the material as they go through the assignment and exercises together. The tutor participates by providing clarifications and corrections.

After each group discussion, the tutor distributes a hypothetical covering the substantive concepts discussed. The tutor then switches from “study group leader” to exam proctor, and the students write their answers under simulated exam conditions. The tutor then comments extensively on each student's paper, and also creates a “general comments memo” reflecting comments across multiple papers. The general comments memo allows the study group to continue learning from one another.

The weekly practice exam questions are a particularly valuable part of the program. When we interview prospective tutors (generally the students at the very top of the class), we ask about their own study strategies. It is surprising to see how little commonality there is among the approaches, with one notable exception. Virtually all of the highly successful students we’ve interviewed wrote out full answers to practice problems as part of their study process, often then meeting with a study group to compare and discuss their answers. When we meet with the students experiencing academic difficulty, almost none of them report having used this method.

The Academic Support Program directors train the tutors and, along with the doctrinal professors, work individually with each tutor to develop teaching materials. The directors also observe all the sessions, guide the discussion as needed, and review the tu-
the primary role in setting the agenda for his or her session, and each tutor does the initial draft of all handouts, exercises and practice problems for the session.

The rapport between the students is evident in the sessions and carries over outside of the program. Students often meet prior to the sessions to discuss the assignment with one another. We purposefully schedule sessions around the lunch or (for evening students) dinner hours, and the students typically come early or stay late to eat and talk together. The students also get to know their tutors better and are more comfortable approaching them with questions about law school life in general.

When developing this program, we had two concerns. One was that the invited students would feel a stigma. The other was that the non-invited students would feel that they were disadvantaged by not having the opportunity. To address the first concern, we leave slots in each section for volunteers. While that number is very limited,³ it seems to have addressed any student concerns about being identified to their classmates. Invited students know that they're being offered an opportunity that others want to take advantage of, and no one in the group knows who was invited and who volunteered. To address any potential concerns from students outside this program, we make sure all the materials are made available to the entire 1L class through more general tutor review sessions.

While our program is certainly aimed at improving the students' exam performance, one of the benefits the students comment on most in their evaluations is that they feel more connected to the law school community after participating in this study group format.

³Each weekly session lasts approximately 60-90 minutes.
³The practice exam problems are usually approximately 30 minutes in length.
³We're still working on finding a way to accommodate the most students without losing the small group dynamic that is essential to the program design.

“Virtually all of the highly successful students we’ve interviewed wrote out full answers to practice problems as part of their study process, often then meeting with a study group to discuss and compare their answers.”

As part of an ongoing effort to create a national community of Academic Success Professors, the Learning Curve will introduce new Academic Success faculty in each subsequent issue.

We welcome biographies, quotes, and contact information of up to 200 words, and pictures that do not infringe copyrights. If your school has hired a new Academic Success faculty member in the 2009-2010 school year, e-mail us and include “Learning Curve Faculty Announcement” in the subject line.

We look forward to getting to know each of our new community members.

CONGRATULATIONS:

PAULA MANNING, formerly at Whittier Law School, has moved to Western State College of Law, where she will direct their Academic Support Program as a tenure track faculty member. Congratulations, Paula!

ALISON NISSEN has been awarded a three-year clinical tenure track contract at Rutgers-Camden. She also serves as Director of Academic Success. Congratulations, Alison!

JEREMIAH HO has joined Washburn Law School’s Academic Success Program as the first fellow in the Institute for Law Teaching and Learning’s Academic Success Fellowship Program. Congratulations, Jeremiah!
The most compelling question faced by beginning law students is “How am I doing?” They are frantically reading the assigned cases, taking copious notes in class, and diligently compiling course outlines. But, they wonder, are they going to be able to convert all this activity into success on the dreaded end-of-course, sudden-death final exam?

One way to help students assess their ability to apply what they are learning is a midterm examination. But by then the course is half over. A better way is to offer frequent quizzes. Assessment works best when it is administered early and often. In addition to their assessment value, frequent quizzes increase student motivation to keep up with their assignments.

Frequent feedback has received the endorsement of the Carnegie report, William M. Sullivan et al., *Educating Lawyers, Preparation for the Profession of Law* 171 (2007):

“Studies of how expertise develops across a variety of domains are unanimous in emphasizing the importance of feedback as the key means by which teachers and learners can improve performance.”


Roy Stuckey et al., *Best Practices for Legal Education* 249 (2007) reports that “multiple choice examinations have been proven to be a highly reliable way to evaluate factual knowledge and problem-solving skills . . .” (citing medical educators). *Best Practices* recommends that teachers “conduct formative assessments throughout the term” and suggests that “self-scoring computer quizzes can be created to help students practice taking exams and evaluate their strength and weaknesses” (pp. 255-257). In their new book, *Teaching Law By Design: Engaging Students from the Syllabus to the Final Exam* 61 (2009), Professors Michael Hunter Schwartz, Sophie Sparrow, and Gerald Hess recommend the testing functions available on most course pages for this purpose. I use TWEN’s quiz function.

TWEN (The West Education Network) is West’s course website platform, available at lawschool.westlaw.com/twen. It offers teachers the opportunity to post course materials, host discussion forums, create online polls and quizzes, link to CALI lessons and other web content, and communicate with individual students or the entire class through e-mail. My attempt to correlate TWEN use with student performance is reported at http://jurist.law.pitt.edu/lessons/lesnov03.php

Before the advent of TWEN, I handed out multiple-choice quizzes in class at the end of each major subject (Offer & Acceptance, Consideration, Remedies, and the Statute of Frauds). I then discussed the correct answers.
during the following class. I did not collect and score individual quizzes, since they were for the benefit of the students and do not “count” toward student grades. So I had little feel for how students were performing. In 2005, I loaded the quizzes on my TWEN site and added more of them, with answers and explanations. This provides more feedback while conserving class time for doctrinal coverage.

**How TWEN Quizzes Work**

Using TWEN, students now take the review quizzes on line, on their own schedule, and receive instant feedback. The feedback includes the correct answer to each question and an explanation that references something in the casebook or course handouts. Course-specific references help students locate pertinent information, and demonstrate that students possess everything they need to know. This should be a source of comfort to students who otherwise would be anxiously consulting outside sources.

TWEN can be programmed to allow students to print out the quizzes after they take them, either with or without the answers and explanations. I allow printing of the questions with answers and explanations.

Students are also provided with statistics on the high, low, and average score compiled by the class as a whole and by last semester’s students. So for each quiz, students know how their performance compares with their classmates and that of the previous class. Competition can be a motivator for some students.

The TWEN quiz function also gives me increased feedback (the new buzzword in higher education circles is “backwash”) compared to paper-and-pencil quizzes. With a couple clicks of the mouse I can monitor who has, and has not, taken any particular quiz. With another click, I can send laggards a stock e-mail reminder. I can learn how the class as a whole had performed on each question, and go back over troublesome topics during review week. And I can learn how any individual student has performed on each quiz, or even on each question within each quiz. This information can be helpful in counseling struggling students who seek office consultations.

The quizzes have proven to be an accurate assessment tool. Last semester, for instance, based on a composite of quiz scores, I predicted that the class average on the multiple-choice section of the final exam would be about 71%. The actual class average turned out to be remarkably close, at 70%. (During a recent three-year period, the mean raw score on the Contracts questions on the Multistate Bar Exam (MBE) averaged 63%.)

**What the Quizzes Consist of**

My TWEN review quizzes consist of ten multiple-choice questions each. Four such quizzes are offered for Offer & Acceptance (which is tested on the midterm exam), two quizzes each on Consideration and Remedies, and one quiz on the Statute of Frauds (which takes up just one week of class). Students are encouraged to take the first quizzes after completing and reviewing their outline on that subject, then to devote further study to whichever questions they got wrong, and then take the additional quizzes. Scores generally improve, which students find reassuring.

The quiz questions are patterned after the format used on the MBE. For the latest drafting guidelines, see Beth E. Donahue, *Recent Changes in NCBE’s Multiple-Choice Examination Programs*, The Bar Examiner (August, 2008) 25. I use the MBE format because (1) the MBE test designers know more
about test methodology than I do; (2) those are the type of questions our graduates will face on the bar exam in most states; and (3) MBE-style questions give the quizzes added credibility with students.

Additional Benefits

Perhaps due to unpleasant memories associated with the LSAT, students seem to fear multiple-choice questions above all else. And without practice taking them, some students are unprepared for the sophistication of MBE-style questions, which require skilled analysis. Students need to learn early-on that mere memorization and intuition won’t cut it. So in addition to being an assessment tool, multiple-choice quizzes help acclimate students to that test format and build up their confidence.

Another advantage of using objective questions is that students are more likely to accept the results as indicative of their level of understanding, whereas they may be tempted to blame low practice essay scores on arbitrary grading practices (“But I really knew the material”).

The TWEN review quizzes are optional, rather than required -- and the scores do not “count”-- but virtually every student takes them. As the final exam nears, I remind the class that they have already tackled 90 Contracts multiple-choice questions, three times as many as they will encounter on the final exam. That provides an additional measure of reassurance, when students need it most. (My exams consist of 30 multiple-choice questions and two multi-issue essay questions. I offer weekly opportunities for students to develop their essay exam-writing skills, but that would be another article in itself.)

Conclusion

Testing experts have found that test familiarity improves student performance on standardized examinations. Similarly, fear of the unknown contributes to exam anxiety, which reduces performance. Practice tests help students perform at their best by increasing familiarity and reducing anxiety.

Yet the authors of Teaching Law By Design, supra, lament that, “Many, if not most, law professors provide students with few opportunities to practice the skills they are expected to display on their examinations or to obtain corrective feedback on their practice efforts. In fact, for many law students, the only concrete feedback they get comes at a time when they cannot learn from it, when they get their final examination grades” (pp.61-61).

The point of this article is that frequent quizzes, using online multiple-choice questions, can help students and faculty alike assess academic progress and enhance student success.

WE WELCOME YOUR FEEDBACK!

What would make this newsletter a more valuable resource for you, your school, and your students? Let us know!
Providing Effective Feedback

Jennifer Carr,
Boyd School of Law
University of Nevada, Las Vegas

Most of my academic support work is conducted via face-to-face meetings with students. Many of these students have found themselves in academic difficulty for the first time, because their undergraduate careers were quite successful. They may find themselves on academic probation or perhaps they are simply not performing at a level they find acceptable. Nevertheless, they frequently remain confused about why they are not doing well academically and consequently, they lack the ability to improve their academic performance. Before our meeting, I will address this confusion by reviewing that student’s written work product (generally, an exam or perhaps a legal writing paper). I will diagnose what might be lacking in that student’s academic work or exam-writing skills, and I will develop a theory regarding how the student might address his or her deficiencies.

The student will look at me expectantly from across my desk. He is likely thinking, “I studied really, really hard, and I did my flat-out best on the exam but I still didn’t do well. What gives?” He wants me to tell him “what gives,” and he wants me to tell him how to fix it.

From my side of the desk, I have to decide the best way to advise him regarding how to fix it. To me, his problem is readily apparent: But for one paragraph, his exam is just a string of conclusions, precariously joined together. At this moment, though, I need to convey that to him in a way that is clear and concise, and I need to give him a way to address the issue, rather than a mere diagnosis. In other words, I have to give him feedback that shows him how to “fix” it!

Effective feedback gives students a clear explanation of what they should do, concrete steps for doing it, and the ability to ascertain whether those steps have adequately addressed the problem. There are five steps that go into providing effective feedback to students.

1. Feedback should be specific, providing a clear diagnosis of what went wrong and why. Rather than telling students that their work-product is “conclusory” (which is, itself, conclusory), we ought to instead tell them why and how their work is conclusory. For example, we should tell our students something like: “This paragraph is conclusory because you’re focusing on the result instead of explaining which facts lead to that result.” We should always link a concrete example to the diagnosis with a “because.”

2. We should frame the feedback comments themselves in the affirmative, focusing on what the student should do, rather than what she shouldn’t do. Therefore, instead of saying, “Don’t be disorganized,” I might say, “Start with the general rule, then explain any applicable exceptions.” Focusing on the desired outcome creates a template that students can follow to improve a problem area. Simply telling a student want not to do is not as effective as explaining what to do—after all,
even after eliminating what not to do, there are plenty of other errors a student might make. Conversely, having explained what to do leaves less room for error.

3. In helping the student to improve, we should provide feedback that uses the student’s talents as a jumping-off point. The feedback itself should emphasize the positive. Rather than exclusively discussing what needs to be “fixed,” students should also be told what they are doing well. For example, if a student is showing that she is a good time-manager, we should try to tap into the inherent organizational skills of a time manager to show how she could apply that organization to studying or exam-writing.

4. We should give feedback in manageable “chunks.” Feedback should be limited to, at most, three “problem” areas, so that students feel change is doable rather than overwhelming. Prioritizing which changes will make the most difference in a student’s academic performance is one of the most valuable services an advisor can provide. We know that students will take away two or three ideas from written comments or an advising session; I want to guide the student toward the changes that will be most advantageous.

5. We should give frequent feedback. Law school tradition may encourage a lack of feedback, but that lack is precisely why students need our help. We’re that bridge between the great unknown of grades and the students’ understanding of the skills that they’re learning. Feedback should be as frequent as possible to allow students to assess their progress. One way to accomplish this is with regular meetings that allow students to practice putting into action the suggestions they have been advised to implement and regular meetings to evaluate those attempts.

So, for the student sitting in front of me, I have first made a diagnosis—he’s conclusory. But I don’t tell him, "You’re conclusory." Instead, I explain, "You’re conclusory because you don’t explain how you arrive at your answers. You’re focusing on the wrong part—the conclusion is important, but not as important as how you got there." Then I will find an example of his conclusory habits within his own writing to demonstrate why and how his writing is conclusory. I want to explain why what he is doing is weakening his analysis, not merely that his analysis is weak, so to be most effective, I must make a diagnosis and then give an example of the weakness.

Next, I’ll give him concrete steps to remedy the weakness in his writing. I want to focus on what he should do, rather than what he shouldn’t. I might explain to him that a good exam answer will discuss both sides to an issue, might use policy as a "tie-breaker," and only then should he come to a conclusion. I’ll ask him to tell his reader what the facts show, or to explain that this legal result is correct because of some key fact.

To ground our discussion in the positive, I will begin by highlighting some analytical skill that he has already grasped fully. At the end of our discussion, I’ll try to find his least conclusive paragraph and explain how he is already integrating some of what I’m asking him to do.

I’ll keep my advice brief. He might also have some issue-spotting problems and some problems with organization, but I want him to walk away with three concrete suggestions for how to improve. Less than three tends to feel too easy to students. But more than three feels overwhelming—an insurmountable task. Therefore, his three steps might be: (1) Argue both sides of an issue; (2) use policy as a tie
Therefore, during our next interaction, I will hold the student accountable—has he completed the assignments I’ve given him? Has he integrated the improvement steps we’ve discussed?

I also think it is important to remember that all of this feedback must take place within the context of a relationship with the student. Students who meet with me are (usually) already feeling emotionally vulnerable regarding their academic abilities. Feedback which is perceived by the student to be critical may further heighten this sense of vulnerability. However, conversely, it is my experience that feedback that is too generally positive is also damaging to the student. Any vague assurances regarding the student’s capabilities will ring hollow and will make me seem untrustworthy. Therefore, feedback which may be seen as being critical must be nestled in specific praise; the entire session must also take place within the context of an alliance. However, the feedback must be an honest and forthright assessment of the student’s work. The student must feel that I am a person to be trusted, with both his vulnerabilities and with his successes. He or she must feel that we are equal partners striving for the student’s success.

Feedback should stress that students are capable of meeting high expectations. Students should believe that they are capable of attaining a higher degree of learning and displaying better analysis. Students also need to feel that their professors believe that they are capable of doing good work. Positivity is important, but so is providing direct and sincere assessment of student work product.

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I think I run a good classroom. I’m energized; I engage the students; I work hard to facilitate a vigorous class discussion; I lecture as little as possible. But what do I do outside the classroom? Sure, I’m available for office hours and often work with my door open so students can pop in for a brief chat. But what do I do to encourage the students to enhance their learning when they are not in the classroom?

A few years ago, I realized that the students whose needs I was most serving in class were—unfortunately—students like me: quick on the uptake, first up with their hands, eager to expostulate no matter what the subject. I began to worry about other types of students: those more reflective, given to parsing before proclaiming, and more comfortable expressing themselves in writing. I decided to include in my courses a forum for students to participate in ways other than through classroom oratory.

Many law professors are familiar with TWEN, a product of the West Education Network. It can be used as a bulletin board for posting syllabi and notices, and it provides an easy way to e-mail students. But my favorite component is the discussion forum, which I have used to build an on-line learning community. Let me illustrate my method and illustrate with the current (Fall 2009) semester of Civil Procedure, a three-credit 1L course.

I begin by explaining my goals to my students both in the syllabus and orally in class. On the syllabus (posted on-line and available to the students before the semester begins), I note that the discussion forum “will allow us to extend class discussions beyond the classroom, and will enable students to talk with each other, share ideas, ask questions, and post related articles.” Moreover, the forum “is particularly well suited to students who express their opinions more comfortably in writing than orally.” I encourage them to check the course web page at least twice a week, and—just to be sure they find it—I require two postings on the forum within the first three weeks (a very modest number). I also give the students one iron rule: all postings must comply with civility. Students may disagree with the opinions of any or all classmates, but they must do so respectfully.

What Happens On-Line

Before the class meets for the first time, I prime the pump by posting a greeting welcoming them to Civil Procedure and to the discussion forum. In that same message, I ask them a big, round softball question based on the first reading assignment, Harry W. Jones’ wonderful chestnut, “Our Uncommon Common Law.” I simply ask the students to relate what they found most surprising about the article. Students started posting their responses before the class even met. Many students have never been exposed to a description of the common law system, and they remarked on the facets with which are unfamiliar: the transition from English to America common law, the role of judi-
cial precedent, the difference between common and civil law systems, and how the common law mode of reasoning is even more important than its repository of judicial opinions. While some of the students’ comments reflected an imperfect understanding of the article, their familiarity with its terms and arguments made my job much easier when I led a discussion of the article early in the semester. And when I did, I made reference to the student commentary, thus validating its role in generating the substance of the course.

Students themselves quickly set out topics for the online discussion. Often the questions concerned a tricky case from the reading. For example, one of the first cases in the casebook dealt with Fed R. Civ. P. 11’s requirement that any legal contentions be “warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law,” or, as one student phrased the rule, insisting that counsel “do the necessary leg work before filing [the] action.” Students discussed both the lawyer’s obligation to conduct necessary research, and the appropriateness of the court’s decision not to sanction the lawyer in this case, even though he had clearly violated Rule 11. Several students perceived that the very public nature of the court opinion describing the lawyer’s failure to conduct even minimal legal research prior to filing the claim itself constituted a sanction, and arguably a more severe sanction than an award of counsel fees. Other students discussed the larger policy reasons behind the court’s ruling.

Another case involved a judge’s denial of a directed verdict motion, followed—after the jury returned a verdict for the plaintiff—by the granting of a JNOV. Student comments reflected some initial confusion over the issues in the case, but other student postings quickly clarified those issues, and triggered a discussion of the interplay between directed verdict and JNOV motions. I stayed out of the discussion—as I tell my students, while I retain the right to post comments, I generally let students run the discussion.

One student started a thread on jurisdiction, a line of inquiry that quickly broadened to encompass a lawyer’s strategic choices in deciding among the courts which have jurisdiction over a matter. I was very pleased that the students were seeing this hugely important civil procedure topic not only as a limitation on courts’ power, but also as an instrument of the lawyer’s craft. Enlarging the students’ view of the Federal Rules from procedural commandments to strategic tools is one of my curricular goals. That the students embarked on this transition on their own suggests that they understand the larger schema. Similarly, another thread discussed one of our cases and compared injunctive relief with damages in terms of availability and adequacy of remedy. I cannot imagine a better complement to the classroom discussion of these topics.

In past years, some students have questioned whether they could trust the answers posted by other students to questions and issues which come up during the semester. My answer is two-fold. First, I assure my class that I read every comment and do so promptly. Frankly, I enjoy seeing all my students’ postings, as it gives me a good sense of how they are dealing with the material.
Conclusion

There is no claim here that the discussion forum has created a wholly independent on-line learning community. But as an adjunct to the classroom experience, I think it has achieved that goal. Over the course of a typical semester, students make hundreds of postings, and the result is a deeper engagement with the material—and with each other—than I have found in classes I have taught without an active online component. Of course, reading the students’ comments and occasionally posting my own requires a certain time commitment. But the effort allows me to stay more in touch with my students, helping me to tailor my classroom presentation to include discussion of the prominent needs and questions which are raised online. In sum, developing an on-line discussion forum helps professors in their main task: facilitating the development of students as independent legal thinkers, grounded in the fundamentals and willing to explore other dimensions of good lawyering.

1. 42 Tenn. L. Rev. 443 (1975).

The Reflections of a Rookie column provides new Academic Support Professors with information specific to the unique needs and interests of those beginning a career in Academic Success.

Katherine Tullos
Director, Academic Support, Saint Mary’s University School of Law

Channeling TLC’s broadcast achievement, “What Not to Wear,” I offer “What Not to Do [in Your First Year Doing Academic Support].” (I also reserve the right not to disclose which mistakes I made.)

1. Don’t reinvent the wheel.

When St. Mary’s University School of Law offered me a job last May, heading up its Office of Academic Support, I knew two things about the field: 1) it dealt with academics; and 2) it was supportive. Figuring that due diligence was in order, I learned that many law schools have terrific programs, and there are many fine resources on the internet and in hard copy. A non-exhaustive list includes the ASP listserv, which I read like I read Dr. Spock when my first child was born, and books like Riebe and Schwartz’s Pass the Bar (Carolina Academic Press 2006).

ASP conferences are also a great source. I attended the National Conference of
Bar Examiners’ fall event and the AALS Annual Meeting, which showcased useful and innovative programs. During our school’s discussion about for-credit bar courses, one professor expressed astonishment that the ABA would approve such a course. I hoisted the bar course syllabi from the NCBE conference and said, “As Mark Twain responded when asked if he believed in infant baptism: ‘Not only do I believe in it, I’ve seen it!’”

2. Other ASPers have the time to help you.

After 25-plus years in the legal profession, I can honestly say that I have never seen a more collaborative group. The Law School wisely retained Laurie Zimet of UC Hastings to be my Virgil this year, and she freely shared her insights and materials and answered my stupid questions without rolling her eyes in my presence. (We worked mostly by phone and email – hence the qualifier.)

Other ASP’ers were equally generous. I sat next to William Wertheimer from Temple and asked him about a blind student in our 1L class. He said offhandedly, “E-mail me about this,” which I did. The man, to whom I had spoken for five minutes total, sent me a wealth of information. Similarly, Pat Garrison of Texas Southern and Barbara McFarland of Northern Kentucky responded quickly to my requests for insights about bar prep courses, and Everett Chambers of Texas Wesleyan helped me with our proposed bar course while he was on vacation. These are just a few folks who helped this rookie.

3. Don’t do everything yourself.

When I got to the office last June, the only person there was the administrative assistant, Alice Contreras. She became my ally and institutional memory, preventing the office from disappearing into black holes of unanswered administrative requests from the University. I then hired two Associate Directors, Preyal Shah and Austin Sanford, who both responded positively in their job interviews when I asked, “Remember in Huckleberry Finn where Huck and Jim climb onto the raft and take their chances with whatever the river throws at them? How would you like to climb onto the Academic Support raft?” The four of us embarked on a dizzying experiment, reshaping the first-year program, revamping and expanding bar prep, and seeing many weepy students. It is a great arrangement: they do the work, and I take the credit.

4. Don’t ignore the faculty.

The first thing that popped into my head on taking this job (besides, “What have you gotten yourself into?”) was that, if we were to help students with their classes, we should probably know what was happening in those classes. We asked professors about testing, supplemental materials, teaching about the bar, where students have trouble, etc. The resulting information was a pot of gold; students find it reassuring that you have some clue about their classes when you discuss them.

From there, it was a short step to getting faculty cooperation on projects. I have yet to have a faculty member turn me down when I ask him or her to speak at our programs, and two even volunteered to do a follow-up workshop. Professors have sent information about teaching styles, goals, and aids, and we are now starting into online ventures with some of our more intrepid and photogenic faculty. (More about that below.)

5. Don’t assume that non-lawyers have nothing to teach you.
The first student I saw had just been diagnosed with ADD, and she asked how she should cope with her condition in law school. What I then knew about ADD was that, if you had it, you went to the nurse’s office at recess and took a pill. Unable to locate either the nurse or recess at St. Mary’s, I met with Dr. Barbara Hardin, head of our University Counseling Center. She has become a friend and resource, and our offices make mutual referrals and coordinate services.

Similarly, the Law School’s IT department has given us terrific ideas about technology. They helped us record all our programs and post them on the web, and we see numerous hits there. Likewise, they urged us to use social media, like Facebook and Twitter, that we are only beginning to explore.

6. Don’t use only the tried and true.

Once Alice, Preyal, Austin, and I had boarded our raft, we decided to try some fun new ways to serve our students. For example, we are creating online mini-lectures on difficult academic subjects (everyone mentions future interests when we discuss this) and on law school lore (Don’t use an outline from Professor Roberts’ class three years ago; she actually updates the law). Our administration also has been incredibly supportive. Not all of our experiments will work out, but we are learning what works and what does not.

In sum, there are a lot of ways not to do Academic Support, and I have tried most of them. But with a little help from your new friends and a lot of determination to enjoy the ride, you too can have a rookie year to remember.

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The Academic Support Website is up and running at lawschoolasp.org.

Sign on, receive a password, and discover a world of useful ASP information, including eLearning modules, Career Opportunities, an annotated bibliography of ASP scholarship, and a Contact List (with pictures) of your ASP colleagues at all AALS member schools.

Many thanks to LSAC for providing the funding that makes this site possible.

If you have ideas or suggestions for further development of the site, contact the site’s executive editor,

Ruth Ann McKinney (the University of North Carolina School of Law),
at ramchkin@email.unc.edu
A Note from the Section Chair:

Robin A. Boyle, Assistant Dean for Academic Success and Professor of Legal Writing, St. John’s University School of Law

Our Section of Academic Support has a very exciting program this January in San Francisco, and I hope to see many of our ASP’ers there. Together with the AALS Sections on Balance in Legal Education and Student Services, we are offering the following program at the 2011 AALS Conference on January 5, 2011, from 2:00 to 5:00 p.m.

“Beyond Humanizing: Can – and Should – Law Schools Strive to Graduate Happy Students?”

What are the causes of the lawyer distress problem? What role does legal education play in producing unhappy law students and lawyers? What can we do to make things better? Students enter law school with goals of helping others, improving peoples’ lives, and making the world a better place. By the time they graduate, however, other considerations have supplanted students’ pro-social inclinations. Their aspirations succumb to more extrinsic values, such as prestige and money, and they struggle with heavy debt loads and legal education’s dehumanizing effects on their psyches. Despite the prestige associated with being an attorney, the profession is not ranked in the top ten for job satisfaction or happiness. In fact, one recent study revealed that a majority of practitioners would not recommend law to a young person. This powerful session will weave presentations by leading researchers in this burgeoning field and demonstrations of ways doctrinal, clinical, legal writing, and academic support professors and student services professionals are addressing or trying to address these concerns.

Moderators: Michael Hunter Schwartz, Washburn University School of Law

Emily L. Randon, University of California, Davis School of Law

Catherine Glaze, Stanford Law School

Speakers:

Perspectives on Happiness in the Profession

Deborah L. Rhode, Stanford Law School, Richard Delgado, Seattle University School of Law, Jean Stefanic, Seattle University School of Law, Nancy Levit, University of Missouri, Kansas City School of Law

In Pursuit of Happiness: Developing Optimistic Learners and Learning Environments

Corie Rosen, Arizona State University, Sandra Day O’Connor College of Law, Paula Manning, Western State University College of Law, Russell McClain, University of Maryland School of Law, Rebecca Flanagan, University of Connecticut School of Law

Utilizing Students’ Strengths as a Vehicle to a Happier Law School Experience and Professional Life

Andrew Faltin, Marquette University School of Law

Seeing Your Students in 3-D

Paula Lustbader, Seattle University School of Law, Laurie Zimet, University of California, Hastings College of Law

Applying the Science of Thriving to Law Students

Larry Krieger, Florida State University School of Law
At note 1 (writing that \[w\] hen \[the necessary\] conditions are met, practice improves accuracy and speed of performance on cognitive, perceptual, and motor tasks (Fitts & Posner, 1967; Gibson, 1969; Welford, 1968). Tasks used in laboratory studies of learning that are designed to focus on the accuracy of performance clearly display the relevant cues and the relevant feedback. Studies focusing on speed of performance tend to use easy tasks, where highly accurate performance is rapidly attained, and subjects are instructed to increase the speed of performance while maintaining the high level of accuracy. Under these conditions subjects' performance improves monotonically as a function of the amount of practice according to the power law (J. R. Anderson, 1982; Newell & Rosenbloom, 1981). In the absence of adequate feedback, efficient learning is impossible and improvement only minimal even for highly motivated subjects. Hence mere repetition of an activity will not automatically lead to improvement in, especially, accuracy of performance (Trowbridge & Cason, 1932).

At 368 (writing that deliberate practice is a highly structured activity, the explicit goal of which is to improve performance. Specific tasks are invented to overcome weaknesses, and performance is carefully monitored to provide cues that can be used to improve performance.

Colvin’s book focuses primarily on artists and businesspeople, while Gladwell points to research on airline pilots, chess masters, etc.


1 UCLA and Harvard have integrated skills training into their curriculums, as have a growing number of schools from every other tier in the rankings.


3 See generally Anderson et al.


9 E-mail from Michael Hunter Schwartz to Hillary Burgess (14 December 2009 2:12 PM) (on file with author).


D. H. JONASSEN, LEARNING TO SOLVE PROBLEMS: AN INSTRUCTIONAL DESIGN GUIDE (2004).


ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION 141-57 (2007).
