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## Article

**\*667 PEER EDITING: A COMPREHENSIVE PEDAGOGICAL APPROACH TO MAXIMIZE ASSESSMENT OPPORTUNITIES, INTEGRATE COLLABORATIVE LEARNING, AND ACHIEVE DESIRED OUTCOMES****Cassandra L. Hill [FN1]**

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“[Peer editing] increases your students' learning. No matter what courses you teach, [P]eer editing can work for you and those in your classes.” [FN1]

## Introduction

There is a sea change developing in legal education, prompted, in large part, by the American Bar Association's (ABA) review of current law school accreditation standards. [FN2] Most law school accreditation factors are now based on input measures, such as a law school's facility, faculty size, and budget. [FN3] Recently, the ABA Standards Review Committee concluded that the accreditation review “must move law schools toward the articulation and assessment of student learning goals and achievement levels.” [FN4] Thus, the evaluation process \*668 likely will center on what law students actually take away from their educational experiences. As the ABA shifts its focus from input measures to outcome assessment, law professors should begin to develop clear learning outcomes for their courses and carefully reflect on whether the teaching strategies employed in their courses help them achieve the desired outcomes. [FN5]

Law schools may call on professors to use a variety of “valid and reliable” measures, both internal and external, to observe and evaluate student performance, such as writing assignments, simulation exercises, and bar passage. [FN6] Most law faculty are experienced with using a year-end examination to test student competencies, [FN7] but many need more direction on how to properly track, develop, and improve students' performance in a formative manner. And many of these professors may need to use new teaching strategies and add more skills and writing exercises to their curricula to monitor student development throughout the course.

The notion of additional formative assessment requirements has met some resistance given the perceived increased workload and time commitment for faculty. [FN8] For example, experienced professors might question whether multiple assessment exercises are feasible given large class sizes and high student-faculty ratios, especially for core first-year courses. [FN9] Some initial conversations among law faculty and administrators have begun as to how such assessment can be accomplished on an institutional level and in the classroom. [FN10] \*669 However, a more explicit and detailed dialogue is needed regarding the variety of methods that may be used and how to implement those activities in the classroom practically. [FN11]

So how can it all be accomplished and remain manageable for professors? Peer editing, in combination with a broad array of teaching strategies, [FN12] is an excellent means of incorporating additional assessment measures and opportunities for student feedback in law school courses. Peer editing is particularly useful in legal writing courses. As one schol-

ar noted, “[T]eaching writing is such a complex task that we need a wide array of tools, techniques, and approaches to accomplish our goals.” [FN13] And as the ABA's assessment mandate grows, doctrinal faculty also should experiment with incorporating peer editing in their courses to increase student feedback in a workable manner.

This Article proposes that professors strategically use collaborative peer editing as part of their assessment plans to both improve and gauge student learning. [FN14] More specifically, professors should adopt this Article's proposed step-by-step process for structuring peer editing to make student learning outcomes, feedback, and formative assessment both feasible and effective. Research on best practices in legal education identifies peer-review projects, such as peer editing, as one of the internal tools that professors may use to evaluate student performance. [FN15] Furthermore, peer editing allows professors to accomplish several additional objectives with one teaching strategy. Through peer editing, professors provide students not only with immediate feedback, but also with an opportunity to improve their learning and develop working relationships with their peers. [FN16] By devoting time to structure a comprehensive and effective peer-editing exercise, professors will be rewarded as students improve their writing skills, increase their confidence levels, develop strong \*670 peer relationships, and perceive the writing process as a positive and useful experience. [FN17]

Many legal writing professors have administered peer-editing exercises in their courses, [FN18] but might not have routinely and explicitly drafted key outcomes and assessment criteria or considered other related factors in their designs. These professors clearly believe that both professor and student benefit from introducing such collaborative techniques into the law school curriculum. [FN19] However, the benefits that one reaps from such a collaborative undertaking largely depend on the professor's planning and trouble-shooting abilities and the student's willingness to participate actively in the process. [FN20] Professors, therefore, must take a methodical approach to incorporating a peer-editing assignment into a course, one that considers projected outcomes and assessment needs along with other factors, such as available time, class dynamics, student engagement, and required training. By taking the time to craft comprehensive peer-editing exercises, professors will see returns on their investments: students will become more practice-ready with improved teamwork, writing, and editing skills, and professors will receive helpful assessment information.

Part I of this Article introduces the process of peer editing and discusses the many benefits students derive from participating in such a collaborative learning experience and professors gain from conducting the exercise. Part II provides a comprehensive framework to organize a successful and effective peer-editing assignment. In particular, professors should systematically approach the assignment in stages: (1) planning, (2) the “pitch” and training, (3) implementation, and (4) assessment. Part III calls on the larger law school community to incorporate student-to-student feedback across the curriculum. By administering well-structured peer-editing exercises, professors not only \*671 will engage in much-needed student assessment, but also will provide students with immediate feedback through collaborative learning. [FN21] Many of the examples mentioned in this Article focus on peer-editing exercises conducted in legal writing courses, but the benefits and techniques discussed here are equally applicable to exercises administered in doctrinal and clinical courses.

### I. The Peer-editing Process--Its Benefits Outweigh Any Challenges

“An important mode of feedback is the reaction of peers.” [FN22]

Peer editing, also referred to as peer review, [FN23] is a form of collaborative learning [FN24] in which students review and critique each other's work. [FN25] At its core, and in the context of writing exercises, collaborative learning recognizes writing as a social process rather than an individual endeavor. [FN26] Thus, instead of simply assigning individual writing projects and returning them to the student marked with handwritten notes, professors who have adopted a more collaborative teaching strategy may use peer review of written drafts or small group projects to affect student learn-

ing outcomes. [FN27]

Peer editing presents numerous advantages for law students. [FN28] Students gain experience with cooperative and supportive peer relationships; improve \*672 their editing, analysis, and writing skills; and develop increased self-confidence--all of which are important skills for being successful practicing lawyers. [FN29] One of the most obvious benefits for students is the opportunity for them to work as part of a team, providing mutual support and helping each other succeed. [FN30] Participation in peer-editing exercises generally helps students build a sense of community and trusting relationships, and develop greater respect for others. This is particularly helpful for first-year law students, who are novices to the study of law. [FN31] By participating in peer-review exercises, students gain invaluable insight into cooperative or collaborative learning strategies, [FN32] which is both a welcome departure from the anxiety-producing and demanding law school experience [FN33] and essential for practicing law. [FN34]

Through peer-editing exercises, students also receive constructive feedback on their written work [FN35] and learn to be receptive to hearing and receiving such comments from a colleague, [FN36] both valued skills for practicing law. [FN37] In addition, students hone their abilities to carefully review and evaluate constructive\*673 criticism, resolve any conflicting suggestions, and carefully integrate specific feedback into their own papers. [FN38] Furthermore, by reviewing a classmate's assignment, students have a rare opportunity to read another student's work product closely and, from this experience, can assess their own development in the course. [FN39]

Students also open their minds to other possibilities when they see how different writers approach and analyze the same problem or task. [FN40] A student may take notice of a novel argument in a peer's memorandum, or a classmate's impressive use of persuasive writing techniques. A student may see how a different precedent case can provide further support for a rule of law. In a recent survey conducted about peer-editing exercises used in Thurgood Marshall School of Law's first-year legal writing course, one student remarked that "[p]eer review allowed [her] to consider other reasons" and arguments that she had not raised in her memorandum. [FN41] Another student commented that the peer-review exercise gave her "insight on what [she] did not include in [her] writing and how to improve in certain areas." [FN42] Further, in discussing the benefits of editing a peer's rule proof, [FN43] a student stated "[he] was able to see how others formed their rule proof, which in turn helped [him] form a better[,] more complete rule proof." [FN44]

Even as students recognize certain differences between their own papers and their peers' papers, students also come to realize they have their own unique and personal writing styles. [FN45] For example, in the survey, a student specifically recognized that the peer-review exercise "helped [him] realize the difference[s] in writing style." [FN46] Moreover, by offering feedback and making edits on their peers' papers, students improve their ability to edit, revise, and proofread their own work. [FN47] In the survey, one student stated that "[l]ooking at \*674 [her] peer's paper improved [her] editing skills since it gave [her] a better understanding" as to how she should edit her own paper. [FN48] Another student explained that the exercise made him "focus on what [he] needed to do in [his] own writing." [FN49] Peer editing helps students become better legal writers.

Also, peer review lets students improve their abilities to engage in critical thinking and legal analysis, and to become even more aware that legal professionals prepare documents for an actual audience, whether the audience is a colleague, opposing counsel, or a judge. [FN50] During the exercise, "students begin to experience some of the reader's frustrations when trying to comprehend a document that is unclear, conclusory, or riddled with mistakes." [FN51] Students learn to be cognizant of the reader's needs and sensitive to the importance of clarity and precision in their writing. Lastly, students gain immeasurable confidence in their own legal analysis and writing skills simply by having their professors ask them to assume the teacher role in the exercise and assist their classmates. [FN52] Simply put, "[s]tudents learn a lot from each other" and by working together. [FN53]

Using peer editing in a course also has numerous advantages for professors. Peer editing not only constitutes a viable internal assessment method, but also has the benefit of positioning professors to provide more student feedback. As several scholars have commented, “Giving students feedback is crucial to our students' success in law school and in practice.” [FN54] The recognition of the importance of student feedback is not a new phenomenon to law school education. Law school student-engagement studies and student surveys have long emphasized the importance and benefits of providing students with feedback on their performance. [FN55] This feedback must be timely to be effective. [FN56] As a \*675 result, many scholars emphasize that, depending on the length and complexity of an assignment, students should receive feedback within two weeks of completing an assignment. [FN57]

But how can professors provide this much-needed, frequent student feedback in a timely manner given the large number of faculty responsibilities before them? Professors have countless duties including, but not limited to, class preparation, teaching, problem and assignment creation, research, scholarship, and committee meetings. [FN58] Typically, professors first think to use the more common and traditional form of student-teacher feedback, in which a student submits a writing assignment, receives detailed written and oral comments from the professor, and then attempts to incorporate that feedback into a revised work product. This recursive process can be both time-consuming and demanding for professors. [FN59] However, assessment measures, including feedback, need not be always onerous. [FN60] Using peer review in the classroom provides professors an opportunity to give students frequent feedback without being overwhelmed by numerous papers. [FN61]

Administering peer-editing exercises also provides professors with additional opportunities to create a positive and supportive learning environment for students and to reinforce the related skills taught in the course. Through collaboration exercises, professors encourage students to assist one another and cooperate\*676 rather than compete. [FN62] And professors can “accommodate multiple learning styles preferences” with small-group techniques like peer editing. [FN63] Furthermore, by adopting peer editing, professors show students their confidence in the students' abilities. [FN64] 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.” [FN65] Moreover, students naturally develop empathy for the grader when they assume the role of teacher and participate in the evaluation process. [FN66]

Lastly, assigning peer-editing exercises helps professors train second- and third-year students who eventually may serve as tutors, teaching assistants, or writing advisors (collectively, “tutors”) for a law school course, or work on the school's law review. One of the main duties for law student tutors is to critique the work product and responses of other law students. For example, in Thurgood Marshall School of Law's first-year legal writing program, students submit a case brief, rule proof of a precedent case, [FN67] draft of a predictive memorandum, and discrete writing exercises to their writing tutor, a second-year student, for detailed feedback and direction. One of the major roles on law review is that of editor. Law students comb through a pile of submissions to ascertain which ones should be published and then read, critique, and edit the selected papers. [FN68] By participating in well-structured peer-editing exercises early in their law school careers, future law student tutors and law review editors will improve their editing, writing, and critiquing abilities well before assuming their positions.

\*677 Although the benefits of peer editing are many, there are some challenging tasks professors must consider when incorporating this collaborative teaching strategy into their courses. For example, professors must make sure students take the exercise seriously by highlighting the many benefits of the assignment and its application to the practice of law or even by grading their performance on their peer critique. [FN69] Professors also should provide clear and adequate directions and guidance about the scope and content of the review, must effectively train students on how to give constructive feedback, [FN70] and need to overcome students' inherent competitive nature and desire to receive the highest

grade. [FN71] In addition, professors must guard against student perception that weaker students will simply take the work product of stronger students. [FN72] Some of these challenges may not be completely eliminated but they can be minimized through the professors' proper planning and consideration of all the issues involved in developing a peer-editing exercise.

Time constraints also can present obstacles. Some professors believe that collaborative exercises take too much of the class time at the expense of covering substantive course material. [FN73] In addition, expert planning requires professors to review course content carefully to ensure there is sufficient time for students to complete the exercise [FN74] and receive sufficient preparation for other assessment measures. As with any new endeavor, professors will have start-up costs associated with crafting an effective peer-editing exercise. Planning takes time, and training students to complete a peer-editing exercise, as well as the exercise itself, takes time. However, time concerns are lessened as professors become more proficient with using peer editing as a teaching strategy and begin to build on prior exercises, and as students acquire keen editing skills. In addition, whenever possible, to maximize their efforts, professors should assign practice editing exercises as homework or use a writing specialist on staff or \*678 student assistants to supplement their classroom work on teaching editing skills.

Although they cannot be ignored, the challenges in adopting a peer-editing exercise should not deter professors from using this teaching and assessment strategy. It is possible for the many benefits to outweigh these difficulties when professors take a methodical approach to designing, implementing, and evaluating the exercise, one that considers projected outcomes and assessment together with class dynamics, student engagement, and required training.

## II. How to Design an Effective Peer-editing Exercise

“Students appreciate being able to work with their classmates. When structured effectively, even the most introverted, small-group-work-resistant students realize the power of learning with and from their peers.” [FN75]

To administer an effective and successful peer-editing exercise, professors should adopt the following systematic plan of action to design, implement, and evaluate the exercise. [FN76] The first phase is the planning stage, in which professors identify the desired outcomes for the peer review and outline the framework for the exercise. The next phase, the “pitch” and training, requires professors to think about the exercise from their students' perspectives and introduce its guidelines and benefits in a manner that optimizes students' participation. The third phase deals with the actual implementation of the exercise and procedures for the day of, or the duration of, the exercise. The last phase is assessment; during this time, professors allow students to reflect and share the information received from the exercise. Professors also continue to evaluate students' performance and the degree to which course objectives were satisfied and identify any recommendations for future peer-editing exercises.

This structured approach minimizes the obstacles to peer editing and enables professors to fulfill certain directives envisioned by the ABA's call for reform. Professors will outline their teaching objectives to maximize student learning and create an opportunity for key assessment.

### A. Planning

To properly use peer editing, professors must set aside sufficient time for planning the course, its objectives, and the appropriate placement of a peer-editing assignment. “The critical factor in determining the success or failure of the [peer review] method is what happens before students get into their groups to read each other's papers. The groups by themselves are not a panacea.” [FN77] Professors must thoroughly plan all aspects of the peer-editing exercise to maximize

the results and achieve stated desired outcomes. This requires professors to review and consider the learning goals for the course and the assignment and determine the timeline for the exercise. In addition, professors must decide \*679 how they will arrange peer teams and whether they will conduct the exercise anonymously. Furthermore, professors must identify the criteria they will include in the peer-editing checklist and any methods they will use to ensure complete participation by students. Some of these factors are interrelated, as professors' decisions regarding one item could impact their positions on another.

### 1. Learning Goals and Assignment Objectives

The first step in planning a peer-editing exercise is for professors to review the stated goals for the course and more specific learning objectives. [FN78] Both the course goals and learning tasks should embody the “knowledge, value and skills critical” to the subject being taught and to the “students' professional lives after graduation.” [FN79] From these goals and objectives, professors can determine the teaching strategies for the course and how peer editing logically fits into the paradigm as both a learning tool and an assessment method.

The course goals are a starting point for any class design. As curriculum experts explain, to design a course and, eventually, each individual unit or class, professors should adopt “backwards planning” or “reverse engineering.” [FN80] In other words, professors should start with what they want the end result to be in terms of their students' competencies. More particularly, the course goals should reflect what professors want their students to be able to do actually once they finish the course, rather than what professors plan to cover in the course or the material they hope to introduce to the students. [FN81] Further, leading scholars on education theory suggest professors limit themselves to three or four course goals. [FN82] The list of learning objectives should comprise the details of each goal. Learning objectives are the subsidiary goals or tasks professors believe their students will be able to perform. [FN83] In working on course design, professors should engage in a thorough examination process. For example, how might the typical first semester of a legal writing course incorporate peer editing to teach and assess students' use of relevant authority, communication and editing skills, and teamwork ability? Although the first semester of legal writing covers a number of topics, these various subjects should stem from goals initially drafted by the professor. Again, the course goals provide the framework for curriculum design and can be drafted by completing\*680 this statement: By the end of this course semester, students will be able to demonstrate the following knowledge, skills, and values. [FN84]

Particularly for legal writing, students' development of certain fundamental lawyering skills is key. These skills encompass a number of outcomes such as problem solving, legal analysis and reasoning, legal research, factual investigation, communication, and recognizing and resolving ethical dilemmas. [FN85] For example, professors could conclude that, at the end of the first semester of legal writing, students will be able to: (1) identify, research, analyze, evaluate, and solve legal problems accurately; (2) communicate and explain their legal analysis and predictions effectively in writing with clients, colleagues, and supervisors in the appropriate format; (3) employ strategies for working cooperatively and collaboratively with others and meeting professional deadlines; and (4) demonstrate a keen understanding of the mandate for professional and competent representation. These four competencies would serve as the professors' course goals.

Next, professors can outline more detailed learning objectives or tasks that serve as subsidiary goals for the course. [FN86] Using the example provided above, the list of learning objectives could include a number of proficiencies. For instance, students will be able to: (1) identify the legal issues presented by the facts; (2) derive the rules from relevant authority; (3) use the relevant authority to explain the rules and related policy; (4) identify the holding, rules, reasoning, and key facts in relevant authority accurately; (5) use relevant authority to make arguments employing rule-based and analogical reasoning; (6) predict the likely outcome given the facts and relevant authority; (7) communicate the likely outcome and analysis in writing by drafting and editing a legal memorandum effectively; (8) evaluate a peer's writing

critically and provide constructive feedback for improvement; and (9) receive input and constructive criticism from a colleague and incorporate needed suggestions. This is just a sampling of tasks; a rather lengthy list of learning objectives could flow from the four course goals provided above.

After writing both course goals and learning objectives, professors can turn their attention to assessment methods, teaching strategy, and each individual unit or class session that will comprise the course, in that specific “backwards planning” order from outcomes to instruction. For example, consider the students' use of relevant authority and their abilities to explain the rules and related policies and lay a foundation for the arguments using rule-based and analogical reasoning. To assess whether students can demonstrate a proper use of relevant authority, professors may eventually require students to prepare a multiple-issue predictive memorandum using case authority. To achieve these competencies, professors can employ a variety of classroom instructional activities. Professors may require students to brief relevant cases, complete a case-and rule-synthesis chart, prepare an argument chart comparing the facts to the precedent case, and draft a case-rule proof or explanation. At this point and by \*681 mapping out the curriculum, professors can easily determine where a peer-editing exercise could add value to the list of instructional activities and assessment measures.

For instance, in my Lawyering Process course, peer-editing exercises are specifically included under the list of instructional activities and assessment measures related to teaching students how to use authority properly to explain rules and support arguments. In particular, as part of a larger predictive memorandum assignment involving a claim for negligent infliction of emotional distress, students prepare a rule proof of one specific case, *Wilks v. Hom*, [FN87] focusing on just one element. [FN88] Students typically have the weekend to complete the assignment and then bring their completed *Wilks* rule proofs to class for a peer-editing exercise.

In designing this particular peer-editing exercise, I strive to achieve the stated learning outcomes [FN89] by first articulating specific class or assignment objectives. [FN90] I ask, “What do I want students to be able to do after this class session in which students will complete the peer-editing exercise?” [FN91] I then determine that students will be able to: identify the main components of a rule proof of the *Wilks* case; identify the holding, rules, reasoning, and keys facts in the *Wilks* case for the awareness element; recognize the effective organization of case information; critique and edit a written piece effectively for grammar, syntax, and punctuation; critique and edit a piece effectively for content, clarity, and logical organization; evaluate a colleague's written work critically; assess his own work product critically; and work collaboratively with colleagues on the assignment. These class objectives are generally reflected in the peer-editing checklist I provide students to complete the critique. [FN92] The exercise (the critique and debrief sessions) takes approximately thirty minutes of class time. Professors may choose to address all of or just some of these objectives for a predictive rule proof peer-editing exercise. [FN93]

Notably, this peer-editing exercise also serves as an assessment method for other learning objectives. Professors will not only provide students with a collaborative and engaging learning opportunity but also, at the same time, gauge students' development. Professors can examine their students' abilities \*682 to edit written work and provide constructive feedback to classmates and their students' comfort level with teamwork and receiving input and suggestions from a peer.

By devoting time to reviewing the course goals and subsidiary learning objectives and outlining related instructional activities and class assignment objectives, professors can more easily establish the remaining framework for any peer-editing exercise and maximize its effectiveness on student learning and assessment. Some of the learning objectives, assessment methods, and instructional activities discussed in this section are provided in a course-planning chart in Appendix A. [FN94]

## 2. Timeline

Having outlined the core objectives, professors now must ask when they will assign the peer-editing exercise [FN95] and how much time they have to devote to the exercise, [FN96] then aim to design the assignment parameters accordingly.

Many experienced professors advise that peer review assignments are better suited for mid- to late- semester. By this time in the course, students have developed some comfort level with the skill set and their classmates, [FN97] have received sufficient training, and have practiced working collaboratively as teammates, rather than competitors. [FN98] For my Lawyering Process course, I tend to agree and typically assign substantive peer-editing exercises after students have prepared a short single-issue predictive memorandum (around the seventh week of the course). Students complete at least two peer-editing assignments during the fall semester. One exercise asks them to review their partners' predictive case rule proofs; the other exercise requires them to critique a section of their partners' multi-issue predictive memoranda. [FN99] By this time, students have already received detailed feedback from me on their short \*683 single-issue predictive memorandum assignments, had many opportunities to practice the concepts and skills in class, and are generally accustomed to teamwork. [FN100]

The ideal time period for peer review will differ for each course and student body. Quite possibly, as more law schools and professors embrace cooperative and collaborative learning in the classroom, students may feel less insecure about sharing their work with their classmates early on or at the start of the semester. But until this happens, to pinpoint the best time for peer review, professors will need to gauge their students' abilities and wait until they "have reached the point of readiness for this unique opportunity to hear from another reader who has struggled with the same material and task." [FN101]

After professors decide the best time to assign a peer-editing exercise, they must determine how much course time they have to commit to the entire exercise. One scholar wrote that "[t]he biggest stumbling block [for peer review] is [successful] time management." [FN102] Will the exercise be conducted during class time? How many class sessions are available? Will the exercise require one class period or two fifty-minute sessions? Can students work on the exercise over a period of time and outside of class? Can the exercise be revised so that it neatly fits the timeline?

Whenever possible, professors should try to carve out class time for peer-editing exercises, although that can be quite challenging to do so. By conducting the exercise during class, professors can personally monitor the review and immediately answer any questions their students may have. Although students often continue the conversation after class has concluded, they can address the core issues and questions about the assignment in class. Furthermore, some students have difficulty scheduling lengthy meetings outside of class time because of family or work obligations and other school responsibilities. Spending class time on a well-planned peer-editing exercise saves professors valuable critiquing time in the long run and allows them to assess their students' performance immediately.

Professors must carefully consider the amount of time they will need to complete a peer-editing exercise fully (including the evaluation and critique and any debriefing or assessment period) and try not to underestimate the amount of time a peer edit can take. For example, if a professor requires students to critique an entire five-page memorandum (double-spaced), that professor should expect that students will likely need a couple of class sessions to complete the edit. When there is very little class time for peer review, the professor may decide to limit the assignment to a small section of the memorandum, such as the statement of facts or the discussion section for one element. The professor also may instruct students to focus on one category for the review, such as the use of analogical reasoning, inference statements, grammar rules, or citation format.

In addition, to counteract time management problems, some professors conduct peer-editing exercises outside of

class time and require students to \*684 schedule follow-up meeting times with their peer teams and/or the professor. [FN103] When exercises are arranged outside of class, professors must ensure that some supervision or accountability measures are in place. For example, professors can require their teaching assistants to supervise the peer edit during mandatory sessions that take place outside of the regularly scheduled class time. [FN104]

Careful planning and time management are of paramount importance to guard against student frustration over having insufficient time for the exercise or inconsistent results. [FN105] Achieving successful time management will take some trial and error and adjustment as professors get more accustomed to working with peer review in their course.

### 3. Partners or Groups?

The next step in embarking on a peer-editing assignment is for professors to decide how they want to organize the actual peer-editing teams. More specifically, professors need to determine how many students should work together as a team to complete the peer review [FN106] and how those teams should be selected. Will students work with a single partner [FN107] or with editing groups? [FN108] Will students select their partners or group members, or will professors make the arrangements? [FN109] Will members be chosen randomly or with a purpose in mind? The answers to these questions will depend largely on the professors' objectives for the assignment and the amount of time students have to complete the critique. For example, if students are expected to review and edit more than one classmate's paper, the peer-editing exercise likely will cover more than one or two class sessions and may even require work outside of class. If, however, professors do not have enough class time or do not want to continue the exercise as homework, they should consider limiting the size of the peer teams to two students or shortening the editing assignment.

Professors may adopt a number of different approaches in grouping peers. For example, professors can create editing groups of three students so students have the chance to review and critique more than one paper and receive feedback \*685 from more than one peer. [FN110] Or, professors may decide that a team of four people is the ideal size for a peer group. [FN111] With four people, students receive even more variety of feedback and perspectives. Groups larger than four students tend to be rather difficult to manage and monitor for peer-editing exercises. At Thurgood Marshall School of Law, professors have students work with a single partner, mainly to ensure they complete the peer-editing exercise within class time. [FN112] By working with one partner, students are able to complete most exercises in one or two class sessions.

If professors want to use peer partners but are somewhat concerned about the limited nature of the feedback, [FN113] professors can repeat the exercise with a revised draft of the same assignment but with different peer partners. [FN114] That way, students learn to embrace writing as a process of revising, and they receive a variety of feedback on the same assignment. Often, students receive additional feedback informally from another classmate or as a part of the curriculum through their assigned teaching assistant.

In addition to determining the number of students on each team, professors must also determine the membership or makeup of the peer response group. Here, professors need to decide whether they will assign each peer team or allow students to choose their group members. [FN115] Some scholars recommend professors select the peer groups rather than allow students to define their teams. Student selection "usually leads to homogeneity and not the novelty of \*686 working with people with a variety of backgrounds." [FN116] However, depending on the editing task at hand, professors may decide that grouping students based on their similar abilities is more effective when some students have mastered the particular topic or skill set while other students are still struggling with the material. [FN117] This homogeneous grouping allows stronger students to focus on advanced topics or techniques. A benefit of this method is that professors can devote more time to those teams that need more guidance or assistance with fundamental skills.

If professors do assume the task of arranging peer groups, they may randomly assign the teams, actively work to balance the group in a particular manner, or even decide to keep team assignments constant throughout the course. [FN118] For my peer-editing exercises, I both select the peer teams and strategically assign partners so that “all of the best or all of the poorest writers do not end up together.” [FN119] I specifically partner students based on their legal analysis and writing strengths and weaknesses to date. For example, I may match a strong-performing student with a student who is still struggling to master the skill or concept at issue in the current assignment. Then, on the next assignment, I change the peer teams to provide students with varied feedback. In addition, I try to avoid partnering friends or study group members (to the extent that I am aware of such a relationship) so that the students focus on the assignment and benefit from receiving new and possibly different perspectives on their written work.

I also pay particular attention to the students' personality traits and other characteristics in arranging peer groups. [FN120] A student with a rather strong personality might not work well with an extremely shy or quiet student. In addition, although many professors do not consider race, ethnicity, or gender when determining peer group membership--opting instead for neutral assignments--I may consider a student's race or gender when forming peer groups. I prefer to consider both race and gender when arranging groups when conducting a \*687 peer review exercise in a class where diversity is lacking. I have firsthand experience working in an educational environment where I was the only African American student or one of a handful of students of color. I wholeheartedly believe that a diverse classroom and school enhances all students' learning and know that I benefitted from exchanging ideas with students who may have had different perspectives and experiences. Therefore, while teaching at UCLA School of Law, I tried to minimize the clustering of certain student population groups in peer teams and strove to implement a varied and stimulating educational experience where students would feel able to contribute based on their unique cultural background or life experiences. Also, scholars emphasize that “[h]eterogeneous groups are more likely to result in increased tolerance for diversity.” [FN121] At Thurgood Marshall School of Law, the task of assigning peer groups is somewhat easier given the school's extensive diversity. I just work to make sure the peer review teams are purposefully balanced in terms of ethnicity or race, gender, and ability, and change the team assignments over the course of the semester with each new peer-editing exercise. [FN122]

There are a number of ways in which professors may organize peer-editing teams and several issues to consider such as assignment objectives, timing, students' skill set, traits, and background. Moreover, the method for assigning teams used by professors for one peer exercise may not work well for another review. For example, if there is only thirty minutes available for an assignment, professors may prefer to use peer-partners to make sure the exercise is completed in a timely manner. Professors should simply strive to have a principled reason for each decision they make and work toward maximizing students' learning and their collaborative experience.

#### 4. Anonymity

Once professors decide how to arrange the peer-edit teams, they must determine whether to conduct the review anonymously. There is some disagreement as to whether peer edits should be blind so students do not know the author of the critiqued work. [FN123] Some scholars believe anonymity yields better and more honest feedback from students on their classmates' papers. [FN124] Other experts feel that anonymous reviews compromise students' abilities to exchange ideas and to become accustomed to both giving and receiving constructive\*688 criticism. [FN125] As with the other steps for planning a peer edit, there are many factors to consider in deciding whether a blind review would best serve student needs.

When I first started using peer editing in my legal writing classes, I structured the assignment so that no one knew the author's name. My initial motivations were to shield students from any possible embarrassment and arrange the session

so students felt entirely free to comment on their classmates' work. I yielded to these concerns, especially on assignments during the first part of the semester. In fact, one student from the peer-editing survey conducted at Thurgood Marshall School of Law even inquired whether an anonymous review would result in a "more honest" critique from students. [FN126] I have since concluded that a blind review not only hinders students' growth and maturity in terms of being able to exchange their opinions openly and provide constructive feedback, but also undermines their ability to engage in meaningful post-critique debriefing session. To fully participate in the debriefing session, students need to know their peers' identity in order to exchange ideas and suggestions.

The debriefing session after the peer review is an important continuation of the learning and assessment process. During this time, students may ask their classmates follow-up questions or seek clarification on certain points. They may even raise interesting ideas or arguments to the entire class. It is often during this time when a student achieves that "ah-hah" moment. The debriefing period is very enlightening for students and sometimes they even request additional time to meet, whether in or outside of class. [FN127]

Further, experience has shown that "writers are more likely to do a better job when they know their editors will know who they are[.]" [FN128] Additionally, the lack of anonymity gives students a realistic experience in how they will receive critiques from supervising attorneys or judges in law practice. [FN129] While recognizing that other writing professors have had positive results by making their peer-editing exercises anonymous, I believe maintaining anonymity likely requires professors to abandon any debriefing session between peer partners or among group members, which is a key component to structuring a comprehensive peer-editing assignment. To minimize students' concerns about sharing their work or critiquing their peers' papers, professors must work diligently to educate the class about the benefits of peer review and lead the course with collaborative exercises that build a sense of teamwork and community. [FN130]

I would, however, caution professors against leading with an anonymous review and then revealing the students' names after the critique is finished. If professors decide to reveal the names of the authors and editors eventually so \*689 that students can discuss the critique, students come to suspect future exercises will not remain anonymous. Consequently, these professors still may have concerns about students holding back their candor or providing nonspecific comments. Professors must carefully consider their objectives for the exercise and how each one will be achieved. Then professors should adopt an approach that best suits their students' needs and helps them to maximize assessment opportunities.

## 5. Peer-Editing Checklist

To ensure that students remain on task and fulfill the objectives outlined for the exercise, professors should prepare a checklist for students to follow and complete as they review their peers' papers. Essentially, a peer-editing checklist can reflect the professor's grading rubric for the assignment, list the concepts or material the professor expects to see in the students' work product, [FN131] or identify specific criteria students should use to critique their partners' work. [FN132] The criteria included in the checklist will largely depend on the stage of the students' work product, whether an initial draft or a revised version, and the skills covered in class and to be assessed at that time. [FN133] Detailed and clear criteria effectively guide students through the peer-review process [FN134] and provide them with insight on how the professor will evaluate the current and future related assignments. [FN135]

Notably, the checklist should not only provide guidelines for the peer review, but also set the tone for the exercise in terms of the reviewer's role and approach. The instructions could specifically define the student's role in reviewing the assignment, whether as a supervising partner in a law firm, member\*690 of the same litigation team, or judge. [FN136] Also, the checklist could reinforce the need for students to provide their peers with constructive feedback in a supportive

manner designed to promote optimal learning and exchange of ideas. For example, professors could add specific lines or spaces in the checklist for students to provide at least one positive comment (in addition to other observations). Students can provide these positive remarks at the end of the critique. [FN137]

In addition, peer-editing checklists may address a variety of writing areas. To assess argument structure, the guidelines may require students to identify whether the paper provides related inferences for factual support. In critiquing writing style, peer guidelines could instruct students to examine the effectiveness of topic sentences or paragraph structure, or direct them to circle or underline problem sentences or grammar errors. Furthermore, checklists could direct students to mark citation errors and note the appropriate rule(s) in the Bluebook or ALWD Citation Manual. [FN138]

For example, to review a case brief submitted during the first few weeks of class, the checklist could inquire whether students identified key facts or derived the relevant rule from the case. To review a rule proof or case explanation included in a trial motion brief assigned toward the end of the semester, the criteria may be quite detailed and contain more sophisticated guidelines. The checklist could instruct students to identify whether their partners used the appropriate case authority. It could ask if the case is mandatory or persuasive authority and whether the case has significant factual similarities with the client's situation. Also, the checklist could inquire, for analogous authority, whether the rule proof or case explanation is written in a persuasive manner that highlights similar facts and favorable reasoning. Furthermore, the guidelines could ask if the writer appropriately discussed policy considerations.

There are many ways to structure a peer-editing checklist. Careful identification of specific assessment criteria is the key to successful involvement of students as peer editors. [FN139] Sample checklists for peer-review exercises conducted in a legal writing course are provided in Appendixes B, C and D.

#### 6. Optional or Mandatory? Graded or Ungraded?

To ensure full and active participation by all students and to hold students accountable, professors should consider adding certain incentives to the assignment. For example, professors should decide whether the peer-editing exercise \*691 will be optional or mandatory, [FN140] or even graded. [FN141] Professors could provide an actual letter grade for the assignment or devote participation points to the exercise. Also, to encourage students' attentiveness and seriousness, professors could collect a copy of the completed checklists or ask students to evaluate their partners' participation levels or contributions to the exercise. In addition, during the debriefing session (discussed later in this Article), professors could call on students to answer specific questions, share their teams' discussions, or comment on the collaborative experience. [FN142]

Moreover, to prevent student frustrations or perceptions that the peer-editing exercise simply allows weaker students to copy the work of stronger students, professors could make sure that grades on the assignment that is the subject of review are completely independent of the peer-editing exercise. For my Lawyering Process course, students bring two copies of their work product to the peer-editing class. At the start of class, students submit one copy for a grade. The students then exchange the second copy with a partner to complete the peer-editing exercise. This structure eliminates the appearance of "penaliz[ing] students who are working hard and maintaining or exceeding an appropriate work schedule while rewarding and enabling procrastinators." [FN143] In this way, students have a vested interest in doing their best work on both the underlying assignment and with the peer-editing exercise. Professors may use any of these steps to increase student involvement, engagement, and confidence in the exercise. [FN144]

#### B. The "Pitch" and Training

The right “pitch” by the professor and training for students makes all the difference in the exercise's success. The ideal pitch explains the exercise and allays law students' anxieties and competitive natures that can otherwise detract from students' willingness to share work with classmates. [FN145] To minimize any resistance, professors must be methodical in deciding how they will introduce \*692 the peer-editing exercise. [FN146] Also, professors must provide their students with sufficient training so students have confidence in their ability to complete the assignment.

### 1. The Pitch

Professors must decide how to broach the subject of peer review. Should they simply include the exercise on the course syllabus? Should they require students to glean the topic from the assigned reading? Should they surprise the class as if the assignment were a pop quiz? Rather than taking any of these passive or shock approaches, professors should be proactive and maximize the opportunity to increase student enthusiasm for the exercise. Professors should boldly sell the exercise and customize their pitch to the class. [FN147]

By providing students with a detailed explanation of the peer-editing process and its purpose [FN148] and benefits, even the shyest students will come to appreciate the opportunity to work collaboratively with their classmates and appreciate the many advantages of learning from their peers. [FN149] If at all possible, professors should explain the exercise at the same time they distribute the assignment that will be the subject of the peer edit, especially if the review involves a more substantive work product, such as a memorandum. It is best to let students know in advance that a classmate will review their work. [FN150] Advance notice gives students sufficient time to process the exercise and the professor's expectations for their work. Particularly, students will learn about the specific criteria included in the checklist and come to internalize these guidelines as they work on the assignment. Moreover, students will have an opportunity to submit a fully polished work product—one worthy, in the students' eyes, of peer review. Although professors ideally want students to do their best work at all times, the reality is students sometimes need a little push to perform.

As part of the introduction, professors should explain what peer editing entails and how it benefits students. Professors also should emphasize the related learning and class objectives and show students how the exercise fits within the larger course curriculum. In addition, professors should address any fears or anxieties students may have about sharing their work by reminding them they are already working on the skills needed to complete the assignment (and will continue to do so). With respect to collaboration, professors should stress the teamwork aspect of the exercise. The goals are to be supportive and \*693 help each other improve their problem-solving, legal analysis, writing, and editing skills. Peer editing is not a competition.

When I introduce peer editing in a class for the first time, I find it helpful to show students indirectly how non-threatening, helpful, and even enjoyable teamwork can be. In particular, I build on this discussion by turning to a class exercise that requires students to write their answers on the board for comment. This activity can work with a number of subjects, such as citations, rules, arguments, or grammar. For example, one year, the peer-editing introduction presented a nice segue to the lesson for the day—arguments for a predictive writing assignment. Volunteers placed their arguments on the board and the class identified strengths in their classmates' statements, offered suggestions on how to improve the example, and even asked the volunteers probing questions to get a better understanding of their positions. Most legal writing professors use similar interactive teaching strategies in their course. At the end of this particular class, I was easily able to show students their examples of teamwork and collaboration and how the peer-editing exercise would be a natural extension of the work completed by them that day.

Lastly, it is very important for professors to emphasize the intangible benefits students will receive by reviewing and critiquing a peer's work product. Students will become better writers regardless of the strength of their partners' critiques

of their work. Students hone their own writing skills by editing a peer's paper and reflecting on the best way to explain concepts, rules, or arguments, and present constructive criticism to the author. Emphasizing the potential gain to their own writing is particularly useful to counter any frustrations over the perceived or actual lack of helpful feedback. In the Thurgood Marshall School of Law survey, one student suggested that “peer review only works when your partner is knowledgeable and prepared.” Such a comment recognizes only one aspect of the exercise--receiving feedback. [FN151] Peer editing, however, provides so much more. In another survey response, a student commented that he had hoped for a better critique from his partner but also realized the benefit to his editing skills. [FN152] The student agreed that the exercise helped him improve his editing skills and gave him insight into his own writing. [FN153] As professors “pitch” peer editing to their class, they should “be clear that the editors' efforts actually help the editors themselves.” [FN154]

Deciding to incorporate peer editing into a course requires a professor to do more than merely place the assignment on a course syllabus or briefly mention it at the start of class. A professor should take advantage of the opportunity to sell the exercise and its benefits to students so they will not only embrace the assignment and be engaged in the exercise but also submit their best work products.

## \*694 2. Training

### a. Teamwork

Before they are ready to edit their peers' papers, students need to be comfortable working together. [FN155] Given the generally competitive nature of law school, students must first become accustomed to teamwork. One scholar noted that her law school engages students in an in-class collaboration exercise during almost every legal research and writing session. [FN156] Many professors might not have time to devote almost every class to a collaborative project, but may be able to incorporate a cooperative assignment once a week or every other week. The earlier in the semester professors can introduce their students to teamwork and the idea that their classmates can actually help them learn, the stronger the foundation will be for any peer-editing exercise. [FN157]

There are several ways to introduce students to teamwork. Professors may use cooperative activities, such as group research projects [FN158] or law firm assignments. [FN159] With cooperative research tasks, professors can require students to work as a team to create a class presentation about a particular resource. For example, at Thurgood Marshall School of Law, student groups are assigned specific resources and asked to demonstrate their research strategies using a client hypothetical. One student group prepared a video drama about a client who was arrested and sought an attorney's assistance. Through the creative presentation, students showed not only effective client counseling skills, but also how an attorney would rely on relevant administrative regulations to present arguments on the client's behalf. They improved both their classmates' knowledge about regulations and their own collaboration skills.

With law firm teams, as early as the start of the semester, professors can create small groups of two to three students to complete various tasks through the semester. Law firm teams can work on citation exercises together or even prepare specific parts of a memorandum, such as a facts statement. [FN160] Using these same groups, professors can introduce audience response systems (clickers) exercises to encourage teamwork. The professor would allow law firm \*695 members to discuss the question before choosing an answer on the device. [FN161] From these exercises, students learn to listen to their peers and to express themselves better. [FN162]

There are a variety of steps a professor can take to encourage teamwork and the sharing of ideas among law students. As one scholar remarked, “The continual use of . . . collaborative in-class exercises helps create an interactive and cooperative learning atmosphere[.]” [FN163] When planning to use peer editing, professors should embark on teaching students this process early.

b. Editing

Students must learn how to edit properly [FN164] and, to counteract ineffective editing habits, professors must take the time to train students to be effective and good editors. [FN165] This training begins as soon as students practice legal writing and embark on the first substantive legal writing assignment. Students learn writing and editing skills as they attend class, participate in the discussions, and receive and review their professors' feedback. However, even more directed training can be accomplished through practice editing sessions. [FN166]

Professors can conduct in-class mock peer-editing sessions where they use their own draft work product and revise the draft using the students' comments. [FN167] Also, professors can prepare sample student papers for the class to edit as a group or individually, or professors can use actual student submissions, preferably from prior class years, to conduct practice peer-review sessions. [FN168] With any of these documents, professors can instruct students to spend approximately fifteen to twenty minutes editing a short paragraph (whether for legal analysis, structure, or grammar) and then take some time to share suggested revisions with the class. Professors then can incorporate students' edits into the document as the discussion progresses or even use Google Docs, an online word processing and editing system, to ensure full participation by the class. [FN169] This exercise may result in several workable examples that show students the wide range of possible correct versions.

**\*696** In addition, professors can require students to work in teams to identify weaknesses in a poorly written paper. For example, professors can use a "bad brief" as the class example, containing logical fallacies and weak arguments, incorrect facts, and grammar and citation errors. [FN170] After reviewing the bad brief, student teams can share their notes with the entire class. Professors also can arrange a similar in-class editing session that combines both individual and group work and professor feedback. [FN171] The professor can distribute a page of double-spaced text for students to edit. [FN172] Students then can revise the work individually and break into small groups to share their revisions and comments. [FN173] After the group discussion, the professor can project the original text onto a screen and each group can make suggestions on how to improve the writing while the professor notes the changes on the document. [FN174] As needed, the professor may provide feedback on the suggested revisions, namely the relative strengths and weaknesses of the edits. [FN175]

For long documents, such as briefs or memoranda, professors should make sure students have an opportunity to respond to early drafts rather than polished work. "A polished paper severely limits the opportunities students have for suggesting revision options, sending the message to students that they cannot provide useful advice about how to improve a paper." [FN176] Professors may want to use a paper that has both strengths and weaknesses, rather than provide the students with a terrible work product that is riddled with nothing but errors and could be challenging for students to read, much less critique. [FN177]

Professors also can use self-editing exercises and short editing drills to improve students' editing and writing abilities. Such exercises can take a variety of forms. For instance, professors could require students to revise the fact section of a persuasive brief the students had written at some other point in their law school educations. [FN178] Alternatively, professors could assign sentences or short paragraphs for editing exercises (as opposed to an entire paper) that require students to identify the writing problems and propose revisions. The Lawyer's Guide to Writing Well [FN179] has a collection of sentences from actual legal documents, such as lawyers' letters and memoranda, judges' opinions, student work, and newspaper articles that professors can assign for editing exercises. The book also provides suggested revisions to each sentence. [FN180] By **\*697** editing their own work and completing a number and variety of editing drills, students receive invaluable training for peer-editing exercises.

Admittedly, training students to edit properly may take some time. [FN181] Professors, however, need not conduct all practice editing sessions during class. Professors can assign practice exercises for homework and then post sample answers on a course website. Also, professors can instruct students to complete the homework assignments in groups, furthering the development of teamwork skills. Professors can pace the practice exercises appropriately throughout the course, leading up to the peer-editing assignment. Furthermore, professors can use teaching assistants or writing specialists, if available, to supervise editing sessions. Professors also can schedule tutoring sessions outside of class time to cover editing techniques. When working with limited time and a vast amount of material to cover, professors must be creative in identifying efficient means to train students.

In addition to editing exercises, professors can assign helpful reading materials to students. [FN182] For example, *Scholarly Writing for Law Students* provides useful information on evaluating and editing the work of others. [FN183] The book addresses the particulars of the peer-editing process and how to critique a work for clarity and audience by considering the paper's organization, substance, and other rhetorical aspects. [FN184] The section of this book also concludes with a discussion about catching mechanical errors (grammar, punctuation, and citation) and awkward expressions and performing a line edit on the paper. [FN185] *The Lawyer's Guide to Writing Well* provides a checklist for editors and encourages them to work more efficiently by reviewing documents in several \*698 discrete steps, such as for structure and length and then for clarity and continuity. [FN186]

By incorporating a variety of discrete editing sessions or homework exercises and assigning helpful readings, professors will effectively train students to edit peer documents and ensure students are ready to assume the role of editor.

#### c. Feedback

Lastly, students must learn how to provide helpful and constructive feedback, not negative, unproductive comments, vague sound bites, or exclusively positive remarks. [FN187] More specifically, professors should encourage students to be specific in their feedback so that the writer has a concrete idea about how to improve the paper, whether the issue is content, organization, grammar, or punctuation. [FN188] Vague comments like “sounds good,” “seems okay,” “awkward,” or “what?” do not provide writer enough information to revise their written work substantively.

There are several ways professors can train students on how to offer useful comments. Professors can teach students to phrase their suggestions using ‘I’ statements and then to follow up with a specific question that helps the writer clearly express his intentions. [FN189] For instance, the phrase “I am having difficulty understanding the main idea for this paragraph. Can you tell me what topic you were trying to address in this section?” avoids overly negative language and provides the author with usable feedback. [FN190] Also, professors can introduce their students to the benefits of positive criticism by having the class experiment with providing only positive comments on papers for one full week. [FN191] From this exercise, students realize the areas in which they performed well and how to build on those strengths. [FN192]

As done with technical editing techniques, professors can provide students with helpful articles on providing feedback as a peer reviewer. Several books [FN193] and a few selections on Internet writing sites [FN194] discuss the substance of peer feedback. Professors can assign these articles as required reading or \*699 even as a starting point for class lecture on peer review. In addition to readings, professors can provide students with different examples of exemplary peer edits or walk students through a sample peer review, both methods from which students can learn keen editing skills and become familiar with helpful language. [FN195]

Also, as professors teach students how to provide constructive criticism, they should set reasonable expectations for student feedback. Some students look for peers to mark up their papers extensively, almost to the same extent as their

professors. Professors can guard against such unrealistic expectations by providing students with documents marked with sample comments.

Lastly, professors need to remind students they are responsible for their final work products. The onus is on students to review their peers' evaluations carefully and decide which suggestions to adopt, which ones to question, and when to seek guidance from the professor. With proper instruction and training, students can review papers more efficiently and provide consistent comments. [FN196]

### C. Implementation

Even though collaborative group work like peer editing focuses on student activity, “collaborative learning does not imply any diminishment of effort on the part of the instructor.” [FN197] Although there is no traditional lecture on the exercise day, professors have a number of tasks to complete to make sure the assignment runs smoothly, teams remain focused and engaged, and learning outcomes are reached.

At the start of class, professors should remind students how the exercise will be structured and distribute the checklist or critique form to the class. [FN198] In-class peer-editing exercises have two phases. First, after brief assignment reminders, students read, review and critique their peers' work and complete the checklist. This is the critiquing period. Second, students participate in a debriefing session with their partners or groups and then another session with the entire class. This is the assessment phase. If professors arrange a take-home peer-editing exercise, they also should provide students with detailed guidelines about how much time to spend on each phase to make sure the assignment is completed in an efficient and effective manner.

#### 1. Critiquing Period

After explaining the exercise's structure, professors should address the checklist. Because students ideally would have received the evaluation guidelines with the underlying writing assignment, professors need only briefly cover the criteria as a reminder and to set the tone for the review. Professors can highlight key parts of the checklist and emphasize the need for students to provide constructive criticism and positive feedback. For example, professors can recall earlier editing demonstrations and urge students to be specific and avoid using vague comments that do not provide writers with enough information to improve their papers. [FN199]

As students actively work on their peers' critiques, professors may allow students to discuss their papers freely or choose to limit group discussion. [FN200] Allowing students to discuss comments during the review may add some clarity to the author's work and prevent students from forgetting any key suggestions. On the other hand, instituting a general rule of silence during the critiquing period encourages students to read quietly, digest their peers' papers, and thoroughly evaluate the writing. Students tend to focus more and better on the task at hand without constant interruptions. Also, students often want to ask their partners or group members, “What did you mean here?” or “What does this sentence mean exactly?” or “Were you trying to say A, B, and C?” If something is unclear about the writing, the editor needs to state the question, confusion, or deficiency on the critique form or paper. The writer should receive such clear and specific feedback. If a piece is well-written, then the average reader should be able to pick it up, read it, and fully understand and follow the document. Good writing requires clarity. Any questions can be reserved for the debriefing session in the second phase.

While students evaluate their peers' papers, professors should walk around the classroom monitoring the exercise and students' levels of engagement. [FN201] Professors should circulate, spending a few minutes with each group and listen-

ing attentively to the discussion, but remaining largely observers as students evaluate the papers, interrupting only when students have questions about an editing comment or a concept. [FN202] By allowing students to discuss their feedback without interruption, professors maintain the continuity of the debriefing \*701 and promote students' confidence that they can complete the review correctly on their own. For example, students may need assistance with providing clear strategies or suggestions on how to improve the paper. [FN203] For some questions, professors need not give students the "answer," but could provide guidance or thought-provoking ideas about how students can think through the problem on their own and arrive at the best solution. More specific direction may be required to help those students who are still struggling. Furthermore, if a student raises a general question for which the response would benefit the entire class, professors should seize the opportunity to make a teaching point and encourage collaborative learning. [FN204] If professors conduct an editing exercise outside of class, they should be available to answer questions by email or even hold special or extra office hours during the critiquing period. That way, students can receive needed direction and continue their learning process rather than wait until the next class session to ask questions.

Regardless whether the exercise is held in class or for homework, professors should assume the proper level of involvement with peer teams and be available to answer students' questions during this first phase. [FN205] By being fully engaged in the peer-editing process, professors communicate their commitment to the assignment and to collaborative student learning. [FN206]

## 2. Assessment Phase

"[A]ssessment should have an instructional purpose" in addition to "an evaluative or administrative one." [FN207] Peer editing embodies this characteristic, as it is a formative assessment technique--"a learning tool in and of itself." [FN208] If professors include an engaging and meaningful debriefing session at the close of the exercise, peer editing can improve student learning, provide students with immediate feedback, and assess student performance and the exercise. Professors monitoring the session will receive some evidence as to \*702 whether they accomplished the goals for the exercise. Did students learn to work together? Did students learn to give constructive feedback? Do they have a better understanding of memorandum structure? Can students identify significant factual similarities and differences between precedent and client facts? Did students improve their editing skills? The debriefing session is essential to obtaining material assessment information.

Ideally, the debriefing session includes two parts: a discussion with peer partners or team members and then a session with the entire class. Professors should begin the student session by giving peer team members ample time to review the completed checklist and their marked documents. Then, each student would ask specific questions about the feedback. An engaging dialogue should be created between the writer and the peer group. [FN209] Professors should make sure all group members have an opportunity to share their thoughts. Professors also should circulate around the room, spending a few minutes with each group and monitoring the discussion. As students interact with each other, professors should observe students' teamwork skills and ability to listen to their peers and provide points of clarification. To further assess students' collaborative strengths, professors should require students to incorporate the editor's comments into their papers and submit the original draft, feedback, and revised document to the professor for review.

The length of the student session will depend on each exercise. For the predictive rule-proof exercises I have assigned, I typically reserve about ten to fifteen minutes for the student exchange. If professors instruct students to review and critique the argument section of a larger memorandum, professors may decide to devote at least twenty to thirty minutes for the student session. Depending on the course and assignment rules, professors also can encourage students to continue the discussion outside of class time. [FN210] In the past, some of my students who were team members formed study groups from participating in these sessions.

After the student session concludes, professors should begin the larger class discussion. To start, professors can pose one of the questions a student raised during the critiquing phase or ask what they learned from the exercise. [FN211] For example, professors could ask what students found to be difficult or challenging, whether they noticed any creative use of language or style, or whether they encountered any tough grammar questions. More analytical questions might relate to what students learned about editing, or how they will revise their papers. Such open-ended questions are helpful to begin a worthwhile discussion.

The debriefing session with the entire class also has benefits beyond assessment. The session provides another way to hold students accountable for full participation in the exercise, especially if professors randomly call on students to answer questions. [FN212] In addition, by holding the session, professors \*703 have an opportunity to summarize and emphasize major teaching points, reclaim some control over the content being discussed, and provide key information and examples for students to evaluate their learning and development. [FN213]

Professors may also decide to distribute a sample answer at the end of the debriefing period. A sample answer provides students much-needed feedback, as well as an opportunity to further develop their self-assessment skills. [FN214] In addition, after reviewing the sample answer, any follow-up meetings with students about the assignment or concerns the students may have typically will be limited to more sophisticated and focused questions. [FN215] If providing students with a sample answer is not possible (for example, if the peer exercise is conducted on the draft of a graded writing assignment), professors can structure the assignment so that students receive their peers' feedback in addition to a critique from their professor. [FN216] As one scholar noted, this arrangement "makes collaboration between students possible while avoiding the risk of the 'blind leading the blind.'" [FN217]

At the close of the debriefing session, professors should evaluate the overall effectiveness of the actual peer-editing exercise, whether they simply reflect on the day's assignment or specifically ask students for feedback. The debriefing session provides invaluable insight on this matter. Are there any suggestions for improvement? Would any revisions help achieve the stated learning outcomes? In reflecting on how to approach future peer-editing sessions, professors must be willing "to tolerate some partial failures even though they may have worked extensively with individuals trying to improve their performance." [FN218]

I have made a few changes to my peer-editing exercises based on debriefing discussions and assessment of students' performance. For example, I have increased the amount of time for certain critiquing periods and incorporated some additional short in-class editing projects for better training. I also have considered requiring students to submit copies of their completed checklists for review and class participation points. I even have decided against certain changes to maintain a comprehensive approach to student learning and assessment. Namely, I still identify both the writer and editor so students can participate in a meaningful debriefing session with their partner or team members.\*704 For my in-class exercises, the intangible benefits received from the one-on-one debriefing session outweigh the administrative requirements to accomplish an anonymous review (such as tracking the papers and student participation).

The peer-editing debriefing session not only benefits students but also gives professors an opportunity to evaluate the effectiveness and efficiency of the assignment and note any possible improvements for future exercises.

### III. Peer Editing Across the Curriculum

"[C]ollaborative skills have been recognized as important to society and to lawyering. Lawyers often work in firms, try cases in teams, and work with other attorneys to achieve mutual ends. . . . Significantly, there is a growing belief that cooperation is a valued competitive skill, not, as many have believed, the antithesis of competition."

[FN219]

The benefits of incorporating peer editing in law school courses are many. [FN220] Peer editing helps students develop and practice skills such as analysis and cooperation, which will prepare them for their careers as lawyers. [FN221] These benefits should not be limited to a first-year legal writing course or upper-level skills courses, but should be experienced by students throughout their law school careers. By introducing peer editing in doctrinal or casebook courses such as contracts, torts, or commercial law (in addition to writing and other skills courses), students will learn to work together and professors can strengthen and refine students' collaborative skills over time.

But how can doctrinal professors incorporate peer editing in their courses? First, professors must give students more opportunities to write, create, perform, and actively participate in their educations. Second, professors should use peer editing as part of their feedback and assessment plans. Notably, there already has been a call for doctrinal professors and law schools to integrate more skills training in their courses [FN222] and give students varied chances to \*705 write. [FN223] Scholars constantly emphasize the importance of writing throughout law school to remedy students' poor analysis and writing skills. "Committing words to the page is very different from 'knowing it in your head' or being able to talk through an answer, which tends to be significantly less precise." [FN224] Law schools must take direct steps to improve the writing ability of law students, which, in turn, will enhance their facility in using and manipulating language as required by the practice of law. [FN225]

As one scholar wrote, "There is no excuse for the non-writing style in which legal education now goes on." [FN226] Improvement in law students' writing will require the commitment from the entire law school community, in particular doctrinal or casebook faculty, who have a number of options to incorporate more writing into their courses, [FN227] and should design a number of different exercises for students to demonstrate what they have learned. [FN228] For example, doctrinal professors could require students to prepare a written brief for at least one of the cases from each day's assigned reading. [FN229] Alternatively, professors could lead the class with a short review of the previous day's instruction by requiring students to complete an analytical writing exercise. For this exercise, the professor would write a hypothetical on the board or assume the role of a client, explaining the key facts. Students then would prepare a short paragraph, in either IRAC or CRAC format, [FN230] explaining how the law applied to the client's situation and providing the viable arguments. To add some variety, in another exercise, professors could instruct students to synthesize a line of cases or to support or challenge some approach that appears to represent the majority view. [FN231] Professors could assign any of these short writing exercises once or \*706 twice a semester or periodically throughout a yearlong course. In addition, professors could assign other longer drafting exercises or papers [FN232] using the substantive law learned to date, such as a client letter or contract. [FN233] The goal is to create an active and dynamic learning environment that encourages students to put their ideas into words and on paper.

Now, with increased opportunities for students to write, doctrinal professors will need to assess their students' performance both efficiently and effectively to give students a chance to improve and apply their learned skill sets to future assignments. [FN234] Of course, to be an effective formative assessment tool, professors must provide students prompt feedback. [FN235] The longer it takes professors to provide feedback, the less effective the feedback is for student learning. [FN236] To complicate matters further, doctrinal professors tend to have a large number of students in each class, [FN237] likely due in part to the fact that these courses traditionally relied more heavily on lecture and Socratic dialogue rather than collaborative learning and writing exercises. [FN238]

Thus, to accomplish assessment goals and provide students with much-needed feedback, doctrinal professors can use peer editing as one of the many tools at their disposal. [FN239] Professors can use peer editing for immediate feedback and still have the option of reviewing each assignment shortly thereafter and providing students with an individual critique or group feedback with a common problems sheet. For example, with the short analytical writing exercises, pro-

fessors can prepare a peer-editing checklist in advance that lists the expected arguments and guides students through the appropriate format (IRAC or CRAC). After they finish writing, students would exchange their papers with partners and critique their peers' assignments using the checklist criteria. Professors would conclude the session by providing students with a few minutes\*707 to discuss the feedback with their partners. For some exercises, professors can collect the completed checklists or a handful of writing assignments to gauge student learning. Professors also can decide to provide students with individual critiques or the entire class with a model answer. Professors even can use the same or similar client hypothetical each year, especially if students are required to write the assignment during class; thereby, saving professors time and effort in future years.

As law professors, we have assumed the sometimes-daunting task of preparing students for more than just a job, but for a successful career in law. A successful career demands a mastery of legal analysis and clear and succinct writing in a myriad of formats. Scholars have indicated that students' writing performance improves when they write frequently and across subject areas, [FN240] and experts have identified collaborative learning as a key component to writing-across-the-curriculum programs. [FN241] Furthermore, even without an established collaborative learning program in place, students continue their educations outside of the classroom and away from their professors using informal study and writing groups. A recent national survey of law students reported that outside of class “nearly one in three students chose to frequently collaborate with their peers to complete assignments.” [FN242] Given the need for improved writing performance and this existing dynamic among some law students, it would benefit professors to teach students how to work with each other effectively and, at the same time, hone their legal analysis, writing and editing skills while learning from one another. While recognizing that each law student must meet the challenges of law school on his or her own merits, incorporating peer editing in the law school curriculum promotes an academic culture that is supportive of students' efforts. The ability to work with peers in a collaborative setting significantly improves student learning. [FN243]

If students constantly practice writing and editing in this collaborative manner in most law school classes, these practice skills will become second nature for the students and peer editing will become an expected and welcomed part of the law school curriculum.

#### IV. Conclusion

The recently proposed ABA standards signal that law schools and faculty will need to become well versed in assessing the progress and development of their students in both a formative and summative manner. Given large class sizes, high student-faculty ratios, the vast amount of content to cover, and limited resources, just to name a few factors, [FN244] many professors may find it quite \*708 challenging to incorporate formative assessment measures [FN245] with feedback into their courses. And, since the ABA's report that it will soon likely base its rankings on outcome-oriented measures, there has been limited practical discussion published on the systematic means to maximize professors' efforts to expand formative student assessment opportunities despite these challenges.

Peer editing is an optimal way to increase formative assessment and provide students with additional feedback in light of these obstacles. With proper planning and by first explaining the goals and benefits of the exercise, the administration of a peer-review assignment will run more smoothly and achieve professors' desired outcomes. In addition, as professors debrief the session with students, professors will be able to assess the exercise's effectiveness and make note of any ideas for future exercises. Professors wishing to use peer editing as a means of improving student learning and including formative assessment can adapt the following chronology to incorporate this teaching strategy in any law school course:

1. Review course goals and identify subsidiary learning and class objectives for the peer-editing exercise.

2. Determine key parameters for the assignment, such as the timeline, team members, and whether to incorporate a blind review.

3. Create a detailed checklist that guides students through the exercise and provides them with specific criteria for the review.

4. Introduce the peer-editing exercise with the related assignment. Be sure to “sell” peer editing to students by explaining the process and emphasizing its benefits.

5. Train students to review and critique their peers' papers effectively and provide useful feedback. Use practice editing exercises in class or as homework and sample edited documents as teaching tools.

6. Include a debriefing session at the close of the exercise to assess student learning and performance and whether learning objectives were achieved. Also, use the debriefing session to evaluate the effectiveness of the peer-editing assignment and note any recommendations for future exercises.

Law faculty should seize the opportunity to answer the ABA's call for increased assessment opportunities by systematically incorporating well-structured peer-editing exercises in their curriculum. These exercises will have the benefit of providing immediate student feedback, promoting collaborative learning, and satisfying defined learning objectives. [FN246] Such peer-editing activities can be easily incorporated into the coursework along with discrete writing \*709 exercises. [FN247] As one educator so aptly stated, “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. Use peer editing. Send your students home tired and send yourself home sane.” [FN248] By introducing peer editing in all law school classes, even in small doses, students will not only become better writers but also come to view the educational process as a team effort and naturally see their law school colleagues as a writing community. [FN249]

#### \*710 Appendixes

A. Lawyering Process Course Design

B. Predictive Rule Proof--Peer-Editing Exercise and Peer Critique Sheet

C. Discussion Section--Peer-Editing Exercise and Peer-Editing Checklist

D. Persuasive Rule Proof--Peer Critique Sheet

#### \*711 Appendix A

Lawyering Process Course Design

Learning Goals

Assessment Methods

Instructional Activities

1. Accurately identify the holding, reasoning, and key facts in relevant authority	1. Predictive memo using 6 cases, interview memo, and depositions 2. Rule proof assignment 3. Peer-editing exercise	1. Brief cases 2. Dissect cases-group exercise 3. Draft rule proof 4. Complete peer-editing exercise
2. Effectively use relevant case authority to explain rules and related policy	1. Predictive memo using 6 cases, interview memo, and depositions 2. Peer-editing exercise	1. Brief cases 2. Prepare case and synthesis chart 3. Dissect cases-group exercise 4. Draft rule proof 5. Complete peer-editing exercise
3. Effectively use relevant case authority to make arguments using analogical reasoning	1. Predictive memo using 6 cases, interview memo, and depositions 2. Peer-editing exercise	1. Brief cases 2. Prepare case and synthesis chart 3. Dissect cases-group exercise 4. Prepare argument chart 5. Prepare chart that maps facts to related inferences 6. Draft rule proof 7. Complete peer-editing exercise
4. Communicate analysis in writing by drafting and editing legal memo	1. Predictive memo using 6 cases, interview memo, and depositions 2. Peer-editing exercise	1. Complete in-class editing session 2. Draft rule proof 3. Draft discussion section of memo 4. Complete peer-editing exercise
5. Work collaboratively to evaluate writing and provide constructive feedback for improvement	1. Peer-editing exercise	1. Complete group research project 2. Arrange students in law firm teams to complete hierarchy of authority and citation exercises 3. Team editing projects

### \*712 Appendix B

#### Predictive Rule Proof--Peer-Editing Exercise

Remember, the first rule of peer editing is to BE CONSTRUCTIVE. You are helping to improve someone else's work. Consider the tone of your commentary and make specific but practical suggestions. As you review your partner's rule proof, keep the following in mind:

Structural or organizational comments:

- If the writer has not used proper rule proof organization, note the problem in the margin and on the checklist. Use the format guidelines that we discussed in class.

- If the court's reasoning is hard to follow, comment on it.
- If the rule proof could be more concise and clear, suggest how the author might achieve this end.
- Include an endnote pointing out the strengths of the rule proof. Don't just focus on the weaknesses.

Stylistic changes:

- Only make stylistic changes if the author made a grammatical mistake, if a passage is awkward or if the writing is really unclear.
- Revise phrases that are wordy, convoluted or otherwise awkward or unclear.
- Identify grammatical errors.
- Check sentence structure.
- Check spelling and punctuation.

As mentioned above, be constructive. Try to make suggestions and corrections in a positive way. Also, be specific. Give the author specific ideas on how to improve his or her writing.

#### Predictive Rule Proof--Peer Critique Sheet

Editor's Name: Author's Name:

Please read your partner's Wilks rule proof for the awareness element. Remember, the rule proof should: (1) prove that the author's formulation of the test is correct and (2) lay a proper foundation for the argument section.

1. Does the topic sentence (leading sentence) properly orient the reader to the subject of this paragraph?

a. Circle: Yes or No

b. If no, please revise the topic sentence so it clearly orients the reader and introduces the subject.

2. Did the author include the court's holding on the awareness element?

a. Circle: Yes or No

b. If yes, please write "HO" in the margins of the paper next to the court's holding. If no, please make a notation as to where the court's holding should be added.

3. What key facts do you think should be included in the rule proof? Write them below.

**\*713** 4. Are the facts provided above relevant to the awareness element?

a. Circle: Yes or No

5. Are all of the facts listed in #3 included in the author's rule proof?

a. Circle: Yes or No

b. If no, what facts are missing from the rule proof? Write them below.

c. For each fact listed above in #5(b), why do you think the fact needs to be included in the rule proof? In other words, how is the fact relevant or key to the rule proof? For example, does it show a factual similarity or difference

between the case and Harrison's situation?

6. Does the author sufficiently explain the court's reasoning?

a. Circle: Yes or No

b. If yes, please write "RE" in the margins next to the court's reasoning. If no, please make a notation as to where the court's reasoning should be added.

c. How would you improve the statement of the court's reasoning in this rule proof? Please note any suggested edits on the rule proof.

7. Review the organization of the rule proof and your margin notes. Is the rule proof organized so there is a logical flow of the information? For example, do key facts appear in different places throughout the rule proof or together before the court's reasoning? Please note any suggested edits on the rule proof.

8. Re-read the rule proof for proper grammar and punctuation. Please mark any suggested revisions on the document.

9. Tell the author what you think he or she did well by completing one of the following sentences:

a. Your strongest section in this rule proof is (and why):

b. I liked the way you:

Please return the rule proof and this critique sheet to your partner.

#### \*714 Appendix C

#### Discussion Section--Peer-Editing Exercise

The first rule of peer editing is to BE CONSTRUCTIVE. Remember, you are helping to improve someone else's work. Consider the tone of your commentary and make specific but practical suggestions. In general, as peer editors, you should check the draft for large-scale organization, logic and reasoning, CRAC/CRRPAC structure, mistakes in grammar, punctuation and spelling, and citation errors. As you review the author's draft, keep the following in mind:

Structural or organizational comments:

- If the overall organization of the memo is flawed, suggest an alternative structure.
- If the writer has not used a CRAC or CRRPAC structure in each section, note the problem in the margin and on the checklist. Use the memo format guidelines that we discussed in class.
- If the reasoning is hard to follow, comment on it.
- If the memo could be more concise and clear, suggest how the author might achieve this end.
- Include an endnote pointing out the strengths of the memo. Don't just focus on the weaknesses.

Stylistic changes:

- Only make stylistic changes if the author made a grammatical mistake, if a passage is awkward or if the writing is really unclear.

- Revise phrases that are wordy, convoluted or otherwise awkward or unclear.
- Make sure authority is provided when needed.
- Identify grammatical errors.
- Check sentence structure.
- Check spelling and punctuation.

As mentioned above, be constructive. Try to make suggestions and corrections in a positive way. Also, be specific. Give the author specific ideas on how to improve his or her writing.

**\*715 Discussion Section--Peer-Editing Checklist**

Editor's Name: Author's Name:

Areas of Review	Criteria	Comments/Suggestions
Overall Conclusion	Clarity	
Overall Rule	Accuracy	
Element #1 (Close Relationship)	Accurate test Relevant fact(s) Clarity Conciseness	
Element #2 (Presence) • Test	Accuracy Clarity Citation and format	
• Rule Proof	Case selection Relevant v. irrelevant facts Clear holding Clear reasoning Clarity Accuracy Arrangement of ideas Guiding Reader	
• Application	Leading analogy/distinction Identify key relevant facts Specific factual support Clear inferences Link to test Clarity Arrangement of ideas	
Element #3 (Awareness) • Test	Accuracy Clarity Citation and format	
• Rule Proofs	Case selection Relevant v. Irrelevant facts Clear holding Clear reasoning Clarity Accuracy Arrangement of ideas Guiding Reader	
• Application	Leading analogy/distinction Identify	

key relevant facts Specific factual support  
Clear inferences Link to test Clarity  
Arrangement of ideas

Mechanics

Spelling Grammar Punctuation

Tell the author what you think he or she did well by completing one of the following sentences:

- \*716 • Your strongest section is (and why):
- I liked the way you:

\*717 Appendix D

#### Persuasive Rule Proof--Peer Critique Sheet

Editor's Name: Author's Name:

Please read your colleague's Johnson rule proof for the holding out to the public element. Remember, the rule proof should: (1) prove that the author's formulation of the test is correct and (2) set up the analysis.

1. Based on your initial reading of the rule proof, on a scale of 1-5 (1 low and 5 high), how persuasive is the rule proof? Does the rule proof favor Prentiss's, our client's, position?

a. Neutral /Unfavorable 1 2 3 4 5 Persuasive

2. Please briefly explain your answer.

Re-read the rule proof. Remember, Prentiss would analogize to Johnson for the holding out to the public element.

1. Underline or circle the language in the rule proof that favors Prentiss's position.

2. Did you identify any helpful language for Prentiss's position?

a. Circle: Yes or No

3. How would you improve the persuasiveness of this rule proof? Please note any suggested edits on the rule proof.

Please return the rule proof and this critique sheet to your colleague.

[FNal]. Director of Legal Writing and Assistant Professor of Law, Thurgood Marshall School of Law; J.D. 1997, Howard University School of Law; B.A. 1994, University of Virginia. The author also thanks her many first-year legal writing students at UCLA School of Law and Thurgood Marshall School of Law for actively participating in several peer reviews, and her 2009-2010 Lawyering Process class at Thurgood Marshall School of Law for offering very informative feedback. In addition, the author thanks Michael Hunter Schwartz, Laura Cisneros, Katherine Vukadin, and Rebecca

Stewart for their insightful comments; Shamia Cottrell for her research assistance; and Thurgood Marshall School of Law for supporting this research with a summer stipend.

[FN1]. Kathleen Magone, Peer Editing, in Gerald F. Hess & Steven Friedland, *Techniques for Teaching Law* 245, 245 (1999).

[FN2]. Memorandum from Randy Hertz, Chair, Council, Section of Legal Educ. & Admissions to the Bar, to Deans of ABA-Approved Law Schs. (Aug. 15, 2008), available at <http://www.abanet.org/legaled/committees/comstandards.html> (follow “2008 Comprehensive Review Memo” hyperlink).

[FN3]. Catherine L. Carpenter et al., Am. Bar Ass'n, Report of the Outcome Measures Committee 3 (2008), available at <http://www.abanet.org/legaled/committees/subcomm/Outcome%20Measures%20Final%20Report.pdf>.

[FN4]. Donald J. Polden, Am. Bar Ass'n, Statement of Principles of Accreditation and Fundamental Goals of a Sound Program of Legal Education 4 (2009), available at <http://apps.americanbar.org/legaled/committees/Standards%20Review%20documents/Principles%20and%20Goals%20Accreditation%205%206%2009.pdf>; see also Steve Bahls, Am. Bar Ass'n, Key Issues Considered by the Student Learning Outcomes Subcommittee 1 (2009), <http://apps.americanbar.org/legaled/committees/Standards%20Review%20documents/AALS%202010%20Meeting%20Materials/Learning%20Outcomes%20Discussion%20of%20Key%20Issues%20January%2010.doc>.

[FN5]. For background on learning outcomes and assessment methods for law schools, see Michael Hunter Schwartz et al., *Teaching Law by Design: Engaging Students from the Syllabus to the Final Exam* (2009); Gregory S. Munro, *Outcomes Assessment for Law Schools* (2000); Hess & Friedland, *supra* note 1.

[FN6]. See Gregory S. Munro, [How Do We Know If We Are Achieving Our Goals? Strategies for Assessing the Outcome of Curricular Innovation](#), 1 *J. Ass'n Legal Writing Directors* 229, 229 (2002). Notably, early drafts of proposed revisions to the ABA Standards for Approval of Law Schools specifically listed examples of valid and reliable assessment methods, ranging from student performance in simulations to compliance with an honor code. See Am. Bar Ass'n, Standards 301-305: Student Learning Outcomes 2 (Draft for Oct. 9-10, 2009 meeting), <http://www.abanet.org/legaled/committees/comstandards.html> (follow “Standards 301-305: Student Learning Outcomes” hyperlink under “Meeting Date: October 9-10, 2009”). Later proposals eliminate this detail and suggest that law schools need not apply a variety of assessment methods in each individual course but should use a variety of methods over the course of a student's education. See Am. Bar Ass'n, Report of Subcommittee on Student Learning Outcomes 4 (May 5, 2010 Draft), <http://www.abanet.org/legaled/committees/comstandards.html> (follow “Report of Subcommittee on Student Learning Outcomes” hyperlink under “Meeting Date: July 24-25, 2010”).

[FN7]. Munro, *supra* note 5, at 33 (“There is no system of assessment but, instead, nearly universal reliance on a final examination system whose real purpose is not to evaluate student competence but to sort and rank students by assigning grades.”).

[FN8]. See *id.* at 157 (addressing time concerns for increased assessment measures).

[FN9]. See *id.* at 36 (“Formative evaluation processes, in which students perform tasks, are evaluated, are provided feedback, and learn at the same time, are rare in law school, possibly because of large class sizes.”).

[FN10]. For example, in September 2009, the University of Denver, Sturm College of Law hosted a conference that ad-

dressed better methods of student, teaching, and institutional assessment. See Conference Schedule for Legal Education at the Crossroads v. 3: A Conference on Assessment, U. Denv., <http://law.du.edu/index.php/assessment-conference/program> (last visited Mar. 5, 2011). Also, the Charlotte School of Law held a similar one-day conference on May 27, 2010. See Assessment Conference, Charlotte Sch. L., <http://cslguides.charlottelaw.edu/content.php?pid=123677&sid=1062763> (last visited Mar. 5, 2011).

[FN11]. Munro, *supra* note 5, at 111 (“Law teachers have little knowledge of the broad range of assessment methods available, strengths and weaknesses of those methods, and their applicability for legal education.”).

[FN12]. See Terri LeClercq, [Principle 4: Good Practice Gives Prompt Feedback](#), 49 *J. Legal Educ.* 418, 425 (1999) (noting the need for faculty to also provide students with feedback because “students worry that peer responses are as un-informed as their own and not really trustworthy”).

[FN13]. Jo Anne Durako, *Peer Editing: It's Worth the Effort*, *Persps.*, Winter 1999, at 73, 77.

[FN14]. Best Practices and experts in learning theory direct professors to use multiple methods of assessment. See Roy Stuckey et al., *Best Practices for Legal Education: A Vision and a Road Map* 253-55 (2007); Schwartz et al., *supra* note 5, at 155-58.

[FN15]. See Stuckey et al., *supra* note 14, at 254, 256 (identifying peer assessment as a form of formative assessment); see also Schwartz et al., *supra* note 5, at 148. An earlier draft of proposed revisions to the ABA Standards for Approval of Law Schools specifically listed peer assessment as a viable internal measure when properly applied and weighed among other activities. See Am. Bar Ass'n, *Standards 301-305: Student Learning Outcomes*, *supra* note 6, at 6-7.

[FN16]. Susan M. Taylor, [Students As \(Re\)visionaries: Or, Revision, Revision, Revision](#), 21 *Touro L. Rev.* 265, 282 (2005) (commenting that many students find the peer-review exercise to be “one of the most valuable learning experiences of the semester and one that takes them far beyond what” the professor can teach them about their writing).

[FN17]. Ronald Barron, *What I Wish I Had Known About Peer-Response Groups but Didn't*, 80 *Eng. J.* 24, 34 (1991). One of my more introverted first-year students remarked how much she enjoyed the peer-editing class exercises and really appreciated the opportunity to read her classmate's work. This student shared that she not only learned her classmate was a very good writer, but also realized exactly what she could have done better in her own paper. I have found this experience with peer editing to be a common one among law students and one of the main reasons I believe peer editing should be incorporated more often, but effectively, in law school classrooms.

[FN18]. See, e.g., Lissa Griffin, [Teaching Upperclass Writing: Everything You Always Wanted to Know but Were Afraid to Ask](#), 34 *Gonz. L. Rev.* 45, 72-75 (1998) (using peer review in an upper-class writing course); Magone, *supra* note 1, at 245; Taylor, *supra* note 16, at 283-86; Terry Jean Seligmann, *Testing the Waters, Second Draft*, June 2001, at 12, 12 (noting how the professor first ventured “into peer collaborative exercises on written work with caution”). But see Karen J. Sneddon, *Revising Revision in the Classroom*, *Persp.*, Winter 2007, at 130, 131 (deciding to forgo traditional peer review in favor of having students revise the same writing sample created by the professor).

[FN19]. See, e.g., Howard E. Katz & Kevin Francis O'Neill, *Strategies and Techniques of Law School Teaching: A Primer for New (and Not So New) Professors* 38 (2009) (“Small group exercises have the beneficial side effects of modeling cooperative behavior[.]”); Schwartz et al., *supra* note 5, at 30-31 (discussing the need to provide opportunities for students to work with others).

[FN20]. See Sneddon, *supra* note 18, at 130 (“Peer review can be an invaluable tool for incorporating revision into the classroom. However, integrating peer review into the legal writing classroom can be tricky.”).

[FN21]. See Munro, *supra* note 6, at 236 (emphasizing the need for law school faculty to adopt active and collaborative teaching methods in the classroom).

[FN22]. LeClercq, *supra* note 12, at 425.

[FN23]. Lee-Ann Kastman Breuch, *Virtual Peer Review: Teaching and Learning About Writing in Online Environments* 9-10 (2004) (noting that peer review is also referred to as peer response, peer criticism, and peer evaluation); Barbara E. Fassler Walvoord, *Helping Students Write Well: A Guide for Teachers in All Disciplines* 111-18 (2d ed. 1986) (also referring to the process as using “student peer groups” and recognizing the difference between a response group and task group in which the collective body is responsible for a single piece of written work).

[FN24]. *Writing-Across-the-Curriculum and the Academic Library: A Guide for Librarians, Instructors and Writing Program Directors* xvi-xvii, 6 (Jean Sheridan ed., 1995) [hereinafter *Writing-Across-the-Curriculum*].

[FN25]. Breuch, *supra* note 23, at 9, 149; Nat'l Writing Project & Carl Nagin, *Because Writing Matters: Improving Student Writing in Our Schools* 27 (2006) (recognizing that, with peer review, students solicit critical feedback from peers and learn “to serve as a critical friend and audience for another's work, offering suggestions for revision.”); Kirsten K. Davis, *Designing and Using Peer Review in a First-Year Legal Research and Writing Course*, 9 *J. Legal Writing Inst.* 1, 1 (2003). By the phrase peer editing or peer review, I do not mean an alternative form of law school grading such as having students themselves serve as the initial graders of each other's work. Rather, with the peer-editing process, students will review, critique, and edit each other's work; responsibility for grading the underlying assignment will remain with the professor. Furthermore, students will assume an editor's role, going beyond mere proofreading. Compare Breuch, *supra* note 23, at 149-50 (defining peer review as an exchange of written work between colleagues), with Paul T. Wangerin, “Alternative” Grading in Large Section Law School Classes, 6 *U. Fla. J.L. & Pub. Pol'y* 53, 65-72 (1993) (advocating for a peer-review system in which students serve as the initial graders of coursework).

[FN26]. *Writing-Across-the-Curriculum*, *supra* note 24, at xvi-xvii.

[FN27]. *Id.* at xvi-xvii.

[FN28]. See Thomas L. Shaffer & Robert S. Redmont, *Lawyers, Law Students and People* 218 (1977) (providing excerpts from student surveys discussing the benefits of collaboration, such as minimizing insecurities, developing friendships, and expanding perspectives).

[FN29]. See Linda L. Berger, *Applying New Rhetoric to Legal Discourse: The Ebb and Flow of Reader and Writer, Text and Context*, 49 *J. Legal Educ.* 155, 180 (1999) (noting that peer writing groups “help students develop as readers and writers by letting them experience the collaboration of reader and writer to monitor, diagnose, and fix problems”).

[FN30]. See Shaffer & Redmont, *supra* note 28, at 218.

[FN31]. Shaffer & Redmont, *supra* note 28, at 212; Carol McCrehan Parker, *Writing Throughout the Curriculum: Why Law Schools Need It and How to Achieve It*, 76 *Neb. L. Rev.* 561, 587 (1997) (describing the benefits of peer review to students).

[FN32]. See Shaffer & Redmont, *supra* note 28, at 212; Katz & O'Neill, *supra* note 19, at 38 (“Small group exercises

have the beneficial side effects of modeling cooperative behavior and helping students get to know each other.”).

[FN33]. See Philip C. Kissam, *The Discipline of Law Schools: The Making of Modern Lawyers 50-57* (2003) (discussing the competitive nature of law school, especially with regard to law school examinations).

[FN34]. Hess & Friedland, *supra* note 1, at 131 (“Yet, collaborative skills have been recognized as important to society and to lawyering. Lawyers often work in firms, try cases in teams, and work with other attorneys to achieve mutual ends.”); Parker, *supra* note 31, at 587 (discussing the benefit of learning how to receive and give “constructive criticism when collaborating with colleagues, as they will be asked to do in practice”); Lucia Ann Silecchia, *Of Painters, Sculptors, Quill Pens, and Microchips: Teaching Legal Writers in the Electronic Age*, 75 *Neb. L. Rev.* 802, 831 (1996) (“Collaboration is more common in legal practice than students' academic experiences may suggest.”).

[FN35]. See Ann Piccard, *Using Peer Editing to Supplement Feedback*, Second Draft, June 2001, at 14, 14 (explaining that her legal writing program uses several peer-editing exercises in an effort to “level the playing field among diverse students, some of whom may, for example, live with an experienced lawyer whose input in any written assignments would give that student an unfair advantage over his or her classmates”).

[FN36]. See Jo Anne Durako et al., *From Product to Process: Evolution of a Legal Writing Program*, 58 *U. Pitt. L. Rev.* 719, 731 (1997) (discussing the benefit of introducing students to “real-world” criticism); Paula Lustbader, *Specific Ideas for Cooperative Learning and Small Groups*, in Hess & Friedland, *supra* note 1, at 137 (“[Collaborative learning exercises] help increase tolerance of difference because, in working in a more intimate environment, students learn to appreciate different points of view, learning styles, and approaches to problem solving.”); George A. Marcoulides & Mark G. Simkin, *The Consistency of Peer Review in Student Writing Projects*, 70 *J. Educ. for Bus.* 220, 220 (1995) (commenting that peer review is itself “a learning process that exposes students to the complexities of qualitative judgments of other people's work”).

[FN37]. See Davis, *supra* note 25, at 3.

[FN38]. *Id.* at 3.

[FN39]. See Durako et al., *supra* note 36, at 731 (incorporating peer editing into a legal writing course to “help students become accustomed to and more proficient at self-editing”); Craig Hoffman, *Involving Students in the Commenting Process*, Second Draft, June 2001, at 7, 7 (using peer review and recognizing that “students are intensely curious about what the other students have written; they want some notion of how they are doing relative to the rest of the class; and they are desperately eager to explain why they wrote the paper the way they did”).

[FN40]. Abigail Salisbury, *Skills Without Stigma: Using the JURIST Method to Teach Legal Research and Writing*, 59 *J. Legal Educ.* 173, 189 (2009).

[FN41]. This informal survey was completed by a section of Thurgood Marshall School of Law's Lawyering Process class, the first-year legal writing course, on February 16, 2010. Thurgood Marshall Survey Form (Feb. 16, 2010) (on file with author). Students completed the survey anonymously. The Thurgood Marshall Survey solicited narrative comments from the students and included a question that asked for the student's final thoughts about peer-editing exercises and whether the student would like to see other professors incorporate peer editing in their courses or with other writing assignments.

[FN42]. *Id.*

[FN43]. The rule proof is the explanation of the precedent case included in a memorandum or brief.

[FN44]. Thurgood Marshall Survey Form, *supra* note 41.

[FN45]. Salisbury, *supra* note 40, at 189.

[FN46]. Thurgood Marshall Survey Form, *supra* note 41.

[FN47]. Schwartz et al., *supra* note 5, at 147-48 (noting that from reading their peers' drafts, students can learn a lot about their own work and develop self-assessment skills); Salisbury, *supra* note 40, at 189 (“In the process of editing another person's work, [students] learn how to better edit their own writing.”); Beverly Petersen Jennison, *When Learning Styles Are Different: Suggestions for Teaching Law Students with Attention Deficit Disorder*, *Persp.*, Winter/Spring 2010, at 97,103 & n.16 (explaining the benefits of using peer-review sessions to assist students suffering from a disability such as attention deficit disorder and dyslexia).

[FN48]. Thurgood Marshall Survey Form, *supra* note 41.

[FN49]. *Id.*

[FN50]. Durako et al., *supra* note 36, at 731 (addressing the advantages of improving students' editing abilities and helping them become more sensitive to audience).

[FN51]. Kathleen Elliott Vinson, *Interactive Class Editing*, Second Draft, Nov. 1991, at 10, 10.

[FN52]. Schwartz et al., *supra* note 5, at 90; Vidya Singh-Gupta & Eileen Troutt-Ervin, *Preparing Students for Teamwork Through Collaborative Writing and Peer Review Techniques*, 23 *Teaching Eng. in the Two-Year C.* 127, 128 (1996), available at <http://www.ncte.org/journals/tetyc/issues/v23-2> (explaining that students “often feel empowered if given the opportunity to critique another person's work”).

[FN53]. Schwartz et al., *supra* note 5, at 30.

[FN54]. *Id.* at 143-48; see also Am. Bar Ass'n, 2009-2010 ABA Standards for Approval of Law School 22 (2009) (discussing rigorous requirements for legal writing programs, including feedback from the professor); Salisbury, *supra* note 40, at 189.

[FN55]. Schwartz et al., *supra* note 5, at 34 (providing excerpts from student survey responses about the need for feedback); Law Sch. Survey of Student Engagement, *Student Engagement in Law School: Enhancing Student Learning 7* (2009) (“Feedback from instructors plays an important role in student motivation and academic development.”); Law Sch. Survey of Student Engagement, *Student Engagement in Law School: Knowing Our Students 15* (2007) [hereinafter 2007 LSSSE Survey], available at [http://lssse.iub.edu/2007\\_Annual\\_Report/pdf/EMBARGOED\\_LSSSE\\_2007\\_Annual\\_Report.pdf](http://lssse.iub.edu/2007_Annual_Report/pdf/EMBARGOED_LSSSE_2007_Annual_Report.pdf) (charting prompt feedback received by students from professors).

[FN56]. As several scholars have confirmed, “[s]tudents learn if they can remember what they did, get the results, and can adjust accordingly.” Schwartz et al., *supra* note 5, at 147.

[FN57]. See *id.* (“Completing an assessment and getting feedback three weeks later has the opposite effect.... If students complete a longer or more complex assessment outside of class, feedback within a week or even a couple of weeks is

ok.”); LeClercq, *supra* note 12, at 421 (explaining that both prompt and delayed feedback have valuable place in the law school curriculum and the appropriate timing depends on the nature and purpose of the assignment).

[FN58]. See Ass'n of Legal Writing Dirs. & Legal Writing Inst., Report of the Annual Legal Writing Survey ix, 78-80 (2010), available at [http://www.alwd.org/surveys/survey\\_results/2010\\_Survey\\_Results.pdf](http://www.alwd.org/surveys/survey_results/2010_Survey_Results.pdf) (noting that, in addition to teaching their classes, professors have a host of other pressing responsibilities such as class preparation, problem creation, scholarship, committee meetings, and service commitments). In 2010, for example, legal writing professors spent an average of 34.98 hours preparing major research and writing assignments for their classes and 72.84 hours preparing for class instruction, just for the fall semester. *Id.* at 79. Although student feedback is vital to skill development, many professors may feel there is not enough time to provide frequent detailed feedback and formative assessment. See Munro, *supra* note 5, at 157.

[FN59]. Davis, *supra* note 25, at 2.

[FN60]. See Munro, *supra* note 6, at 238 (sharing his experience that “faculty, when first presented with assessment alternatives, feel overwhelmed and think any change in assessment necessarily involves a substantially increased time demand”).

[FN61]. Marcoulides & Simkin, *supra* note 36, at 220 (“One of the most compelling reasons for using peer reviews of student writing is the large amounts of time that instructors can save by doing so.”); Salisbury, *supra* note 40, at 189; see Mary K. Healy, Using Student Writing Response Groups in the Classroom, in *Teaching Writing: Essays from the Bay Area Writing Project* 266 (Gerald Camp ed., 1982). It is important to recognize that peer review is not a complete substitution for professor feedback. Peer review can be used alone for certain exercises when professors provide students with individual or group feedback on other related assignments. Peer-review exercises should be used in combination with other feedback and assessment measures. See Schwartz et al., *supra* note 5, at 148.

[FN62]. See Arthur W. Chickering & Zelda F. Gamson, Seven Principles for Good Practice in Undergraduate Education, *Am. Assoc. for Higher Educ. Bulletin*, Mar. 1987, at 3, 3 (emphasizing that best practices in teaching develops reciprocity and cooperation among students).

[FN63]. Robin A. Boyle & Rita Dunn, [Teaching Law Students Through Individual Learning Styles](#), 62 *Alb. L. Rev.* 213, 242 (1998) (recognizing that, although small-group instruction may not be effective for all students, they “are especially appropriate for students who are peer-oriented, motivated, persistent, and responsible”); Griffin, *supra* note 18, at 74 (noting that peer review “provides an alternative method of learning for those with different learning styles”).

[FN64]. Schwartz et al., *supra* note 5, at 90 (“[W]hen teachers create learning activities in which students develop their own insights and must manifest their developing expertise, ... the teachers convey their belief that the students are capable.”).

[FN65]. *Id.*

[FN66]. Dan Kirby et al., *Inside Out: Developmental Strategies for Teaching Writing* 216-17 (3d ed. 2004) (discussing grading students and evaluating their progress as one of the toughest jobs in teaching); Griffin, *supra* note 18, at 74 (“[T]he reviewer will experience first-hand the disorienting frustration of trying to follow a discussion that is not explicitly and clearly connected to the reader's thesis, the loss of reliability caused by a messy product, and the lack of credibility that results from sloppy language.”).

[FN67]. At Thurgood Marshall School of Law, legal writing professors use the acronym CRRPAC (Conclusion, Rule, Rule Proof, Application, Conclusion) to teach students how to structure the discussion of each element or issue in a memorandum or brief. The “RP,” or rule proof, is the explanation of the precedent case.

[FN68]. See H. P. Southerland, [English as a Second Language--Or Why Lawyers Can't Write](#), 18 *St. Thomas L. Rev.* 53, 63 n.35 (2005) (remarking that the law review editing experience “must often resemble the case of the blind leading the blind”).

[FN69]. See Marcoulides & Simkin, *supra* note 36, at 220 (“Practical obstructions include such matters as large class sizes, limited grading assistance, a fear that such work detracts from higher priority course activities, and an absence of professional rewards for time spent grading papers.”); Healy, *supra* note 61, at 289 (discussing steps to guard against students ignoring the assigned group work).

[FN70]. See Durako, *supra* note 13, at 73-74. One Thurgood Marshall Survey response inquired whether the class was “adequately prepared for the exercise.” However, based on the surveys, no other students appeared to share this concern. Overall, the students appreciated the opportunity to further develop their writing and editing skills. Thurgood Marshall Survey Form, *supra* note 41.

[FN71]. See Davis, *supra* note 25, at 3-4.

[FN72]. Anne M. Enquist, [Unlocking the Secrets of Highly Successful Legal Writing Students](#), 82 *St. John's L. Rev.* 609, 657-59 (2008) (describing a peer-editing activity in which students critiqued parts of a graded appellate brief and noting their concerns that the exchange “generally benefitted weaker students at the expense of stronger students”).

[FN73]. Schwartz et al., *supra* note 5, at 29.

[FN74]. In the Thurgood Marshall Survey, a few students commented that they did not have sufficient time to complete the exercise. One stated that she “would have liked a little more time to go in depth [with] revising[.]” Another asked for just “5 minutes more” when reviewing longer papers, such as memoranda. Also, one student remarked that he needed more time because he tends to be “overly detailed.” Still, even with these comments, the majority of students felt as though they had enough time for the assignment and one student even stated “there was more than enough time.” Thurgood Marshall Survey Form, *supra* note 41.

[FN75]. Schwartz et al., *supra* note 5, at 31.

[FN76]. See Greg Sergienko, [New Modes of Assessment](#), 38 *San Diego L. Rev.* 463, 479 (2001) (offering that finding appropriate ways to let peer assessment be conveyed, and in turn making both self and peer assessment as effective as possible, is underdeveloped in the law school classroom).

[FN77]. Barron, *supra* note 17, at 24.

[FN78]. In designing a course, leading experts encourage professors to take the time to develop and write out course goals. “Although a few law professors have developed explicit, written statements of their teaching goals, we all teach as if we do have such goals.” Schwartz et al., *supra* note 5, at 38 (also noting there are a variety of terms for a “goal” such as instructional goal, instructional objectives, outcomes, learning goals, etc.); cf. Munro, *supra* note 6, at 232 (“It is not enough for the faculty ... to have a vague outline of outcomes in their heads or for individual faculty members to have detailed sets of outcomes to which they as teacher aspire. Outcomes should be explicit and known to those who will strive to meet them.”).

[FN79]. Schwartz et al., *supra* note 5, at 14.

[FN80]. Outcomes and Assessment Webinar (Stetson Univ. Sch. of Law Sept. 16, 2009) (available with subscription at <http://www.law.stetson.edu/ARC>).

[FN81]. See *id.*

[FN82]. Schwartz et al., *supra* note 5, at 39.

[FN83]. *Id.* at 40.

[FN84]. For additional information on how to draft course goals and objectives, see Schwartz et al., *supra* note 5, at 37-54; Outcomes and Assessment Webinar, *supra* note 80.

[FN85]. Munro, *supra* note 6, at 232-33 (discussing the fundamental lawyering skills provided in the MacCrate Report).

[FN86]. Schwartz et al., *supra* note 5, at 40.

[FN87]. *Wilks v. Hom* involves a claim for negligent infliction of emotional distress under California law. 3 Cal. Rptr. 2d 803, 806 (Cal. Ct. App. 1992).

[FN88]. Under California law, a plaintiff must prove the following elements to establish a claim for negligent infliction of emotional distress: close relationship to the victim, presence at the scene of the event, awareness that the event was causing injury to the victim, and damages. *Id.*

[FN89]. See Nat'l Writing Project & Nagin, *supra* note 25, at 76 (“Whatever assessment instruments are used for writing, they must be explicitly connected and appropriate to curricular aims, standards, [and] instructional needs ....”).

[FN90]. See Schwartz et al., *supra* note 5, at 68-71 (instructing professors to use action verbs to identify objectives that serve as the foundation for each class).

[FN91]. *Id.*

[FN92]. The peer-editing checklist is discussed in detail later in Part II of this Article. The checklist for the predictive rule proof exercise is included in Appendix B. This checklist can be revised to address only a select few of the objectives.

[FN93]. Schwartz et al., *supra* note 5, at 68 (proposing that one to three class objectives are generally appropriate for a one-hour class session and also including examples of lesson objectives that exceed this number).

[FN94]. The template used to organize the information in chart form was introduced by Linda Anderson during a webinar session. See Outcomes and Assessment Webinar, *supra* note 80. The content included in the completed chart (Appendix A) was prepared to finalize a peer-editing session conducted in a Lawyering Process class at Thurgood Marshall School of Law.

[FN95]. See Judy Rosenbaum & Cliff Zimmerman, *Fostering Teamwork Through Cooperative and Collaborative Assignments*, Second Draft, June 2001, at 7, 8 (discussing timing issues).

[FN96]. Durako, *supra* note 13, at 73 (“The professor must budget time for creating the peer-editing exercise, preparing

the instructions, explaining the assignment, and reviewing the results of the peer edits. Similarly, students also need time ... to complete the peer edits.”); Paula Lustbader, *Some Tips on Using Collaborative Exercises*, L. Tchr., Spring 1994, at 9, 9, available at <http://lawteaching.org/lawteacher/1994spring/lawteacher1994spring.pdf> (recognizing the considerable time that peer review consumes, but extolling its benefits); Libby A. White, *Peering Down the Edit*, Persp., Spring 2008, at 160, 160 (“Compounding this difficulty is finding the time for the students to perform the peer edit within the short time frame of a strict curriculum.”).

[FN97]. Rosenbaum & Zimmerman, *supra* note 95, at 8 (recognizing that their peer-review session could be improved by “assigning the work later to better fit students' learning patterns and confidence levels”).

[FN98]. Seligmann, *supra* note 18, at 12 (explaining that she administers peer-review exercises later in the semester when students feel more comfortable sharing their work).

[FN99]. During the spring semester, I continue to use peer review on persuasive rule proof exercises and certain other short writing assignments.

[FN100]. Rosenbaum & Zimmerman, *supra* note 95, at 8 (listing the many cooperative exercises their students completed early in the year).

[FN101]. Seligmann, *supra* note 18, at 12.

[FN102]. White, *supra* note 96, at 164.

[FN103]. See Cara Cunningham & Michelle Streicher, *The Methodology of Persuasion: A Process-Based Approach to Persuasive Writing*, 13 J. Legal Writing Inst. 159, 165-67 (2007) (outlining a peer-editing exercise on an appellate brief conducted outside of class that takes one week for the entire review process, including the critique and meetings with the partner to discuss their comments).

[FN104]. White, *supra* note 96, at 162, 164.

[FN105]. See *id.* at 162 (explaining that she gave students one fifty-minute session to edit a four-page memorandum but later found out more time was needed to complete the edit, which yielded student frustration and mixed results for the exercise).

[FN106]. Barron, *supra* note 17, at 26 (“If a group gets too large, some students may be left out of the discussion .... On the other hand, if a group is too small, students do not get sufficiently diversified responses to their papers, thus limiting the value of peer response.”).

[FN107]. See Breuch, *supra* note 23, at 149 (discussing peer-review partners).

[FN108]. See Davis, *supra* note 25, at 6 (explaining the advantages of assigning students to a three-person editing group); White, *supra* note 96, at 160 (commenting that, for the first open memorandum, she requires her students to evaluate and edit the writing of two peers).

[FN109]. See Jean Jensen, *Sequences of Instruction*, 9-12, in *Teaching Writing*, *supra* note 61, at 24, 31 (recognizing that, at times, the instructors in the project select the peer teams, but most often they allows students to group themselves, finding self-selected groups work more efficiently).

[FN110]. Davis, *supra* note 25, at 6; Parker, *supra* note 31, at 587 n.103 (stating that, to guard against potential problems, professors “organize the exercise in groups of three to five students so students can review and hear reviews of several papers”).

[FN111]. Taylor, *supra* note 16, at 285 (noting that she has successfully used small groups of about four students for peer reviews); Barron, *supra* note 17, at 26 (noting that, for a composition assignment, an efficient peer group of four people can provide useful feedback on four papers in a fifty- or sixty-minute class session); Jane Muller-Peterson, *A Collaborative Approach to Teaching Legal Analysis*, Second Draft, June 2001, at 1, 4 (describing her peer-review session with a four-person discussion group); White, *supra* note 96, at 161 (commenting that she had students who realized their memos needed much work when they were critiqued by three people with comments that consistently identified the same concern, which brought home to the students that she was not out to get them and that they should work harder).

[FN112]. See Seligmann, *supra* note 18, at 12 (explaining that she has students exchange their papers with a classmate, a partner, for in-class peer reviews); see also Breuch, *supra* note 23, at 149 (“Peer review can be conducted in paired students groups.... Generally peer review in pairs can be completed in one class period.”); Cunningham & Streicher, *supra* note 103, at 165-67 (describing a peer-review assignment on an appellate brief that was conducted outside of class with a single partner).

[FN113]. See Barron, *supra* note 17, at 30 (positing that relying on one person for a peer response limits the value of the technique).

[FN114]. In a couple of Thurgood Marshall Survey responses, students mentioned that their particular partners may not have been sufficiently “knowledgeable” and “prepared” to provide them with adequate feedback. This presents a strong argument for changing peer partners with each exercise. Thurgood Marshall Survey Form, *supra* note 41. By working with a new partner on each assignment, students will receive wide-ranging feedback. Plus, additional editing exercises assigned as homework or sessions supervised by teaching assistants would assist weaker students to be better prepared for future peer-review assignments.

[FN115]. Hess & Friedland, *supra* note 1, at 134 (discussing how to create collaborative groups).

[FN116]. *Id.*; cf. Singh-Gupta & Troutt-Ervin, *supra* note 52, at 127, 129 (explaining the changing face of the modern workplace in business and industry and advocating that professors purposely mix student groups to be heterogeneous, not permitting friends to work together, to encourage sensitivity to different cultures, backgrounds, and perspectives). But see Barron, *supra* note 17, at 28 (“Since rapport contributes to the effectiveness of a group, I allow students the option of setting up their own peer groups [.]”); Piccard, *supra* note 35, at 14 (describing a peer-review exercise in which she allows students to exchange their papers with a classmate of their choice).

[FN117]. Lustbader, *supra* note 36, at 138.

[FN118]. See Walvoord, *supra* note 23, at 111 (“Groups whose members read one another's drafts may best be kept constant, since the building of trust is crucial to good draft response.”); Lustbader, *supra* note 96, at 9 (“Students can be grouped randomly, based on similar ability, or based on mixing strong students with weak students.”).

[FN119]. Barron, *supra* note 17, at 28. For collaborative group work that does not involve peer writing or editing, such as role-playing exercises, I have encouraged students to select a partner on the other side of the classroom. Typically, this arrangement still results in heterogeneous group make-up.

[FN120]. See also Elizabeth Fajans, Learning from Experience: Adding a Practicum to a Doctrinal Course, 12 J. Legal Writing Inst. 215, 220-21 (2006) (discussing the difficulty of pairing students effectively given that societal factors such as race, gender, sexual orientation, and socioeconomic status “occasionally impede student interactions, as do varying abilities”).

[FN121]. Vernellia R. Randall, [Increasing Retention and Improving Performance: Practical Advice on Using Cooperative Learning in Law Schools](#), 16 T.M. Cooley L. Rev. 201, 240 (1999).

[FN122]. *Id.* at 241 (noting that avoiding the isolation of students from under-represented groups is “especially important if the groups are to be kept together over a long period”).

[FN123]. See White, *supra* note 96, at 160, 163-64 (addressing the varying opinions regarding anonymous reviews).

[FN124]. See Durako et al., *supra* note 36, at 743-44 (discussing how the legal writing department at Villanova University School of Law changed its peer-editing exercise to be anonymous and, in turn, increased the effectiveness of the teaching innovation); Durako, *supra* note 13, at 75 (noting that the change to anonymous work allowed more candid responses); White, *supra* note 96, at 160 (explaining that she and her colleagues use an anonymous review for their peer-editing exercises with the first open memorandum).

[FN125]. Parker, *supra* note 31, at 587 n.103 (suggesting that professors, “at least at first, organize face-to-face, rather than anonymous, reviews”).

[FN126]. Thurgood Marshall Survey Form, *supra* note 41.

[FN127]. The debriefing session is discussed in more detail *infra* Part II.C of this Article.

[FN128]. Kirby et al., *supra* note 66, at 234 (“[When students] write pieces they know will be read and graded by their peers, they seem to take more care and work with real purpose on the assignment.”); White, *supra* note 96, at 160.

[FN129]. White, *supra* note 96, at 164 (“Lack of anonymity also reflects the practice of commenting on documents post-law school.”).

[FN130]. See Walvoord, *supra* note 23, at 112 (“When groups are to respond to drafts, give them a chance to meet together in less threatening ways first.”).

[FN131]. Sophie Sparrow, Taking a Small Step Toward More Assessments, L. Tchr., Fall 2009, at 1, 2, available at <http://lawteaching.org/lawteacher/2009fall/lawteacher2009fall.pdf>; White, *supra* note 96, at 162 (advocating the use of a checklist that lists the specific requirements for each section in order to reduce the problem of incorrect comments on peer edits); Vincent Kovar, Complete the Learning Cycle with Peer Editing, Writing Tchr. (Mar. 3, 2010, 9:00 AM), <http://www.thewritingteacher.org/writing-blog-home/2010/3/3/complete-the-learning-cycle-with-peer-editing.html> (explaining that instructors should create a peer-edit rubric that targets the objectives for the assignment, includes details and examples of both good and poor writing, and lists common errors).

[FN132]. Taylor, *supra* note 16, at 285; see also LeClercq, *supra* note 12, at 425 (“Whenever you ask students to comment on their peers' writing or thinking, it is important to offer a clear set of criteria to apply.”).

[FN133]. See, e.g., Taylor, *supra* note 16, at 286 (noting that, for first drafts, one could focus on the students' use of authority and case analysis, whereas, for final drafts, one could focus on persuasiveness or sentence and paragraph struc-

ture).

[FN134]. Walvoord, *supra* note 23, at 112-13 (recognizing that by structuring the group's task more carefully, many instructors have improved their exercises and would not think of teaching without the power of group response).

[FN135]. Taylor, *supra* note 16, at 285 (commenting that by using checklists for group peer-review exercises, the criteria the professor uses becomes readily familiar to the students); Muller-Peterson, *supra* note 111, at 4 (highlighting that the criteria the professor used in evaluating legal analysis became increasingly familiar to her students through the peer-editing checklist).

[FN136]. LeClercq, *supra* note 12, at 425 (explaining that, in setting the tone for peer responses, the professor could ask the students to review their classmate's paper as if they were "another lawyer working on the same team toward the same goal").

[FN137]. See Appendix B for an example.

[FN138]. See, e.g., Taylor, *supra* note 16, at 285 (providing examples of criteria to be included in peer-review checklists).

[FN139]. Kirby et al., *supra* note 66, at 234 (explaining the importance of having explicit criteria when involving students in the evaluating and grading process); Madeleine Schachter, *The Law Professor's Handbook: A Practical Guide to Teaching Law 210* (2004) ("The visceral task of having to complete a prepared form tacitly suggests that the student is expected to delimit strengths and weaknesses, rather than to engage in only a cursory review and merely offer a conclusory overall comment."); Writing-Across-the-Curriculum, *supra* note 24, at 117 (noting that professors must create relevant learning tasks).

[FN140]. Piccard, *supra* note 35, at 14 (recognizing that participation rates were low when the exercise was optional, but that the exercise has been favorably received by students when a required assignment).

[FN141]. Durako, *supra* note 13, at 76 (encouraging professors to give some form of credit for peer review, even if it is a check plus, so students sense that they value the skill).

[FN142]. Lustbader, *supra* note 36, at 139 (discussing steps on how to build accountability in collaborative learning).

[FN143]. Enquist, *supra* note 72, at 659.

[FN144]. See Sergienko, *supra* note 76, at 483 ("Even in ungraded [peer] work, the ... incentive to provide effective criticism exists if success on the exercise has significance to the students.").

[FN145]. See Hess & Friedland, *supra* note 1, at 131 ("The culture of law school is a competitive one[.]"); Shaffer & Redmont, *supra* note 28, at 212 ("But there is something which compels competitive strategies, even when collaboration works better. To put that most pragmatically, cooperation in studying law is a winning strategy, but, despite this fact, students often choose to compete."); Davis, *supra* note 25, at 4 (recognizing the need to design a peer-review exercise that avoids the risk of students' fear that sharing their work with or giving constructive feedback to classmates might give their classmates an unfair advantage in grading); Seligmann, *supra* note 18, at 13 (noting that, when she pre-announced a voluntary peer collaborative exercise for an appellate brief in preparation for oral arguments, some class members stayed away).

[FN146]. Barron, *supra* note 17, at 24 (“Prior to working in response groups, students must understand the purpose.”).

[FN147]. Legal writing professors often describe the process of introducing a new exercise to the class to garner student enthusiasm and participation as the “sell” or the “pitch.” See, e.g., Durako, *supra* note 13, at 75 (discussing the author's effort to refine her “sales pitch” over the years to explain explicitly how the peer-editing process helps the reader).

[FN148]. Barron, *supra* note 17, at 24 (commenting that evaluating the paper's worth or conducting an error hunt are not goals of a good responder, who should instead treat the paper as a work in progress and assume the role of a sympathetic reader).

[FN149]. Schwartz et al., *supra* note 5, at 31.

[FN150]. Cf. Hoffman, *supra* note 39, at 7 (describing a self-evaluation exercise in which students did not know they would be exchanging papers, but realized their work may be seen by another student going forward).

[FN151]. See Lustbader, *supra* note 36, at 139 (explaining how both stronger and weaker students benefit from collaborative group work).

[FN152]. Thurgood Marshall Survey Form, *supra* note 41. Such situations serve as support for changing peer-editing teams with each exercise or even enlarging the group to provide for varied feedback.

[FN153]. Thurgood Marshall Survey Form, *supra* note 41.

[FN154]. Durako, *supra* note 13, at 75.

[FN155]. See Piccard, *supra* note 35, at 14; see Robert J. Garmston, Can Collaboration Be Taught?, *J. Staff Dev.*, Fall 1997, at 44, 44, available at <http://www.osceola.k12.fl.us/depts/ResearchEvalAcct/documents/CanCollaborationBeTaught.pdf> (noting that effective collaboration requires students to refine their communication skills, develop strategies for problem solving and resolving differences, and establish capacities for self assertion, metacognition, and integration).

[FN156]. Melissa J. Shafer, *In-Class Exercises that Foster Student Collaboration*, Second Draft, at 13, 13.

[FN157]. Durako, *supra* note 13, at 75.

[FN158]. Shafer, *supra* note 156, at 13 (explaining a project where student groups were asked to evaluate a particular website for its usefulness).

[FN159]. Munro, *supra* note 5, at 149 (describing a program at the University of Montana in which first-year students organized in law firms meet twice weekly to practice various lawyering skills and resolve ethical dilemmas under the direction of a student-teacher assistant).

[FN160]. Katherine Vukadin, a legal writing professor at Thurgood Marshall School of Law, successfully uses law firm groups in her classes and offered these particular group exercises as examples. The law firms receive points from participating and volunteering to answer questions and share their work with the class. At the end of the semester, the team with the most points receives a prize.

[FN161]. Pamela Rogers Melton, *Click to Refresh: Audience Response Systems in the Legal Research Classroom*, *Per-sp.*, Spring 2009, at 175, 176.

[FN162]. *Id.*

[FN163]. Shafer, *supra* note 156, at 14.

[FN164]. See Vinson, *supra* note 51, at 10 (noting the importance of editing in the writing process).

[FN165]. White, *supra* note 96, at 163.

[FN166]. See Barron, *supra* note 17, at 24 (“[S]tudents need to study what peer-response groups do and then practice using peer-response techniques.”); see also Mary Beth Beazley, *The Self-Graded Draft: Teaching Students to Revise Using Guided Self-Critique*, 3 *J. Legal Writing Inst.* 175, 175 (1997) (using self-editing sessions to improve students' writing and editing).

[FN167]. Barron, *supra* note 17, at 26.

[FN168]. See, e.g., Berger, *supra* note 29, at 179 (explaining an exercise in which students “respond to good and bad samples of prior students' earlier work”).

[FN169]. See, e.g., Ariana Levinson, *A Potpourri of Technology*, Second Draft, Spring 2009, at 21, 21; Vinson, *supra* note 51, at 10 (describing an exercise in which students edit the discussion section of an office memorandum). Google Docs is an online word processor and presentation editor that enables professors and students to create, store, and share documents instantly, and collaborate online in real time. Professors can decide who will access and edit documents and can individually access student participation and content. Google Docs helps promote group work and peer-editing skills.

[FN170]. Shafer, *supra* note 156, at 14.

[FN171]. Cliff Zimmerman, *In-Class Editing Sessions*, Second Draft, May 1991, at 7, 7.

[FN172]. *Id.*

[FN173]. *Id.*

[FN174]. *Id.*

[FN175]. *Id.*

[FN176]. Barron, *supra* note 17, at 26.

[FN177]. See Ruth Anne Robbins, *Varying the Traditional Methods of Peer Editing*, Second Draft, June 2001, at 15, 15-16 (explaining that for editing exercises in her advanced writing class, she does not use really “terrible briefs” or “good ones”).

[FN178]. See *id.* at 16.

[FN179]. Tom Goldstein & Jethro K. Lieberman, *The Lawyer's Guide to Writing Well* 237-40 (2d ed. 2002).

[FN180]. *Id.* at 241-48.

[FN181]. I typically devote several class sessions to editing exercises. These exercises cover a variety of topics including basic writing skills (grammar, punctuation, and word choice), proper small-scale and large-scale organization for legal

documents, and argument structure. I even post additional exercises on my course page for students who want more editing practice. In addition, students practice their editing skills as they work to revise each writing assignment. But see Durako, *supra* note 13, at 74 (noting that training should not take much time, especially given that students increasingly come to law school having done peer editing before in undergraduate or graduate school).

[FN182]. There are several legal writing textbooks and handbooks that include sections on editing and proofreading. See, e.g., Deborah E. Bouchoux, *Aspen Handbook for Legal Writers* 209-12 (2005) (including proofreading for other writers); Christine Coughlin et al., *A Lawyer Writes: A Practical Guide to Legal Analysis* 243-67 (2008); Ian Gallacher, *A Form and Style Manual for Lawyers* 183-93 (2005); Bryan A. Garner, *The Redbook: A Manual on Legal Style* 319-22 (2d ed. 2006); Laurel Currie Oates & Anne Enquist, *The Legal Writing Handbook: Analysis, Research and Writing* (5th ed. 2010).

[FN183]. Elizabeth Fajans & Mary R. Falk, *Scholarly Writing for Law Students* 153-71 (3d ed. 2005). Although the thrust of the book is to educate students about scholarly writing for law reviews, the editing advice, concepts, and tone would assist any professor in explaining the peer editor's role. Notably, the authors compare editing to working as a midwife. *Id.* at 153, 159-63. As an editor, the student's job is to assist the author in delivering the best piece possible. *Id.* at 153-54 ("Editors are not writers, not even ghostwriters. They do not make or alter meaning. They do not impose their style upon others.").

[FN184]. *Id.* at 162-63.

[FN185]. *Id.* at 163.

[FN186]. Goldstein & Lieberman, *supra* 179, at 229-35.

[FN187]. Breuch, *supra* note 23, at 150-51 (noting that reviewers need to be prepared to offer specific positive comments that help the author improve his writing).

[FN188]. *Id.* at 150-51.

[FN189]. *Id.* at 151.

[FN190]. *Id.* at 153.

[FN191]. Ulle Erika Lewes, *Peer Evaluation in a Writing Seminar*, ERIC Digests, 1981, at 4.

[FN192]. *Id.*

[FN193]. See Breuch, *supra* note 23, at 149-55 (outlining sample peer-review and technology instructions that provide helpful information for students about to embark on a peer-editing exercise); Fajans & Falk, *supra* note 183, at 166-70 (describing the types of feedback and providing annotated examples of an editor's comments). Professors also may choose to adopt teaching strategies employed in primary education, such as the ReadThinkWrite model. The ReadThinkWrite model is a three-step peer-editing process that teaches the techniques of revising expository writing where students compliment, make suggestions, and then correct the paragraph. See Walvoord, *supra* note 23, at 113 (providing sample student guide for discussion of draft papers).

[FN194]. See, e.g., Ann McNeal, *Peer Editing Students' Papers*, Hampshire C., [http://helios.hampshire.edu/~apmNS/design/RESOURCES/PEER\\_ED.html](http://helios.hampshire.edu/~apmNS/design/RESOURCES/PEER_ED.html) (last visited Mar. 5, 2011) (offering general

guidance on providing feedback to peers); Technical Editing: How Not to Edit Your Colleague's Work, Klariti, <http://www.klariti.com/business-writing/How-to-edit.shtml> (last visited Mar. 5, 2011) (noting the importance of being considerate).

[FN195]. Barron, *supra* note 17, at 25 (describing one training method where the professor provides the class with particularly good examples of peer-response work done by students during previous years); Durako, *supra* note 13, at 76 (“Give students a model of an excellent peer edit[.]”).

[FN196]. See Marcoulides & Simkin, *supra* note 36, at 220-24; White, *supra* note 96, at 164 (acknowledging that providing training to students simply through handouts and feedback limited the quality of peer edits for some students).

[FN197]. Writing-Across-the-Curriculum, *supra* note 24, at 117.

[FN198]. See *id.* (providing that professors must create and provide peer-review teams with relevant learning tasks or guidelines for evaluating student work). See Appendixes B, C, and D for sample peer-editing critique sheets or checklists. Appendix B is a checklist for a predictive rule proof or case explanation exercise. Appendix C is a peer-editing critique sheet that guides a student's review of the argument section of a predictive memorandum. Appendix D is a peer-review questionnaire I use for a short exercise in which students evaluate the organization, content, and persuasiveness of a rule proof or case explanation included in a brief. Depending on the assignment, professors can cover all of the learning objectives addressed in these sample checklists or limit the exercise to just a few goals or topics.

[FN199]. Given that professors ideally addressed these topics when first introducing the peer-editing assignment, they should need to spend only approximately ten minutes outlining the phases and reviewing the checklist.

[FN200]. See generally Breuch, *supra* note 23, at 151 (advocating a peer-review session in which there is an opportunity for active dialogue throughout the exercise); Seligmann, *supra* note 18, at 12 (describing a peer-review exercise where students begin talking to each other about their thoughts on the memos while they are reading and critiquing their partner's work).

[FN201]. See Writing-Across-the-Curriculum, *supra* note 24, at 117 (stating that peer-review groups must be carefully monitored by the professor); Seligmann, *supra* note 18, at 12 (explaining that she circulates in the room listening quietly and encouraging conversation).

[FN202]. See Taylor, *supra* note 16, at 285 (advocating that professors should circulate around the room, listening to student groups and interrupting them when a problem arises); see also Walvoord, *supra* note 23, at 116-17 (encouraging professors to use their presence in the group to guide the students' interaction).

[FN203]. See Hess & Friedland, *supra* note 1, at 247 (recommending professors provide students with a formal checklist); see also Barron, *supra* note 17, at 29 (“[T]he use of response groups does not preclude teacher input, but it does change the nature of the input.”).

[FN204]. See, e.g., Muller-Peterson, *supra* note 111, at 4 (noting that when she detected areas of general concern, she interrupted the session and spoke to the entire group). Furthermore, during an in-class exercise and as they observe group work, professors should gauge how far students have completed the assigned tasks and determine whether a few more minutes are needed to complete the exercise. I typically make an announcement to the class when five minutes remain and then when one minute remains for the critiquing period. Again, monitoring peer teams and their engagement levels guards against any distracting behavior, as professors can conclude the exercise if students finish early.

[FN205]. Lustbader, *supra* note 96, at 9 (advocating that the instructor “be actively involved with the groups” and “help group members who are having difficulty with the assignment”); White, *supra* note 96, at 162 (recognizing the potential downside of having a “newbie editor” say the wrong thing).

[FN206]. Lustbader, *supra* note 36, at 139.

[FN207]. Nat'l Writing Project & Nagin, *supra* note 25, at 77.

[FN208]. Munro, *supra* note 6, at 229, 236; see also Munro, *supra* note 5, at 156 (“[Assessment] provides the feedback for students that is integral to teaching and learning.”); C.R. Snyder, *The Psychology of Hope: You Can Get There from Here* 29 (1994) (“Assessment is fundamental to understanding and especially in regards to your level of hope.”).

[FN209]. Barron, *supra* note 17, at 24.

[FN210]. To ensure fairness, some legal writing programs have a strict rule prohibiting students from working together on substantive writing assignments. We have a similar rule at Thurgood Marshall School of Law, but make an exception for peer-editing exercises.

[FN211]. See LeClercq, *supra* note 12, at 419.

[FN212]. Lustbader, *supra* note 36, at 139.

[FN213]. *Id.*

[FN214]. See Sparrow, *supra* note 131, at 2 (“Reviewing their classmates' work, applying a checklist, and reviewing a sample answer provides students with immediate feedback on how well they are performing in the course.”).

[FN215]. Walvoord, *supra* note 23, at 114 (encouraging instructors to be available for conference with students after the exercise to allay any students' anxiety about the feedback); Marcoulides & Simkin, *supra* note 36, at 220-23 (reminding that “even after relying heavily upon peer review processes, instructors are still free to meet with, or provide additional feedback to, students with problem papers”); Sparrow, *supra* note 131, at 2 (noting that the multi-faceted approach of using peer review, a checklist, and a sample answer decreases the number of student meetings and reduces meeting duration given that students already had the benefit of reviewing key feedback and content).

[FN216]. See Piccard, *supra* note 35, at 14 (describing peer-review exercise).

[FN217]. *Id.*

[FN218]. Barron, *supra* note 17, at 34 (“The important point to keep in mind is not to junk the technique because it does not work well with all students.”).

[FN219]. Hess & Friedland, *supra* note 1, at 131.

[FN220]. Davis, *supra* note 25, at 2 (listing advantages); Magone, *supra* note 1, at 245 (listing benefits); Muller-Peterson, *supra* note 111, at 4 (outlining the advantages of using peer editing beyond that of saving professors critiquing time); Piccard, *supra* note 35, at 14.

[FN221]. Susan Bryant, *Collaboration in Law Practice: A Satisfying and Productive Process for a Diverse Profession*, 17 *Vt. L. Rev.* 459, 461 (1992) (“Law school is the optimal time and place for exposing students to collaboration.... Courses

that stress collaboration can encourage students to discover new, more relevant approaches to modern lawyering.”); Taylor, *supra* note 16, at 287; Scott Westfahl, [Response: Time to Collaborate on Lawyer Development](#), 59 *J. Legal Educ.* 645, 651 (2010) (calling for law schools to integrate into the curriculum “professional skills and behaviors that distinguish all excellent lawyers in the real world,” such as teamwork, networking, and relationship building).

[FN222]. See Leah M. Christensen, [The Power of Skills: An Empirical Study of Lawyering Skills Grades as the Strongest Predictor of Law School Success \(Or in Other Words, It's Time for Legal Education to Get Serious About Integrating Skills Training Throughout the Law School Curriculum If We Care About How Our Students Learn\)](#), 83 *St. John's L. Rev.* 795, 826 (2009) (envisioning “a law school curriculum that values and incorporates professional skills with doctrine and a curriculum that stresses competence over performance”); Daniel Thies, [Rethinking Legal Education in Hard Times: The Recession, Practical Legal Education, and the New Job Market](#), 59 *J. Legal Educ.* 598, 599 (2010) (“[T]he recession is causing legal employers to put a premium on job candidates with practical skills--those on whom they will not have to spend time and money before they are ready to practice.”).

[FN223]. See Pamela Lysaght & Cristina D. Lockwood, [Writing-Across-the-Law-School Curriculum: Theoretical Justifications, Curricular Implications](#), 2 *J. Ass'n Legal Writing Directors* 73, 102 (2004) (pointing out that, in doctrinal classes, “students should draft documents unique to that subject area. Legislation, jury instructions, divorce settlement agreements, condominium documents, deeds, and administrative regulations are just a few of numerous possible examples.”); Parker, *supra* note 31, at 565 (“[E]very law school course can teach students ways to use writing to help them analyze legal authorities and organize analysis, [and] can expose students to various kinds of professional documents ....”); Southerland, *supra* note 68, at 76 (“Writing is hard work, and good writing takes practice.”).

[FN224]. Sparrow, *supra* note 131, at 2.

[FN225]. See Southerland, *supra* note 68, at 69 (advocating for a curricular overhaul).

[FN226]. *Id.* at 76; see also Lysaght & Lockwood, *supra* note 223, at 73 (“[T]he burden of teaching ‘good legal writing’ ... must be shared within the wider law school community.”).

[FN227]. See Parker, *supra* note 31, at 574-79 (explaining a variety of writing-to-learn activities that could be adopted in any law school course); see also Gerald F. Hess, [Principle 3: Good Practice Encourages Active Learning](#), 49 *J. Legal Educ.* 401, 409 (1999) (listing sample in- and out-of-class writing exercises, such as term papers, journals, book review, and response papers).

[FN228]. Munro, *supra* note 5, at 143.

[FN229]. Southerland, *supra* note 68, at 71; see William M. Sullivan, et al., *Educating Lawyers: Preparation for the Profession of Law* 109 (2007) (discussing how to use a case-briefing assignment to help students make their thinking visible in writing).

[FN230]. Any particular legal writing paradigm would work for this exercise. IRAC is the acronym for “Issue, Rule, Application, Conclusion.” CRAC is the acronym for “Conclusion, Rule, Application, Conclusion.”

[FN231]. Southerland, *supra* note 68, at 71-72.

[FN232]. Munro, *supra* note 5, at 143, 151.

[FN233]. See generally Michelle S. Simon, *Teaching Writing Through Substance: The Integration of Legal Writing with*

All Deliberate Speed, 42 DePaul L. Rev. 619 (1992) (discussing a criminal law course at Pace Law School that fully integrates the substantive law, legislative process, and legal analysis and writing).

[FN234]. See Munro, *supra* note 5, at 156. For a general discussion about one professor's experiences with incorporating multiple assessments into a large-section civil procedure course, see Andrea A. Curcio, [Moving in the Direction of Best Practices and the Carnegie Report: Reflections on Using Multiple Assessments in a Large-Section Doctrinal Course](#), 19 *Widener L.J.* 159 (2009). Notably, Professor Curcio listed the time commitment as a significant downside to her multiple-assessment experiment. *Id.* at 174.

[FN235]. Munro, *supra* note 5, at 151.

[FN236]. *Id.*

[FN237]. See Southerland, *supra* note 68, at 63, 66 (explaining that, with such large enrollments, “no one teaching courses of this size could realistically be expected to assign frequent writing exercises and provide helpful and meaningful critiques” on all assignments for every student, thus encouraging faculty to review a sampling of exercises for individual feedback). At Thurgood Marshall School of Law, the average class size for a first-year doctrinal course is fifty-five. At UCLA School of Law, the class size for core first-year courses generally ranges from sixty-four to seventy-seven total students.

[FN238]. See *id.* at 66.

[FN239]. See LeClercq, *supra* note 12, at 425; Curcio, *supra* note 234, at 175 (noting that, to improve her multiple-assessment model in her doctrinal class, she would add detailed grading rubrics, more opportunities for class discussion of assignments, and a peer-editing assignment).

[FN240]. Durako, *supra* note 13, at 76 (“Continue using peer editing throughout law school to refine students' editing skills.”).

[FN241]. Writing-Across-the-Curriculum, *supra* note 24, at xvi.

[FN242]. 2007 LSSSE Survey, *supra* note 55, at 8.

[FN243]. See Steven D. Jamar, *Using the Multistate Performance Test in an LRW Course*, *Persp.*, Spring 2000, at 118, 121 n.17 (addressing that his program's use of cooperative learning techniques has “significantly improve[d] the pace and quality of learning for most students”).

[FN244]. See Munro, *supra* note 5, at 155-68 (discussing obstacles to assessment).

[FN245]. Sergienko, *supra* note 76, at 465 (stating that formative assessment “takes place during the course and provides the students and instructors with feedback on how well students are learning”).

[FN246]. See Law Sch. Survey of Student Engagement, *Student Engagement in Law School: In Class and Beyond 2* (2010), available at [http://lssse.iub.edu/pdf/2010/2010\\_LSSSE\\_Annual\\_Survey\\_Results.pdf](http://lssse.iub.edu/pdf/2010/2010_LSSSE_Annual_Survey_Results.pdf) (“Fewer than 60% of law students generally felt prepared to work with colleagues as part of a legal team ....”); LSSSE 2007 Survey, *supra* note 55, at 8 (noting that “[d]espite research suggesting that students benefit from collaborative learning during class ... only 13% of students reported that they frequently engage in such activities”).

[FN247]. See Christensen, *supra* note 222, at 821 (“For legal education, this means that doctrinal classes as well as skills classes should incorporate cooperative learning exercises to enhance student learning.”).

[FN248]. Kovar, *supra* note 131.

[FN249]. See Tracy Bach, *Collaboration in Legal Writing--and Beyond*, Second Draft, June 2001, at 9, 9 (“Clearly some disciplines have come to realize the limits of the individual and the potential of cooperation.”).

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