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Past imperfect

Personal statements can renew motivation, improve learning

"I can see now that as I read even these words they have a much different tone than those of my personal statement. Words such as compartmentalize, organize, function, and efficient would never have been used to describe my life, yet they seem quite appropriate now. . . . I learned early in my first-year training that emotions or feelings for the people involved in the cases would be only a hindrance and take my focus away from spotting the issue and applying the relevant rule. Thus the people I was reading about took on a two-dimensional nature because they didn't seem real — I had no emotion for them. It is this emotion that I long for, that I need to make me whole."

By David Dominguez

Students submit as part of their law school application a personal statement that explores life-changing events, describes the influence of key people, and explains why the applicant wants to become a lawyer. With the admission decision hanging in the balance, applicants craft their words very carefully. Indeed, the essay represents many hours of self-study, revealing priorities and personal goals. Yet for all of its potential value toward sustaining academic discipline and improving legal pedagogy, it is used by the admissions committee principally to verify writing ability and to promote diversity in the entering class. Having served its purpose, it is filed away.

Revisited effectively by the law teacher, a student's personal statement can be an excellent motivational tool and a powerful educational resource. In the former capacity, it keeps the student mindful of original ideals; in the latter role, it prompts the law teacher to turn diverse life backgrounds into a new source of instructional material.

"Reading through my personal statement for the first time [in three years] left me feeling both empty and complete. The emptiness I felt was for the person I was before law school, the idealistic individual who wanted to make a difference. . . . Looking back my first reflection was that law school robs or strips people of these goals. The whole first

year of law school I felt beat down, confused, and lost."

You have probably wondered, as I have, what more we can do to help second- and third-year law students, often appearing jaded and cynical, to reclaim the initial excitement

they felt for legal study. Where is a match to reignite "fire in the belly"?

On the first day of class, I ask students what factors contribute to the optimal learning experience. Students are quick to cite natural

intelligence as a key factor, but they soon add that discipline and motivation are just as important. Being smart is a big plus, they say, but no more so than the will to excel and good study habits. Pressing on, I ask whether there was a time when they were convinced that becoming lawyers mattered so much that they were prepared to give unrelenting commitment to legal education. As they ponder that question, I tell them the answer is "yes" and that I can prove it *in their own words*.

Puzzled looks turn to surprise and then sheepishness as I inform the class that I have reviewed each of their personal statements and have with me a copy of their essays. I read excerpts, many of which speak eloquently to the denial of justice and the need to press forward in the struggle for equality. I recite from their papers the pervasive theme that the study of law will benefit not only themselves but their "people," their family and friends. I remind them of the zeal they once had to make a positive difference in race and gender relations, to stop the shaming of the poor and outcast, to lend an ear to the unpopular voice.

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I then jolt them by announcing that I will distribute to them a copy of their personal statement and that the first paper assignment is to write an updated personal statement. They are to carefully examine the discrepancy between how they imagined law school would deal with their ideals and what in fact law school has done in that regard. As they critically reflect on written promises they made to themselves, would the person they once were recognize the person they have become? Why have they gone back on their word — and at what price?

"[T]he applicant I once was would recognize me because she was hopeful and good.

Conversely, I no longer recognize the applicant's

positive [outlook], idealism, and hope for change. Perhaps this is merely the result of maturation. . . . [T]he legal educational process does engender cynicism, disillusionment, the baseness of human nature, and intellectual and emotional exhaustion from constantly conforming to the status quo."

Students report that engaging in this introspective exercise is so unexpected and strange that they do not know how to proceed initially. They tell me that they feel disoriented, as though pulled away from a myopic focus on legal rules to once again behold a broad social vision. Taking this sobering look at where they are in light of where they thought they would be, most students discover that they would apply themselves eagerly to academics were deeply felt convictions at stake instead of mere concepts. They would study harder and take classes more seriously were law school instruction tied to something more important than a final course grade.

"In some ways my personal statement. . . show[ed] my strong idealistic convictions. . . . I assumed that such aspirations were worthy and valuable to the law school community. 'Not so!' said my first year of law school. 'The only worthy aspiration for a law student is top-ten grades, law review, and an important and lucrative job with a large firm.' I suppose I was and am a little disillusioned with the law school culture."

"I have felt a tugging between my intrinsic convictions of wanting to really make a difference and the use of [legal] knowledge to help people, with the more selfish extrinsic conventions of what 'success' really is. I don't understand at this point what I want. I don't understand where I fit in and where I will be satisfied with my personal aspirations. . . . My first year tended to tear me down in many ways."

At this point, revisiting the personal statement becomes a double-edged sword. Once students are challenged to summon and strengthen their heartfelt resolve to become excellent attorneys, the attention shifts to the law teacher. Is the professor prepared to take full educational advantage of students' profound and diverse reasons to excel? Will the instructor do what is necessary to sustain motivation, reforming law school pedagogy to affirm and integrate the beautifully worded aspirations recorded in the personal statements?

This brings us to the second day of class and the use of the personal statements as an educational resource. Students arrive with their newly revised personal statements in hand. The mood swing from the first hour is dramatic. With the instructor looking into their faces, it is as though their first-day expressions — pensive at best, withdrawn at worst — are now alert and bright, as though a new source of light were shining upon them. Students use other similes, such as it feels like a tightly shut window has been pried open and a fresh breeze has blown in, reinvigorating parts of them that had fallen asleep.

"[O]ne year of law school has actually made me feel less confident. . . push[ing] my deepest emotions toward

discouragement, fear, and intimidation. . . . But when I ponder the many other people (particularly family) who are counting on me. . . I persist and work harder. My life has become a pattern or example for my younger siblings and other [minority] children in the community. . . . My personal statement stands as it is and as it was written."

I inform the class that we will engage in an exercise with their updated personal statements that makes plain the limitations of conventional legal study, sheds light on additional problem-solving skills that are otherwise neglected, and sets into motion an instructional pattern that will improve learning relationships among them. In other words, I broaden the purpose of their critical reflection, saying that they revisited their personal statements not only to reinvigorate motivation but moreover to set the stage for our learning adventure together.

I begin the exercise by asking students to list the problem-solving skills that law school training is sharpening. They note such "left-brained" abilities as analytical dissection of facts, spotting of relevant legal issues, selection and application of legal rules, logical argument over the relative merits of a legal position in light of the facts, advocacy of policy considerations, and so on. I then ask whether there has been similar development of other, "right-brained" methods of processing disputes, especially those relying on intuitive, creative, empathic, relational, and spiritual strengths.

"In revisiting my Personal Statement, I am amazed at how optimistic I was about what I could do with my law degree and how I could 'make a positive difference'. . . . As for my first year of law school. . . I was exposed to a 'how can I help me and me only' type of world rather than the 'how can I learn to help myself and others' type of world that I was expecting. To put it mildly, this stunned me."

I ask students to consider whether the diverse aspirations recorded in their personal statements, especially healing social divisions, could be attained using only logical/intellectual aptitude. Invariably, they realize that to meet the career goals set forth in their personal statements they will need to expand traditional law school problem-solving (i.e., theoretical expertise and rights-based advocacy) with far

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Teach to the whole class

The Institute is developing a faculty training kit designed to help law teachers improve student learning. The training packet, titled "Teach to the Whole Class: Barriers and Pathways to Learning," is the result of a collaboration among Laurie Zimet (Hastings), Paula Lustbader (Seattle University), and Gerald Hess (Gonzaga).

The centerpiece of the kit is a 32-minute videotape of law students discussing their learning experiences. The tape was developed from 16 hours of interviews with students at six law schools: Brooklyn School of Law, Hastings College of the Law, University of Iowa, University of New Mexico, University of North Carolina, and Seattle University. These schools were selected to provide a cross-section (size, rank, geographic, public/private, demographic) of legal education. A faculty coordinator from each institution selected students who varied in terms of race, gender, socio-economic status,

sexual orientation, disability, cultural background, year in school, and class rank. Sixty-seven students participated. The students were asked to identify what hindered their learning in law school and what enhanced it.

The videotape is accompanied by written materials. The kit presents a choice of plans for using the tape. The kit also includes handouts, overheads, discussion questions, and suggested activities that can be used during the faculty development sessions. Finally, the packet contains notes on teaching and learning principles and an annotated bibliography on diversity, learning, and teaching methods.

The Institute hopes that "Teach to the Whole Class" will be an effective resource for law faculties to use in improving their teaching. As law teachers expand their pedagogy, the learning of all students will be enhanced.

"Teach to the Whole Class" will be available in mid-January, 1998. Contact the Institute for more information.

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better training in critical reflection, active listening, mediation, goal-setting, coalition-building, delegation, supervision, accountability, evaluation, and other interactive skills to manage group conflict.

To this end, students in pairs introduce each other to the class as a whole, one asking the other what it felt like to revisit the personal statement. They are expected to convey accurately what was shared, and classmates are motivated to listen, echo sentiments, and offer support. They find themselves pledging to turn law study in a more healthy direction. "Our dreams will no longer be ignored," they say, resolving "to do justice to ourselves and to each other as our first clients. If we are committed to 'doing the right thing' in law practice, let's prepare ourselves now, not just intellectually but interactively."

"[T]hose who are the most respected, and consequently can do the most good, are not separated but connected to everyone else. I need to remember to reach for great heights while at the same time not just visiting those below. I must be with them and take them with me to higher levels. . . . The simple reading of my Personal Statement has helped return me to my prior course. . . . I am excited about the chance to continue to do some introspection to make those necessary adjustments in my course to allow me to be an influential lawyer and to become a better person."

As a finishing touch, I challenge students to remain true to their newfound resolve. Specifically, I ask them to consider preparing a videotape at the end of the term that responds to the following questions: Were they chosen to address the entire law school community, what would they say regarding the law school curriculum and educational process? Would they be able to say that they were in danger of losing their connection to their deepest concerns but then recovered, redeeming their ties to ancestry, family, gender, race, economic class, nationality, and other loyalties? Would they

look back and take pride in reclaiming aspirations expressed in their revised personal statements?

The personal statement exercise jump-starts a semester-long commitment to integrate student ideals into the learning enterprise. We continue capitalizing on their diverse capabilities by building on the first two days of class, adding such other interactive experiences as interviews, team assignments, videotaped negotiations, teaching on campus and in the community, and other forms of fieldwork.

At the start of this fall semester (1997), I was even more ambitious. I asked students whether they would favor a law school campaign to persuade faculty members and fellow students of the motivational and educational value of the personal statement. In light of our just-completed exercise with their own essays (all excerpts in this article are quoted from students this semester), they could see how our first week turned typical classroom relations into the beginnings of a healthy, integrated community. I asked the 19 students to vote on whether they wanted to be "counted in" the larger campaign, "counted out," or were not sure. Fifteen wanted in; three were not sure; and one was torn between "not sure" and "count me out." Hence, we are now exploring ways to extend the personal statement exercise to those outside our classroom. Dealing honestly and constructively with our diverse, even opposing agendas and perspectives, we hope to model a compelling vision of the optimal law school learning process.

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Cruising the electronic classroom

By Stephen D. Sowle and Richard Warner

E-mail and threaded discussion groups can expand the walls of the classroom by facilitating continuing contact between professors and students. This article discusses several of the most common uses of these devices, but many more are possible, depending on the nature of the course and the teacher's instruction style and goals.

Using e-mail

1. Continuing discussion outside class

Every professor has experienced the frustration of having to stop discussion of a topic in class before it has been fully aired. E-mail can provide an effective means for you to continue these discussions without taking up additional class time. You can use e-mail to pose additional hypotheticals, to address policy considerations or doctrinal subtleties, or to clarify areas students seemed to misunderstand.

You can use e-mail to create a virtual classroom by encouraging students to respond to your postings with comments and questions, as they would if you were presenting the material in the classroom. You can then forward to the entire class the comments or questions that you find particularly perceptive or useful, along with your responses. If you decide to use e-mail in this manner, consider whether your "default rule" will be to identify the students whose messages you forward, or to keep their identities confidential. Students are more likely to participate in e-mail discussions if they are assured anonymity, unless they explicitly authorize use of their names.

If you use a Socratic teaching style, you may view e-mail discussions as either boon or bane. On the plus side, you are more likely to receive considered responses to your questions because students have more time to think, which allows the dialogue to move quickly to a more sophisticated level. On the negative side, the immediacy of direct interaction is absent, and students are not challenged to think on their feet in a focused exchange, which many instructors see as the main advantage of the Socratic method.

2. Answering student questions

Students often have questions that cannot be addressed in class because of limited class time, because the question is tangential to the issues you want to emphasize in class, or because the student fails to raise his or her hand due to shyness or a sense of intimidation. E-mail can provide a useful means for answering these questions.

Some instructors believe that encouraging students to use e-mail for questions and comments signals that the instructor does not welcome office visits. In our experience, exactly the opposite seems to occur — as long as you clearly communicate to students that you welcome office visits and view e-mail as a complement instead of a replacement.

Many students are too shy to visit their professors, even during set office hours, and e-mail provides a means for these students to express their thoughts in a way that seems more anonymous. These students are more likely to visit you in person once they have broken the ice via e-mail. For less timid students, your willingness to address their questions by e-mail may help convince them that you are serious in encouraging them to come see you in person.

3. Conducting short-answer quizzes

E-mail can be an efficient means of conducting optional or graded quizzes on class material. One of our colleagues (Ralph Brill) has used e-mail to pose short-answer questions in his first-year Torts class, distributing the questions by e-mail and asking that students submit their e-mail responses by a designated date. He then uses e-mail to draft and return comments on each student's answers. The entire process can be done from the professor's and students' computers.

4. Administrative use

For many professors, the first several minutes of class are frequently devoted to administrative matters: what the students should read for the next class, rescheduling a canceled class, announcing an upcoming event, etc. Over the course of a full semester, these minutes can add up to a significant amount of time. Addressing such matters in e-mail can both save these precious minutes and contribute to an atmosphere of studiousness in class.

Threaded discussion groups

Threaded discussion groups are electronic bulletin boards that use Internet technology. When you access a discussion group, your screen will display all of the messages that have been posted by participants in the group to date. Typically, messages are listed, or "threaded," by topic and, within topics, by date. You can read an existing message by clicking on it with your mouse and can add a new message either by replying to an existing message or by creating a message with a new topic. All messages posted to the group can be read by all participants and retained indefinitely.

Discussion groups can be used for all of the purposes discussed above, with the exception of short-answer quizzes. Because all postings to such groups can be viewed by all members, they can be used to post questions, but in most cases are inappropriate as a method for students to post their answers.

Comparative advantages of e-mail and discussion groups

Assuming you have the technology to support both e-mail and discussion groups, which should you use? It

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Frustrated by the clock? E-mail can provide an effective means for you to continue discussions without taking up additional class time.

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depends. For many instructors, an important advantage of e-mail is that it allows them to control discussions by acting as the gatekeeper for everything distributed to the class. With discussion groups, by contrast, students can post anything they want for all members of the class to read. For some instructors, this feature may be an advantage rather than a disadvantage. It may be particularly well-suited to smaller, seminar-style classes. E-mail lists can also be set up to allow students to post messages to the entire class.

Another potential advantage of e-mail is that students are more likely to see (and, one can only hope, to read) your messages. With discussion groups, you may find it hard to persuade students to access the site regularly, and participation in discussions may suffer. We have had noticeably more success using e-mail than discussion groups.

One of us (Richard Warner) is experimenting with using class credit as an incentive for students to access and participate in a discussion group set up for class discussion. The results so far are encouraging — significantly more students are participating as compared with a similar discussion group set up for the same course a year ago.

Threaded discussion groups have one distinct advantage over e-mail groups: Because messages appear in threaded form and all messages can be accessed from a single screen, it is much easier for students to follow the flow of particular discussions and to comprehend the development of concepts and arguments, especially during the first year, when students are struggling to learn basic legal concepts and styles of legal reasoning.

During this time, threading can be a considerable advantage in helping students understand the material. A compromise solution is the threaded archiving of e-mail discussions on a Web server through commonly available free programs such as Mhonarc and Hypermail.

Effects on the classroom

As noted above, you can save classroom time if you make announcements or give quizzes electronically. More important, using e-mail or a discussion group to continue classroom discussion and to answer student questions allows you to devote more time to expand issues discussed in class or to clarify areas of confusion; you no longer need to worry that spending additional time addressing a particular topic will be at the expense of an equally important (or more important) topic later in the course.

One consequence of this is that using e-mail or discussion groups to supplement classroom interaction frees up additional classroom time for delving more deeply into theoretical and policy considerations, exploring hypothetical applications of the legal rules under discussion, and so on. Classroom time can thus be reserved for discussion of difficult or sophisticated issues that are best taught in direct exchanges with students.

Another benefit is that students who lack the confidence to participate actively in class may feel more comfortable

taking part in on-line discussions, particularly if they can be anonymous. This helps counteract the unfortunate tendency for classroom discussion to be dominated by a few students.

Making it work: Final thoughts

To use e-mail effectively, all of your students must have e-mail accounts and must be persuaded to consult their accounts on a regular basis. This task is greatly aided if your school has an ingrained "e-mail culture." At Chicago-Kent, for example, students are given e-mail accounts when they arrive, and they quickly realize that the administration and their professors rely on e-mail heavily to make announcements and communicate information on a wide range of academic and administrative subjects.

Use of e-mail and discussion groups will work effectively, of course, only if students have reasonable access to your school's computer network from lab computers, their own laptops, or through dial-in access from home computers.

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Submit articles on learning to The Law Teacher

The Law teacher encourages readers to submit brief articles explaining interesting and practical ideas to help law teachers become better classroom teachers.

Articles should be 500 to 1,500 words long. Footnotes are neither necessary nor desired.

The deadline for articles to be considered for the spring issue of *The Law Teacher* is Feb. 2, 1998.

You may submit an article on paper. If you have composed your manuscript on a word processor, please also include a copy of your work on floppy disk.

Submissions through electronic mail also are welcome.

The editors will review all manuscripts; those that are accepted will become the property of the Institute for Law School Teaching.

Manuscripts, comments, and letters should be sent to:

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The e-mail address is: ilst@lawschool.gonzaga.edu.
For more information, call (509) 328-4220 (ext. 3740).

Partnering technology with learning

By Victoria J. Palacios

Computer technology is more than just an efficient way to manage data. It also enables us to apply principles of learning theory more effectively than ever.

Authorware designed for law teachers makes it possible to employ electronic mechanisms to give effect to learning theories. I attempted to bring technology and learning theory together in an electronic supplement, titled *Tortorial*, for my Torts course.

The last 75 years have seen little change in legal education and its twin defining attributes: the study of appellate opinions to discover the law, and the Socratic classroom in which the teacher's skillful questions guide the student to these discoveries. Those attributes will not continue to be the lynchpins of legal education because they frequently operate in counterproductive ways.

Students — even very bright ones — struggle to master the legal method as well as the substance of their courses in the first year. They suffer unnecessary anxiety that further reduces their ability to study effectively. With little feedback from professors, students take a three- or four-hour exam at semester's end that determines their course grade and whether they rank high enough for job interviews with top firms. Under these stressful circumstances, it is surprising that students learn as much as they do.

What law professors know about learning theory is more likely to be the result of intuition than formal education. For example, we know that repeated exposure to material enables students to learn, though we may not apply the term

“associative learning” to the phenomenon. A more conscious application of learning theory will permit law teachers to reach their students more effectively.

This led me to write *Tortorial*. The software I used was FolioVIEWS 3.1. I divided the law of torts into 28 topics arranged under six primary subjects. Each interactive topic

contains a narrative explanation of the law followed by two practice sections. The narrative contains pop-up links and jump links that appear as brightly colored hypertext on the computer screen. When students place the cursor over a hypertext word, the cursor changes to an icon

of a hand with a pointing finger. Double-clicking on the icon activates one of two functions:

Pop-up Links: A smaller box pops up on the screen with additional information. It may be a question and answer, a definition, or a citation to a case. The students read the information and return to the main text by closing the box.

Occasionally the pop-up will pose a question and there will be a lighter question mark at its end. Students who double-click on the question mark will retrieve an answer in a pop-up within the primary pop-up. The students then back out of both pop-ups by closing each one in turn. I included as many as five pop-ups within a primary pop-up.

An electronic supplement can be useful to students at all levels of performance. It adds a tactile dimension to learning.

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Pathways to learning

Student interviews prompt AALS teaching program

The Section on Teaching Methods will present a program at the Association of American Law Schools Annual Meeting, titled “Teach to the Whole Class: Barriers and Pathways to Learning.” The program will take place on Friday, Jan. 9, 1998, from 10:30 a.m. to 12:15 p.m.

The primary goal of the program is to help legal educators improve the learning of all their students. The program will both identify problems that law students encounter in learning and suggest effective pedagogy to deal with those problems.

Among the methods designed to achieve that goal will be teaching demonstrations, a videotape presentation, writing exercises, and discussion.

The theme for the program was inspired by 16 hours of

interviews with law students at Brooklyn School of Law, Hastings College of the Law, University of Iowa, University of New Mexico, University of North Carolina, and Seattle University.

The interviews are the source for a 32-minute videotape produced by the Institute in which students discuss what hindered and what enhanced their learning. The video explores the effects of both traditional and alternative law pedagogy on student learning.

The program will be facilitated by Charles Calleros (Arizona State University College of Law), Gerald F. Hess (Gonzaga University School of Law), Joe Knight (University of Iowa College of Law), Paula Lustbader (Seattle University School of Law), and Laurie Zimet (Hastings College of the Law).

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Jump Links: When students double-click on a jump link, the program takes them to another part of the supplement, which may be to another, more detailed narrative or to a relevant section of the Restatement (Second) of Torts or other supporting documents. The students can return to the original narrative by clicking on “backtrack” in the margin.

At the end of each topic are the practice sections, “Preparation” and “Test Yourself.” By double-clicking either of these brightly colored words, students will access either questions that will help in preparation for class discussions or hypotheticals, many with pop-up sample responses. These exercises enable students to gain immediate feedback regarding their ability to understand foundational principles.

An electronic supplement employs the efficiency and excitement of interactive computer technology. More important, it uses that technology to serve essential pedagogical purposes: to enable students, inundated with new material, to connect pieces of relevant information and to assess their ability to apply the law intermittently.

At any point in the course, students can use *Tortorial* in various ways:

To preview a topic before reading the case.

Only practice can help first-year students to overcome the difficulty posed by reading and understanding cases. Practice is more productive when students have some advance notion of what they are expected to get out of the case and how it connects with the rest of the course. Previewing the topic helps students to recognize the rules and exceptions.

To review and relate topics to upcoming material.

For example, in the topic entitled “Consent as a Defense to Intentional Torts,” the students encounter jump links that take them forward to “Defenses to Negligent Torts.” This informs them that more defenses will be covered and that some defenses to intentional torts differ from defenses to negligent torts. The students may wish to read the material reviewed or previewed to reinforce previously covered principles or to acquaint themselves with those that will be covered in the future.

To see graphic depictions of legal principles.

Tortorial contains illustrations and graphs relating to such things as case analysis and synthesis, the role of judge and jury, defenses and privileges, allocation of damages among multiple tortfeasors, damages, and recovery for emotional distress. Many of these focus on the connections among various legal concepts.

Learning benefits of electronic supplement

On a more general level, students who use an electronic supplement will reap additional benefits. Many of these benefits will manifest themselves in the classroom as well. Besides demystifying law school to some degree, *Tortorial* may reduce entering students’ stress by providing immediate feedback. Professors benefit because they can teach more effectively if students are better prepared and less stressed.

An electronic supplement can be useful to students at all levels of performance. High achievers will be engaged by challenging hypotheticals. On the other hand, the interactive links and the practice exercises can be particularly helpful to students who do not learn as quickly as their classmates.

Additionally, electronic supplements are useful to students with different learning styles or modes of cognition. People tend to favor one of two primary modes of cognition: analytic or synthetic. Analytic thinkers tend to reduce new information to its smallest component, while synthetic thinkers tend to relate new information to the larger whole.

An electronic supplement utilizes both. Some people receive information best auditorially while others learn best visually. An electronic supplement adds an important visual component to the study of law. Moreover, it adds a tactile dimension to learning because it is interactive.

Students’ reactions to *Tortorial* were very positive. They liked the way it gave them access to the law and direction in their studies. Some were initially reluctant, but most students were pleased once the program was up and running. Complaints centered on technical problems and dissatisfaction with the degree to which *Tortorial* repeated materials discussed in class. (Because the basis of *Tortorial* was my class notes, it is not surprising that the material overlapped.) Other students complained that I didn’t give enough class time to discussion of *Tortorial* hypotheticals. Responses on my course evaluations were overwhelmingly positive and employed such praise as “very helpful,” “great,” “wonderful,” and “awesome.”

In class, I noticed that we moved more quickly past the fundamentals (covered in *Tortorial*) and spent more time on advanced discussion than in previous years.

I found the experience worthwhile. I intend to continue to use *Tortorial* in class and am working on an electronic supplement for an advanced course.

An electronic supplement adds an important visual component to the study of law. Moreover, it adds a tactile dimension to learning because it is interactive.

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Balancing power in student conferences

By Mark Broida

When I was in law school, I seldom met with my professors outside class. When I did, these conferences were not always helpful. As someone who has always had a “problem” with authority figures (I respect and revere them too much), I was often too intimidated to effectively concentrate while conferring with a professor.

During a conference, I would nod my head profusely as the professor responded to one of my prepared questions. I would ask very few follow-up questions for a number of reasons: I did not always fully understand what my professor was saying, I did not want my professor to realize I did not fully understand what he was saying, I wanted to show the professor I respected his elevated status and his brilliant intellect, and I did not want to take up too much of my professor’s time.

As a law teacher, I try to avoid having my students feel that sense of inferiority I often felt when conferring with a professor. I try to create an environment where my students and I are on equal footing. In this article, I will suggest a few ways to level the “balance of power” to make student conferences as effective as possible.

I teach legal research, writing, and oral advocacy courses (“legal skills” courses). My suggestions, however, can be applied to courses in all areas.

Know something significant about the student

To avoid any student feeling unrecognized and insignificant, I make sure I know a student’s name and background *before* that student walks through my office door. During the first class of the semester, I have students complete an information sheet that requests such facts as prior education, professional work experience, prior writing experience, and interests outside law school. Additionally, to help attach names to faces, a photo of each student is put on my seating chart. (At Cal Western, a photo is taken of each student at registration for fall classes.)

I spend a significant amount of time at the beginning of the semester reviewing the names, photos, and backgrounds of my students. Also, if a student has signed up in advance for a conference (which I encourage but do not require), I review that student’s information again before the conference.

I try to make the most of relevant background information. Although I never hesitate to talk with a student who brings up an interesting aspect of her background, I also try to relate a student’s background to matters being addressed in our conference. For example, I might mention to a student who was a journalist for a few years, and who is frustrated by her performance on a legal skills assignment, that we will need to work together to help her make the transition from writing as a journalist to writing as a lawyer.

Make the student feel at home

Before we even begin to confer, I try to relax a student and level any imbalance of power. To the surprise of some students, I greet them by their first name as they come into my office. I offer the student one of the two chairs in front of my desk. I then get up from behind my desk and sit next to the student. More than a few students have commented that sitting next to me, rather than across from me, is much less intimidating.

I often do something else that surprises students: I ask if they would like a cup of coffee. I make numerous trips to the coffee pot in the faculty lounge, and it is never a problem to bring back another cup for a student. Even if a student does not want a cup, this simple gesture can be a very powerful tool for putting a student at ease and putting us on more equal footing.

Make the conference your top priority

I always try to remember that students pay my salary and are my biggest and most important client. They are entitled to the same significant, undivided attention that I would give to a client meeting with me for legal advice.

Prior to a conference, I move all my work to the side of my desk so I can give the student my undivided attention. During our conference, I try not to let anything divert my attention. As I would do with any law client, if the phone rings during our meeting, I do not pick it up. If my computer beeps to tell me I have an e-mail message, I disengage the beep without looking at the message.

I also try to listen carefully and patiently to what a student is saying. Like law clients, students come to my office because they need to get questions answered and problems solved. Important work must be done during the conference. Minimizing a student’s concerns or rushing a student out before fully and comprehensibly answering her questions is an abuse of power (would you treat your faculty colleagues in such a manner?). In a balanced relationship, the student’s understanding of the subject matter should be as urgent and important to you as it is to your student.

Leveling the balance of power also means allowing a student to complain and vent during a conference. One of the “joys” of teaching legal skills courses is returning graded assignments to students *during* the semester. I have had my share of students (especially first-semester students who have not received any other grades) challenge their grade and my teaching ability.

For some students, the sheer cathartic effect of speaking their mind to a professor is enough to make them feel better (at least temporarily). I have seen, however, other students’ angry reactions turn into sobbing. As a friend who is a psychiatrist once told me, these students were able to cry

I try to create an environment where my students and I are on equal footing.

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Institute resources for law teachers

There are numerous ways to improve your teaching. Try the following Institute resources:

•**GETTING GRAPHIC 2®** by Corinne Cooper: This book covers both the “why” and “how” of using graphics in law school classrooms. Includes graphics used in various law school courses and concludes with practical tips on the design of visuals. 64 pages. Cost: \$20.

•**Conference Materials:** Teaching tools and ideas from the 1995, 1996, and 1997 conferences. Cost: \$60 each.

1995 Conference – Covers (1) the “why” and “how” of multiple-choice exams, (2) discussion techniques, (3) how to introduce and teach skills in the classroom, (4) cooperative learning techniques, (5) course planning, and (6) the use of verbal and nonverbal classroom communication. 390 pages.

1996 Conference – Covers (1) research on adult learning theory, (2) ways to use graphics to illustrate, explain, and organize legal concepts, (3) basic aspects of “student assessment-as-learning” (4) teaching diverse students and how to discuss issues such as race, gender, class, sexual orientation, and disability, (5) use of computers as a teaching aid, and (6) how to teach law in a way that fosters moral development. 220 pages.

1997 Conference – Provides information on effective teaching methods for a diverse student body and includes an annotated bibliography; articles on diversity in the classroom, learning theory, and teaching methods. 260 pages.

•**Bibliography:** Published in 1994, the Bibliography annotates articles about law school teaching methods;

and describes higher education publications that focus on teaching. No cost.

•*A Day in the Life of Law School Teaching*, produced by Larry Dubin: Through an Institute research grant, Prof. Dubin created a videotape program designed to simulate discussion among faculty members about law school teaching methods. The 35-minute tape has five segments. For each segment, Prof. Dubin interviewed the teacher before class, taped a class, and then interviewed students. Each segment allows the viewer to hear the teacher explaining the teaching method, to see portions of a class, and to learn from students the impact of the teaching method on their thoughts, behavior, and feelings. The courses represented are Contracts, First Amendment, Criminal Law, Negotiations, and Evidence. Cost: \$20.

•*Teach to the Whole Class: Barriers and Pathways to Learning*, by Laurie Zimet, Paula Lustbader, and Gerald Hess: This faculty development kit contains a 32-minute videotape and written materials. The kit is designed to help legal educators increase their effectiveness in the classroom and improve the learning of their students. The videotape consists of feedback from diverse law students about what hinders and enhances their learning. The written materials include lesson plans for using the kit; overheads; handouts; discussion questions; notes on teaching and learning principles; and an annotated bibliography on diversity, learning, and teaching methods. Available in January, 1998. Cost: \$199

To obtain any of these resources, contact: The Institute for Law School Teaching, Gonzaga University School of Law, Box 3528, Spokane, WA 99220-3528, (509) 328-4220 (ext. 3740), pprather@lawschool.gonzaga.edu.

Conferences

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because they felt relatively safe and unthreatened during our conference.

Let students know they are not alone

I tell students that although writing is an individual struggle I am their coach and colleague and will work with them as a partner to develop their writing. As their partner, I significantly increase my office hours and conference times during the busiest parts of the semester: before writing assignments are due and after assignments are returned.

During these busy periods, I sometimes do student conferences on a Saturday or a Sunday. Additionally, I usually extend my office hours if there are people outside my office waiting to see me after my last conference. Finally, I encourage people to call my voice-mail and leave a message; I check and return messages over the weekend if an assignment is due early the following week.

Although not all students need to see or talk with me

over a weekend, students greatly appreciate my availability. My availability and concern over their assignments help to convince students that we are partners on projects they are completing and that I am willing to make some sacrifices to be an effective partner.

Conclusion

Obviously, law teachers have many different styles and approaches to conferring with individual students. I do not know whether my approaches will work for you. Nonetheless, if a simple gesture helps a student get more out of your conference (and your course), it may be worth considering.

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Moot points for clinical teachers

By Jean Koh Peters

Many teachers in law school client services clinics prepare their students for specific case events — be they client interviews, negotiations, or in-court examinations or arguments — through mooting. Since these moots involve many of the real-life situations for which the students will need to be prepared, they are often the perfect solution for supervisor, student, and client.

In many instances, mooting resolves important dilemmas for clinical teachers seeking synergy between their twin duties to provide excellent service to the clients and excellent education to the students.

Some teachers may worry that an overreliance on simulated experiences based on facts unrelated to the students' clients' cases may send students a message that lawyering is about lawyer performance rather than service to clients; mooting for an event important to an actual client, however, keeps the client at the center of the endeavor.

Others fret about throwing students into real-life lawyering without the benefit of adequate training. Mooting can offer the students a safe forum for education as well as experimentation, and they can do so in a context narrowly tailored to equip students for a future important event. Thus, this relatively simple device promotes excellence in both client service and professional training, and it does so in a constructive and time-efficient context. What a useful teaching mode we have created!

Unfortunately, the carelessly structured moot can also hinder client service and student learning by panicking or traumatizing the student, compromising the supervisor-student relationship, confusing the student, or failing to help the students keep a clear perspective on what is most important — the client's stake in the whole process. It is high time then that we paid proper respect to mooting; at the same time, we need also to identify both the useful components of the constructive moot and the pitfalls of careless mooting.

The principles and 10 tips below offer some ideas that can be implemented easily and can dramatically improve our use of mooting. These ideas will be offered in the context of mooting for judicial arguments; keep in mind, however, that students and clients can be mooted for any case event.

Three central principles of excellent mooting:

Consider the client's needs.

First and foremost, all preparation should include as much information as the supervisor and student know about the client's subjective understanding of the event. How important is this event to the client? How does the client perceive this event?

This ongoing attempt to understand the case as well as possible from the client's point of view should color all other planning.

Consider how the issues raised relate to the lawyer's theory of the client's case.

As in all trial work, the lawyer's theory of the case — that is, his or her publicly announced understanding of the facts in the client's world relevant to the legal issues raised — must drive all actions in the case. Therefore, all performance events must act either to enhance the lawyer's understanding of the theory of the case (as in private conversations with the client or important witnesses) or showcase the lawyer's theory of the case (as in negotiation or trial strategies). In their preparation, supervisors and students must be careful not to sacrifice their overall strategy and vision of the case merely to gain short-term logistical victories.

Focus on your theory of the case. Mooting that ignores this precept, or that focuses on too many details, may teach students to ignore the big picture in case preparation.

Decide what structure of mooting will best prepare *this* student for *this* event.

Students approach any moot for a real event in particular contexts: the context of the client's case; the context of student-supervisor relationship; and the context of the students' own personal and professional development. For this reason, each mooting experience should be designed fresh for these students. The supervisor should avoid deciding that a certain kind of mooting would be excellent for student X because it worked two years ago for student Y. Every series of moots must fit its own particular circumstances, and teachers should be careful to structure the moot in ways that create a constructive educational and professional experience for *this* student and *this* client alike.

Ten planning tips

1. Start with a baseline moot.

An initial moot should establish the baseline: how a student would do if forced to perform without further preparation. This moot can be held immediately. In my experience, these moots usually show that students already know most of what they need, which allows them to focus on what could be critical at the final event. This first moot should be the length and expected timbre of the real event. If the judge is known to allow students ample time to speak, then students should be prepared to speak at length; if the judge will be all over students from the start, then students should experience that possibility as well.

The baseline moot should also target foundational parts of the case. In the context of a judicial argument, students should be asked to refer to the record, to summarize the holding of a case, and state the facts of a critical precedent.

Mooting resolves dilemmas for teachers seeking to provide both service to clients and education to students.

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Moot point

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This baseline moot will establish the agenda for further moots. Sometimes it is best to plan the future series after a baseline moot has been completed; these moots can then target only what is absolutely necessary.

2. Decide how many mooting sessions to conduct.

Although in many cases a single moot may suffice, it is always preferable to leave adequate time for a second moot if possible. This leaves students time to regroup before final preparation. If necessary, leave time for a series of moots.

If you are mooting your students for real-life court experience, schedule the moot with someone playing the judge before whom the student is to appear. Mooting for federal appellate arguments has provided me a terrific opportunity to involve my colleagues.

Moots should be as real as possible as the event progresses. An early moot might be designed to be longer than the expected argument. Students should train specifically for the event by honoring strict time constraints and the smallest logistical matters — podium height, room lighting, how to dress, and the management of documents.

Trips to the exact forum or courtroom can ease the student's nerves. When students know where to put their Kleenex and their glass of water, and where to find the bathroom, they are apt to be better prepared to handle the inevitable stress and, thus, be in a better position to learn from the experience.

3. The supervisor should attend all moots.

I have found that most “judges” who take time to do a moot are eager to offer the student feedback and advice. It is disconcerting for students to hear contradictory advice, or to change their style after an initial moot only to be advised later that their initial style was preferable. The supervisor, by attending all moots and by taking careful notes, can help the student sort out contradictory feedback.

4. Try the lecture-in-disguise moot.

Use the moot as a “lecture in disguise.” For instance, if the student and the supervisor have discussed the way in which a procedural point jeopardizes a substantive point of the argument, the supervisor can organize this moot to show through judicial argument the necessary links between those two points.

5. Try the “workings of the judicial mind” moot.

Arrange for a judge to explore with students how an argument can affect the judge's sense of how to decide a case. For instance, a judge could ask, “If I rule with you on Part A, doesn't that mean that I have to rule against you on Part B?” In this way, students can track how their arguments might affect one practical judicial thinker. It will also help students get away from the abstract issues in the case and realize that certain judges will always be focused on the decision at hand.

6. Try the moot of complete silence.

As students deliver their spiel, simply remain silent. This teaches students the importance of being prepared to meet a judge's stony gaze, of how to keep the floor when it is given to them, and of how to figure out a way to make a lively, useful presentation.

7. Try the worst-case scenario moot.

After divulging their most fearful scenarios, students must then act them out. This moot invariably goes better

than the student expects. It typically gives students new confidence. In the rare case, the supervisor and student may reconsider whether the student can handle the case event; in such situations, the supervisor and student may decide that the supervisor should handle the actual event.

8. Consider the reverse moot.

It often is useful for students to moot their supervisor. Seeing the supervisor argue the case may provide students some useful ideas. Students can also use this as an opportunity to ask the supervisor difficult questions and have the supervisor help work out possible answers. Putting the student in the position of a judge also increases the student's empathy with the decision-maker. Doing a reverse moot also helps express solidarity with the students (as well as helping supervisors work through their own latent desires to do the argument themselves!).

9. Help the student design the best written instrument.

As the moots progress, students will increasingly refine their written aids. Some students prefer voluminous outlines; some might prefer to go with no notes at all. In my experience, using a single-page crib sheet is an important complement to other student aids. The crib sheet should contain the argument in brief and the theory of the case, and it should pinpoint citations to key documents.

10. Don't forget the principle of the 30-percent jump.

Because of the adrenaline flowing during the actual event, most students and clients improve on their best moot performance by a substantial margin. Knowledge of this may soothe the nerves of jangled supervisors and students during the inevitable lowest moment.

It is common to follow an excellent moot or an excellent first attempt with a dismally bad second attempt, but supervisors can avoid conveying an air of panic by remembering that students, through experience and applied practice, perform significantly better in real-life situations.

Doing a reverse moot expresses solidarity with the student (and may help supervisors work through latent desires to do the argument themselves!).

Jean Koh Peters teaches at Yale Law School, 127 Wall Street, P.O. Box 209090, Yale Station, New Haven, CT 06520.

Skills labs: Where professors, practitioners meet

By Kay Lundwall

Five years ago an ABA task force on legal education and professional competence concluded that law schools and bar programs often fail to provide practical training for beginning lawyers. The report issued by the task force (MacCrate Report) urged both law schools and the practicing bar to work jointly toward improving the skills training of young lawyers. With the assistance of a FIPSE grant from the United States Department of Education, Gonzaga Law School has put the principles of the MacCrate Report into action. Our program is easy to implement, cost-effective, and popular with both students and faculty.

What we did: In our program law faculty and practicing attorneys who are experts in a particular field jointly plan a one-credit skills lab that is taught in conjunction with a doctrinal course. For example, I teach a course in wills and trusts. My practitioner/partner and I decided that our skills lab would require the students to work on three different problems during the semester.

In the first problem, students interview clients and prepare all necessary papers to probate the estate of a person who dies without a will. The second problem is an interviewing and drafting problem involving preparing a will and trust for a couple with minor children. In the third problem, students explore ways to settle a will contest involving allegations of undue influence. In this way, students gain valuable experience in three aspects of a probate attorney's practice: the attorney as counselor and adviser who helps clients plan and draft wills and trusts, the attorney as procedural specialist who assists clients deal with court, and the negotiator/litigator who helps clients resolve conflicts with others. This lab focuses on interviewing, counseling, and drafting, but the skills are taught in the context of a real-life probate practice.

My partner and I worked closely to plan the skills we wanted to emphasize, the assignments students would complete, and the ways we would assess student progress. We also structured the labs so that assignments would build on the content offered in the large doctrinal course. My partner was given adjunct status and actually taught the lab. I sat in and was impressed. In addition to emphasizing essential skills, the lab format promoted active learning. Students applied theories learned in my class to identify problems, suggest solutions, and set goals. In addition, my partner served as a powerful model of a compassionate, ethical, and tough-minded professional.

Last year, Gonzaga also offered skills labs in Family Law, Professional Responsibility, and Environmental Law. This year we are planning additional labs for Taxation, Business Associations, and Creditors' Rights.

How we did it: First, all skills labs are electives. We realize students take courses for a variety of reasons. For example, some take my wills and trusts course to gain enough theoretical knowledge to pass a bar exam. Others may be motivated to take the course for personal reasons (i.e., family currently involved in a probate matter), while others may plan to make estate planning their life's work. We believe students are in the best position to decide if a skills

lab would benefit them. Second, each skills lab is limited to 16 students. We want to make sure students get individual attention from the instructor. Finally, our skills labs are all graded pass/fail. We wanted the students and the instructor to focus on practice and improvement rather than grades.

Why you might want to do it, too: We think the skills labs make a lot of sense both from the student's and the institution's perspectives. Student response to the skills labs has been very positive. Students uniformly report increased competence in skills areas and increased confidence in their ability to handle legal work. They appreciate the practical advice and "modeling" done by the practicing attorneys. They overwhelmingly endorse the skills lab concept and call for more labs in future semesters.

Skills labs also work well from an institutional viewpoint. Besides being easy to implement, labs require no major changes in the existing curriculum or structure of the academic program. They are proposed, planned, and approved like any other new course. In addition, our eight labs provide an opportunity for over 100 students to practice legal skills under the close scrutiny of attorney/experts at a very modest cost. Labs improve students' substantive knowledge by creating an active learning environment that emphasizes student-centered activities. Finally, labs bring the students into close contact with ethical, competent attorneys who model professionalism.

Conclusion: Gonzaga Law School's skills labs are an excellent way to meet the goals set forth in the MacCrate Report. They provide a cost-effective way to make skills training broadly available. They recognize the need for academics and practitioners to work together to improve legal competence, and, best of all, the students and teachers think they are a lot of fun!

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The Law Teacher

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Institute Evaluation

Please help the Institute be more responsive to your needs by returning this survey. We will report the results in the spring edition of The Law Teacher and will use the information to shape the future of the Institute. Fill in all or any part of the survey. As a fun (we hope) incentive to you for returning the survey, we will award prizes to two recipients randomly selected on Dec. 10, 1997. Prizes are your choice of Getting Graphic 2®, by Corinne Cooper, or A Day in the Life of Law School Teaching, by Larry Dubin.

(Optional) Name _____ School _____

Evaluation of current programs and publications: For each of the current Institute programs and publications, please choose the response that most accurately reflects your evaluation.

- | | |
|---|---|
| 1. Very helpful to me as a teacher. | 3. Not helpful to me as a teacher. |
| 2. Somewhat helpful to me as a teacher. | 4. I have no exposure to this program or publication. |

Also, please offer comments and suggestions for improvement.

The Law Teacher (semi-annual newsletter containing short articles on teaching and learning in law school)

Numerical response _____

Comments and suggestions:

Conference (annual, summer, two-day conferences on teaching and learning in law school)

Numerical response _____

Comments and suggestions:

Question Bank (collection of multiple-choice exam questions in 20 areas of law)

Numerical response _____

Comments and suggestions:

Bibliography (1994 Gonzaga Law Review Special Edition on Current Methods for Law Teaching)

Numerical response _____

Comments and suggestions:

Getting Graphic 2® (book by Prof. Corinne Cooper in using graphics in law classes)

Numerical response _____

Comments and suggestions:

Conference materials (materials to accompany each workshop, teaching tips from conference participants)

Numerical response_____

Comments and suggestions:

A Day in the Life of Law School Teaching (videotape produced by Prof. Larry Dubin that includes classroom footage and interviews with students and teachers in five courses)

Numerical response_____

Comments and suggestions:

Opinions about potential programs and publications: For each of the following potential Institute programs and publications, please choose the response that most accurately reflects your opinion.

1. Probably very helpful to me as a teacher.
2. Probably somewhat helpful to me as a teacher.
3. Probably not helpful to me as a teacher.
4. No opinion.

Also, please offer comments, suggestions.

Journal (an annual or semi-annual journal for articles on teaching and learning in law school)

Numerical response_____

Comments and suggestions:

Resource bank (a data bank of people willing to consult with individual teachers or faculties about specific teaching and learning issues)

Numerical response_____

Comments and suggestions:

Faculty development kit (videos and accompanying written materials for individual teachers or faculties to use in exploring teaching and learning issues)

Numerical response_____

Comments and suggestions:

Future programs and publications. Please describe other programs and publications the Institute should produce to help improve teaching and learning in law school.

Additional comments or suggestions about the Institute.