



GONZAGA UNIVERSITY

# THE LAW TEACHER

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## The quiet classroom

*Devise a useful strategy to break the student code of silence*

By Mark Wojcik

At times, students are reluctant to speak in class. They may not volunteer comments. They may sit silently when a teacher asks a question. They may save their own questions about the material and assignments until after class, when they can ask the professor privately. Some students may not ask questions because they feel isolated and unwelcome in the classroom for any number of reasons, including race, gender, sexual orientation, or their national origin. This essay deals not with factors that might affect individual students but with factors affecting the entire class.

Although all classes are quiet from time to time, some classes can develop a Code of Silence that continues for several sessions or even several weeks. In response to this situation, a number of colleagues have had to devise useful ways to stimulate discussion in classes. The ideas presented here are by no means comprehensive. They may, however, offer useful suggestions to those who find themselves standing in front of a quiet classroom.

### Minimize Fear.

Students undoubtedly feel a great deal of anxiety in their law classes. Some students are afraid to ask questions that might make them look foolish in front of classmates. They will not ask teachers to explain words they do not understand; they will not ask follow-up questions when they do not understand an answer to another student's question. I find that students will take more risks when I treat each question with respect, just as I treat each student with respect. Sometimes I will rephrase a question before answering it, such as by saying, "if I understand what is behind your question, what you really want to know is . . ."

I find that this approach is often appropriate for smaller classes. One colleague strongly disagrees with this approach, however. He would not rephrase the question but would instead keep asking the student to rephrase the question

until the student got it right. By forcing the student to rephrase the question, he hopes to help the student develop skills that will be useful before judges and in other high-pressure situations.

### Do Something Positive.

*A teacher can create a positive learning environment by simply saying something encouraging after a student asks a question.*

A teacher can create a positive learning environment simply by saying something encouraging after a student asks a question. Professor Jan Levine suggests that the responses can range from a nod and a smile to saying, "Yes, that's a great question!"

### Minimize Competition.

Some students will ask questions only after class because they are competitive. They do not want their fellow students to enjoy the benefits of the teacher's answers. I thwart this behavior in two ways. First, if I answer a question after class I will write down that question and repeat it at the start of the next class meeting. I might introduce the question by saying "someone asked me an interesting question yesterday . . ." or "you might be wondering whether . . ." By asking the question openly, no student obtains an advantage over others.

Second, if a particularly competitive student will ask questions only after class, I tell that student to ask the question at the start of the next class. By doing this once or

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# Quiet classroom

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twice, the particularly competitive student will learn to ask questions that will benefit everyone. A particularly good question will often stimulate questions from other students (as will praise from the teacher).

## Maximize Opportunity.

I begin each class with the words: Are there any questions before we continue? If students have questions from the previous lesson, the start of class is often the best time to answer them. If there are no questions, we continue with the assignment for that day.

By inviting questions at the start of each class, students learn that they will always have an opportunity to ask what is on their mind. A regular time for asking questions may also minimize the teacher's pet syndrome, where one or two particular students ask so many questions that they may build resentment in other students. When there is a teacher's pet, other students may refuse to ask questions lest they be similarly branded by their peers.

## Refresh Memories.

Professor Michael Closen suggests that the beginning of class also include a brief review of important points raised during the previous class. He found that this review helped to refresh memories and stimulate questions about the material from the previous class.

## Try a Cliffhanger.

Taking a cue from soap operas, Professor Susan Marie Connor suggests asking a question at the end of class for students to consider and discuss at the start of the next class. She leaves her students in suspense: What should the plaintiff's attorney do to save his client? By informing students ahead of time that they must discuss a particular question, my colleague finds few problems with quiet classrooms.

## Maximize the Environment.

Sometimes students fall into a mid-semester lull. This may be attributable to the stress that many students experience in response to the unrelenting pressure of law school studies. In classrooms where I can move the tables, I sometimes find that merely rearranging the furniture will dramatically increase participation. Rather than placing desks to face the blackboard, for example, we might push tables into the center of the room to form a giant conference table. Sometimes I can frame a research problem as if it were being discussed in a law firm partnership meeting. At other times, starting with one student and then proceeding around the circle for additional

comments will at least get every student talking. Rearranging the furniture improves class discussions for the remainder of the semester even when we return to the original placement. In rooms where I cannot move the furniture, I may ask students to change their seats and to sit near someone whom they do not know well. This usually has the same ultimate effect as rearranging the furniture. The important factor is to change the classroom atmosphere. When a

change is made, it should signal to the students that silence is unacceptable and that you are imposing the change to increase the students' participation.

## Try To Be Quiet.

Professor Jan Levine notes that the hardest period for a teacher is the time between asking a question and getting an answer. It may feel like forever, he reminds us, but it seems far longer for the teacher than it does for the students. Professor Levine notes that often the silence may happen because the students are thinking (while the professor already knows the answers to most of the questions). Professor Levine also says that if we show students that we really want them to answer, and that we will wait for them, they will speak. He believes that this tactic is most effective early in the semester, but it can work anytime. Professor Levine says that we can even tell our students that we will wait for as long as we have to but that they are the ones who must break the silence.

## Rephrase the Question.

Professor Elise Hiller of the Lawyering Faculty at Albany Law School reminds us that occasionally we law teachers need to rethink the questions we are asking. If our question is too open-ended or too vague, our students will have a difficult time answering. She reminds us that a single question, aptly phrased, may open a floodgate of discussion. Such discussions usually brand the classroom as one where open dialogue can occur.

## Conclusion: Ask Others for Help.

Because teaching styles and environments vary, the above suggestions may not work for all teachers in all circumstances. Other teachers will have additional advice, although they may not share their suggestions unless specifically asked to do so. Any teacher who thinks that a class is too quiet should ask colleagues for suggestions about how to improve student participation. Remaining silent yourself is no way to cure the silence of your students.

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# Mastering the techniques of teaching

By Gerry Hess

A high quality college education is still undeniably dependent on the skill and motivating power of classroom instructors. Neither innovative ways of organizing classes nor gee-whiz technology have obviated the need for faculty who are skilled at communicating with students and motivating them to work hard outside of class.

So begins Joseph Lowman's second edition of *MASTERING THE TECHNIQUES OF TEACHING*.

Lowman, a psychology professor at the University of North Carolina at Chapel Hill, has won numerous teaching awards and is a national leader in the movement to improve teaching and learning in higher education. Although the book's primary focus is undergraduate education, each of its ten chapters offers valuable insights for legal educators.

## *What Constitutes Exemplary Teaching?*

Lowman proposes a two-dimensional model of effective teaching: Quality instruction results from a teacher's skill in creating intellectual excitement and interpersonal rapport. Creating intellectual excitement is a function of the clarity of the instructor's presentation and its emotional impact on the students. Interpersonal rapport deals with the kind of teacher/student relationship that will motivate students to do their best work. Lowman bases his model on three types of research: 1, his personal observations of 20 exemplary teachers at several universities; 2, his review of hundreds of studies on student evaluations of teaching; and 3, on 500 nominations for teaching awards at UNC.

## *Understanding Classroom Dynamics*

The commingling of teachers' and students' attitudes and behaviors make up the classroom environment. Lowman

explores the psychology of teachers and students, including the sources of satisfaction and dissatisfaction for each. He offers insights that can help teachers understand their own reactions to the classroom dynamic and their students' feelings and actions as well.

## *Developing Interpersonal Skills and Teaching Style*

Lowman offers specific techniques to help teachers foster relationships with students that promote motivation and satisfaction, including learning students' names, spending time with students outside of the classroom, periodically

soliciting feedback from students about their learning and the course, providing indirect (rather than autocratic) leadership, and treating students as individuals.

## *Analyzing and Improving Classroom Performance*

Lowman views the classroom as a dramatic arena in which teachers should strive to capture students' attention and stimulate their interest and emotions. Teachers can improve their classroom communication skills by becoming more sensitive to the effects of speech patterns and movement. Lowman describes a 10-step process for teachers to improve their communication skills by analyzing videotapes of themselves in the classroom.

## *Selecting and Organizing Materials for Classroom Presentations*

The focus of this chapter is effective use of lecture. In a well-planned lecture, a teacher can emphasize conceptual

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## How to submit articles to *The Law Teacher*

**T**he *Law Teacher* invites readers to submit brief articles explaining interesting and practical ideas to help law teachers become better 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. 5, 1999.

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 a floppy disk.

Submissions through electronic mail also are welcome. Editors review all manuscripts; those accepted become the property of the Institute for Law School Teaching. Manuscripts, comments, and letters should be sent to:

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# Using SGID

## *A way to achieve more effective course evaluations*

By Greg Munro

Faculty members often commiserate over the problems inherently posed by student evaluations of instructors and courses. When used as tools for assessment of teaching, individual anonymous student evaluations often lack reliability, validity, and fairness. The small group instructional diagnosis (SGID) system developed for undergraduate schools at the University of Washington effectively addresses these problems and is readily adaptable to the law school classroom.

In the SGID process, students, at the instruction of a trained facilitator, collaborate in small groups to assess the instructor and course. With the help of the facilitator, students then reach a class consensus on strengths and weaknesses, which is later reported to the instructor by the facilitator. The beauty of SGID is that, used properly, it can provide a more fair, reliable, and valid assessment of your teaching and course while maintaining student anonymity in the process.

### How it works:

A facilitator (probably a faculty member from another department on your campus) meets with the class for up to 40 minutes. The facilitator begins by explaining the process to the students and assuring them that the process is anonymous, confidential, and voluntary. It is used to help the instructor improve the class and not to help the administration evaluate the instructor. The class breaks into small groups of four or six students, each of which selects a reporter. The facilitator writes on the board and asks the groups to answer two questions:

1. What helps you learn in this course?
2. What improvements would you recommend, and how would you suggest they be made?

The students in each group take 10 minutes to discuss and write answers to the questions. The facilitator elicits from each group's reporter two or three responses for each question, carefully writing the essence of each response on the board to make sure it captures the student's intent. The facilitator questions the class, clarifies, and assists in discussion to reach a consensus and summarize the class responses. A student records the resulting summary from the board.

(Note: During this whole-class discussion, it is important for the facilitator to focus on the answers made by the reporters and not to take additional answers from individuals, since such answers have not been peer-reviewed in the small groups.)

After the class, the facilitator meets privately with the instructor and presents the results. The facilitator discusses each of the points with the instructor and answers questions in an attempt to be as accurate as possible in transmitting the student's responses. The facilitator may help the instructor decide improvements that can be readily made so that those changes can be announced in the next class. This reassures students of the responsiveness and effectiveness of the process.

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*The beauty of SGID is that, used properly, it can provide a more fair, reliable, and valid assessment of your teaching and course while maintaining student anonymity in the process.*

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### Importance of peer review

A most important feature of this process is that the comments are peer-reviewed and the result of consensus, which avoids the frustration an instructor feels when a single student makes a stinging criticism that tempts the instructor to change even though no other student may share the opinion. The peer review aspect screens out aberrant personal opinions or remarks that lack foundation, or may be mean-spirited, sexist, or otherwise unprofessional.

A faculty member receiving comments from a class through the SGID process may have much greater confidence in the validity and reliability of the student evaluations. Be prepared, however, because valid and fair student observations merit response in the form of change or explanation to the class if change can't be made for some reason. Using the process formatively at mid-term, and then responding, allows the students to see the benefit of their professional evaluation.

### Conclusion: Greater participation, satisfaction

The process and resulting changes result in greater student ownership and responsibility for the class as well as greater participation and satisfaction. For more material on the SGID process and additional references, see Ken White's short paper, *Mid-Course Adjustments: Using Small Group Instructional Diagnosis to Improve Teaching and Learning* published by the Washington Center for Improving the Quality of Undergraduate Education at the University of Washington.

For a broader treatment of such classroom research, see Thomas A. Angelo and K. Patricia Cross, *CLASSROOM ASSESSMENT TECHNIQUES* (2d ed. 1993).

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# Discovering the *really* big picture

By Michael L. Closen

In many of our core law school courses, we (and the professors who have gone before us) struggle with the challenge of helping students to see the big picture. What that usually means is the big picture of contracts, torts, corporations, property, evidence, and the like—how the pieces of the puzzle of a single legal subject fit together. Indeed, the coming together of the otherwise seemingly disjointed features of a law school subject represents the purpose for which the true teachers among us exist.

But, can there be an even higher calling? Yes, to be sure. There is an even bigger picture to be painted by us and discovered and appreciated by our students. During the last 10 years, I have had the chance to teach two courses that have challenged both me and my students to grasp a much bigger picture. The first example is the course in AIDS Law and Policy. As HIV has impacted virtually every area of law, so too the table of contents of the AIDS casebook (Leonard, Bobinski, Closen, Wojcik, et al., AIDS LAW AND POLICY (2d ed. 1995)) reads like a survey of the law school curriculum. The 13 chapter headings include tort issues, criminal law, domestic relations, insurance law, estate planning, education law, immigration and international law, public health law, and so on.

Teaching a course such as AIDS Law and Policy is intimidating because it requires the professor to master some 13 different legal fields at least adequately enough to lead the class, answer students' questions, and otherwise provide assistance to the class (perhaps with the writing of research papers). On the other hand, the benefits for the professor far exceed the risks. There is never a dull moment as the course progresses quickly from topic to topic. The class is especially ripe for guest speakers, such as government lawyers and private attorneys who specialize in the particular subject areas covered, and such as people living with HIV-AIDS (who can bring a genuine human element to the cold classroom). The greatest sense of achievement for the professor comes from the attempt, which is often successful, to bring together so many divergent fields and to paint the really big picture of how so many legal subjects merge around a central point, in this case the serious health epidemic of HIV-AIDS.

The second example seems rather benign by comparison with HIV-AIDS Law and Policy, but it, too, poses the same kinds of challenges and opportunities. That second course is, believe it or not, Notary Law and Practice. There is a casebook that contains 15 chapter titles reflecting numerous traditional law school subjects. (Closen, Ahlers, Jarvis, et al., NOTARY LAW AND PRACTICE (1997)). Notary law brings together or affects many legal subjects, such as torts, criminal law, agency, attorney ethics, insurance/bond law, conflict of laws, administrative law, international law, and so forth. Once again, the wide breadth of the subtopics to be considered offers chances to employ a variety of teaching methods—from guest speakers, to drafting exercises, to role playing, and more.

Time permitting, there can be even further development of the picture to include matters of historical background, public

policy, economics, and business practice associated with the two courses noted above. Such interdisciplinary endeavors lend important variety, interest, and dimension to the enlarged picture.

I wish that every senior law student would enroll in a class like AIDS Law and Policy, or Notary Law and Practice. Other comparable courses might include Aviation Law, Children and the Law, Computer Law, Sexual Orientation and the Law, Elder Law, and Psychology and the Law. Such a course would help to bridge the gap we all hear about and talk about that separates law school and real-world law practice. If more of us would take up the challenge of offering such classes, more of our students would follow our lead and enroll in such courses. And, while we might not all live happily ever after, we would appreciate more of what goes on around us. We would see a *really* big picture.

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## Present property

*PowerPoint is effective class tool*

By Robert H. Kelley

What property law professor wouldn't like to be able to go to the shelf and pull out a pre-packaged, four-hour summary lecture complete with overhead slides, speaker notes, and student handouts, on the most challenging topics of the course? This Microsoft PowerPoint presentation can be used as either an introduction to or a review of estates in land and future interests.

The presentation covers four main topics: A, present estates in land (20 PowerPoint slides); B, concurrent ownership (9 slides); C, future interests (34 slides); and D, the three versions of the rule against perpetuities (7 slides). The lecture includes detailed coverage of the seven main rules for creating, ending, or transferring legal freehold future interests. The first six rules, which have common law origins, are: 1, that shifting executory interests are not allowed; 2, that springing executory interests are not allowed; 3, that contingent remainders are destructible; 4, merger; 5, the rule in *Shelley's* case; and 6, the doctrine of worthier title. The seventh rule is the rule against perpetuities.

Authors of property law texts and study aids often interchangeably use terms (e.g., expiration and termination) that describe the ending of estates. This practice can create confusion in the minds of students. My presentation should reduce such confusion by setting boundaries on the use of terms related to the ending of estates.

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# Exit Interviews: Bring closure to the course

By Louis J. Sirico, Jr.

In any number of settings, people end their relationships with exit interviews. For example, when an individual's employment comes to an end, the personnel department may confer with the departing employee to make sure that he or she understands which employment benefits continue and which terminate. An enlightened employer also might want to know what criticisms and suggestions the departing employee has to offer. Several years ago, I extended the concept of exit interviews to legal education. I decided to end my Legal History course on the drafting of the Constitution and Bill of Rights by holding individual conferences with my students.

I took this step for two reasons: to end the course on a reflective note and to encourage creative thinking.

I thought the interviews would bring an appropriate closure to the course. I wanted to give the students the chance to have a learning experience other than that of the formal classroom, one in which I could invite them to think deeply about what we had covered.

I wanted to supplement the exam with an opportunity for the students to engage in creative analysis. I had long since recognized that I could not expect students to produce interesting analysis in the traditional exam setting. Therefore, in this course, I chose to give an exam that was not particularly analytical and to give students the chance to show their stuff in conferences. However, I chose not to grade the conferences. I relied on each student's self-respect to motivate the student to perform well when dealing with a professor in close quarters.

Conducting the interviews may have an additional benefit. Because the students must be prepared to speak intelligently about the course's content, they have to make some effort to pull together their class notes beforehand instead of delaying until a few days before the exam. Thus, by compelling students to get a head start on their end-of-semester studies, perhaps the interviews encourage students to spend more time synthesizing the course material.

The exit interviews worked so well that I extended the device to my Advanced Legal Writing course. Only the size of my Property class—usually over 120—has dissuaded me from conducting exit interviews in that class.

## How the interviews work

In both Legal History and Advanced Legal Writing, the exit interviews run essentially the same way. I allot one-half hour per interview. When a course is particularly large, I permit two students to share an interview slot. I have found the half hour to be sufficiently long. Only a few students require more time.

Before the interview, I make it clear that the student must

set the agenda for the discussion. They know ahead of time that at the interview my opening question will be: What are we going to discuss? My written instructions for students in Legal History are to the point:

☞ Instead of holding a formal class, I will hold individual discussions with you. I will meet with you two at a time. Each discussion will last one-half hour.

☞ We will discuss substantive matters relating to the course. You will choose the topics that you would like to discuss.

☞ I will schedule times during the weeks of [date] when you can sign up.

My instructions for students in Advanced Legal Writing are more detailed:

☞ In lieu of a formal class, you and I will meet individually. You set the agenda. You may want to talk about specific topics that we have covered in class. You may want to ask

my advice on particular problems that you have in your writing. You may want me to review something that you have written. You may have a more general topic in mind.

☞ On Friday, [date], please give me a sheet on which you tell me what we will be discussing in our individual conferences. If you want to go over something you have written, please attach it.

## What we discuss

I think that the exit interviews have proven helpful to the students. My sense is that by having an opportunity to reflect on the course, the students do get a sense of closure. I am intrigued by the range of their questions. Some of my Legal History students ask me to fill in the blanks in their notes: Professor, on that topic, you made three points, but I didn't get the second one. Could you repeat it? Other questions are broader and more satisfying to me. My favorite is: How do the actions of the delegates at the Constitutional Convention fit with Tolstoy's theory of leadership in *War and Peace*?

Occasionally, I have confronted students who obviously have not kept up with the reading, missed too many classes, or otherwise invested too little effort in a course. I am happy to let them do their best to tap dance their way through the session. However, when it becomes painfully obvious that the student is not prepared, I point this fact out and politely terminate the interview. I hope that my response to the lack of preparedness helps the student learn a lesson that will serve him or her well in life.

My conferences with my Advanced Legal Writing students generally run quite well. Because each student has

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# Taming Tough law

## Pop quizzes can aid the teaching of Constitutional law

By Thomas E. Baker

What the great English legal historian Frederic Maitland said about the common law also can be said about the queen subject in American law schools: Constitutional law is tough law. It is tough to master, tough to teach and tough to learn.

There are several reasons for this thorough difficulty. Constitutional law is as important as it is controversial, which is understandable when you consider that it comprises all the great issues of American history, down to the present day. The subject is equal parts law, politics, history, and philosophy. The Supreme Court is a fascinating institution that often mystifies students. Beyond the five hundred volumes of U.S. REPORTS, full of contradictory opinions, there is so much academic commentary. Each October Term presents novel issues, and each new nomination and confirmation renders much of Constitutional law indeterminate, so there is a constant sense of uncertainty, anticipation, and discovery in the field. Constitutional analysis if one thinks more deeply and more broadly than mere doctrine and three-pronged tests can take on metaphysical, even quasi-religious qualities of immanence and transcendence that are most profound.

Thus, I believe that Constitutional law is the toughest course in the curriculum. So I am always looking for ways to help my students overcome that difficulty and master our subject. One of the ways I have hit on is to give unannounced quizzes.

Consistent with our law school's formal written student policy, I take into account a student's preparation and performance in class for a one-grade, up-or-down adjustment in his or her course grade (actual examples, B+ raised to an A or a D lowered to an F). We have a law school rule that we must announce our intention to implement this policy in our class at the beginning of the semester, to put students on notice of the course requirement. Most professors make this announcement *in terrorem* but not many actually follow through to adjust final course grades. I am one of those who does adjust the grades, however, and it has become part of

my passed-down reputation among our students. After all, tongue-in-cheek, I announce on the first day of classes that mine is the Honors Section. I base this up-or-down adjustment primarily on unannounced quizzes, which I think are very beneficial. Here is how they work.

At the beginning of the hour, I announce we are having a quiz. The question always is based on that particular day's reading. Sometimes it is the question I left them with at the end of the previous class meeting. I state the brief question and repeat it once. The quiz question is focused and specific; usually the emphasis is on the Rule in the Issue-Rule-Analysis-Conclusion or IRAC logical sequence.

Questions vary from year to year, of course, but here are some illustrative examples from early in the semester:

*What does the Constitution say about judicial review?*

*What are advisory opinions and what is the Supreme Court's position on them?*

*Define property for purposes of the 5<sup>th</sup> and 14<sup>th</sup> amendments.*

My students have ten minutes to write an answer. I take the quizzes home and grade them, using the same three categories as the law school's grade adjustment policy (+ or 0" or -). Often I write comments to explain the point of the quiz and to respond to the individual answer. Sometimes I add a word or two of encouragement, if for example the student took the lead that day in class discussion and helped in our effort to understand the material. My secretary records the grades and I hand back the papers during the next class.

Typically, I will start that day's session with some in-class discussion of the quiz question. Sometimes I will begin the class with some brief comment to reinforce how the previous day's quiz fits into the organization of the course.

Over the semester, I administer between 10 and 15 quizzes. At the end of the semester, I adjust final course grades with a plus or a minus largely based on the quizzes, taking into account attendance and the notes of in-class participation

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## Exit interviews

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conferenced with me several times, he or she enters the discussion with a greater sense of trust. These students are likely to tell me what they have learned in the course, ask me a few practical questions, and perhaps ask me to look at a new writing sample or perhaps a course exercise on which they would like more feedback.

### Conclusion

As a teacher, I have found the exit interviews helpful. They increase my understanding of what students are getting out of my courses, they give me some personal insight into

my students, and they give me contact with students in a different, less formal setting. I also hope that they will serve as more than exit interviews—that they will encourage students to discuss other matters with me and to seek advice during the rest of their law school careers and in their professional lives.

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# Essay ranking: Learning how to learn

By Max Young

Effective assessment of student performance is an integral part of legal education. This article describes how I make use of an essay-ranking exercise to give students fast feedback; to show students what is expected of them when writing an essay exam; and to give students a prediction of their future performance. This article also shows the students' positive response to the ranking exercise and points to future developments of the ranking exercise.

## Learning from prior assessment

Law students often take their first exams without much guidance as to what is expected of them. Students might be given general guidelines to follow, but this advice tends to be fairly meaningless to students new to legal education. For example, in the exercise described below one student said:

*Although frequently been told how to structure and present a problem type essay, only by looking at, and working with, such answers have I properly grasped the basic concepts.*

Students often find on the return of their first exams that their teachers explain why the students' approach is all wrong, etc. Students then comment that if they had been given that sort of guidance in the first place they would have approached the answer differently: They are starting to learn from the assessment.

How much better things would be if it were possible to show students what was expected of them before they undertook their first exams. If students could be shown the type of work that was expected of them and also why different exams were graded in the way they were, surely this would be a better and more logical way to prepare?

## The Contract Law Essay Exercise

The assessment exercise described in this article was conceived as an idea to improve the student-learning experience. My contract law multiple-choice essay exercise is run in the following way:

1. Some weeks before the exercise is due, students are given a typical contract law problem. They are told to prepare the answer to the problem in the way they would do if they were going to submit it as an essay answer but that they will not be allowed to actually submit it. Students were encouraged to work on the problem in small groups.

2. The team of contract law teachers selects five answers to the problem from previous students. Each member of the team marks the five essays, commenting in detail on each. The team then meets to discuss the ranking of the essays and a rank order is agreed. The team's comments on each of the five essays are collated for future feedback to the students.

3. During a subsequent class, the students are issued the five answers. The students are told to study each answer carefully and place all five in an order of merit. They are also told to consider where they would rank their own prepared answer. They have the lecture period, about 50 minutes, to complete the exercise.

4. At the end of the lecture period, the students hand in their rank orders. Each student's mark is then calculated by comparing its rank order against the rank order of the contract law team.

5. Within a week the students are given their marked ranking sheets. They also are given the collated comments of the contract law team. Students can read these comments and see why each essay was given the grade it was.

## Students' comments

Preparing for the exercise in small groups:

*On the whole I enjoyed the exercise immensely. It was rather fun working with the group and I liked the way everyone had a differing idea as to what was relevant and what was not. (Student scored 2/20)*

*This exercise has been an eye opener as it has made me realize that I do not have to work alone and also that I am not alone in my quest to complete a law degree. There are other people in the same boat, having the same problems and making the same mistakes as I am. (Student scored 10/20)*

*The exercise was useful in that the group discussion was especially enlightening in that as a group so many ideas can be produced and approaches to answering the question can vary. (Student scored 14/20)*

Evaluating the ranking exercise:

*I think it was a good idea to do this exercise, since it actually makes one aware of what to expect and how to approach questions during our time of study. And also reading through the essays had made it clear what examiners have to go through to come to a final decision when allocating grades. The assessment in general was beneficial to me in the sense that, I will be able to approach and tackle questions properly in the future. (Student scored 18/20)*

*I thought this exercise was a big challenge. I felt this exercise was worthwhile and in a few months I would love to be at the standard of [the best essay]. From this exercise I observed the importance of good knowledge of case law and I gained a slight insight into the good and bad ways of answering an essay. (Student scored 8/20)*

*Overall I felt the exercise was not as effective as it could have been as we were not given enough time to read the essays through thoroughly enough to make an educated decision. Also, the atmosphere of the lecture hall was not conducive to a proper discussion. (Student scored 20/20)*

## Conclusions

The only complaint some students had about the exercise was that there was not sufficient time in which to properly complete it. A solution to this problem might be to allow the students to complete the exercise overnight instead of in a

*Continued on page 9*

# Mastering techniques

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Continued from page 3

organization, identify difficult issues, articulate critical points, and inspire students. Lowman offers advice on how to lecture with immediacy and spontaneity, to introduce variety, and to use visual tools, such as handouts, blackboards, flip charts, overhead projectors, and computers.

## *Enhancing Learning Through Classroom Discussion.*

Discussions can help teachers and students address important objectives of higher education, such as critical thinking (analysis, synthesis, evaluation), student attitudes and values, and students' involvement in their own learning. Lowman gives specific tips on starting, guiding, and ending discussions. He also provides clear thinking about how teachers can deal with students who are overly talkative or withdrawn.

## *Planning Course Content and Teaching Techniques to Maximize Interest.*

Lowman believes that effective course and class planning rests on the teacher articulating specific content and skill goals and communicating those goals to students. Lowman encourages teachers to use classroom assessment and cooperative learning to help students achieve those goals. Classroom assessment is a process in which teachers gather ongoing feedback from students about their learning to refocus instruction to be more effective. Cooperative learning is an active learning technique in which students work in small groups.

## *Integrating Learning In and Out of the Classroom.*

Much of the learning that occurs in higher education takes place out of the classroom. Lowman describes factors that affect student motivation and performance in key out-of-class learning activities including reading assignments, problem solving, writing assignments, and field work.

# Essay ranking

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Continued from page 8

single 50-minute lecture period. Although this might seem an obvious solution, a few students who had problems with reading the 5 essays in the 50 minutes said it was a useful experience as it showed them that they needed to improve their reading skills.

For example one student said:

*In the actual assessment I found I did not have enough time to assimilate all the essays. I decided it was through lack of experience in reading articles or literature that I was unable to take it all in. I therefore have gained at least one goal which is to assert my reading skills much more. I think it was a good exercise.* (Student scored 0/20)

Given that there seems to be value in using this methodology as both a group exercise and as an individual experience, it would seem that the next step would be to

## *Evaluating Student Performance.*

This chapter is full of practical suggestions regarding evaluation, including principles for constructing valid and reliable tests (both essay and objective), grading, and cheating. Lowman discusses a set of thought-provoking myths concerning evaluation, such as Hard grading and student satisfaction are inversely correlated. and Differences in grade point average (GPA) reflect differences in student quality.

## *The Art, Craft, and Techniques of Exemplary Teaching.*

Lowman organizes his final chapter around four tough questions:

- (1) Does outstanding instruction result more from individual talent or more from a supportive academic environment?
- (2) How can college teaching best be evaluated to reflect the full range of teaching effectiveness?
- (3) How can junior faculty be taught to teach well?
- (4) Given the rewards and requirements for survival in academia, why should any instructor attempt to strive for excellence in the classroom?

The second edition of MASTERING THE TECHNIQUES OF TEACHING is an important work for legal educators. It contains a thorough analysis of the science and the art of teaching based on a solid research foundation. In addition, it gives detailed descriptions of practical ideas designed to make instruction more effective. This resource is available from Jossey-Bass Publishers, 350 Sansome St., San Francisco, CA 94104, (415) 433-1740.

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design a group exercise that students could complete overnight and an individual assignment that would take place at present. A further obvious development would be to adapt the exercise for other subjects. In fact, this has been suggested by many second-year students.

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# Institute wants your fresh look at teaching law

## Call for Presentations

*Sixth Annual Summer Conference*

*Theme: Fresh Looks at Teaching and Learning Law*

*Dates: June 11-12, 1999, Spokane, Washington*

The Institute for Law School Teaching is committed to improving the quality of teaching and learning in law school. The Institute's annual summer conferences provide a forum for dedicated teachers to share with colleagues innovative ideas and effective methods for legal education.

The Institute invites proposals for 50- or 100-minute workshops consistent with the conference theme, Fresh Looks at Teaching and Learning Law.

The workshops can address any aspect of teaching and learning in legal education, including methods and ideas for first-year courses, upper-level courses, clinical courses, skills and writing courses, and academic support.

The workshops can deal with innovative materials, alternative teaching methods, ways to enhance student learning, evaluation of student performance, faculty programs to improve teaching, etc. Each workshop should include materials that participants can use during the workshop and when they return to their campuses.

Presenters should not read their papers but should model effective teaching methods by engaging the participants.

To be considered for the conference, proposals must be

limited to one page, single-spaced, and include the following:

- ¥ The title of the workshop;
- ¥ The name, address, phone number, FAX number, and e-mail address of the presenter(s);
- ¥ The length of the workshop (50 or 100 minutes); and
- ¥ A summary of the contents of the workshop, including its goals and methods.

The Institute must receive proposals by Jan. 15, 1999.

Submit proposals to:

Institute for Law School Teaching  
Gonzaga University School of Law  
Box 3528  
Spokane, WA, 99220-3528

The conference is self-supporting. The conference fee for participants is \$350, which includes conference materials and meals (two breakfasts, two lunches, one dinner.) The fee for conference presenters is \$150. Pleasant and reasonable accommodations are available adjacent to the conference center. Presenters and participants must cover their own travel and accommodation expenses.

For more information, please contact:

Gerald Hess, Director  
(509) 323-3779  
ghess@lawschool.gonzaga.edu.

Or:

Paula Prather, Program Coordinator  
(509) 323-3740  
pprather@lawschool.gonzaga.edu.

## Tough law

*Continued from page 7*

that I make on my seating charts during the term. Usually, the semester adjustments describe a slightly-skewed bell-shape curve with about 20 percent pluses, 10 percent minuses, and 70 percent no adjustments.

I submit that the benefits of unannounced quizzes far outweigh the costs. Really, the only costs are the lost class time, which totals at most only two or three class meetings over the semester, plus my own grading time and effort, which amounts to two or three hours for each quiz.

The benefits for the students are substantial. In effect, this technique allows me to call on every student individually to recite on that particular day's reading, which is far more fair than calling on random students in a Socratic lottery, and it avoids some of the stress and pressure of oral recitation. The quizzes also help me to provide my students with personal feedback on individual course topics of some importance.

While I may not be as great a teacher as the legendary Mark Hopkins, each quiz sits me on one end of a log and one of my students on the other end to discuss the assigned topic. More generally, students also benefit from knowing sooner rather than later if what they are doing to learn the material is adequate, far in advance of the winner-take-all final examination, after which it is simply too late to regroup or to seek help. They know, if they rack up a series of minuses, that they should come talk to me, sooner rather than later. And I can review their quizzes to help diagnose their problems and

to prescribe what they should do to solve them. The quizzes reward preparation and performance and thus reinforce professional work habits. Indeed, I have the sense that the quizzes have had the salutary by-product of toning up the overall level of class preparation and participation.

I am convinced that this evaluation and teaching technique is valuable and effective. I believe that unannounced quizzes can easily be adapted for any law school course, though I think quizzes make the most sense in first-year courses. Any number of variations suggest themselves. A professor need not record the grades but could implement non-credit quizzes to provide each individual student some personal feedback on an ongoing basis outside the tyranny of grades that plague first-year students. Someone might adapt the quiz system to administer them using the law school's e-mail or Web page technology.

I highly recommend unannounced quizzes, and I would encourage law professors to experiment with them and to report their experiences.

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# Present property

Continued from page 5

For example, a determinable life estate ( to A for life so long as A lives on the land ) can be defined or described as having two possible natural expirations one when A dies, the other when A moves off of the land. However, I describe *all* types of life estates as having only one possibly natural expiration the death of the measuring life. If and when the conditional limitation occurs in this example (*i.e.*, if and when A moves off of the land), I describe A s estate as having been terminated at a point in time that occurs sooner than the natural expiration of A s estate. I believe that, among other things, such a description makes it easier for students to understand the differences between possibilities of reverter, rights of entry, and shifting executory interests.

During the presentation I adopt, explain, and use the following terminology, which focuses on the differences between the various methods by which property rights may cease to exist:

I. Present estates may end: 1, by natural expiration (or expiration); 2, by termination (or by being cut short ), which occurs sooner than natural expiration; or 3, by merger, which occurs sooner than natural expiration.

II. Future interests may end: 4, by failure; 5, by destruction; 6, by complete divestment (or complete defeasance); or 7, by

being rendered void or void *ab initio*.

The lecture comes on a single 3.5-inch, 1.44 MB floppy disk and may be run, as is, directly on a PC compatible laptop computer. The slides also may be printed on transparencies and shown using an overhead projector. The disk contains the lecture in four different formats:

PowerPoint 97, PowerPoint 95, PowerPoint 4.0, and

PowerPoint 3.0. The slides and speaker notes are fully editable, and the slides, speaker notes, and student handouts can be printed separately.

If you would like a copy of ESTATES IN LAND

AND FUTURE INTERESTS MADE EASY WITH POWERPOINT“, contact the Institute for Law School Teaching at Box 3528, Spokane, WA 99220-3528, phone (509) 323-3740, or e-mail pprather@lawschool.gonzaga.edu.

*A sample slide from the presentation appears below.*

*During the 1997-98 academic year, Robert Kelley was Visiting Associate Professor of Law at Gonzaga University School of law. He may be reached by e-mail at rhkelley@concentric.net or by fax at (781) 963-6635.*

## Life Estate - Duration

- Words of limitation set an indefinite duration.
- Expires at death of life tenant.
- Not inheritable or devisable.
- Limited transferability by grant.

© 1997, Robert H. Kelley

An ordinary life estate naturally expires at the death of the life tenant.

The ordinary life estate “to A for life” could not be transferred by descent or devise at common law and cannot be so transferred under modern law.

The life tenant could at common law, and can under modern law, transfer the right to possess the land for the balance of the lifetime of the life tenant thereby creating a life estate pur autre vie.

# Institute offers resources for law teachers

The Institute has available the following resources for law teachers:

¥ *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 all of their students. The videotape consists of feedback from law students of diverse backgrounds about what hinders and enhances their learning. The written materials (70 pages) include lesson plans for using the kit; overheads; handouts; discussion questions; a primer on teaching and learning principles; and an annotated bibliography on diversity, learning, and teaching methods. Cost: \$199.

¥ *A Day In The Life Of Law School Teaching*, produced by Larry Dubin:

Through an Institute research grant, Professor Dubin created a videotape program designed to stimulate discussion among faculty members about law teaching methods. The 35-minute tape has five segments. For each segment, Professor Dubin interviewed the teacher before class, taped a class, and then interviewed students. Each segment allows the viewer to hear the teacher explain 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.

*Getting Graphic 2* by Corinne Cooper:

This book covers both the why and how of using graphics in law school classrooms. Professor Cooper begins with a summary of learning and schemata theories and the role of visuals to aid students' understanding of complex ideas. Then, Professor Cooper describes the functions of twelve types of graphics, including time lines, charts, diagrams, graphs, and pictures. Examples of graphics used in a variety of law school courses are included. The book concludes with practical tips on the design of visuals. 64 pages. Cost: \$20.

¥ *Bibliography*:

Published in 1994, the Bibliography annotates articles about law school teaching methods and describes higher education publications that focus on teaching. No cost.

¥ *Conference Materials*:

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

**To obtain any of these resources, send an order to the Institute for Law School Teaching, Gonzaga University School of Law, Box 3528, Spokane, WA 99220-3528, (509) 323-3740, pprather@lawschool.gonzaga.edu.**

## 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) effective course planning, and (6) the use of verbal and nonverbal communication in the classroom. 390 pages.

## 1996 Conference:

Covers (1) research on adult learning theory, (2) ways law teachers can use graphics to help illustrate, explain, and organize legal concepts, (3) basic aspects of student assessment-as-learning and the development of an assessment-centered law school course, (4) challenges in teaching diverse students and how to discuss issues such as race, gender, class, sexual orientation, and disability, (5) the use of computers to aid teaching and learning in law schools, 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; and teaching tips from conference participants. 260 pages.

## *The Law Teacher*

Volume II, Number 1

*The Law Teacher* is published twice a year by the Institute for Law School Teaching. It provides a forum for ideas to improve teaching and learning in law schools and informs law teachers of the activities of the Institute.

Opinions expressed in *The Law Teacher* are those of the individual authors. They are not necessarily the opinions of the editors or of the Institute.

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