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**Listening to Our Students:
Obstructing and Enhancing Learning in Law School**

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Listening to Our Students: Obstructing and Enhancing Learning in Law School

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MOST STUDENTS WHO arrive at law school share a number of characteristics. They are bright adults who have succeeded academically in college, are excited about the study of law, and are motivated to learn. However, law students differ from one another in many ways that affect their learning in law school. Those differences include age, ethnicity, gender, life experience, sexual orientation, social and economic background, culture, learning style, disability, reasons for attending law school, and aspirations as lawyers. Legal educators must consider those differences to maximize learning for all students.

This essay combines current findings from higher education literature with real life experiences of diverse students in law school today. The major thesis of the essay is that law teachers can improve their teaching and increase the learning of *all* students by listening to students' perceptions of the teaching/learning environment in law school. Those perceptions are consistent with basic principles of adult education from the literature on teaching and learning in higher education.

I. Literature on Teaching and Learning in Higher Education

There is a vast body of literature on teaching and learning in higher education that addresses issues and ideas relevant to legal education including: principles of adult learning, course and class planning, innovative teaching techniques, effective questioning and discussion, learning styles, and assessment and evaluation of students.¹

This essay will briefly describe two branches of higher education literature that illustrate the importance of teachers listening to their students'

* Professor of Law, Gonzaga University School of Law; Director, Institute for Law School Teaching. I am grateful to my colleagues, Mary Pat Treuthart and Jim Vaché, and my spouse, Layne Stromwall, who took the time to comment on a draft of this essay. I am indebted to Paula Prather, who performed the monumental task of transcribing the students' comments; without those transcripts, I could not have written this essay.

1. The Appendix to this essay contains a brief bibliography of monographs and newsletters on higher education teaching and learning.

views of teaching and learning. The first branch articulates principles of effective adult education. The second branch describes the classroom assessment movement.

A. Principles of Adult Education

Legal educators can improve their teaching and their students' learning by understanding basic principles of adult education and shaping their teaching to reflect those principles. Six principles are central to adult teaching and learning: voluntariness, respect, collaboration, context, activity, and evaluation.

1. Voluntariness

Participation in learning is voluntary; adults engage in learning of their own volition. Adults pursue education because they want to develop new skills, sharpen existing skills, acquire new knowledge, and gain new insights.² Adults are usually highly motivated to learn and are willing to engage in participatory learning methods such as discussion, simulation, and small group activities.³ However, adult learners quickly withdraw their participation if they feel that the education is not meeting their needs, does not connect with their past experiences, or is conducted at a level they find incomprehensible.⁴ Furthermore, most adults will retreat if they are humiliated in the classroom. Intimidation does not facilitate adult learning.⁵

2. Respect

Mutual respect for the self-worth of teachers and students underlies an effective teaching/learning environment. One of the central features of good teaching is that the students feel that instructors value them as individuals.⁶ However, for learners to grow they must develop powers of critical reflection and accept challenges from teachers and fellow students to consider alternative ways of thinking and behaving.⁷ Therefore, a difficult but essential task for the teacher is establishing a classroom climate and culture in which students feel and show respect and are willing to challenge and be challenged.⁸

2. See Stephen D. Brookfield, *Adult Learners: Motives for Learning and Implications for Practice*, in *TEACHING AND LEARNING IN THE COLLEGE CLASSROOM* 137, 142 (Kenneth A. Feldman & Michael B. Paulsen eds., 1994).

3. See *id.*

4. See *id.*

5. See *id.* at 141.

6. See *id.* at 143-44.

7. See *id.* at 145.

8. See *id.* at 141, 143.

3. Collaboration

Students and teachers are engaged in a cooperative effort.⁹ At different times during the course, and for varying purposes, different individuals can assume leadership.¹⁰ Collaboration is appropriate in course and class design in which both learner and instructor have a voice in choosing course objectives, teaching/learning methods, and evaluation criteria.¹¹ Collaboration is constant—it involves a group process of reordering priorities and refocusing teaching/learning activities as the course progresses.¹²

4. Context

Education involves exploring ideas, skills, knowledge, and attitudes. But exploration does not take place in a vacuum.¹³ Adults learn new concepts, skills, and attitudes by assigning meaning to them and evaluating them in the context of their previous experience.¹⁴ The learning process is a cycle in which the learner becomes acquainted with new ideas and skills. The learner then applies these ideas and skills in real life settings or simulations, reflects on the experience with these new skills and concepts, redefines how they might apply in other settings, and then reapplies them in other settings.¹⁵

5. Activity

Active learning means that students are involved in the learning process by doing more than listening.¹⁶ Active learning techniques include: discussion, problem solving, simulation, writing, and work in the field.¹⁷ Active learning promotes higher level thinking (analysis, synthesis, and evaluation) and develops skills, both of which are prominent goals of most adult education, including law school.¹⁸

9. See *id.* at 144.

10. See *id.*

11. See *id.*

12. See *id.* at 141–42, 144.

13. See *id.* at 144.

14. See *id.*

15. See *id.* at 144–45.

16. See Charles C. Bonwell & James A. Eison, *Active Learning: Creating Excitement in the Classroom*, in ASCHE-ERIC HIGHER EDUCATIONAL REPORT 1 (The George Washington School of Education and Human Development ed., 1991).

17. See *id.* at 2.

18. See *id.* at 3.

6. Evaluation

Effective evaluation motivates students and facilitates their learning. Effective adult student evaluation schemes have three characteristics: multiple, varied, and fair.¹⁹ Multiple evaluations assess students' learning more than once during the course.²⁰ Frequent evaluation and feedback allow the students and teacher to monitor progress and make appropriate adjustments during the course.²¹ Research shows that frequent evaluation improves student performance on the final exam.²²

A varied evaluation scheme includes: papers, journals, multiple-choice exams, written projects, and performance of practice skills.²³ Different evaluation tools are appropriate to assess student achievement of various objectives. Further, students vary in their preferences for different formats, so using a variety will help students do their best.²⁴

A fair evaluation scheme is designed to assess whether students have achieved the goals of the course.²⁵ Teachers make their expectations and grading criteria clear before the evaluation, and the students have an opportunity to practice and get feedback before the evaluation.²⁶

B. Classroom Assessment

The second branch of higher education literature describes the classroom assessment movement.²⁷ Classroom assessment is designed to help teachers discover what their students are learning and how well they are learning it.²⁸ It encourages teachers to collect frequent feedback from their students about how the students learn and how they respond to particular teaching techniques. Teachers can use that information to refocus their instruction to help students make their learning more effective.²⁹ Classroom assessment aims not only to improve teachers' understanding of learning,

19. See LUCY CHESER JACOBS & CLINTON I. CHASE, *DEVELOPING AND USING TESTS EFFECTIVELY: A GUIDE FOR FACULTY* 1-31 (1992); BARBARA GROSS DAVIS, *TOOLS FOR TEACHING* 239-47, 252-54 (1993).

20. See JACOBS & CHASE, *supra* note 19, at 3-5, 30-31; DAVIS, *supra* note 19, at 252.

21. See JACOBS & CHASE, *supra* note 19, at 2-7.

22. See *id.* at 4-7.

23. See DAVIS, *supra* note 19, at 241.

24. See *id.*

25. See JACOBS & CHASE, *supra* note 19, at 5-8; DAVIS, *supra* note 19, at 240-41.

26. See JACOBS & CHASE, *supra* note 19, at 5-7.

27. See THOMAS A. ANGELO & K. PATRICIA CROSS, *CLASSROOM ASSESSMENT TECHNIQUES: A HANDBOOK FOR COLLEGE TEACHERS* 3-7 (2d ed. 1993).

28. See *id.* at 4.

29. See *id.* at 4-5.

but also to help students become self-assessing, self-directed learners as well.³⁰

Classroom assessment is based on a number of assumptions about teaching and learning:

- “The quality of student learning is directly, although not exclusively, related to the quality of teaching. Therefore, one way to improve learning is to improve teaching.”³¹

- To improve teaching effectiveness, teachers need to first make their course goals explicit and then get feedback on the extent to which students are achieving those goals.³²

- To improve learning, students need to receive appropriate, focused feedback, early and often.³³

- The type of assessment most likely to improve teaching and learning is conducted by teachers and addresses issues that apply in their own courses.³⁴

- Classroom assessment does not require special training; teachers from all disciplines can carry it out.³⁵

Most classroom assessment techniques are uncomplicated and easy to implement. They are also flexible and adaptable to many different disciplines and types of courses. Examples of classroom assessment techniques appropriate for law school include the use of the minute paper,³⁶ documented problem solutions,³⁷ and teacher-designed feedback forms.³⁸

1. The Minute Paper

The minute paper technique provides a quick, simple way for a teacher to collect feedback on student learning. The teacher stops class a few minutes early and asks students to respond in writing to questions such as: “What was the most important thing you learned during this class today?” or “What important question remains unanswered?”³⁹ Students write their responses on a sheet of paper and hand them in on the way out of class. This technique is particularly flexible because teachers can shape the questions to generate feedback on any issue in any course.

30. *See id.*

31. *Id.* at 7.

32. *See id.* at 8.

33. *See id.* at 9.

34. *See id.*

35. *See id.* at 10.

36. *See id.* at 148–53.

37. *See id.* at 222–25.

38. *See id.* at 330–33.

39. *Id.* at 148.

2. Documented Problem Solutions

The documented problem solutions technique gives teachers and students valuable insight into problem solving skills.⁴⁰ The teacher assigns a problem for students to solve. Students then describe in writing the steps they take in analyzing the problem.⁴¹ The focus of the student response is the detailed description of the manner in which the student analyzed the problem rather than the student's solution.⁴²

3. Teacher-Designed Feedback Forms

This technique gives teachers feedback on the effectiveness of teaching/learning activities in their classrooms.⁴³ It differs from the end-of-the-course student evaluation form in two ways. First, teachers can gather this feedback during the course to improve their teaching before the course is over.⁴⁴ Second, the teacher can tailor the form to assess the specific goals and methods for their courses.⁴⁵ The form can be as simple as three questions on one page: "What teaching/learning activities are most effective for you?" "What teaching/learning activities are least effective for you?" "What new teaching/learning activities should we try?"

The essence of classroom assessment is one simple truth—asking what hinders learning and what enhances it. It is an effective way for teachers to improve their teaching and their students' learning.

II. Hindering and Enhancing Diverse Students' Learning in Law School

The remainder of this essay reports the observations and suggestions of diverse students describing their learning experiences in law school. These observations and suggestions come from sixteen hours of videotaped interviews with sixty-seven students.⁴⁶ The students are diverse in ethnicity, age, culture, gender, sexual orientation, disability, socioeconomic background, class rank, and year in school. The students attend six law schools:

40. *See id.* at 222.

41. *See id.* at 222–23.

42. *See id.* at 222.

43. *See id.* at 330.

44. *See id.* at 330–31.

45. *See id.*

46. The videotapes are part of a larger project, "Teach to the Whole Class: Effective Teaching Methods for a Diverse Student Body," which is the brainchild of Paula Lustbader (Seattle University School of Law) and Laurie Zimet (University of California Hastings College of the Law). It is being sponsored by the Institute for Law School Teaching at Gonzaga University School of Law. The goal of the project is to create a faculty development packet to help legal educators improve the quality of their teaching and enhance the learning of all students.

private and public, large and small, from different regions of the United States.⁴⁷

Two questions provided the focus for the taped interviews: "What occurred in the classroom that interfered with your ability to learn?" and "What occurred in the classroom that enhanced your learning?" The students' responses to those questions provide valuable insight into effective teaching practices in law school.

The themes that emerged from the student responses are organized according to the six principles of adult education articulated in Part I. For each principle, the themes from the student responses are divided into two categories: hindering learning and enhancing learning.⁴⁸

A. Voluntariness

1. Hindering Learning

Students articulate several aspects of teacher behavior that discourage students from voluntarily participating in their own education. These behaviors instead cause students to withdraw from active learning in the classroom.

Many students withdraw if the teacher creates an adversarial relationship between students and teacher or among students in the classroom. One way that teachers create an adversarial relationship is by asking questions that the students perceive are designed to illustrate what they do not know, rather than questions that aim to help them understand new concepts. However, the fastest way for a teacher to poison the atmosphere is to humiliate a student in the classroom:

I was ready for the rigor, but I wasn't ready for the humiliation that accompanied it. And so, when we talk about prices that are paid, I think everyone that comes here is ready to pay the price of competitive and aggressive action. I don't know that everyone's ready to pay the price of any humiliation, intended or unintended, that occurs in the process.

* * *

[I] was struggling through reciting the case and the professor finally just sort of walked away from the podium and heaved this huge sigh and said, "Obviously, we need to move on." [He] turned his back and walked back to the podium. And I thought I was long ago over being humiliated or that I was too old or too sophisticated—because I'd been out in the work world as a professional for so many years, [but] I wanted to run out of that room and dig a hole for myself. And I must tell you: ever after, every time I had to walk into that room it was hell. And every day I tried to be

47. The schools are: Brooklyn Law School, University of North Carolina School of Law, University of Iowa College of Law, University of New Mexico School of Law, Seattle University School of Law, and University of California Hastings College of the Law.

48. Different students' comments are separated by asterisks (* * *).

as small as I could be in that seat. That was my goal in that class, . . . to be as small as I could be. If I could've physically reduced my size to that of a peanut, that would have been my choice.

. . . [T]here were a number of my fellow students who came up to me and expressed for me the way they felt after the incident by saying, "I'm so afraid of what he's going to do when he calls on me because this class is so hard"; "I'm afraid that's going to happen to me, too"; "I hope he doesn't get to me; maybe he won't get to me." And I remember thinking, "This is pathetic! These people are hoping they don't have to participate. That can't be right!"

Teachers also discourage participation from some students by making the classroom exclusive rather than inclusive. Students give many examples of teacher behavior that creates an exclusive classroom environment. Teachers sometimes discount comments from students who have different perspectives from those of the teacher:

You feel as if it would be useless for you to participate because no one would either hear what you're saying or even don't want to hear what you're saying and the professor perpetuates that by the comments that he or she makes.

. . . [S]tudying for that class and even going to that class becomes very difficult because you feel that your presence isn't wanted or needed.

* * *

[H]e didn't talk [about] the Native American perspective. He didn't talk about gender issues. He didn't talk about issues dealing with race and religion in regard to property. I felt like those were just little side notes. Every single time that that issue was brought up, in almost every first-year class, [if] any of those issues were brought up that really motivated me and it really made me want to learn because it was relevant to who I am, they were just footnotes. And so it just further devalued who I was. And I was like, "So I have no voice." There's no way I can talk about what happens, how I feel about law, how the law could work better to help more people, because my view doesn't count.

Other teachers tell jokes, use hypotheticals, and give examples that are foreign to the background and culture of some of the students:

There're different things that teachers bring up [that] I don't know anything about. It may be something they learned in their culture but it has nothing to do with what I have learned or what I've been brought up with . . . I definitely feel alienated when the teacher makes jokes and everyone else around me laughs and me and the other two or three people are sitting around . . . [thinking], "What's going on?"

* * *

Ofentimes I think the culture here is dominated by white males, and it is just, you get this feeling of being excluded. I had a professor who came into class and he would begin class with a few minutes of interesting anecdotes, and they usually involve things like golf and skiing and rock-and-roll music that were not part of my cultural experience. . . . [T]here were three African-Americans and one Native American in class and . . . while this was going on we would just sit and look at each other and try

to figure out why . . . this was so funny to everyone else but us and we just felt like we weren't part of it.

A few teachers make comments that stereotype, or they fail to challenge students who make those comments:

[L]ast week we had a contracts case where the lady bought a stereo for \$617 and it was assumed that she only made \$200 a month. [I]t just seemed pervasive throughout the classroom and from the professor, that somebody [who] was that dumb must have been an African American person, because it stated in the case that she was on welfare. And the professor seemed to just go along with that when people were speaking in the class.

* * *

I think it is the professor's responsibility to inform him or herself about those stereotypes and actively work to heighten their understanding and sensitivity to diverse issues. . . . [I]t's amazing to me the extent of ignorance on the faculty about gay rights issues, about women's issues, . . . about race issues. . . . [M]y understanding has been that racial and sexual orientation minorities feel terribly, terribly alienated here. And I think to a degree that is perhaps not even recognized or fully appreciated by the faculty.

Finally, some teachers rely on the same group of students throughout the course to answer questions and make comments and fail to call on students who might offer a different perspective:

[Y]ou get faculty members who have had the same students in class before and so they have a history with that individual and so they bank on that history and say, "Okay, I can call on this individual because I know this individual is going to have something constructive on this issue, and we're going to expose all the issues surrounding this point of law." And the problem with that is that there are other people in that classroom who have been silent and remain silent because [teachers] continue to call on the faces that [they] recognize.

* * *

[T]he topic of race came up. . . . When race came up a lot of people had a lot of things to say However, the only people who were called on by the professor were white males. . . . [I] raised my hand and I kept it up for close to 40 minutes, and I was never called on. And prior to this I had certainly, I felt, earned my respect in the class and earned the professor's respect. Half-way through the class I find myself absolutely seething inside and I wasn't listening to the conversation. I wasn't even thinking anymore about the arguments I wanted to make. All I could think about was why had I not been called on and why was this conversation taking place between this cast of characters when so much more could have been added to the discourse via the experience of others in the class, be it women, be it people of color.

2. Enhancing Learning

Students offer a number of suggestions for how teachers can encourage students to participate in their own education.

First, a teacher should create a safe learning environment by using positive reinforcement when students participate appropriately:

I remember going out on a limb and the professor . . . [S]he was just beaming, she was just so happy that someone actually went out of the status quo type of perspective and went out on a limb and brought in a totally different perspective that maybe would not have been included into the discussion. And that felt really good just knowing that the professor acknowledged what I was saying and that she welcomed my criticism of the issue. And after class she came up to me and asked me "Where did you learn this? What classes have you had as an undergrad?" . . . And that made me think, "Okay, maybe I do belong in this institution. Maybe my voice is an important voice that needs to be heard whether people agree with it or not."

Teachers can also encourage student participation by seeking out a variety of perspectives from students:

She was not in front of the classroom to be domineering. She was not in front of the classroom to degrade anyone. She was not trying to embarrass anyone. Her whole goal during her lectures was to make sure that you got the point of whatever it was we were studying, and she made you feel like your opinions were valuable just by inquiring of everyone, "What do you think? I don't agree with you but I'm glad you made the point."

* * *

I think that this year the professors do value different policies, different perspectives, and inclusion of more people and conversations. I mean, I get excited to go to Evidence because he wants to hear what everyone thinks about a particular issue. And I think that makes more people participate, more people challenge each other with what they're thinking, the way they're thinking. That makes me excited to learn.

Teachers should also organize the course to facilitate students' preparation for and participation in class. Students suggested that teachers organize by preparing a detailed syllabus, giving students written questions to prepare for class, and asking students to work on problems before class:

I find [it helpful] when the professor . . . takes the time to prepare the syllabus and guide you in certain ways [H]e took the time to put questions within each case so that when you're reading it not only do you look for the answer to that question but, when you find it, you start putting the pieces together. . . . [T]he best thing about knowing the questions and everything is no matter how difficult the subject is, you can prepare for the class. You're not just reading the case and briefing a case and show[ing] up in class. You know what to expect.

Finally, teachers should motivate their students to work hard. Students are motivated when the teacher demonstrates enthusiasm for the course,

works hard on the course, and gets to know students as people, especially students from backgrounds different from the teacher's:

One of the things that has been . . . most encouraging to me as a student has been to have those professors that seem to be willing . . . to mentor to you [I]t's the professor's countenance when you come up to the professor after class and ask questions or when you . . . go to their office.

* * *

I felt that the teacher was a very hard worker. I thought that she loved her job [T]hose things kind of helped me gain respect for the professor, and in turn it helped me learn more in the class because I was excited about going to the class. I never missed it once. Even though it wasn't my best grade I think I learned the most out of that class.

* * *

I was having some troubles. And I went to talk to a professor. And I asked him a specific question about criminal law. This professor, after I finished my question, I guess he read in my face, you know, the torture I felt I was probably going through. And he just said, "Where are you from? How are you doing?" and he talked to me for the first time, instead of a student in a Socratic method sort of adversarial role, but as a person, as a man to man, person to person, with compassion. And from that time on I've tried to get every class this professor has taught.

* * *

[I]f you make an effort outside the classroom to get to know students who are not like you—of different cultural backgrounds—you'll make them feel more comfortable in your classroom.

B. Respect

1. Hindering Learning

Students report that their learning is obstructed if the teacher fails to establish a culture of mutual respect in the classroom:

The student was trying to relate how there might be distrust of the police by certain ethnic groups and the reasons for that. And I don't think [the professor] was really validating her statement. I think she had a good point to make. I don't think she was going on a tangent, and I think [the professor] bordered on the disrespectful. And other students picked up on it and there were other sighs and huffs, but they weren't sighs and huffs of "We should move on" but, "Tsk, tsk, please, she's not making a valid statement." And I think [the students] got that from the professor.

Students expect teachers to insist that students treat one another respectfully in the classroom:

I think law school is just a very competitive atmosphere to begin with and, unfortunately, there are people—there are classmates—who will basically crucify each other. And it's very uncomfortable to have to face that not only from the professor but also from other students. And I think it's a part of the professor's responsibility to be able to maintain a level of respect not only among . . . the professor and the students, but also

among the students themselves. And I've seen professors do that very effectively, and I have also seen professors fuel the fire.

* * *

[I]t might be a good thing for the professor to say "Stop. I expect you to treat each other with professional courtesy." . . . I think some people need to be told very bluntly what professional courtesy consists of. And I do think that the professor is the authority figure in the class; they are supposed to be running the show; and so they are the proper person to educate people about . . . the negative effects of that lack of professional courtesy.

Unfortunately, sometimes teachers themselves show disrespect by making insensitive comments and furthering stereotypes:

[O]ne of the experiences that occurred to me was when one of the profs used an example that related to the "greasers" and that was a very, very uncomfortable thing for me to have to listen to. Now, that person may have used that term in a context which they thought was appropriate. However, I'm unconvinced to this day that there was not a knowledge of other potential impacts that that word could have had on people. I hadn't heard that word since the early '60s in Texas and I had hoped it had been long forgotten. And another example from the same individual was . . . referring to those "stupid latinos" in a way that was actually intended to dramatize the incorrectness of that position. . . . In so doing, however, it only served to highlight a disparate view of other cultures.

* * *

In one of my classes, the professor made a few remarks during the course of the semester. For instance, there was this one student in class—he's Japanese-American—and the professor wasn't able to get his name right. And finally one day he slipped and said . . . "Mr. Hiroshima," and then asked him a question. . . . [T]hat was kind of an uncomfortable moment in class. Also this professor made general comments to the class—it's a fairly diverse class—and kept referring to our Anglo ancestors in relation to the law that he was teaching us.

Teachers also demonstrate disrespect by making assumptions about students based on their ethnicity or background:

I think it's very important not to make assumptions about students based on their background, on their ethnicity, or assume that, well, if this student is from this background then maybe they're not putting in the same effort Towards the end of the semester, I had a professor who just assumed that I had not begun to outline. . . . It was a big turnoff.

Some teachers act as though minority students are less capable than other students:

[T]here's been examples in my classes where a group of African American students and Latino students . . . sat in one section and no one in that section was called for months. And it was just, it takes you out of it. It takes you out of the learning process I don't think professors should be intimidated about upsetting anyone and therefore not calling on them, assuming that, "Well, I don't want to put them on the spot," or whatever. Everyone in that law school class, everyone that's in law school, as far as

I'm concerned, is intelligent and is smart and is diligent or else they wouldn't be here. And everyone should be treated the same way and called with the same principles in mind.

Other teachers act surprised when diverse students perform at a high level:

If you have a minority student who's articulate and intelligent, don't treat them like they're an exception to the rule. . . . I'm tired of . . . professors expecting underachievement from me and when I achieve you treat me like I'm a special prize and I'm your pet.

2. Enhancing Learning

Students made a number of specific suggestions to help teachers establish the environment of mutual respect in the classroom.

First, many students emphasize the importance of teachers learning students' names. Teachers who know students' names seem more interested in the students as individuals and concerned about their learning:

[O]ne of the things that did work . . . would be to humanize each student. I mean, when you raised your hand, it was not "You in the back" or "You with the shirt," it was "Ms. So-and-So" or "Mr. So-and-So." And it absolutely made you feel like, "all right the focus is on me and this professor wants to hear what I'm about to say."

* * *

[H]e gets to know everyone in the class. He knows you by first name. He makes . . . you feel like you're important to be there and he includes everyone in the conversation.

Second, students find it equally important for teachers to get to know something about their lives and aspirations:

[I]f this professor is a nice person and treats people well, . . . I'm going to work extra hard in that class just because I have that kind of relationship with that person not only in class but also outside of class They know where you're from, what your background is. . . . "Hey, did you go home to Alaska for the break?" and "How's your family?" I mean, things that take like 30 seconds of their time [but] make all the difference to you as a student.

Third, students feel especially valued if teachers invite students to share their real life expertise (business, culture, politics) in the classroom:

[Y]ou can take our backgrounds and use them. Let us feel like we still have something that we came to law school with. The best professors are the ones that innately respect you as adults.

Fourth, teachers can show respect by having high expectations of all students:

[W]hen I hear a professor is excellent, I'm signing up because if they're good and if they have high expectations, I'm going to have high expectations of myself, and I'm going to want to come to class and produce on their level. And so I don't think professors understand the power they have over their students, at least me. And that if they're very well pre-

pared and they demand a lot, I'm coming to class very well prepared because I want to really be active in their classroom and understand.

Finally, one student captures the essence of mutual respect with this advice for teachers:

[D]on't forget that you're a human being and that you're teaching human beings and that it's always best when everybody leaves the table with something.

C. Collaboration

1. Hindering Learning

Students and teachers are engaged in a cooperative effort in which both learner and instructor have a voice throughout the course in shaping objectives, teaching/learning methods, and evaluation criteria. Yet, students perceive that most law school teachers solicit little or no student involvement in the design of their own education:

We need to have an environment where students can actually be engaged Our education here is basically teacher focused. And I think this is why you have the class basically shaped based on the professor's perceptions of the world.

When articulating course goals, many teachers pay no attention to the goals students have for the course and for law school as a whole:

When I came to law school I wanted to learn, I had chosen to learn what you're about to teach me, and that is the law, but I have goals, too. I want to use it. I've been here five semesters and I've . . . only taken maybe one or two classes where I've actually learned how to use the information I'm learning.

Further, when choosing teaching/learning activities for the course, many teachers ignore the fact that students have different learning styles:

I think that there's two different kinds of thinkers Some are very linear . . . A plus B plus C equals D. It's a person that can take out the bicycle instructions on Christmas Eve and figure it out. I personally can't do that; I have to walk around the problem 16 times and look at it from every particular view before it starts falling into place for me. I think the instructors teach in a way that is comfortable for them and if their way of thinking and their way of organizing these things doesn't fit with mine, I'm lost.

2. Enhancing Learning

Some students envision a process of course design that is more sensitive to their needs. These students think teachers should clearly communicate course and class goals to students:

[I]f a . . . teacher can articulate what they expect of the student . . . and then follow through with that through the whole course and through the evaluation, they're a better teacher.

Teachers should use a variety of teaching, learning, and evaluation activities to accommodate various learning styles:

[K]eep in mind that you have people that have different methods of learning or different ways of learning. Some learn by hearing, some learn by seeing. . . . So maybe approach[] your lecture from different positions.

Throughout the course, teachers should assess the teaching and learning methods based on feedback about the effectiveness of the methods:

And the best teachers are the ones who want the evaluations from the students, from their colleagues, and from their superiors as far as how effective they are as a teacher. A teacher is someone who always is also a learner and always is trying to improve their craft.

In addition, teachers should give feedback to students throughout the course so students can adjust their efforts and strategies to keep on track:

[H]e gave us an assignment midway, just five short questions, and he had us prepare them. It wasn't graded. It was simply check-check-plus just to see how we were doing. And it was perfect because some of us went to see him afterwards and we realized what we were doing wrong. And it was a good method for him to see whether we were getting the material It eased me a little because it gave me an idea of, "Oh, this is what he's looking for."

Although the process of course design that students suggested is consistent with the principles of adult learning described in Part I, students' comments revealed a basic shortcoming of legal education. Not one student implied that teachers should design their courses in partnership with students. No students suggested that students and teachers share the power to decide the course goals, teaching/learning activities, and evaluation methods. This fundamental principle of adult learning, that students and teacher share the responsibility for course design, is foreign to most law teachers and students. However, law teachers need to embrace this principle if legal education is to reflect basic adult learning principles—voluntariness, respect, and collaboration.

D. Context

1. Hindering Learning

Students find learning to be more difficult when teachers presented new skills and concepts without context. Students refer to two types of context: structural context and experiential context. Learning is especially difficult when the teacher fails to place individual concepts in the overall structure in which they belong:

[T]hey don't set out a framework so that people who learn like I do from looking at the big picture of things and seeing, this is where we are and this is where we're going to go and this is where this information or this

concept fits in I need a map and if you don't give me the map I don't know where we're going [W]hen professors just throw things at you without any type of interconnection then you just go, . . . "where's that going to fit in?"

* * *

[T]he instructors never gave me a framework. And I remember relating it to an attorney friend of mine, saying, "Well, they've given me a bunch of boards and a hammer and some nails, and I'm supposed to build a widget but I don't know what a widget is and what it looks like, and I can't!" And it was really frustrating because I know I'm not stupid but I felt so stupid because it seemed like everybody else understood what was going on. And I don't know if they did, but they sure looked like it.

Students also struggle with abstract concepts that are not applied to real life:

I look at . . . all the information that comes to me and what I'm looking for and what keeps me interested is how does this relate to a problem, a specific problem. . . . I'm not interested in some vague concept. I want to know, given this fact, how do I use it

* * *

[A] lot of professors here are extremely intelligent, extremely academic, that sometimes they get lost in all that academia and all this great analytical thought and they don't bring it back to practical life.

Finally, students have great difficulty when new concepts conflict with students' life experience and culture:

I had a real problem with Property [F]or me the whole notion of individual ownership of property to the exclusion of others was really foreign . . . and I just kind of found the whole topic of Property kind of offensive [B]ecause I'm Yupik, the whole notion of individual ownership of property and excluding others to maintain your property was just really strange. But, on the other hand, when we got to Community Property, everyone else was confused, and man, I had Community Property down. I had no problems with Community Property.

2. Enhancing Learning

Students provide several examples of teaching strategies that help them understand how new concepts fit in a coherent structure. Many students appreciate teachers who begin new topics with an overview, begin each class by putting the lesson in context, and review and summarize throughout the course:

I thought it was very helpful when the teacher would recap the previous lecture's most important points real quickly, like in the first five minutes of every class, so that even if in the previous class we had gone down different tangents or different issues or sort of got sidetracked or got a little too Socratic and we didn't get enough answers, he or she would basically tell us, "Okay, this is what I wanted you to get out of last lecture" I think that those five minutes out of every lecture did so much and gave me a better idea to what I should be getting out of this class in terms of the big picture

* * *

[I]t's very important to be organized going into the classroom so that [teachers] have a clear understanding themselves what it is that they want to get across. . . . [Y]ou have an introduction, you review the material that you've been talking about in the last couple of days to put it in context with what you're going to talk about that day. In doing that, the students get a sense of what exactly is expected and what they should get out of the classroom and the professor knows exactly where to go and what to cover. And then, throughout the class . . . keep hitting those high-lights, keep hitting those main points

* * *

[The teacher] start[s] off with a review of what you did yesterday. It goes on about 30 seconds to a minute, and then he does a quick overview of what you're going to do that day, and then gets into it. . . . That's where a lot of the learning takes place.

Students' learning is also enhanced when teachers provide a real-life context for new concepts and skills. Some teachers provide the real-life context by using a variety of concrete examples to illustrate abstract concepts or by demonstrating the application of the concept with legal documents:

I think my best experiences in the classroom have been where professors actually gave you concrete examples of what is used in the real world. When they bring in actual trial transcripts, for example, or motions, things that we can put our hands on and say, "Okay, I understand what I'm doing now. I understand what we just spent the last month doing. I can see why we're doing this." . . . [S]o when somebody . . . bring[s] in an actual will, for example, . . . then it makes a lot more sense.

* * *

I'm thinking about a professor who was not only willing to talk about cases he'd won or that had settled well for his client, but he would use cases that he had lost or had not settled well and say, "This is where I messed up, don't make this mistake, you can avoid this." Or he would say, "Now, does anybody see why the court went against my client? Can anybody see where I messed up?" . . . My respect for him was . . . really increased. He was a human being and not only had he made a mistake but he had clearly learned from it and had enough self-confidence to share it with me and help me stand on his shoulders so, of all the thousands of mistakes I shall make while I'm a lawyer, hopefully it won't be that one.

Other teachers have students share their real-life experience with the topic:

[W]e have a lot of life experiences that we are bringing in that, in some ways, we know more of what should have happened in a given contracts setting or torts setting because we've been out in fields where these things happen. And some professors are really great about honoring that and seeking out students that they know have worked in a field to get their input

Finally, some teachers have students apply the concepts or skills in the community:

[In] a Law and Anthropology class that I took, . . . we each had to do research, original research, . . . [s]o I went out and I interviewed women who were on AFDC about the recent welfare law and the changes, and I wrote a paper about that and that was a great experience.

* * *

[I]n my Property class, we had an assignment where we were supposed to go out into the real world with a camera and take pictures of easements; go find 5 easements; take a photograph of [them]; . . . develop them into slides; come back and have a slide show. And we had to describe . . . where we found this and what this was and why we think it's an easement. And it makes perfect sense because—duh, property, it's out there in the real world.

E. Activity

1. Hindering Learning

Teachers stifle learning for many students by relying exclusively or primarily on passive methods. Most students are turned off by a version of the Socratic method that the students call "hide-the-ball." Students are particularly frustrated by two elements of this method: (1) teachers' questions that confuse rather than enlighten, and (2) teachers' refusal to answer questions directly. One student comments:

[D]on't hide the ball. I know first year I felt that you would ask a question and a lot of professors would come back with a question and you'd leave there feeling that you never got an answer. And although law is not black and white—it's a lot of grey . . . , that [the] professor is actually hiding the ball is how I left a lot of classes.

Another passive method is to lecture without opportunity for significant student interaction with the teacher or one another:

You basically get a lot of passive learning instead of active learning. You create an environment where students literally can sit an entire semester and not be engaged in their learning. And I know students that they won't read the cases all year. They'll get outlines from friends or commercial outlines. They'll put an outline together and they'll be able to do quite well or substantially as well as other students did without ever being engaged with the material. It seems to me that it would be far more productive to have small exercises that students can go and prepare for at home and then be engaged with other students, because it's not just reading that we're trying to learn here. We need to be able to talk to people; we need to be able to argue well; we need to be able to stand up on our feet and make presentations. There are lots of skills in law school that we never get to practice. We only sit in the class and read.

* * *

Professors don't necessarily value students' different learning styles. They don't allow room for different kinds of teaching methods to be responsive to those styles. And I think I could have learned a lot more in my first-year classes if we had divided into smaller groups and discussed

policy, if we had written maybe take-home exercises or prepared outlines and submitted them to teachers and whatever methods we felt would be most helpful for us Any variation on the large-class lecture with pointed Socratic method kind of questions would have been helpful for me.

2. Enhancing Learning

Teachers help all students learn by using a variety of active methods. Students mentioned the following active teaching/learning activities: student presentations; written assignments with feedback; role plays and simulations; the Socratic method—when the teacher's questions are asked to enlighten, and the teacher is responsive to student questions; discussions and debates; problem solving, especially when the students work on them in advance of class; small group exercises such as discussion, problem solving, and negotiation; clinical or externship experiences; and field trips.

a. Student Presentations

[M]y Contracts professor . . . would call on people to give presentations. She would have people actually learn the material ahead of time and then give a presentation in front of the class. . . . It was exciting because it was different from the usual. . . . I think it was exciting to feel like the professor for the day in her class because it gave me and my fellow classmates a little more incentive to learn that particular segment of the textbook really well, and present it.

b. Written Assignments with Feedback

[S]he had us . . . brief a case within the first week to make sure we understood what we were reading and that we understood what the IRAC method was when no other professor had even started with those fundamental basics. . . .

. . . She gave us a sort of policy-related question—I think it was called the dog's breakfast—where we would have to turn in a written sort of opinion as to what a particular quote within contract law meant. She gave that back to us with a lot of feedback. On top of that, she made copies of model answers that she thought were good and she handed them out to all of us

I felt like your confidence is really boosted because where you might have been off-track, she put you on track. When you were on track she confirmed that you were on track, and that really has a way of just keeping you there and making you feel like you're doing what it is you want to be doing and what you should be doing.

c. Role Plays and Simulations

In my Administrative Law class really, and it was a huge class, we did role playing and there were several issues that I didn't understand or doctrines that I didn't understand, but it all became clear during that day

because it all became personal. . . . [I]f you have to get up and play a part, be the victim, be the prosecutor, be the defense attorney, then it really becomes personal and those doctrines . . . take on a whole new life.

d. The Socratic Method—When the Teacher’s Questions Are Asked to Enlighten, and the Teacher Is Responsive to Student Questions

The one thing I would tell a new teacher coming to teach law students in law school is that, “Remember, you’re here to teach and to the extent that you ask questions, you don’t ask them to confuse, you ask them to enlighten, if you truly want to use the Socratic method.” . . . [W]hen I’ve had an effective Socratic method teacher, the questions that are being asked are gauged or presented in a manner that the professor knows the student is able to make the link.

e. Discussions and Debates

[C]reate that positive environment where people aren’t going to be afraid to speak up. I mean, obviously it’s going to be better for everyone if we have a rich class discussion than if people are cowering in their notebooks.

f. Problem Solving

I like the problems-oriented classes because . . . when you have a professor give you a problem that you’re going to work on and use a hands-on approach, it gives you the opportunity to use what works for you. Some people, they can just go through the steps and everything just kind of falls in line. Other people, they have to mull it over, they have to think about it, and then they put it together. At the same time, using that information right now, you’re using it during the semester . . . and you’re applying it.

g. Small Group Exercises: Discussion, Problem Solving, and Negotiation

[S]he divided the class of about forty people into groups of four and everybody was going to pretend that they were making recommendations to a congressional committee about how to change the statute. . . . [W]e had to read the statute the night before. We sat in our group and one group would be representing the workers’ association; one group might be representing the manufacturers’ association And you had to argue with other people in your group how the statute should be changed: you had to redraft it. You had to come up with a presentation to make to Congress, and then one person from that group had to make the presentation. Now you think about what you did in that thing. You had to read; you had to interpret a statute. You had to present and persuade to other people in your group, argue effectively, and then you had to stand up and make a presentation and you had to write a statute. Those are five incredible skills that you need to have as a lawyer that you had to practice in one hour. It was fabulous. And yet you have professors

that say, "Oh, it takes too much time and the class is too big. I can't do this." You can! It's easy to do.

h. Clinical or Externship Experiences

[Y]our clients aren't going to come up to you and say, "Well, this is my problem, and this is the theory of law, and this is what I want done." You're going to have to figure that out . . . I think that the clinical programs and the externships are invaluable.

* * *

And it's great to be in clinic because they're talking about client-centeredness and really about being self-reflective as a person. I mean, no one talked about you as a person in law school until I got to clinic.

i. Field Trips

[W]henver a professor has assigned me to go to court, whether it's for Civil Procedure, Criminal Procedure . . . it is the greatest thing because you go in there and you're supposed to analyze something and report back on what you've seen. And it's like, . . . "Aha! That is a summary judgment motion, that's what they do!"

F. Evaluation

1. Hindering Learning

A number of students are quite critical of the typical evaluation scheme in law school, which relies on a final exam as the sole or primary means of assessment of student learning:

[I]t's ridiculous to evaluate somebody's semester-long performance or ability to read the material and understand it based on this three hour or two hour or whatever it is exam.

* * *

I wonder if it's really the most effective thing to have everything that you've done, all the effort you've put in, come down to one grade, one three-hour examination at the end of a semester. I'm not convinced.

Students are further frustrated because often the final exam contains only one type of question; for example, the test is all essay or all multiple choice. Many students believe that the typical law school evaluation scheme is a poor measure for some students and that it limits learning:

[A]fter the first year, a substantial number of people are . . . alienated . . . because they have come to the recognition that there's absolutely no correlation between the amount of time that they put in for preparation for their examination and what their ultimate grade is.

* * *

[T]ry to break away from the one, end-of-the-year writing . . . I guarantee that at least if you try to break up the grading and give different modes for people to express themselves and prove their academic

achievement, in the long run, you will benefit and the students will do better and you will have a more happy law school group of students.

Unfortunately, students have little confidence that most law teachers are open to alternative means of evaluation:

The majority of professors graduated at the top of their class and unfortunately that makes them least equipped to assess the validity of the three-hour examination as a measure of your intellectual capacity and your potential as . . . a budding lawyer. And when the group of professors have all done exceedingly well in school, then it's going to be very difficult for them to really question this measure.

2. Enhancing Learning

An evaluation scheme should motivate students, facilitate learning, and accurately assess student performance. Students believe that practice exams coupled with feedback from the teacher clarify the teacher's expectations and the grading criteria before the graded exam:

She actually gave us a couple of hypotheticals to turn in. She didn't grade them but she commented upon them and that was very helpful, to me at least, because I got to see what a professor was looking for instead of going through the whole semester of 14, 15 weeks and then taking the final exam with no clue of what a professor expected of me. At least with her style, I had an idea of what she was looking for, an idea of what her demands were, what she expected of us, and that was very helpful.

Students suggest a variety of evaluation methods that they have experienced in innovative law school courses or other higher education courses, such as papers, drafting, journals, and practicing skills:

[I]f I had to change the testing system in any way, I would . . . incorporate a lot more opportunities for a student to earn his grade as he went along . . . i.e., classroom participation, written projects . . . [I]f the professor only wants to deal with tests then maybe make it more than one test, or quizzes, and, if you're going to test someone, maybe incorporate a number of different ways to test someone—some portion multiple choice, some portion essay. Because the bottom line is people all test in different ways, and just because someone doesn't do so well on a three-hour multiple-choice or essay exam doesn't mean that they aren't very capable on a certain subject matter.

* * *

[Y]ou do some interim small writing assignments, you write up some court visits, maybe you do a small paper or brief . . . Keep a journal of your reactions to certain speakers or video tapes that have been presented. [These] are also part of the overall grade and [the] examination is only a percentage of your grade.

Conclusion

Those who seek to improve the quality of legal education must be concerned about both teacher performance and student learning. Fortunately, there is a wealth of literature on teaching and learning in higher education that law teachers can easily access. The literature describes basic principles of adult learning that apply to higher education, including law school. In addition, the classroom assessment movement offers legal educators an effective two-step process to improve teaching and learning: (1) teachers should frequently ask law students to assess the effectiveness of various teaching and learning methods; and (2) teachers and students should use that feedback to make appropriate adjustments.

Legal education should offer opportunities for all students to maximize their learning. Interviews with diverse law students reveal a wealth of information about what hinders and enhances learning in law school. Those student voices have the potential to improve legal education in important ways if law teachers listen and act. Finally, one student offered this advice to new law school professors: "Listen. Listen. That's all."

Appendix

Resources for Higher Education

Books

- ANGELO, THOMAS A. AND CROSS, PATRICIA K.: *Classroom Assessment Techniques: A Handbook for College Teachers* (1993).
- BONWELL, CHARLES C. AND EISON, JAMES A.: *Active Learning: Creating Excitement in the Classroom* (1991).
- CLAXTON, CHARLES S. AND MURRELL, PATRICIA H.: *Learning Styles: Implications for Improving Educational Practices* (1987).
- COOPER, JAMES ET AL.: *Cooperative Learning and College Instruction: Effective Use of Student Learning Teams* (1990).
- CROSS, K. PATRICIA: *Adults As Learners: Increasing Participation and Facilitating Learning* (1981).
- DAVIS, BARBARA GROSS: *Tools for Teaching* (1993).
- FELDMAN, KENNETH A. AND PAULSEN, MICHAEL B., EDs.: *Teaching and Learning in the College Classroom* (1994).
- JACOBS, LUCY CHESER AND CHASE, CLINTON I.: *Developing and Using Tests Effectively: A Guide for Faculty* (1992).
- JOHNSON, DAVID W. ET AL.: *Cooperative Learning: Increasing College Faculty Instructional Productivity* (1991).
- JOHNSON, GLENN ROSS: *First Steps to Excellence in College Teaching* (1990).
- KATZ, JOSEPH AND HENRY, MILDRED: *Turning Professors Into Teachers: A New Approach to Faculty Development and Student Learning* (1993).
- KEIG, LARRY AND WAGGONER, MICHAEL D.: *Collaborative Peer Review: The Role of Faculty in Improving College Teaching* (1994).
- NEFF, ROSE ANN AND WEIMER, MARYELLEN: *Classroom Communication: Collected Readings for Effective Discussion and Questioning* (1989).
- SCHMIER, LOUIS: *Random Thoughts: The Humanity of Teaching* (1995).
- WEIMER, MARYELLEN: *Improving Your Classroom Teaching* (1993).

Newsletters

- Cooperative Learning and College Teaching* (Jim Cooper ed., New Forums Press, Inc., Stillwater, OK).
- The Law Teacher* (Gerald Hess & Leland G. Fellows eds., Institute for Law School Teaching, Spokane, WA).
- The National Teaching and Learning Forum* (James Rhem ed., National Teaching & Learning Forum, Phoenix, AZ).
- The Teaching Professor* (Maryellen Weimer ed., Penn State Berks, Reading, PA).