

2011 ILTL SUMMER INSTITUTE
WORKSHOP: USING TEACHING ASSISTANTS TO PROVIDE ASSESSMENT FEEDBACK
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I. INTRODUCTION

As teachers, our mission is to facilitate our students' learning. Learning is a loop in which the teacher facilitates learning, students perform what they have learned, the teacher assesses students' performance, the teacher provides students feedback on the students' performance and students use the feedback to improve their performance on the next learning task.

The critical step on this learning loop is feedback. Prompt feedback allows students to take control over their own learning by obtaining necessary remediation for identified deficiencies in their understanding and to adjust their approaches to future learning tasks. Knowing what they know and do not know focuses students' learning. For the learning loop to work optimally, students need several chances during the semester to reflect on what they have learned, what they still need to know, and how to improve their learning. In other words, for the learning loop to work, teachers need to implement a system that assesses student learning and improves learning skills.

As the recent Carnegie Report noted, however, without a suitable program to provide students timely feedback on their performance, the learning loop is broken. The Carnegie Report urges law schools to incorporate a system of multiple assessments. Providing multiple assessments, however, is very time consuming, but it can be done with the help of teaching assistants. I hope this conference reinforces the need to use multiple assessments in the law school courses and I hope this workshop provides some guidance on how to use Teaching Assistants to provide multiple assessment feedback to students.

II. WHAT ARE STUDENT ASSESSMENTS

Assessments are tools to obtain and document information about student achievement, skills, and ability.

A. Types of Assessment

There are generally two types of assessments: summative and formative. Summative and formative assessments are often referred to as "assessments of learning" and "assessments for learning" respectively.

1. *Summative Assessments*

Summative assessments assign grades or otherwise indicate the extent to which students have achieved the course goals. Summative assessments usually take place once, at the end of the semester.

2. *Formative Assessments*

Formative assessments provide feedback to students and faculty. They are not directly used to assign grades or rank students. Their purpose is to aid learning. Formative assessments can be given in or outside the classroom. Formative assessments provide feedback on student learning and can be used by teachers, teaching assistants, and students. Formative assessments help teachers determine whether students are learning and help students develop learning skills.

¹If you have any questions or comments, or would like some of the materials noted in this document, please contact me at 7lasso@jmls.edu

III. TEACHING ASSISTANTS AND THE LEARNING LOOP

A. Learning Loop Requires Multiple Opportunities for Prompt Feedback

For the learning loop to work optimally, students need several chances during the semester to reflect on what they have learned, what they still need to know, and how to improve their learning. And, for the feedback to be effective, it must be prompt; a few days is ideal. That way, not only is the feedback fresh but it can be repeated several times throughout the semester.

B. The Role of the TAs in the Learning Loop

1. Providing Feedback is Very Time Consuming

Providing meaningful feedback on an individual basis requires a great deal of time. Simply stated, one person can not provide prompt and detailed assessment feedback on 8 to 10 essay writing assessments to 80 students during the semester.

2. Teaching Assistants Can Help Faculty Provide the Feedback

Teaching Assistants (TAs), if properly trained, can provide the detailed feedback that will assist all students in developing their analytical and self-learning skills.

IV. HOW TO USE TA'S IN LARGE CLASSES

The role of Teaching Assistants in law school is varied, including, monitoring outlines, keeping track of students' progress, and providing students with tips on the transition from undergraduate to law school. However, their primary role is to help teachers provide feedback to students.

A. Providing Individual Feedback to Students on Multiple Formative Assessments

After completing readings and class discussions on a given concept, students are guided to download the appropriate formative assessment(s) from the course web page. Upon completing each assigned assessment, students send their answers to their TAs. Students must submit their answers by a deadline, usually Friday evening. Upon receiving the students' answers, the TAs provide students with a sample answer/evaluation sheet for students to self-evaluate their answer. The TAs "grade" each of their 8-10 answers using a sample answer/evaluation sheet and they set up individual meeting times for each student beginning early the following week. This assures that students get feedback on their assessment within days of turning it in.

TAs provide each of their students both written and oral feedback on each assessment by "grading" the formative assessments and sitting down with each student to provide them one-on-one oral feedback on each of the essay exams. TAs use a very detailed sample answers with descriptive criteria (and later numerical scores) which I provide to them to score the essay assessments. During their meeting with each student, TAs discuss the answer and use their experience as well as the student's own self-evaluation to help each student identify weaknesses and develop strategies to improve her or his performance on the next assessment.

V. HOW TAS IMPROVE TEACHER'S JOB AND STUDENTS' PERFORMANCE

A. From the teacher's perspective

1. Better class discussions

Receiving prompt feedback so they improve their analytical skills results in much better prepared students on a day by day basis.

2. Better performance in summative assessments (graded exams)

Even by the midterm, I see few papers which lead me to question whether the student is actually enrolled in my class. Even the students whose performance on the final falls below average due to the mandatory curve write answers that are at least well within the ball park.

B. From the students' perspective

1. Less anxiety about class discussion

Regular and repeated individual written and oral feedback from their TAs helps students feel more confident about how to analyze cases and resolve legal problems during class discussions.

2. Less anxiety about law school in general

End-of-the-semester final exams not only do little to help students learn, they are a source of needless stress and frustration to students. The constructive feedback provided by TAs help students feel more in control of their learning, reducing the anxiety about law school. Students with better developed learning skills, feel more confident and are more likely to perceive their law school experience as positive.

3. More likely to perform better on the bar exam.

Students in my first semester Torts classes have significantly outperformed our school's bar passage rate.

VI. CHOOSING TEACHING ASSISTANTS

A. The Right Combination of Competence and Temperament

The most effective TAs are those who not only have demonstrated competence but, just as importantly, are good communicators and have the right temperament. They must be competent to provide clear, useful feedback. They must be very good at written and oral communication so students understand how to improve their skills. They must be patient to deal with recurrent questions without making students feel foolish. They must have empathy to develop rapport with and gain the trust of their students. They must never be dismissive of students' concerns.

Choosing your first TAs requires that you carefully observe your students throughout the semester to determine those who possess the qualities to be effective Teaching Assistants. After that, you can use your current TAs to help you choose future TAs.

B. Students Identified by Their Teaching Assistants

By mid-semester, ask your current TAs to begin identifying students who demonstrate the desire to learn, work ethic, and temperament to become good TAs. You can then begin to monitor these students' performance in assessments, in class and, if possible talking to them one-on-one.

By the end of the semester, discuss with current TAs the progress of some of the previously identified potential Teaching Assistants. Often these students will have expressed a desire (to you or their TA) to become TA.

By the end of the semester, approach these students (as well as any you have independently identified) and ask them to apply to become TAs for your next class.

C. Students Apply to Become Teaching Assistants.

After the semester ends, send an e-mail to the whole class asking students interested to respond with a detailed description of their background, why they want to become Teaching Assistants and what attributes they believe will make them good TAs. Not surprisingly, most of the students who will apply to become TAs are students who had been earlier identified by current TAs.

D. Choosing the Teaching Assistants

Based your observations, the applications and the feedback from current TAs, it will be relatively easy to find the number of students you will need. I choose the number of TAs based on the size of the class. My classes are usually around 80 students so I will have 9 TAs and one Supervising TA. This way, each TA will have 9 students and the Supervising TA can concentrate on training and helping out the other TAs. Every semester I try to have a mix of TAs, with some who were students the previous year, some who have been TAs once before, and at least one or two who have been TAs twice before.

These senior TAs are usually 3Ls, and their experience is invaluable. It is from these senior TAs that I usually choose the Super TA.

E. Choosing the Supervising Teaching Assistant

The supervising TA is a critical factor in training TAs. The supervising TA not only observes the new TAs and offers suggestions to improve their performance but also engages in the one-on-one training of TAs on a variety of issues, including how to provide effective assessment feedback to students.

Although each TA will be assigned 8-10 students, the Super TA is assigned few, if any, so s/he will have time to observe and train the TAs.

1. Feedback from current students

Ask students several times throughout the semester to give you feedback about their TA experience; asking what they like about the TA experience and how it could be improved. Most students like their TA experience and understand how it is helping them improve their performance; a few may complain (usually about incompatible meeting times with their TA); and several will rave about their TA experience.

2. Feedback from Current Supervising TA

Because the current Super TA closely observes all the TAs at work, she or he can often offer particularly valuable feedback about the TAs who may be best suited to become future Supervising TAs.

3. Your own observations during various meetings with TAs.

Most TAs seem to very much like the TA experience but a few will be very enthusiastic about it. These TAs put in extra time with students, often offer ideas of what is working particularly well for their students, and seem to enjoy their students' progress. There will be one or two TAs who seem specially talented and dedicated. Not surprisingly, those are often the ones who the students rave about. Not surprisingly either, these TAs are also ones who have been TAs at least once before.

4. Interview the potential Supervising TA.

I usually have at least two TAs who are likely to make very good Supervising TAs. I meet with them to find out if they are interested and have the time to become the Super TA.

Although picking the Super TA is a time consuming endeavor, it is time well spent because their assistance is critical to the success of the assessment program.

VII. TRAINING TEACHING ASSISTANTS

A. The Teaching Assistant Handout

The first thing I provide new TAs is a Handout with information on topics ranging from (a) the benefits, and requirements of the TA Experience; (b) professionalism; (c) the format and length of meetings with Students; and (d) how to provide written and oral assessment feedback.

B. Meetings During the Weeks or Months Prior to the Beginning of the Semester

To go over the TA Handout and the assessments for the coming semester. To train the TAs on how to provide assessment feedback (more on that below). To go over scoring sheets for each assignment. To learn to get a sense of the characteristics of good, average and poor assessment answers. (See Poor/OK/Good Exercise below) To get feedback from prior TAs on how to improve assessment exercises. To get TAs to know each other well so they work together better

C. Regular Meetings During the Semester

To get feedback on students' performance in assessment exercises. To share what is working and try to figure out how problems can be resolved.

VIII. TRAINING TAs TO PROVIDE ASSESSMENT FEEDBACK

A. Summer Reading

Before the beginning of the semester, TAs should read the assessments that will be given during the semester as well as the feedback rubrics for each assessment. This will allow them to become familiar with the assessments and to ask for clarification regarding any questions they may have.

B. Training the Supervising TA

Although the Super TA has been a TA, it is important to further train her or him on how to provide assessment feedback. Before the beginning of the semester, I have the Super TA observe me scoring three previous student answers to one of the early “graded” formative assessments. I explain the reasons why I score each answer and we discuss what criteria to look for when scoring answers. The Super TA then scores two different answers from the previous semester, using the approach we previously discussed. We have further discussions aimed at making sure the Super TA understands my underlying reasoning for how to provide feedback. The Supervising TA will use a similar approach when training the TAs to provide feedback to students.

C. Meeting with All TAs Before the Semester Begins

The first meeting with all the TAs and the Supervising TA is very important. This meeting should take place about a week prior to the start of the semester. Most of my TAs work full time until the start of the semester so the meeting is usually around 6 pm on a workday. I provide sandwiches, sodas, water, and wine. I begin by stressing the professionalism aspects of being a TA, analogizing being a TA to working for a senior attorney in a small firm. I go over the TA Handout and I (or the Super TA) answer any questions the TAs may have about the TA experience. Each TA brings her or his schedule so the Supervising TA can set up individual meetings to discuss how to provide assessment feedback

D. Training Teaching Assistants To Provide Helpful and Consistent Feedback

For the assessment feedback to help students develop their self-learning skills it must be: Clear and thorough, so the student understands what they need to improve in a given assessment and, most importantly, how they can improve their performance. Feedback must also be consistent. In order for students to trust that their TA is providing them with valuable feedback, each TA’s feedback must be consistent. In other words, it is not necessary that all TAs score assessments with the same level of harshness but it is critical that each TA provide her or his students with the same level of harshness for all assessment feedback.

Teaching Assistants must be patient and sympathetic. Stress to TAs from the beginning that their job is not simply to score their students’ work but rather to insure their success in the class. For that reason, they must make sure that the assessment feedback they provide is constructive and that they demonstrate to their students that their job as TAs is to help them succeed!

1. Dual Grading Exercises

The first two formative assessments I give are based on the same fact pattern. The first problem is an issue spotting one where students are asked to identify the potential claims and defenses in the fact pattern. The second problem requires students to engage in simple analysis. For both problems, each TA and the Supervising TA score the same couple of student answers. The Supervising TA will compare the scores and discuss the assessment feedback with each TA. This helps the TAs get a better sense of what the teacher is looking for in student answers as well as help them provide more consistent feedback to the students.

2. The Poor/OK/Good Exercise

One of the earliest training exercises for new Teaching Assistants is the Poor/OK/Good Exercise, which seeks to start to get TAs to distinguish the characteristics that separate poor, average, and good essay answers. The Supervising TA administers this exercise very early in the semester, before students turn in their first assessment answer.

We will engage this morning on an abbreviated version of how I train my Supervising Teaching Assistants to provide formative assessment feedback.

WORKSHOP EXERCISE

First, take a couple of minutes to read the problem in the next page (Page 7). This is one of the earliest formative assessments I give my Torts students, usually after about 4 classes. It is fairly simple, requiring analysis of one of the elements of the defense of self-defense.

Second, quickly read the 3 student answers on page 8. One is a poor answer, one is an average answer and the other is a good answer.

Third, let's review the descriptive criteria to "grade" the answers:

Limited proficiency (Answer is incomplete and overly simplistic. It does not reflect understanding of the issue being analyzed or it does not analyze the correct issue; it fails to clearly identify the relevant rule, it focuses on the D's subjective belief, and the analysis fails to make the key argument - that a jagged broken glass is deadly force so that shooting P with a 22 caliber gun was equivalent to the threat);

Basic competence (Answer indicates knowledge of the issue, and identifies the correct rule (even if definition of rule is not exacting) but analysis fails to or poorly makes the key argument);

Intermediate competence (Answer indicates knowledge of the issue, and identifies the correct rule verbatim (not paraphrased); and analysis indicates understanding of the key argument even if argument is not completely clear);

Advanced proficiency (Answer indicates knowledge of the issue, and identifies the correct rule verbatim. Uses an objective standard, and the equivalency argument is clear and well articulated).

Fourth, take 5 minutes to "Grade" one of the answers using descriptive criteria in the evaluation on pages 9-10.

Fifth, we will discuss the feedback that would help the student perform better in the next assignment.

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Practice Problem

You are an associate in the law firm of Arya, Enjurd & Hert. A week ago you were called to the office of Ms. Ima Hert, the firm's senior partner. Ms. Hert introduced you to 22-year-old Eric Cartman and handed you a complaint recently filed against him by Wendy Testaburger in Cook County Circuit Court. The complaint alleges that on the night of December 31 of last year, Testaburger and Cartman attended the New Year's Eve Gala at the Hard Place Pub, that shortly after midnight Cartman shot Testaburger in the arm causing her serious personal and emotional harm. The complaint seeks to recover \$75,000 for Wendy's injuries. During his deposition, Cartman admitted that he shot Wendy but claims he had no choice. Cartman testified that on the night in question, he and Wendy attended the New Year's party together. They arrived at Millennium Park at 8 p.m., had dinner, then proceeded to dance and drink Cosmopolitans (a vodka & cranberry juice cocktail) until shortly before midnight when they switched to champagne. While standing in the crowded dance floor after the new year's eve toasts, Wendy and Eric got into an argument over whether the five U.S. Supreme Court justices who halted the Florida vote were acting as political proponents for candidate George Bush, not as impartial judges. Cartman testified that the argument got heated and that suddenly, Wendy, an ardent Al Gore supporter, broke her champagne glass over the railing that separates the dance floor from the dining area and charged at him with the jagged broken glass. Cartman, a huge Bush fan, maintains he had no choice but to quickly reach into his pocket, pull out his snub-nosed .22 caliber revolver and shoot Wendy. He maintains that he was careful and aimed at her arm so as not to seriously injure Wendy. Ms. Hert would like you to answer the following questions: 1. *Argue that in shooting Wendy, Eric used reasonable force*; 2. *Argue that in shooting Wendy, Eric did not use reasonable force*

Instructions

You have 15 minutes complete the problem.

This is an semi-closed book exercise. You may refer only to the outline of the materials studied so far this semester.

Read each question carefully. Pay close attention to the facts and to what the question is asking. Think before you write. Organize your answer. The best way to organize your answer is to write a sketch outline before you start writing.

For each issue you are resolving, identify the rule you will use to resolve the issue, then perform your analysis under a section labeled "analysis."

Torts issues are very heavily fact based so make sure you use all the facts you need to make your arguments on behalf of the parties. I have included all the facts I think you will need to answer the questions. If a necessary fact is missing, please identify it in your answer and explain how it affects your conclusion. Nothing is intentionally ambiguous. If anything about a question appears to be ambiguous, decide what you think is meant, tell me what you think is meant, and answer the question accordingly.

Assume, unless otherwise instructed, that the case described in the problem takes place in a majority jurisdiction.

Student Answers

Student # 001

1. ***Argue that in shooting Wendy, Eric used reasonable force.***

Eric felt that his life was endangered by Wendy charging at him with the jagged edge of a broken glass, so he did what he thought would stop the harm from taking place. He said that he made sure to shoot the defendant in the arm, so that she would not sustain any serious injuries.

2. ***Argue that in shooting Wendy, Eric did not use reasonable force.***

Wendy charged at him with a broken glass, and instead of attempting to disarm her, Eric chose to shoot her in the arm.

Student # 002

1. ***Argue that in shooting Wendy, Eric used reasonable force***

In shooting Wendy, Eric used reasonable force. Wendy was threatening Eric with a jagged, broken glass, which could surely result in serious bodily harm in the form of cuts and heavy bleeding. Because Wendy was also charging at him, Eric had a reasonable belief that Wendy was about to imminently harm him with the broken glass, and he had no time to “resort to the law” by asking for assistance or by asking Wendy to stop. Eric also had no time to break his own glass over the rail and match Wendy’s “force”, which involved an item that she was carrying at the time. Eric’s responding force was a small-caliber gun, an item that he was carrying at the time and the only reasonable item at his disposal that he could have used to stop Wendy.

2. ***Argue that in shooting Wendy, Eric did not use reasonable force.***

In shooting Wendy, Eric did not use reasonable force. A gunshot can inflict serious injury (or death), no matter where the bullet enters the body, whereas a cuts from broken glass may only be severe depending where on the body they are inflicted, e.g., major arteries. Because the effect of a gunshot is likely to be far more serious than cuts from broken glass, Eric’s use of force was not commensurate with Wendy’s threatened force. Eric could have also easily stepped out of the way or dodged Wendy, which would have drawn the attention of others in the room and most likely resulted in an intervention, preventing the harmful contact altogether. For these reasons, Eric’s gunshot was not a reasonable defense to Wendy’s threatened harmful contact.

Student #003

1. ***Argue that in shooting Wendy, Eric used reasonable force.***

The facts state that the dance floor was crowded. This means that Cartman would not have been able to get away fast enough to avoid being cut by the glass that she was charging at him with. Cartman had apparent necessity of self-defense to inflict a minor wound on the arm of Wendy’s in order to stop her from slicing him with the jagged glass. Cartman’s point to aim for her arm to forestall the attack instead of a more vital part of her body such as the abdomen or face shows force used was reasonable.

2. ***Argue that in shooting Wendy, Eric did not use reasonable force.***

The fact that Wendy had to “charge” at Eric means that there was time to think. There was enough time for Eric to pull out his gun and “carefully aim...” it. At no time did Eric say, “Stop or I’ll shoot!” Therefore, Eric did not give Wendy reasonable time to stop. Instead he shoots her without warning.

There is also a big disproportion between the gun he used and the broken glass threat.

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EXAM # _____

Problem: Evaluation Rubric.

This practice problem designed to help build some of the skills needed for success in law school, namely: (1) extracting and understanding applicable legal rules; (2) ability to separate legally relevant facts from irrelevant facts; (3) ability to spot and describe the issues raised by the relevant facts – and the problem being analyzed; (4) ability to apply legal rules to the relevant facts in an organized and thorough manner.

The focus of this problem is on how to apply facts to “black letter law” to determine whether one of the elements of the defense of self-defense (reasonable force) is met. Proper use of facts in one’s arguments requires developing the ability to use words to paint a picture of what most likely happened–viewed through the prism of each party’s perspective.

1. *Argue that in shooting Wendy, Eric used reasonable force.*

[ISSUE] To answer this Q, you must determine whether D’s shooting at P with a gun was reasonable force. This is the essential issue of the question. You can expressly identify it as such or go directly to the applicable rule.

RULE: To determine whether D’s action constituted reasonable force, the test is whether the force used was commensurate (equivalent) to the threat.

APPLICATION/ANALYSIS (model analysis):

Eric’s use of the 22 caliber gun was equivalent to the threat. Wendy attacked Eric with a jagged broken glass, which can cause death or serious bodily harm b/c the sharp glass can cut an artery or vein causing massive loss of blood. Therefore, Eric was privileged to respond with equivalently deadly force. As such, he was privileged to respond to the threat by shooting Wendy in the arm with a small caliber gun. Use of the gun, then, was a reasonable response to Wendy’s use of deadly force.

EVALUATION CRITERIA (circle the level of competence for the student answer):

i. *LIMITED PROFICIENCY:*

Answer is incomplete and overly simplistic. It does not reflect understanding of the issue being analyzed or it does not analyze the correct issue; it fails to clearly identify the relevant rule, it focuses on the D’s subjective belief, and the analysis fails to make the key argument, that a jagged broken glass is deadly force so that shooting P with a 22 caliber gun was equivalent to the threat.

ii. *BASIC COMPETENCE:*

Answer indicates knowledge of the issue, and identifies the correct rule (even if definition of rule is not exacting) but analysis fails to make the key broken glass is equivalent to small caliber gun argument.

iii. *INTERMEDIATE COMPETENCE:*

Answer indicates knowledge of the issue, and identifies the correct rule verbatim (not paraphrased); and analysis indicates understanding of the key argument of equivalency but argument is not clear.

iv. *ADVANCED PROFICIENCY:*

Answer indicates knowledge of the issue, and identifies the correct rule verbatim. Uses an objective standard, and the equivalency argument is clear and well articulated.

FEEDBACK FROM TA: (how can the student improve their performance on the next assessment) _____

2. *Argue that shooting Wendy, Eric did not use reasonable force.*

RULE: The test is whether the force used was equivalent to the apparent threat.

APPLICATION/ANALYSIS (argument): A gunshot is not equivalent to a cut from a broken wine glass. Wendy had been drinking and Eric, a man, was bigger and faster. Wendy's coming at him with the broken glass couldn't cause more than a superficial cut under the circumstances so that the response with the "deadly force" of a gun was not reasonable. Cartman's use of deadly force to respond to a drunk woman coming at him with a piece of glass was not reasonable.

EVALUATION CRITERIA (circle the level of competence for the student answer):

i. *LIMITED PROFICIENCY:*

Answer is incomplete and overly simplistic. It does not reflect understanding of the issue being analyzed or it does not analyze the correct issue; it fails to clearly identify the relevant rule and the analysis fails to make the key argument, that a jagged broken glass is not deadly force so that shooting P with a 22 caliber gun was not equivalent to the threat.

ii. *BASIC COMPETENCE:*

Answer indicates knowledge of the issue, and identifies the correct rule (even if definition of rule is not exacting) but analysis fails to make the key broken glass is not equivalent to small caliber gun argument.

iii. *INTERMEDIATE COMPETENCE:*

Answer indicates knowledge of the issue, and identifies the correct rule verbatim (not paraphrased); and analysis indicates understanding of the key argument of equivalency and includes more facts (like P is a woman and had been drinking but argument is not clear.

iv. *ADVANCED PROFICIENCY:*

Answer indicates knowledge of the issue, and identifies the correct rule verbatim. Equivalency argument includes all relevant facts (size difference, gender difference, effects of alcohol) and is clear and well articulated.

FEEDBACK FROM TA: (Did answer clearly identify and articulate all the rules? Did it use all the available facts to argue for and against reasonable force? Did it use conclusory statements that were not supported by specific facts instead of clearly articulated arguments using the law and supported by all relevant facts? Did it answer the question asked?)
