

# THE LEARNING CURVE

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## Letter from the Editors

The start of a new school year happens as Summer ends and Fall begins. It is a time when it seems students, faculty, and staff begin afresh. As we progress through the new school year, we might think of our student bodies and consider strategies and resources to support all aspects of their diversity (e.g., race, gender, sexual orientation, generational, socio-economical, and many others). In supporting our students' academic needs, it often requires us to create an inclusive environment that demonstrates respect and acceptance of students' differences so they can feel supported enough to thrive academically. Thus, in this edition of the Learning Curve, you will find articles focused on how to support diverse students.

This issue opens by focusing on how to support aspects of diversity that are not as widely discussed like issues of race or gender. One recognizes the barriers that may be present for students based on class, privilege, and access to resources and encourages us to rethink how we engage with these students. Another looks at how we can assist students who struggle in a fast-paced world by teaching them to slow down.

There are also articles that provide strategies for how we might engage in a meaningful discourse about diversity issues. One discusses how we can create community within and outside our law schools at the beginning of the school year. Another is about how to integrate diversity education into the first-year orientation which engages students beyond having a speaker-led training.

Other articles focus on how we can empower students. One article includes a call to action to support our LGBTQ students and thus, create a more humanizing legal education experience. One article explores how alliance groups can create a sense of belonging for diverse students by helping them create, lead, and/or engage in groups based on their diverse identities. Another article explores strategies we may use to assist our diverse students in overcoming stereotype threat.

Finally, we are given a tool to assist Millennials in developing a better understanding of Multistate Bar Exam (MBE) subjects.

We hope you will find tools to assist your diverse students and feel inspired to seek out ways to support diverse students.

DeShun Harris  
Executive Editor,  
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## Intelligence is Not Enough: Uncovering & Communicating the Hidden Rules to Promote Success in Law School

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Intelligence is only one key to success. Class, privilege and access to resources impacts the learning environment. We want our students to be successful in both law school and the profession so we should not assume that students know what it takes to navigate their environment. Therefore, we should recognize that our students' backgrounds impact both their academic and professional success.

Social capital, or connections among individuals, comes from social networks and norms. It gives individuals access to resources and a collective understanding. Not every student enters law school (or the profession) with the same amount of social capital because not every student has the same access to resources: money, technology, experience. Assuming that every student should just know how to succeed and those who don't are less intelligent is just that - an assumption. It requires students to understand and negotiate their environment without having all the necessary tools. It is, perhaps unwittingly, setting students up to fail.

Instead, if we truly want to help our students to develop the necessary learning strategies for law school, we must recognize where our students are coming from and where they are in the critical thinking process. Students enter law school with different experiences and backgrounds. In order to support, enhance, and guide them toward success, we must be culturally competent. Cultural competency is more than being aware of differences. It is the ability to effectively interact with, respect and respond to, diverse groups. So, in addition to knowing there are barriers on both sides, professors, academic support professionals, career services, and administrators should also take the step of helping students overcome the barriers. Importantly, we can do this without sacrificing high expectations of professionalism and critical thinking.

One often overlooked barrier comes from class, privilege, and access to resources. Students who don't come from privilege aren't necessarily readily identifiable. Looking at the room of students who mostly wear the "uniform" of baseball caps, sweats, and school spirit wear, a professor can't accurately identify who has had access to social capital. However, class can be a formidable academic accessibility barrier created by both the professor and the student. While our students are a diverse group of individuals, law professors tend to be similar - graduated from a T-14 law school, clerked at a federal level or practiced at a big law firm, published extensively in his/her field. We look at our peers and see the similarities and may even view our students through the same lens. Even if we \*know\* our students come from diverse backgrounds, this is not enough. It's not taking that next step of effectively interacting. For example, when a student says, "Professor X is so brilliant," this is code for, "I don't know what you are saying but I'm intimidated by you so I'm not going to ask you any questions because you'll think I'm dumb." The professor is not delivering information in a language the student understands, and the professor isn't aware of this because no one asked any questions. However, the student doesn't want to appear dumb in front of peers or the professor so he stays silent. She puts the blame on herself and assumes (often incorrectly) that she's the only one who doesn't understand what's going on. Even though the student has put up this barrier, it is up to us to address it. Students often share these types of concerns with

*"Not every law student enters law school (or the profession) with the same amount of social capital because not every student has the same access to resources: money, technology, experience."*

academic support professionals and oftentimes our response is focused on intelligence, “you are smart, deserve to be here, etc.” Intelligence might be the surface issue but perhaps we should listen a little more and find out if there is another barrier related to social capital. As lawyers, we are trained problem solvers but we can’t do this effectively if we aren’t addressing the relevant problem.

Another barrier arises out of teaching from a singular experience perspective: “When I was in law school...” “When I clerked for Judge Important...” “When I worked at Impressive Law Firm...” This limits context and creates false expectations. The false expectation is that the professor’s experience is the norm. The reality is that professors are the outliers. The reason people become law school professors is because they excelled academically and want to be in academia. We tend to have the mindset of, “I did it, so you can, too.” This assumes everyone has the same social capital. If a student doesn’t respond or meet the expectation, then it must be the student’s fault. This is especially harmful as it goes beyond academic success. When it’s time to hire a research assistant or write a letter of recommendation, the professor is more likely to choose the person who best played by the rules and fits into our singular experience.

Regardless of whether it is Torts, legal writing, group study session, or learning skills workshop, professors and academic support professionals are in the position to help bridge this social capital gap by getting to know students and fostering relationships inside the classroom. This doesn’t require a lot of time but the impact can be far-reaching. For example, at the end of a class or workshop, the professor can provide anonymous question opportunities where students write questions on notecards. Not only does the professor see where the gaps in learning are but it sends the message to students that they aren’t expected to understand everything. It reinforces the concept that learning is a process and we are all part of it.

We also play a role in helping to bridge social capital between students. Individual students bring their understanding of social capital based on their experiences and professors foster engagement through group discussion and small group work. Shared knowledge improves understanding for everyone involved. By providing opportunities for students to grapple with material in a safe environment, students develop a better depth of understanding and are able to engage with people of shared interests but different social identities.

Intelligence matters but it only gets you so far. You must have the social capital to get ahead and succeed. We should have high expectations and our students should be willing to work hard to meet them. However, we need to be deliberate and transparent about what those expectations are and provide strategies that provide all students a real opportunity to succeed.

#### REFERENCES AND FURTHER READING:

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## The Things Worth Doing Are Worth Doing Slowly, Even Learning Law. How Mr. Rogers, Spanish Grammar, and Central Park Inspired a Slower Learning Process

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I have done things slowly for as long as I can remember. As I was growing up in the 1980s, my mother eschewed the fast-paced, scene-switching, graphics-laden Sesame Street in favor of the calm, directed focus of Mr. Rogers. My father, who, when I was eight, embarked on a decade-long quest to teach me Spanish, did so with the slow, methodical precision of a surgeon. He doled out nuggets of grammar on lined notecards, spending months on each verb form before moving like snails to the next. He continued to quiz me on simple present tense verb conjugations long after we had moved on to the formidable subjunctive mood. My father, infinitely interested in grammar as a structure for learning language, had little interest in vocabulary. Thus, where we spent huge swaths of time on verb forms, I learned vocabulary myself, traveling in Spanish-speaking countries and reading Spanish books.

As an enthusiastic learner of the language, I amassed vocabulary quickly and used it with gusto quickly thereafter. But, in a fit of early-adulthood individualism, I refused to employ my father's beloved notecard system for vocabulary or to adopt my own system to allow me to review the vocabulary over time. In the short-term, this haphazard means of learning vocabulary worked very well. I could quickly find a vocabulary word, place it in the context of my Spanish grammar framework, and retrieve it for a window of time thereafter. Yet today, twenty-five years later, while I easily explain systems of regular and irregular forms, I struggle to recall the word for "redhead."

While I no longer watch Mr. Rogers (though I yearn at times for his measured demeanor, calm reflections, and deep compassion) nor, to my father's deep chagrin, do I review my Spanish cards nightly, I recently began to run. Surprisingly, this demanded my father's slow, methodical approach to learning. At first, I went to a running store, bought a state-of-the-art running watch and shoes, and started racking up mileage. Within two weeks I had run forty miles, but with wildly inconsistent pacing, labored breathing, and a nagging desire to abort. Within a month, shin splints mercifully sidelined me. On the advice of an orthopedist, I began to practice Chi Running, a technique built on the principle of gradual progression, starting slowly and laying down a foundation based on form. Chi Running broke my habit of fixating on speed, mileage, and pain. I learned to run with a steady, natural cadence and sustainable breathing. In adopting this technique, I disposed of my running watch and all of the information it provided and I replaced my cushioned shoes with minimalist running flats that allowed my own body to dictate my gait. These changes slowed me down, adding almost a minute and a half to each mile, but I built proper running form over time. In theory, this will eventually allow me to run faster. For now, I enjoy slowly running the beautiful six-mile loop around New York City's Central Park and, on the weekend, the luxury of running it twice.

Over the course of my career teaching legal writing, I have found that the slower pacing I adopted in my personal life has relevance to my students, who at times struggle with work that is slow and deliberative—the work that lawyers do. Slowing down has tremendous benefits for lawyers who seek to enhance their creativity, craft careful and complete research inquiries, or simply write a coherent email. For lawyers who want to persuade a judge or listen to a client, slow, methodical work is key. My students exist in an information-saturated world, with a point of access in their pocket at all moments, allowing information retrieval with the swipe of a finger. In a world where rapid retrieval of information is easy, what sets lawyers apart is the slow deliberation of that information. Yet human evolution seems to favor merely the rapid gathering of information and not the meaningful processing of it, thus at odds with effective lawyering.

*"In a world where rapid retrieval of information is easy, what sets lawyers apart is the slow deliberation of that information."*

Humans existed for thousands of years as hunters and gatherers, their survival dependent on the ability to exist in a constant state of searching for food and moving around to find it.<sup>1</sup> Our neurological systems have not caught up to the reality that food sources are now abundant—we remain hunters and gatherers. Yet our mechanism for supporting survival-related foraging for food and shelter, the release of dopamine, is now triggered by finding information.<sup>2</sup> Thus, our brains encourage finding information in much the same way that they encourage finding food. In today's information-saturated world, our dopamine neurons continue to encourage speed and accumulation, now of information, even though this is now an easy feat. The slow, deliberative consideration of that information—that is, *lawyering*—does not trigger the same positive neurological response.

Given these realities, I focus my teaching towards a slower pace. While I do not pretend to hold the answers to overcoming thousands of years of evolution, I can highlight four techniques that to help law students slow down in a non-stop world.

### **1. Prioritize and Reinforce Written Comments on Student Work**

As one who enjoys editing and uncluttering language with more streamlined phrases, I find myself resisting a variety of line edits that my hand naturally seeks to make on my students' work. I have found that a paper full of ink overwhelms students and that, much like an information glut that our students are so maladjusted to meaningfully process, they fail to integrate the most important comments. Instead, I prioritize my comments. For example, a student who failed to analyze an issue or appropriately organize the analysis may not need to know that the comma at the end of a case name should not be italicized. Instead, I may make a note at the end to review specific citation rules, but I want to ensure that this student focuses on the most important comments addressing the most significant deficiencies in the writing. In addition to prioritizing my comments, I may ask my students to indicate to me, via a self-assessment, how they have integrated the comments into a subsequent draft. This encourages students to think deeply about the comments and carry them through towards later work.

### **2. Stick with Facts for a Longer Period of Time**

Asking students to evaluate facts, researching and analyzing the law that would apply, over a longer period of time more closely mirrors the extended period of time of a litigation in the real world and demands that students slowly and fully digest these facts in different contexts. Tying multiple assignments to the same set of facts is one way to achieve this. Many legal writing professors (myself included) ask students to write multiple, predictive memoranda in the fall semester. The first memorandum, usually a closed memorandum, could ask students to predict the outcome of a possible litigation within a given jurisdiction using specified cases as precedent. The next assigned memorandum could ask the student to evaluate the desirability of a possible *forum non conveniens* motion.

In the spring semester, I ask my students to write one predictive brief and to engage in one group negotiation. These are traditionally separate assignments, yet linking them together offers key benefits to the students. After the students complete the assigned brief, I would communicate to the students some nugget of information that makes a settlement more desirable for one or both sides. Perhaps the judge presiding over the case for which they have submitted these briefs has made comments that indicated some hostility towards one side or perhaps she has scheduled a trial to run through Christmas. Armed with this information, and all they have learned about the law and the facts of their case, students from each side seek to negotiate an agreed-upon resolution of the litigation. Using knowledge gleaned from the process of brief-writing and applying it to a negotiation has the added benefit of students practicing to transfer learning. After all, an "education that doesn't transfer isn't worth much."<sup>3</sup>

### **3. Model and Practice Retrieval**

It is now clear that students are constantly seeking information and, perhaps, storing some of that information. Thus, students are well prepared to retrieve any type of information on a moment's notice from a device in their pocket, but perhaps not as prepared to retrieve information from their

own brains. Practicing extracting information from our own brains “strengthen[s] neural pathways that lead from our long-term memory into our working memory.”<sup>4</sup> Indeed, “[e]very time [we] retrieve information from memory, it becomes easier to find the next time . . . you won’t learn your way around a city if you always use your GPS, but you will if you work to remember the route you took last time.”<sup>5</sup>

“Quick hit” assignments in class are a critical way to help students develop habits to retrieve from their own knowledge base. Rather than teach proper citation form or the proper way to evaluate a court’s reasoning in a precedent case and then wait several weeks, at least, for students to write a memo for the students to practice what they have learned, I develop quick hit exercises for more immediate reinforcement. These quick hits can be as simple as a highlighted portion of a case with an instruction to provide a proper bluebook cite or an instruction to label parts of a sample legal memorandum with “Issue,” “Rule,” “Analysis,” and “Conclusion.” To alleviate the potential for anxiety, I will mark these quick hits with simply a check mark for having done it.

#### **4. In-Class Editing**

The most successful change I have implemented since undertaking to slow down my students has been a mandatory, one-hour, in-class editing period. I ask my students to come to class with hard copy of a memorandum that they had turned in to me a few days prior for my edits (I do not grade this memo until later in the semester). After an hour of instruction on editing, I ask my students to close their laptops, put away their smartphones, and to put away any research material that they may have used to prepare their memorandum. I ask them to sit with at least one seat between each of them and not to speak to each other or to me. We then sit, for one full hour, in silence, with the students editing the 8-10 pages that they have written. At the beginning of the hour, it seems unthinkable, my students later tell me, that there is enough to concentrate on in those few pages for one full hour. Yet at the conclusion of the hour, invariably, my students report that the time has flown by and that they have more editing work to do. Even more gratifying, when we conference on these memos and my students see my edits, so many of them tell me that they had caught the same mistakes that I did. Even the elusive passive voice, which my students struggle mightily to identify and replace in their predictive writing, seems to reveal itself more freely in this editing process.

As I continue to refine my teaching techniques to better prepare my students to face the various demands and different paces of the professional world, I seek to offer them a different perspective on the true necessity and relative value of their unlimited, ever-accessible information and the speed with which they can access it.

ENDNOTES:

1. See *generally* ADAM GAZZALEY & LARRY D. ROSEN, *THE DISTRACTED MIND: ANCIENT BRAINS IN A HIGH-TECH WORLD* 101 (2016); and ALVIN TOFFLER, *FUTURE SHOCK* (1970).
2. ADAM GAZZALEY & LARRY D. ROSEN, *THE DISTRACTED MIND: ANCIENT BRAINS IN A HIGH-TECH WORLD* 13 (2016).
3. JAMES M. LANG, *SMALL TEACHING: EVERYDAY LESSONS FROM THE SCIENCE OF LEARNING* 69 (1st ed. 2016).
4. *Id.* at 28.
5. Daniel T. Willingham, *You Still Need Your Brain*, N.Y. TIMES (May 19, 2017), [https://www.nytimes.com/2017/05/19/opinion/sunday/you-still-need-your-brain.html?\\_r=0](https://www.nytimes.com/2017/05/19/opinion/sunday/you-still-need-your-brain.html?_r=0)

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## Orienting Towards Justice: It Takes a Community

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All law schools share a common feature from the very beginning, hosting some sort of orientation for incoming 1-Ls. The programs differ in duration and substance, but each attempts to prepare their students for the rigors to come. One of the features we recently added to our program was an optional movie night at our local, historic downtown theater.

The showing of this movie was in keeping with one of our four core values, specifically that of “community.”<sup>1</sup> As adopted by our faculty, “we pledge that on a daily basis we will strive to foster a sense of community and mutual support between and among faculty, students, and staff, and in our interactions outside the law school.”<sup>2</sup> The importance of this particular core value is reflected in the comment to it which explains that “we not only view community as a proper ethos but also believe that cultivating the personal skills, respect, and tolerance that promote community will enable our students to more professionally and sensitively counsel their clients and accomplish their professional goals.”

The movie night was intended to foster the connections both within the law school and to the greater community, thus creating a sense of belonging and inclusiveness. We invited all students, not just the 1-Ls, to attend and thus continue to connect with one another. Faculty and staff were invited in order to also build upon their connection to the students. And the event was held in our local, unique, non-cookie cutter theater, a venue which at one time, regrettably, used its balcony as a means to segregate audience members based on their race. But the connections we sought went beyond the walls of the law school, as the invitation to attend was extended to the entire, greater local community. This fortuitously included one of our alumni who was president of the board of directors of that very theater and who agreed to assist in organizing the evening’s events. Our orientation committee decided that the best way to make the showing a valuable experience was to have the screening followed by a panel discussion led by attorneys who had a wide breadth of experience.

Once the decision was made to have our movie night and the venue secured, those of us involved in the planning decided the most appropriate film for our purpose was an older movie that promoted very contemporary themes and application. This movie featured a lead character who, over the years, many have viewed as a role model for attorneys and an inspiration to enter the legal profession. Our choice was from the very top of the American Bar Association Journal list of the best law-related movies: *To Kill a Mockingbird*. This movie was based on the Pulitzer Prize-winning novel that was published in 1960, at the very cusp of the Civil Rights Movement and campaigns to promote social justice – many may remember it as required reading from their high school days. The movie followed in 1962. One may recall that the lead actor, Gregory Peck, lends his legendary dignity to playing Atticus Finch, the iconic small-town lawyer who rises above the naked racism of Depression-era Alabama to defend a crippled black man falsely accused of the rape of a lonely, young white woman. The movie further includes a secondary plot that leads to the emergence of a different hero, one who had been shunned and maligned by townspeople.

*“Thus, while the film is a telling indictment of racial prejudice in the deep South, it also reveals the emergence of two youngsters from their own world of childhood fantasy to the new reality of maturity, responsibility, compassion, and social insight. Many of the societal issues presented in the film clearly still resonate today.”*

Finch’s quiet courage is seen through the eyes of his six-year old daughter, Scout, who along with her older brother, Jem, is coming of age amid racism and violence, while learning the importance of tolerance and the acceptance of “others.” Thus, while the film is a telling indictment of racial prejudice in the deep South, it also reveals the emergence of two youngsters from their own world of childhood fantasy to the new reality of maturity, responsibility, compassion, and social insight. Many of the societal issues presented in the film clearly still resonate today.

I admit that while this movie night was listed as “optional” on the students’ orientation schedules, nothing at that point in time may appear that way, as no incoming student likely wants to chance being surpassed by those students who would choose to attend. And I must further note that the offer to attend was made a bit more attractive by having a local micro-brewery provide its beverages for free, while the theatre provided its popcorn gratis. The result was a function attended by nearly all of our 1-Ls, along with a smattering of upper-level students, faculty, staff, and townspeople.

I was chosen to serve as moderator for the post-movie panel discussion that included a public defender and a magistrate judge who had previously served as a prosecutor. After introductions were made, and I suggested that the students should not ask if I could adjust the movie for color (as many may have been unfamiliar that it was filmed in black and white), the movie was screened. But not before the proverbial icebreaker -- I tossed out several trivia questions to our audience, including queries as to the origins of the “Finch” name, as to which future Academy Award winner debuted in the film, as to what prized item did the author give to Gregory Peck, and as to whatever happened in real life to Atticus’s two screen children (and, yes, I will assure you that all of these answers are readily available online via a GOOGLE search).

The movie was followed by our panel discussion, fed by questions from the audience and from me as moderator. My inquiries were meant to touch on issues of diversity and professional responsibility while hoping to be provocative. These queries to our panel and their responses led to further comments and questions from both the students and the members of the general public who had attended. For example, and with full warning of a possible spoiler alert for those unfamiliar with the story,

- what should the district attorney have done after the highly suspicious testimony by the alleged victim?
- what more could Atticus have done in representing his client?
- are our courts really the “great leveler” where all are treated equally, as Atticus asserted?
- how can we make sure that “justice” is a dispassionate search for the truth, devoid of a jury’s prejudices?
- can an attorney practicing in a small community risk his/her reputation by taking on controversial cases?
- did Atticus risk too much in putting his children in harm’s way?
- why do you think that the book’s author chose as her novel’s epigraph the quote that “[l]awyers, I suppose, were children once”?

- how would you answer the question posed to Atticus by the alleged victim's father, "[w]hat kind of man [person] are you"?
- do you view the film differently now as a lawyer or upper-class law student than you did prior to law school?
- how would a lawyer in Atticus's position react in today's world to the sheriff revealing what happened to his client after the jury found him guilty?

As the evening was concluding, the legal educator in me thought it best to address the ultimate "takeaway" from the film and our discussion. The panel and audience had noted the various social, ethical, and moral issues presented by the film. In addition, they recognized the positive traits that lawyers should emulate in their profession. Moreover, they were aware of the need for lawyers to persevere in the face of adversity, racial intolerance and possible disillusionment with the justice system (yes, even before our 1-Ls were to start classes!). And possibly of utmost importance to not only our incoming 1-Ls but to all of us was the reminder by Atticus to his daughter that "[i]f you can learn a simple trick, Scout, you'll get along better with all kinds of folks. You never really understand a person until you consider things from his point of view."

The lessons from *To Kill a Mockingbird* continue to exist today, as racial injustice remains an issue society must address if we are ever to achieve true justice and recognize the importance of diversity and inclusion. The story on screen progresses and Finch's children learn the value of courage, dignity, tolerance, and compassion, along with the importance of replacing ignorance and violence with education and understanding in fostering a sense of belonging. And the audience, consisting of both our school and various community members, was left to consider how to use their own experiences to better not only their own lives but also the lives of others. As the evening concluded, the students exchanged pleasantries with the local members of the public who attended, thus continuing to connect through the discussions we had begun. And the core value of community, both within the law school and as it related to the greater community, was on exhibit for all to see.

ENDNOTES:

1. *Mission Statement*, Penn St. Dickinson L., <http://dickinsonlaw.psu.edu/experience> (last visited Sept. 27, 2018).
2. *Id.*

## Contextualizing and Integrating Diversity Education

### Betsy Brand Six

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In a study on workplace sexual harassment training, men who underwent thirty minutes of online training were less likely than a control group to perceive or report sexual harassment and more likely to blame the victim.<sup>1</sup> Another study found that such training made men more likely to stereotype women through implicit gender bias.<sup>2</sup> In short, the training made matters worse. It likely made many male participants defensive and provoked a backlash.<sup>3</sup>

It was with these and other studies in mind that I, along with others at my law school, began working on a new diversity and inclusion component in our week-long 1L orientation program, which is required for all incoming students. The year before, in response to incidents during the school year where some students had made other students feel marginalized, we added diversity programming to the orientation week and invited an outside speaker, a non-lawyer, to lead the training. The training did not go well and left many of our diverse students feeling unwelcome. Thus, we wanted to learn not only from the failures of others as reflected in the research but from our own failures as well.

A group of us sat down to think about how best to serve our goals: To create a space where students from diverse backgrounds felt safe and welcomed. To help educate our students about how to professionally navigate in a diverse world. To foster a community where all students could learn and thrive.

We knew how to correct the mistakes from the previous year's programming and make strides to help diverse students feel welcomed, but we worried about the possibility of backlash from the majority of our students, many of whom come from small, rural towns or from suburbs where the population is relatively homogeneous. We decided early on that the purpose of the training was not to try to reform an individual student with entrenched bigoted views but rather to empower collective good. We decided the best way to reach that collective majority was to try to integrate diversity education into the overall learning in law school. More importantly, we needed to make that integration clear to students, beginning in their 1L orientation. So rather than making the orientation session about diversity per se, we framed it as an extension of our overall orientation program where we were training students to excel as law students and as lawyers.

The result is a session called Professionalism, Communication, and Community. We begin by talking about the difficult dialogues that can occur in a law school class. We ask students to brainstorm topics that could come up in law school that some students may find difficult. They generally come up with topics like abortion, affirmative action, rape, gun control, immigration, religion, same-sex marriage, etc. Then we point out that they will need to know how to talk about these topics in a professional way. We talk about how lawyers have to discuss these topics in a professional way in practice, pointing to ethics and professionalism rules, and discuss how, just like with case briefing skills, they need to begin practicing professionalism skills now.

Then we have students begin practicing with hypotheticals. We put students in small groups and give each student a card with a particular identity. In one hypothetical, we tell them they have overheard other law students talking and one of them makes a homophobic statement. We then ask the students to think about how the person on the card might react: not necessarily what that person would do or say, but what his or her internal reactions might be. In this initial lesson, our focus is on helping students understand others who might be different from themselves.

*"We decided early on that the purpose of the training was not to try to reform an individual student with entrenched bigoted views but rather to empower the collective good."*

We use this exercise as a way to not only help students think about other people's perspectives but also to help them think about implicit bias and assumptions. We give them very little information about their character: for example, "you are a straight woman in your late 20s who was raised by two loving parents who are gay men," or "you are a 23-year-old woman who went to a private non-denominational Christian University. You do not think you know anyone personally who is gay." Students may make assumptions about these people's beliefs and reactions. We ask students to think through all the possibilities, share those possibilities with one another in small groups, and then share them with the larger group. By talking about all of the potential reactions and how varied they may be, we implicitly and explicitly reinforce the importance of thinking beyond the stereotype.

But ultimately we connect the exercise to learning to think like a lawyer. We reference earlier sessions where we talk about the need to read critically and think about all of the potential arguments each side might make. We remind them that this is a skill they will need to master to succeed in law school and how, by looking at a situation from a different perspective, they may be able to see new arguments or at least better understand their client. We also remind them that lawyers choose their words carefully to precisely convey their meaning and remind them of the importance of practicing this skill when discussing topics that may be difficult for others.

As a law school we continue to work on achieving our diversity-related goals, but the success of the 1L orientation, including positive feedback from students, has convinced us of the benefit of contextualizing and integrating diversity instruction. We subsequently added training for upper-level students where we build on the earlier lessons but shift the hypotheticals to the workplace and discuss how ethical and professional lawyers might react and respond. Currently, we are exploring ways to better integrate and coordinate diversity education in doctrinal courses.

By connecting lessons about diversity to the other academic skills training we provide as part of orientation, and by continuing diversity and skills training beyond orientation, we send a message to all our students that navigating in a diverse world requires skills that need to and can be learned and mastered and that are integral to their success as attorneys.

ENDNOTES:

1. Shereen G. Bingham & Lisa L. Scherer, *The Unexpected Effects of a Sexual Harassment Educational Program*, 37 THE J. APPLIED BEHAV. SCI. 125, 138–141 (2001). The study involved male and female staff and faculty at a university, some of whom participated in 30 minutes of online sexual harassment training. The control group received no training and instead just responded to a questionnaire sent through campus mail.
2. Justine Eatenson Tinkler, Yan E. Li, & Stefanie Mollborn, *Can Legal Interventions Change Beliefs? The Effect of Exposure to Sexual Harassment Policy on Men's Gender Beliefs*, 70 SOC. PSYCHOL. Q. 480, 487–491 (2007). Implicit biases are the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner. In the study, implicit bias was measured through an Implicit Association Test, which compares how quickly participants can pair two items that confirm a stereotype with how quickly they pair two items that run counter to a stereotype. You can take an Implicit Association Test online at <https://implicit.harvard.edu>.
3. See Bingham, *supra* note 1, at 144 (concluding that the results were consistent with previous research that shows "empirical-rational strategies and power-coercive strategies often are met with resistance and increased divisiveness when the area of change involves traditional attitudes and values and substantial differences of power and opinion.")

## How Academic Support Professionals Can Better Support LGBTQ+ Law Students – and Why We Should

**Sarah J. Schendel**

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The flexible and expansive roles of academic support professionals allow us to have highly personalized relationships with students, and also demand of us a willingness and ability to consider the law student experience holistically. This includes, if appropriate for the student, consideration of LGBTQ+<sup>1</sup> identities. Those of us in academic support are in a unique position to help LGBTQ+<sup>2</sup> identified students, who remain a minority in the legal field compared to their representation in the general population,<sup>3</sup> have more productive and rewarding educational experiences and careers.

### Why?

It has been persuasively argued that academic support programs fill an important role in humanizing legal education.<sup>4</sup> This idea of “humanizing” the law school experience is a conscious attempt to “counterbalance the traditional law school environment’s negative impact upon women and students of color” in response to scholars’ claims that such an environment “disproportionately negatively impacts women, students of color, and lesbian, gay, bisexual, [transgender], or questioning students.”<sup>5</sup> These negative impacts manifest as discomfort in the classroom, homophobic comments by students and teachers, increased anxiety around job interviews, and declining to become involved in student activities and groups.<sup>6</sup> By fully acknowledging the identities of the students with whom we work, we can set the groundwork for a more holistic and humanized law school experience.

Additionally, academic support professionals are often privy to information about our students’ real-world concerns beyond school, such as children, family members who require care, full-time employment, and health challenges. Having a more complete picture of our students’ lives allows us to better assist them with issues around anxiety and time management. Similarly, if a student is experiencing additional stress due to their<sup>7</sup> sexual or gender identity, or struggles with family or community pressures surrounding identity, it can be helpful to know for the purposes of honestly assessing their well-being and making appropriate recommendations for their academic success.

At this year’s AALS Section on academic support, Prof. Russell A. McClain made a passionate and persuasive argument for re-centering the “concrete and specific efforts” of academic support programs on minority and underrepresented students, asserting that the field has “drifted.”<sup>8</sup> Prof. McClain grounded his argument in the historical roots of academic support programs, including Prof. Paula Lustbader’s 1997 statement of the mission of academic support: “to provide diverse persons access to legal education, help create community, help diverse students succeed and excel academically, and most importantly, preserve students’ feelings of self-worth and value.”<sup>9</sup> This mission statement brilliantly and clearly combines the goals of inclusion, access, diversity, and humanization that underlie so many current academic support programs.

Many of these same programs also aim to help students develop their professional identities in order to graduate the most mature, ethical, and responsible attorneys possible. A student’s gender identity or expression, or sexual orientation may be an important part of their professional identity, and we can help them integrate all aspects of themselves into their law school experience – and beyond – furthering the likelihood that our students will find lasting professional satisfaction.

In addition, many of us have the unique privilege of being the first faces students see upon arriving at law school, through academic support participation in orientation programs. Making sure the materials in these programs are sensitive to pronouns and encompass a variety of experiences can help set a standard of inclusiveness and welcome to all students.

Finally, the challenging and critical role of academic support in the retention and matriculation of our students. As we all know, our schools’ admissions offices work hard to get diverse, qualified students in

*“By fully acknowledging the identities of the students with whom we work, we can set groundwork for a more holistic and humanized law school experience.”*

the door, but it's up to us to make sure they flourish once enrolled. Playing a role in retention – particularly retention of minority students – is core to the initial motivations behind development of many academic support programs.<sup>10</sup> Through decades of studying the LGBTQ student experience in undergraduate education, researchers have found that “students who worry about an unsupportive environment and harassment are unable to focus on either academic or co-curricular learning.”<sup>11</sup> There is reason to believe the same may occur in legal education. When students feel that they can be authentic in their law school experience, they are more able to succeed academically.

### How?

As always, efforts to be inclusive are only effective if the label of safe (or “safer”) space is more than just a sticker or a sign.<sup>12</sup> If you do not feel equipped to have conversations about gender identity or expression, or sexual orientation, you should undertake the task of educating yourself before engaging with students on these topics.

That said, there are small steps academic support professionals do and can take to better serve LGBTQ+ students. These include, but are not limited to:

- Adding an email sign off that indicates preferred pronouns (for instance: Prof. Sarah J. Schendel, preferred pronouns: she/her/hers). This not only indicates the pronouns we use, but conveys to students that we understand the importance of proper pronouns.
- Using gender neutral language not only if we are not sure of a student's gender identity, but also when referring to those in their families (i.e. not saying “husband” or “girlfriend” but rather “partner” or mirroring a student's language.)
- Attending events in the law school community that are focused on diverse law student experiences, including the LGBTQ+ experience, so that students see us actively engaged and concerned with LGBTQ+ issues on campus.
- Serving as a clearinghouse for additional resources, including directing students to medical and mental health care, support groups, and other resources. Make sure that the resources you know about include those that are either specific to LGBTQ+ students or are at least inclusive.

As a final note, these recommendations center primarily on our one-on-one work with students. However, to truly be effective faculty members and allies to LGBTQ+ students, we need to also advocate for better policies throughout our law schools and universities, as well as keep all issues of diversity front of mind when writing and choosing course materials. Inclusive and representative materials might include wills and trusts or torts fact patterns that represent marriage as between same-sex couples, family law fact patterns that include gender-nonconforming<sup>13</sup> parents of children (or gender non-conforming children), or textbooks that include cases where parties identify as LGBTQ+.

### Conclusion

We in academic support are incredibly fortunate for the relationships we are able to form with students, for our role in humanizing their legal education experience, and for the myriad of ways they turn to us for support. While it is of course not appropriate to serve as counselors or mental health professionals for those we advise, we do our LGBTQ+ students a disservice if we are not prepared to acknowledge their full identities and to offer them all the support possible in their quest towards graduation and successful careers in the law.

### ENDNOTES:

1. LGBTQ+ is an abbreviation for Lesbian, Gay, Bisexual, Transgender and Queer, with an “+” included to acknowledge the existence of a wide variety of other identities. One resource for learning more about the abbreviations and terminology used around LGBTQ+ issues is the Glossary provided by the UC Davis LGBTQIA Resource Center. LGBTQIA RESOURCE CENTER GLOSSARY | LESBIAN, GAY, BISEXUAL, TRANSGENDER, QUEER, INTERSEX, ASEXUAL RESOURCE CENTER, <https://lgbtqia.ucdavis.edu/educated/glossary.html> (last visited Jun 21, 2018).

2. The number of self-identified LGBTQ lawyers is increasing, but remains small. “The overall percentage of openly lesbian, gay, bisexual, and transgender (LGBT) lawyers reported in the NALP Directory of Legal Employers (NDLE) in 2017 increased to 2.64% compared with 2.48% in 2016.” *LGBT Representation Among Lawyers in 2017*, NALP.ORG (Jan. 2018), <https://www.nalp.org/0118research>. “The percentage of American adults identifying as lesbian, gay, bisexual or transgender (LGBT) increased to 4.5% in 2017.” Frank Newport, *In U.S., Estimate of LGBT Population Rises to 4.5%*, GALLUP (May 22, 2018), <https://news.gallup.com/poll/234863/estimate-lgbt-population-rises.aspx>.
3. “The percentage of American adults identifying as lesbian, gay, bisexual or transgender (LGBT) increased to 4.5% in 2017.” Frank Newport, *In U.S., Estimate of LGBT Population Rises to 4.5%*, GALLUP (May 22, 2018), <https://news.gallup.com/poll/234863/estimate-lgbt-population-rises.aspx>.
4. Louis N. Schulze Jr., *Alternative Justifications for Law School Academic Support Programs: Self-Determination Theory, Autonomy Support, and Humanizing the Law School*, 5 CHARLESTON L. REV. 269, 298 (2011).
5. *Id.*
6. Janice L. Austin et al., *Results from a Survey: Gay, Lesbian, and Bisexual Students’ Attitudes About Law School*, 48 J. LEGAL EDUC. 157, 164-67 (1998); see also Sari Bashi & Maryana Iskander, *Why Legal Education Is Failing Women*, 18 YALE J.L. & FEMINISM 389, 391-92 (2006); Morrison Torrey, *Yet Another Gender Study? A Critique of the Harvard Study and a Proposal for Change*, 13 WM. & MARY J. WOMEN & L. 795, 796 (2007); Morrison Torrey et al., *What Every First-Year Female Law Student Should Know*, 7 COLUM. J. GENDER & L. 267, 275 (1998).
7. I have chosen to use they/their pronouns throughout the article in order to demonstrate the use of gender-neutral language. Much has been written about “they/their” as a singular, gender-neutral pronoun, and last year it was added to the Associated Press Stylebook. Travis M. Andrews, *The singular, gender-neutral ‘they’ added to the Associated Press Stylebook*, WASHINGTON POST, Mar. 28, 2017, <https://www.washingtonpost.com/news/morning-mix/wp/2017/03/28/the-singular-gender-neutral-they-added-to-the-associated-press-stylebook/>.
8. AALS 2018 “Academic Support – Access to Justice” (January 2018, San Diego); see also “Academic Support – Equal Access to Justice,” <https://soundcloud.com/aals-2/academic-support-equal-access/s-WAtUo?in=aals-2/sets/2018-annual-meeting/s-kILOu> (audio recording, 2018 AALS).
9. Paula Lustbader, *From Dreams to Reality: The Emerging Role of Law School Academic Support*, 31 U.S.F. L. REV. 839 (1997); see also “Academic Support – Equal Access to Justice” <https://soundcloud.com/aals-2/academic-support-equal-access/s-WAtUo?in=aals-2/sets/2018-annual-meeting/s-kILOu> (audio recording, 2018 AALS).
10. See Ellen Yankiver Suni, *Academic Support at the Crossroads: From Minority Retention to Bar Prep and Beyond - Will Academic Support Change Legal Education or Itself Be Fundamentally Changed*, 73 UMKC L. REV. 497, 501(2004) (“Law schools committed to increasing recruitment and retention of minority students believed academic support programs to be an important component of that effort.”)(citing Paula Lustbader, *From Dreams to Reality: The Emerging Role of Law School Academic Support Programs*, 31 U.S.F. L. REV. 839, 844 n.17 (1997)).
11. Ronni Santo, UCLA LGBTQ Campus Resource Center, *Lesbian, Gay, and Bisexual College Students: Risk, Resiliency, and Retention*, J. C. STUDENT RETENTION, Vol. 6(1) 97-110, 2004.
12. See Katie Dupere, *‘Safe spaces’ for LGBTQ people are a myth — and always have been*, MASHABLE (June 18, 2016), <https://mashable.com/2016/06/18/lgbtq-safe-spaces/#a67T1t8kCOq1> (interrogations of the idea of “safety” and discussions on the false promise of many “safe spaces”).
13. Merriam-Webster, “Gender Non-Conforming,” <https://www.merriam-webster.com/dictionary/gender%20nonconformity> (last visited September 27, 2018).

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## Tupac, DMX, and Eminem Helped Me Through Law School: Building Community to Foster Student Persistence and Academic Success

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As most know and new law students anticipate, law school is riddled with layers of stress, anxiety, and abysses of the unknown. The perpetual search for ways to navigate, adjust to, and succeed in the environment can be a challenge. It is particularly challenging for students who fall into the following categories: first-generation college students; first-generation law students; from immigrant families; from different socio-economic backgrounds from the majority law school population; and from different cultures, ethnicities, religions, and lifestyles from the majority law school population. Each subgroup (all of which are not listed here) we belong to brings its own challenges, concerns, and ability to relate to others with similar experience. The literature that addresses the needs of students of diverse and multicultural backgrounds is vast and focuses mainly on the undergraduate student experience with less focus on the graduate, professional school experience, and law school experience. Nevertheless, much of what impacts both undergraduate and graduate students is also applicable to law students in the unique law school environment.

The law student experience may be positively or negatively affected by the smaller overall number of members of the student body. The division into first year cohorts including smaller groups for legal writing may have an impact on the demographics and life experiences of the members of the group which might more significantly impact a student of color, a woman or member of another marginalized group in a different way than a student member of a majority group, particularly if the student is “the only” member of one or two of the subgroups previously mentioned. The experience of “the only” may bring to the forefront the “impostor syndrome or impostor phenomenon” which may impact academic success, sense of belonging, and achievement of full personal and academic development because of perceived limitations in competency which may not be reality. The impostor syndrome or impostor phenomenon is the belief that despite outward evidence of achievement and success, an individual perceives themselves as a fraud and their success as a sheer result of luck.

We could have an extensive discussion about the impostor phenomenon or syndrome, but the focus here will be placed on one program offered by the Diversity and Equity Services Office (DESO) at Michigan State University College of Law. DESO created alliances with law students from underrepresented populations in law school and the legal profession to ensure student success during their law school journey. To list a few, some of the underrepresented populations are women, members of the LGBT community, student parents, and members of various ethnic, cultural, and religious groups. If students express a need, support is provided to them to create an alliance. Each alliance is led by student liaisons through their active participation in ensuring needs are met through programming. This is an excellent opportunity for students to assume leadership roles in areas they are knowledgeable about and feel comfortable interacting and students are enabled to better participate in the broader law school community. Such unique experiences continuously challenge alliance members and students in particular.

In my opinion, the alliance groups are reminiscent of the “learning community” concept which received considerable attention in institutions of higher education over the years. However, we need to consider the unique aspects of law school to ensure that learning communities fit into our environment. While learning communities exist in many forms, two basic components make up learning communities, academic and social. Emphasizing both can only strengthen the social and intellectual connections between students and help build a sense of community. We can emphasize the academic component by connecting students who are enrolled in the same classes and addressing other aspects of academic preparation. More specifically, Lenning and Ebbers group learning communities into four categories, but here we will only focus on the “student-type learning communities.” These learning communities target specific groups such as

*“We are one dimensional in the law school environment and students base their perceptions of us solely on our interactions with them.”*

historically underrepresented students, students with disabilities, academically underprepared students, and students with similar academic interests.

The DESO alliance groups emulate how law schools may adapt learning communities for law students. The alliance group leaders coordinate activities which sometimes include learning components on a monthly or more frequent basis. The activities are in a casual environment that allows faculty, staff, and alums to address fears and concerns that would not otherwise be addressed and often time resonate with students. Topics covered include alienation in the classroom, failure to dive into diversity issues that come up in cases within a class, disconnect from the law school environment, stress, depression, anxiety, family challenges, financial challenges, hunger, fears of failure, civility, etc. These groups allow students to connect with other students they would not have had an opportunity to meet or interact with as they discover similarities. Students can find accountability partners, exchange casebooks and other resources, get advice from upper-level students, and simply support one another. They also create study groups and have study hours before or after activities. Thus, some alliance groups focus primarily on academic support components, concentrating mainly on academic success, exam preparation, and bar preparation. Participating in these programs allows staff to identify and either pair or group students in supportive groupings particularly as staff and students collectively become aware of everyday struggles without breaching confidence.

Alliance groups are not only great for students, but they can also assist faculty and staff in developing unique connections with students. About three years ago, I was invited to an African Heritage Alliance women’s group program and asked to share some last-minute advice on preparing for exams including the bar exam. I presented my usual information but the conversation was redirected to stress management and before I knew it, I shared that “Tupac and Eminem got me through law school.” The moment those words left my mouth, I knew it would be a defining moment for me with the students. The lyrics from songs by these artists kept me grounded and reminded me of why I was in law school, who I was before law school, and reminded me that I could manage any adversity that stood in my way. The students were shocked because my statement tore apart preconceived notions they had about me. We are one dimensional in the law school environment and students base their perceptions of us solely on our interactions with them. Heartily, students laughed and a conversation about the impact of music on mood and motivation followed. I was brought closer to their experience by sharing my own law school experience and being quite vulnerable. My colleague mentioned DMX as her “get through law school” artist and students discussed other artists. By the time I made it to my office, I was the subject of conversation. This moment in time changed the nature of my interaction with students as I was perceived as a person vested in their experience and who could help them navigate all aspects of law school and students who previously never interacted with me found their way to my office.

Building communities can take on so many forms, but alliance groups are just one way of creating a safe space to be authentic, to challenge each other, to connect with the environment, to persist to graduation, to address needs, and to create a more meaningful law school experience.

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O. Lenning & L. Ebbers, *The Powerful Potential of Learning Communities: Improving Education for the Future*, 26 ASHE-ERIC higher education report, no. 6. (1999).

# How to Help Students Cope with the Challenges Posed by Stereotype Threats

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Minority students face a variety of challenges in higher education, not the least of which is the infamous stereotype threat. Much has been written about this, but I hope that this article will provide a framework by which those of us working in academic support can support our students who may suffer from the negative effects of the stereotype threat.

## Eliminating Negative Stereotypes

Students who are aware of the fact that they are being stereotyped perform much worse on exams than those who are not aware of such stereotypes. This is known as the stereotype threat, and the threat is both real and damaging.

Take this experiment as an example of the stereotype threat. A group of students who scored very well on standardized math tests was gathered at the University of Michigan. The students were divided into two groups, with a combination of males and females in both groups. The first group was told before their math exam that the exam they were about to take had shown differences between the sexes in terms of scores. In this group, males outperformed females on the exam. The second group was told that their exam was gender-neutral. On this exam, females performed just as well as males.

Or take this example of the stereotype threat. A professor of Psychology at Tufts University, Julio Garcia, gathered a group of athletic, white students. A white instructor led them through a series of exercises: jump as high as they could, do a standing broad jump, and do as many pushups as possible in 20 seconds. Then the students were asked to do each of these exercises again, and as expected they improved in each of the tasks. Then Garcia had a second group of students attempt the same experiment, except this time the students had an African-American instructor. The white students then failed to improve on their vertical jumps, and some jumped less high. The white students showed the same improvements they previously had in all of the other exercises. The explanation? There is no stereotype regarding how many pushups white athletes can do as compared to their African-American counterparts, but there is the prevalent stereotype regarding how high white men can jump.

What it all comes down to is that when your working memory has been compromised by thoughts surrounding the negative stereotype, you do not perform as well as you possibly can.

This can be particularly damaging to law school students. Working memory is housed in the prefrontal cortex of the brain. Tasks that are more verbal in nature, rather than spatial, take place in the left prefrontal cortex. Virtually all tasks assigned in law school are verbal in nature, rather than spatial. When pressure-filled exams create worries or doubts in a student's brains, these worries or doubts are also verbal in nature – they are internal monologues in the student's brain – and thus, also taking place in the left prefrontal cortex. So when a student is aware of negative stereotypes, not only does this affect their working memory, it affects the specific part of their working memory that is being called upon to perform on law school exams.

The most significant stereotypes we work against are those based on prior performance. For example, a student might be confronted with the fact that former graduates with subpar GPA only passed the bar exam at a 30% rate. Their overall law school GPA is subpar; therefore, they believe the odds are against them. This is a real, definable stereotype, but there is more to the equation which is what we try to demonstrate to students.

For example, we can show them that if they complete all required tasks during their bar exam preparation, that their chances of passing jump to 80%, regardless of their GPA. This helps motivate the student to do the work, but also shifts the focus for them as well. This is actually one of the main reasons we track statistics – to provide a positive framework and confidence for students getting ready to take the bar exam.

Other techniques discussed in this paper can also help students avoid the implications of the negative stereotype, such as journaling and meditation. The key is to clear working memory of these thoughts so that cognitive performance can be maximized.

### Journaling

Numerous studies have shown that when students feel anxious about performing on an exam, they worry about the situation. These worries then compromise the students' working memory. How can we help students alleviate these worries, thus freeing up precious working memory? The simple act of writing about and expressing their worries before a critical exam can do exactly that.

In one particular study, students were subjected to two math exams. All students took the first exam under the same conditions, which was relatively stress-free. Then, using various methods, the pressure was applied to both groups to make the second exam as pressure-packed as possible. In between those exams, the control group was asked to sit quietly for 10 minutes. The experimentation group was asked to write as openly as possible about their feelings and worries regarding the test. Everyone then took the second test.

The control group performed worse under the pressure. They showed a 12% decrease in their test scores between the first and second exams. The expressive writing group actually demonstrated a 5% *increase* in their test scores over the non-pressure filled first exam. Not only did the expressive writing assignment help students avoid performing worse under pressure, it actually helped them rise to the occasion and perform better when the pressure was on. Researchers were further able to demonstrate that the more the students used anxiety-related words, the greater the effects.

This act of being honest with one's self, with facing your fears, provides a very valuable benefit to students. And it only took 10 minutes of their times right before the exam! We can see how this concept plays out in other areas as well.

Take the example of David Price, a professional baseball player for the Tampa Bay Rays. In 2008, he arrived in the major leagues only months after being drafted out of college. Shortly thereafter, he found himself facing the New York Yankees in the playoffs. He entered the game as a reliever late in game 7 of the American League Championship Series, with everything on the line. He would go on to clinch the game for his team and send them on to the World Series for the first time ever. Here is how he described his feelings as he got ready to enter the game:

I took it back to the same preparation as college. I did my visualization. I'd envisioned myself failing now and again. It's human. When you've done that envisioning, you've seen it before. You don't always envision the good stuff because you're going to give up that home run, you're going to give up that go-ahead run or game winning hit. It's part of the game.

Price has done his own mental journaling. He knows what the stakes are; he knows he might not get the results he would like. He is being realistic with himself. He has faced his fears and is, therefore, no longer intimidated by them. His working memory has been freed of worry. Also note that he has practiced all of this before – he used the same preparation as he did in college. "All the pressure was right there, but I wasn't going to think about it," Price would say. "Pressure is perceived. If I don't put added pressure on myself, I'll be fine."

The same lesson should be taught to students, you don't have to be perfect - perform your best and face your fears. Journaling can be the key to establishing this mindset right before a critical exam.

*"The same lesson should be taught to students, you don't have to be perfect – perform your best and face your fears."*

## Meditation

Meditation generally involves a practice of clearing one's mind. For example, most people who are performing Zen meditation are focusing on one thing at a time – typically their breathing. They must clear their minds of everything else. If something else pops into their mind, they must be able to deal with it quickly and discard it. As a result, individuals who practice meditation have been shown to be able to control their thoughts much better than those who do not practice meditation.

The benefits of meditation thus become very clear considering everything that has been discussed to this point. Performance on pressure-filled exams is dependent upon the full function of a student's working memory. Anything that can creep into the student's brain and could compromise their working memory will act as a detriment to cognitive performance – including the stereotype threat. It would make sense that those people who have been trained to control their thoughts and discard distracting thoughts would be better able to clear their working memory of distractions on an important exam.

Do you have to spend years training to become a Zen master in order to reap the benefits of meditation? Not exactly, though it would be beneficial. One study showed that three months of meditation practice reduced people's tendency to have their attention derailed by unwanted thoughts or emotions. In another study, students with no meditation experience were instructed to perform 10 minutes of meditation and mindful breathing prior to an exam. Those who did so performed 5% better than those who did not. This may seem like a minor increase, but there is not much of an investment here either. And on a law school exam or the bar exam, a 5% increase in performance can often make the difference between passing and failing.

All of these benefits probably explain why so many successful people practice meditation. Tiger Woods credits meditation with helping him develop his ability to perform in the clutch. Former Los Angeles Lakers and Chicago Bulls head coach Phil Jackson advocated meditation to increase his player's performance, including the great Michael Jordan. Al Gore and Hillary Clinton also tout meditation as a tool for performance under pressure.

There are many books and articles out there on how to develop proper meditation techniques, and it is a topic well beyond the scope of this paper. However, basic mindful breathing exercises are a simple, easy way to get students started. Simply ask students to find a comfortable spot and spend 10 minutes focusing on their breathing – count to four while breathing in, count to eight while breathing out. If anything comes into your mind, accept it but then try to push it from your mind and return to a focus on your breathing. This type of exercise has also been shown to reduce blood pressure and stress levels.

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## MBE Media Gallery: A Low-Investment, High-Yield Teaching Technique

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Director of Programs for Academic and Bar Success

*AccessLex Center for Legal Education Excellence*

Today's students frequently post videos of themselves on social media. They also like to learn by watching videos, especially Gen Z students,<sup>1</sup> who are about to flood our law school doors. A powerful teaching technique emerges from this confluence of video engagement: the MBE media gallery. A classroom MBE media gallery provides an opportunity for teaching and learning that harnesses student enthusiasm for posting and viewing videos while at the same time leveraging that enthusiasm to advance ASP and bar success efforts. Before explaining the assignment, a note: this article in no way encourages laptop learning (or smart phone learning, as the case may be) to the exclusion of book, paper, and pen learning; it simply acknowledges that given the amount of time today's students spend on their devices learning from videos, interactive assignments can be implemented to productively capture some of that time for law school learning.

There are many ways to implement an MBE media gallery assignment. In the model discussed here, students select a few MBE questions and teach them to their classmates in short (2-5 minute) videos. The professor provides guidance on MBE strategies and records sample videos demonstrating effective teaching techniques, but students are encouraged to be creative in designing their videos as they wish. Students of course must study and take practice tests in all 7 MBE subjects, but in this assignment, they may record "teaching videos" in selected sub-topics of their choosing. Both students and faculty "win" using this model.<sup>2</sup> Students "win," being empowered by having some freedom of choice (in question selection) and freedom to exercise creativity (in video design); professors "win" by encouraging self-driven learning that is fun, increasing student engagement, fostering attention to critical reading (with the "read aloud" portion of the student teaching), and encouraging students to dedicate in-depth focus to specific subject areas.

Students report reviewing many questions in their assigned subjects before choosing the fact patterns/practice questions they wanted to teach. Knowing that the professor and their classmates will be viewing the videos, many also take time to plan what they will record. Thus, there is learning at each stage of the process—from question selection to video recording. When students re-watch their own videos, they are empowered by hearing themselves demonstrating a command of the discrete focus areas of the questions they selected.<sup>3</sup>

This assignment takes little time on the part of faculty, not much time for students, and produces a great return-on-investment for student learning. For faculty, the commitment involves:

- 1) Recording some sample videos to demonstrate basic MBE analysis techniques: typically one reads the question slowly and carefully, provides strategies for reasoning through the fact pattern, and then reads through possible answers, explicitly pointing out why three of the four choices are not the best answer choice and why one is, and drawing on logic, doctrinal content mastery, critical reading, memory tips, and other tactics to decipher the best of the four choices;
- 2) Posting student videos to a "media gallery" where everyone in the class can watch each other's presentations;<sup>4</sup>

*"...professors "win" by encouraging self-driven learning that is fun, increasing student engagement, fostering attention to critical reading (with the "read aloud" portion of the student teaching), and encouraging students to dedicate in-depth focus to specific subject areas. "*

- 3) Hosting a moderated discussion board and encouraging students to comment constructively on each other's posts;
- 4) If possible, faculty might also watch all the videos and send a sentence or two of comments to each student.

Student feedback on this assignment has generally been positive. Many students said they loved the assignment and would “never forget” the rule and reasoning in the questions they taught. Teaching, even in just a few sub-topics from within the seven subjects, made them feel more confident in their ability to tackle (i.e. *teach themselves* how to answer) questions in other areas. Some students shared that having to spend time slowly reading and analyzing questions aloud helped them to see how significantly their learning improved by taking a thorough, deeper, slower approach to reading MBE questions generally—and they found that simply reading more critically vastly improved their practice test scores. Students also had fun and proved remarkably creative—one cleverly using a sock puppet as a prop, another a bottle of wine, and many smiling and laughing as they brought home particular points they chose to emphasize.

The media gallery video teaching strategy specifically targets elaboration (what Professor Scott Johns refers to as “explaining confusing concepts to others”) and practice-based learning.<sup>5</sup> The idea that one learns from teaching is not new to anyone reading *The Learning Curve*. We can all remember teaching our first law school classes, coming away with a command of many nuances and subtleties that had remained a blur from our own law school learning. My first law teaching experience, in a Street Law class during law school, was so empowering that it proved pivotal in my decision years later to move from law practice to full time law school teaching. Writing about Street Law in 2009, Professor Montana notes, “The law students quickly become experts on the legal topics they cover by preparing lessons and researching answers to questions that arise in the classes they teach.”<sup>6</sup> Similarly, the “learning from teaching” model is effective in law school peer tutoring programs.<sup>7</sup>

The media gallery teaching lesson is not radical; it is simply a video variation of what many of us have done for years, bringing students to the front of the classroom to reason through hypotheticals aloud. Unlike those in-class teaching moments, however, which are typically not videotaped, this assignment can be re-watched. The MBE assignment can also be done entirely online; thus, video teaching tasks fit seamlessly within wholly distance learning courses, which law schools may conduct many more of given recent changes to ABA Standard 306. The assignment can also be given as homework in a traditional on-campus class so that it need not take class time. Perhaps the greatest benefit to the media gallery assignment is that posting student work product keeps students continuously learning while in their comfort zone: watching readily accessible video clips (of themselves and each other) that are viewable on their phones.<sup>8</sup>

ENDNOTES:

1. Shailini George, *Move Over Millennials, Gen Z is Coming*, BEST PRACT. FOR LEGAL EDUC. (Aug. 8, 2018), <https://bestpracticeslegaled.albanylawblogs.org/2018/08/08/move-over-millennials-gen-z-is-coming/>.
2. This win-win approach, allowing the student some “freedom of choice” from among a confined set of options that are equally acceptable to the professor, (e.g. “You may choose to

teach a contracts formation question or a contracts remedies question”), mirrors superb parenting advice (e.g. “Would you like broccoli or green beans”).

3. Creating audio flashcards in their own voices and listening to themselves reciting rules has a similarly empowering effect.

4. Most learning management systems will have this capability.

5. See Scott Johns, *Hot Tips for Cool Learning – Based on the Latest Empirical Research*, L. SCH. ACAD. SUPPORT BLOG (June 28, 2018), [http://lawprofessors.typepad.com/academic\\_support/2018/06/hot-tips-for-learning.html](http://lawprofessors.typepad.com/academic_support/2018/06/hot-tips-for-learning.html) (citing Jennifer Cooper, *Smarter Law School Habits: An Empirical Analysis of Law Learning Strategies and Relationship with LGPA*, SSRN (posted July 21, 2018), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3004988\\_](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3004988_)

6. See Patricia Grande Montana, *Lessons from the Carnegie and Best Practices Reports: A Look at St. John's University School of Law's Street Law Program as a Model for Teaching Professional Skills*, 11 T.M. COOLEY J. PRAC. & Clinical L. 97, 116-124 (2009).

7. Veteran ASP Professor Joanne Harvest Koren and Professor Alex Schimel at the University of Miami School of Law have been writing about their Dean's Fellows program for many years. The effectiveness of learning by teaching in this program is captured by the following quote from a then 3L, "The Dean's Fellows Program gives its students the opportunity to master a subject through trial by fire... You have to know the material well, because 1Ls are always quizzing you to test your credibility." See Ashley Matthews, *First-Year Law Students Helped Through Trial*, U. OF MIAMI L. MAG. (Mar. 8, 2012), <https://www.law.miami.edu/news/2012/march/first-year-law-students-helped-through-trial-fire>.

8. As noted at the outset, this article in no way suggests that students cannot and should not be urged out of their comfort zones and away from their electronic devices for certain kinds of learning. It does, however, propose at least one way to leverage enthusiasm for video learning and create meaningful, engaging teaching tools around this popular learning vehicle.

## Call for Submissions

The Learning Curve is published twice yearly, once in the summer/fall and once in the winter/spring. We currently are considering articles for the Winter/Spring 2019 issue, and we want to hear from you! We encourage both new and seasoned ASP professionals to submit their work.

We are publishing a general issue so we are considering all ideas related to academic support. If you have a classroom activity you would like to share, individual counseling techniques, advice for the academic support professional, and any other ideas, we want to hear from you!

Please ensure that your articles are applicable to our wide readership. Principles that apply broadly — i.e., to all teaching or support program environments — are especially welcome. While we always want to be supportive of your work, we discourage articles that focus solely on advertising for an individual school's program.

Please send inquiries or your article submission to [LearningCurveASP@gmail.com](mailto:LearningCurveASP@gmail.com) by no later than December 15, 2019. (Please do not send inquiries to the Gmail account, as it is not regularly monitored.) Attach your submission to your message as a Word file. Please do not send a hard-copy manuscript or paste a manuscript into the body of an email message.

Articles should be 500 to 2,000 words in length, with light references, if appropriate. Please include any references in a references list at the end of your manuscript, *not* in footnotes. (See articles in this issue for examples.)

We look forward to reading your work and learning from you!

**-The Editors**

### ABOUT THE LEARNING CURVE

**The Learning Curve** is a newsletter reporting on issues and ideas for the Association of American Law Schools Section on Academic Support and the general law school academic support community. It shares teaching ideas and early research projects with a focus on models and learning environments that create positive learning experiences for law students.

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