

AALS SECTION ON ACADEMIC SUPPORT

# The Learning Curve

Fall 2006

*The Learning Curve is an informal newsletter reporting on issues and ideas for the AALS Section on Academic Support and the general law school academic support community. Please contact me with ideas, announcements, and article submissions. I anticipate publishing another issue in the spring of 2007 and welcome your ideas and submissions at any time. You may contact me at [nattgan@regent.edu](mailto:nattgan@regent.edu) and at 757.226.4852 at Regent University School of Law in Virginia Beach, Virginia.*

*Natt Gantt, Editor  
Regent University School of Law*

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## SECTION NEWS

### News from the Section Chair: Update on the LSAC Workgroup and AALS Events and Concluding Thanks

Happy New Year All!

#### [Report from LSAC Workgroup](#)

2007 is a year with great promise. Much of this promise derives from work that was initiated and accomplished by the Academic Assistance Review Workgroup that was proposed by Athornia Steele (Capital University Law School) in his position as Chair of the LSAC Minority Affairs Committee (MAC). The Workgroup's charge was to consider the future relationship with and funding of academic assistance training workshops (AATWs) by LSAC.

The Workgroup's assessment and report came at the end of the six year commitment by LSAC for academic assistance training workshops. The regional workshops last summer and the one this fall concluded that commitment. To personalize the value of the commitment of LSAC to the academic support community and the students we serve, think of the myriad ways each of us and our students have benefited from LSAC's support over the past six years. I know that each workshop I have attended has taught me something I have been able to use to improve my ability to work with law students. In addition, the types of support and collegial networking that have come from these workshops have greatly contributed to our identity as a group and the feeling of community.

Athornia Steele, known better to us as Thorny, reported the process and result:

*The workgroup was chaired by Ruth Ann McKinney (UNC-Chapel Hill) with Linda Feldman (Brooklyn), Joanne Harvest Koren (Miami), and Ricardo Villarosa (Wayne State). Kent Lollis, Associate Executive Director of LSAC and Director of Minority Affairs of LSAC, staffed the workgroup. The Workgroup Report was discussed by the Minority Affairs Committee of LSAC, and the final recommendations formulated by the Committee were presented to the LSAC Board of Trustees at its December meeting.*

The Board:

1. *Renewed funding for AATWs for six additional years alternating between national and regional workshops – \$150,000 for national workshops and \$7,000 each for up to four regional workshops,*

2. *Approved \$100,000 to produce and update "A Practical Guide to Academic Assistance Programs." Attention is also*

*to be given to the appropriate use of technology to deliver this information,*

3. *Approved \$30,000 to gather information on for-credit and not-for-credit bar examination preparation courses,*

4. *Approved \$20,000 to put together a workgroup to develop a system and cadre of individuals who can serve as advisors to law schools seeking assistance in the development or evaluation of an academic assistance program,*

5. *Approved \$15,000 to fund grants up to \$1,500 for local workshops for law school academic assistance faculty and staff (grants to be approved by the LSAC Director of Minority Affairs in consultation with the MAC chair).*

*The full report will always be available to future MAC chairs so that other ideas contained in the report might be adopted as the chair deems appropriate. The development of a conference planning guide will be undertaken by the staff; however, as we plan for this summer's workshop, we should make notes. Identification of topics for regional workshops in 2008 consistent with the report recommendation might be factored into this summer's workshop.*

*The Board had earlier approved a workgroup to develop a model for assessing academic support programs. This workgroup has yet to be appointed, as we will also be retaining a consultant with expertise in educational program assessment.*

*I (Thorny) will be putting together these workgroups, along with a few other workgroups for other MAC initiatives approved by the Board.*

Thank you LSAC, Kent Lollis, Thorny Steele, Ruth Ann McKinney, Linda Feldman, Joanne Koren, and Ricardo Villarosa!

#### [Events at 2007 AALS Annual Meeting](#)

The promise of the year becomes concrete first with a well planned program on "Integrating Academic Support Across the Curriculum." It kicks off the Thursday Jan. 4th programming at the AALS Annual Meeting from 8:30 a.m. - 10:15 a.m. at the Marriott Wardman Park Hotel. As has become one of our traditions (because active learning is such an important part of the ASP process), this program will employ interactive learning opportunities. See the full announcement below for details on the program. My special thanks to our program committee: Robin A. Boyle (St. John's), chair, Pam Armstrong (Albany), Kris Franklin (NY Law School), Amy Jarmon (Texas Tech), and Michelle Mason (Florida Int'l) for their work in soliciting proposals, reading and considering each of many proposals, and then putting together a coherent and inspiring program. Don't miss it!

Also, please note that our Business Meeting will follow the program on Thursday and our breakfast is scheduled for Friday morning. Breakfast will give us the time to meet and catch up as well as to

connect with our incoming board and executive committee under the guidance of Nancy Soonpaa (Texas Tech), the incoming chair.

### Concluding Thanks

As I finish my year as section chair, I thank you for a great year and for your trust. I feel it is an honor to serve this section in all capacities. When this year started, the need I had felt most strongly was for evaluation and new commitments to future directions. I think that Thorny, Kent, and the workgroup accomplished those needs for all of us. The regional workshops each met a different need, but all provided important information, collegial support, and inspiration. I hope that in two years we will again consider timing one or more of our regional workshops during the fall term. Our informal, yet critical instant communication technology provided by our listserv and the work on the blog increases our ability to function as a supportive community. Many have contributed important scholarship initiatives to support our community and to reach out to others in legal education. Congratulations! Thank you all! And, a very special thank you to our newsletter editor, Natt Gantt, who keeps all of us on *The Learning Curve*!

There are so many ways each of you contributes to who we are as an academic support community. Your individual passions and interests are part of what keep this group moving forward. In reflecting on our ASP community for the fall conference on Best Practices, what jumped out at me as a key characteristic is our inclusive, curious, non-judgmental, non-hierarchical nature. It is my hope for the New Year that we will continue to nurture those qualities, to grow in ways anticipated and unexpected, to cultivate our openness to learning from each other and from/with our students, and that we may each find joy, healing, and support in our work and in our personal lives in 2007!

Best wishes to each of you,  
Marty

Martha Peters  
Chair, AALS Section on Academic Support  
Professor of Legal Education  
Elon University School of Law

### **Section Program at the 2007 AALS Annual Meeting**

The program committee for the AALS Section on Academic Support announces the upcoming workshop at the 2007 Annual Meeting.

### Topic of the Workshop:

“Integrating Academic Support Across the Curriculum”

Abstract: We will highlight ways in which schools can interweave academic support topics throughout their first-year curriculum and beyond. Studies show that the most effective academic interventions are those integrated into students’ regular coursework. Our presenters will address ways to maximize the benefits of academic support throughout a school curriculum. Workshop participants will be asked to think broadly and critically about what constitutes effective teaching and learning in law school. The workshop is geared towards both doctrinal and skills professors.

### Moderator:

Tracey Boaks Coan, Associate Professor of Legal Writing, Wake Forest University School of Law, will introduce each speaker and provide a focus for the workshop.

### Presenters:

Paula Lustbader, Associate Professor of Law, Director of the Academic Resource Center, Seattle University School of Law, on “Integrating Academic Support Pedagogy into First-Year Curricula and Beyond.”

Leah Christensen, Assistant Professor, Department of Lawyering Skills, University of St. Thomas School of Law, Minneapolis, Minnesota, on “Unmasking the Cognitive Mysteries of Case Analysis for the First-Year Law Student.”

Gregory Duhl, Assistant Professor of Law, University of Tulsa College of Law, on “Integrating Academic Support into First-Year Contracts.”

Michael Hunter Schwartz, Professor of Law, Director of Ex-L, Washburn University School of Law, Topeka, Kansas, on “Integrating Bar Pass Concepts into Upper-Division Bar-Tested Courses.”

Date: Thursday, January 4, 2007

Time: 8:30 a.m.

Place: AALS Annual Meeting, Washington, DC

### Program Committee:

Chair, Robin A. Boyle (St. John’s)  
Members: Pam Armstrong (Miami), Kris Franklin (NY Law School), Amy Jarmon (Texas Tech), and Michelle Mason (Florida Int’l)

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## ANNOUNCEMENTS & WORKSHOP REPORTS

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### Recap of the LSAC Southwest Regional on Best Practices Held at Texas Tech School of Law

Amy L. Jarmon  
Assistant Dean for Academic Success Programs  
Texas Tech University School of Law

Registrants from 23 law schools converged on Lubbock, Texas for the regional workshop that was held November 10 – 11 at host school, Texas Tech. The registrants included both those newly minted (a few weeks to a few months) as well as those with extensive ASP experience. The workshop featured three main speakers, a deans' panel, and eight additional panels or presentations over the one and one-half days.

Michael Hunter Schwartz from Washburn University School of Law opened the conference on Friday with a presentation entitled Best Practices for Integrating Academic Support into the First-Year Curriculum, Influencing Faculty, and Designing Introductory Programs. Michael made some very cogent points on the theoretical and practical aspects of these linked topics. His presentation sparked discussion for the afternoon working groups on the three topics.

Michael and David Nadvorney, CUNY School of Law, led the working group on Best Practices for Influencing Faculty and for Integrating Academic Support into the First-Year Curriculum. The working group on these two aspects included exploration of alternative models and discussion on problem-solving. Amy L. Jarmon, Texas Tech University School of Law, led the working group on Best Practices for Designing Introductory Programs. The participants divided into small groups, based on student recipient characteristics, and began to design their dream introductory program for those student recipients.

Dean Walter B. Huffman welcomed the registrants to Texas Tech University School of Law at the Friday dinner. The Friday evening speaker was Martha M. Peters, Elon University School of Law. Marty inspired all of us with her topic of Best Practices for Moving Forward in Academic Support: Assessment of Accomplishments and Focus on the Future. In addition to providing reflections on where we have been and where we are going as ASP professionals, Marty led us in discussions based on a strategy matrix exercise.

Ellen L. Swain, Vermont Law School, provided a practical and very important session on Best Practices for Working with Law

Students with Learning Disabilities and ADHD. Ellen's strategies and techniques were ones that all of us will be able to put into use with our students. Her presentation provided not only a good base of information about these particular disabilities, but also practical examples of how the disabilities affect student learning and the technology available.

Deans Dennis R. Honabach, Chase School of Law at University of Northern Kentucky, and Walter B. Huffman, Texas Tech University School of Law, provided valuable insights on Best Practices for Working with the Deans on Budgeting and Administration. This session provided important insights for all of the participants, whether new to ASP or experienced. It was clear from the questions and discussion that ASP professionals need to be sensitive to their own law school milieus and diligent in educating others about their programs. In all cases, a supportive dean can make a tremendous difference!

The Newcomers Breakfast on Saturday was moderated by Nancy Soonpaa, Texas Tech University School of Law. Members of the workshop planning committee (Nadvorney, Schwartz, and Jarmon) and Vernellia Randall offered strategies to those with less than two years experience in academic success. The newcomers had insightful questions and a lot of practical information was shared.

Vinita Bali, Santa Clara University School of Law, presented Best Practices for Designing and Supervising Upper-Division Students as Structured Study-Group Leaders and Tutors. Vinita presented a model used at Santa Clara University for an extensive study-group model. The session was well-attended and provided practical techniques for law schools to implement and generated a number of ideas.

Amy L. Jarmon; Alfred Mathewson, University of New Mexico School of Law; and Joe Dhillon, University of the Pacific McGeorge School of Law, presented Best Practices along the P-20 Pipeline to Increase Diversity. Amy provided an overview of the "Wingspread P-20 Leadership Pipeline" movement in law schools. The speakers then discussed specific pipeline models for increasing law school diversity. Alfred discussed the ENLACE (Engaging Latino Communities for Education) model used at the University of New Mexico in which family centers are set up in the middle and high schools. Joe Dhillon discussed the NP3 (Natomas Pacific Pathways Prep) charter school model used at Pacific McGeorge which involves both a high school and an elementary school. Amy discussed the public school law magnet model being used at Texas Tech University School of Law and the "3Rs" (Rights, Responsibilities, and Realities) model used by the Cleveland Bar Association.

Vernellia Randall, University of Dayton School of Law, presented Best Practices for Assuring Academic Achievement and Bar Passage for Black, Hispanic, and Other Law Students of Color or Why a Good Academic Support Program Is not Enough. She

reminded attendees of our purposes in ASP and the need to serve students of color throughout law school and the bar preparation.

Nancy Soonpaa provided a presentation on Best Practice for Developing a Working Knowledge of Learning Theory in Academic Support Programs. Nancy provided a good foundation on the sensory, Kolb, and MBTI theories for academic support professionals to use in their work. The participants in the session generated discussion on specific uses with their students and practical considerations when using learning theories.

Rory Bahadur, St. Thomas University School of Law, presented a session on Best Practices for Evaluation of Academic Support Programs. Rory shared a recent evaluation study that he undertook at St. Thomas. Rory challenged his session members to confront the need for quantitative evaluation measures, and he discussed the qualitative evaluation measures that are “easier” to provide. A small group scenario of providing evaluation to defend one’s program from cuts made the importance of best practices in evaluation very real.

Robert Coulthard, Oklahoma City School of Law, and Everett Chambers, Texas Wesleyan University School of Law, participated in a panel presentation on Best Practices for Credit and Non-Credit Bar Prep Programs to Maximize Bar Passage. In addition to presenting models for each type of program, the panelists had multiple questions from participants and active discussions ensued.

Saturday was capped off with a night of West Texas hospitality. The registrants were treated to a traditional barbeque menu at the National Ranching Heritage Center on the Texas Tech University campus. The Lone Prairie Band entertained the attendees with cowboy music, Country & Western swing, and fiddle music. Many participants could dance the Texas Two Step before they left for the evening! As remarked by a number of participants, the dancing reminded them of our own law students’ struggles to master multiple tasks in a short period of time and the importance of practice.

Special thanks need to be given to LSAC for agreeing to host an experiment with a fall workshop in the Southwest region. Additional thanks go to Nancy Soonpaa, Michael Schwartz, Marty Peters, and David Nadvorney for all of their hard work and support in making this workshop a success. A fall workshop is a viable option for future years. The consensus was that the Southwest is back and ready to host more workshops in the future!

## How to Get on the ASP Listserv

If you are interested in getting on the ASP listserv, send an e-mail to listproc@chicagokent.kentlaw.edu. In the text of the message, type only the following: subscribe ASP-L (first name, last name, position, school).

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## ARTICLES

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### Using the Models of Benjamin Bloom and Madeline Hunter in Academic Support

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Russell C. Smith  
Associate Dean for Student Life  
Campbell University School of Law

This year, we started an academic support program at Campbell University School of Law. Many options exist for how to structure a program. Some decisions belonged to the faculty and the dean. Would the program be mandatory? The faculty decided no. Would I be able to have third-year students as assistants? The dean decided yes.

After answering these two basic questions, the structure and direction of the program was left up to me. The first basic question I had to answer was whether to organize our program around doctrinal subjects or some other way. After discussions with faculty, the consensus was that students who struggled in one class tended to struggle in all classes indicating that subject matter is probably not the major problem for struggling students. Accordingly, we decided to organize our program around academic skills.

We then designed a format that focused on meetings in which first-year students met with me or a third-year student once a week for about one or one and one-half hours a session. To encourage student involvement with our program, we initially sent letters to students with LSAT scores of 153 or lower. After about a month, we felt we could handle more, so I sent out a mass e-mail to all first-year students inviting any who were interested, regardless of LSAT score, to contact me and I would put them in a group with a third-year student. This probably added 8-10 to our number. Because the program was voluntary for students, attendance was sporadic, especially if a research or writing assignment was due.<sup>1</sup> In the end, we served approximately 20-25 students consistently, which is about 15-20% of our first-year population.<sup>2</sup>

The specific direction of the program took shape as we attempted to answer the following basic questions: 1) *What* skills does the student need? and 2) *How* are these skills taught?<sup>3</sup>

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1 Certainly, those who attended consistently stand to benefit the most.

2 I believe that next fall I will just initially assign every student to a third-year student and go from there, realizing that some will never show to any activities and some will show to all.

3 Obviously, this model excludes the student with ADHD or some like problem, which is not the focus of this article. I am solely addressing the student with no identifiable disability, just a lack of academic skills, which I believe to be most of the students in academic difficulty.

I turned to two well-known educators, Benjamin Bloom and Madeline Hunter, to help me answer these questions and give direction to our program.

Coming from a background in secondary education, I have studied many theories about teaching, learning, and motivation. Public high schools sometimes seemed to me to be a great experimental laboratory for educational theory. It seemed that weekly a new theory and a new style of teaching was introduced as “the answer” to all learning problems. I am sorry to say that after many years, I never found a Holy Grail; however, some theories had lasting value and I still find them useful today. Bloom and Hunter are most helpful to me in the law school academic support setting. These two educators provide the structure and the model for the program I employ at Campbell University today. Obviously, being the first year, we are constantly evaluating and assessing our model, but this article sets forth our guiding principles.

### What Skills Students Need

In answering the first of my two driving questions, the what question, I found Bloom to be very useful. Benjamin Bloom’s primary contribution to the literature of education is the placing of thinking skills in a hierarchy.<sup>4</sup> In his model, thinking skills progress from the lowest level thinking skill, knowledge, to the highest, evaluation. Each successive level demonstrates a more complete understanding of the subject being considered and a more complex thinking activity or skill. Specifically, thinking skills are arranged in the following hierarchy, from the simplest to the most difficult: knowledge (simple recall), comprehension (understanding), application (ability to apply knowledge in a new situation), analysis (ability to break down knowledge into small pieces), synthesis (ability to create a new whole from different parts), and evaluation (making judgments).<sup>5</sup> According to Bloom, if educators aim at a higher level of thinking activity and require students to operate on this level, students will necessarily increase their skills at lower levels and deepen their knowledge of the subject matter.<sup>6</sup>

With Bloom as my guide, I started with conversations with the faculty because I wanted to know their assessment of student weaknesses determined from reading exams and class dialogue. As I talked with them, I heard the same thing that I’m sure everyone does. “No analysis” and “missed the issues”

4 Bloom first published these ideas in 1956 in his book *Taxonomy of Educational Objectives, Handbook I: The Cognitive Domain*. He developed taxonomies in the cognitive, affective, and psychomotor domain, but I am only discussing Bloom’s hierarchy in the cognitive domain.

5 Bloom discusses these classifications throughout his book, but the book includes an appendix that contains a condensed version of his taxonomy. See BENJAMIN S. BLOOM, *TAXONOMY OF EDUCATIONAL OBJECTIVES, HANDBOOK I: THE COGNITIVE DOMAIN* 201 (21st prtg. 1977).

6 *Id.* at 18-19.

seemed to be common complaints. Again, these concerns cut across subject matter boundaries. Yet, when I talk with students, they do seem to understand their cases and legal rules but only in the setting of the case they read. Professors bear this out as well indicating that students discuss rules on the exam, just not in a correct application. Students comprehend (Bloom) the cases and statutes yet do not apply (Bloom) the rules in the appropriate manner to a different fact pattern.

In trying to get students to the point where they can perform this application skill in any subject matter, I find that it is useful to spend my time on activities that involve analysis (breaking things down into component parts) and synthesis (constructing a whole from different parts). These thinking skills are of a higher order than application; therefore, as a student becomes proficient with analyzing and synthesizing activities, the student will be comfortable with the application activity on the exam. I focus on analysis early in the semester and synthesis later.

True to Bloom, my analysis activities center around effective questioning about the subject (case). I have a sheet full of questions that I print out and use as a guide when working with students. Some sample questions and activities include:

1. If this or that fact had been changed, would the result be the same?
2. Why or why not?
3. If I add this fact, would the result be different?
4. Why or why not?
5. Make up a fact pattern where the court would follow the same rule and reasoning.
6. Make up a fact pattern that appears similar but the court’s rule would not apply.
7. What could you change to change the outcome?

In Bloom’s terminology, these are analysis activities. In essence, I am forcing the student to look at the rule of a case as follows:  $X1 + X2 + X3 = Y$ , where each X represents a fact or set of facts necessary to the outcome Y. The rule of the case might be stated as when fact X1, fact X2, and fact X3 exist together, the result is Y.<sup>7</sup> What I want the student to think about is would the result be the same if X3 were removed from the equation, or to put it in Bloom’s terminology, is X3 a component part of the result Y? Or suppose we introduce X4? What result? This discussion focuses on the analysis skill.<sup>8</sup> Some students may need not only to discuss these issues, but also to write out the rule as a formula, complete with plus signs and an equal sign. The student who practices this skill enough begins to see the parameters of the rule that is talked about in any particular case

7 This formula assumes the chronology of the facts makes no difference. If chronology is essential, that then becomes part of the analysis.

8 For some who are familiar with Bloom, the question is how can one be proficient at analysis without mastering application first. I believe the application skill is embedded in this activity as the student must consider the new equation against the existing fact pattern.

and thinks about other scenarios where the rule may or may not apply. Students should do this, and indeed I suggest this process, for every single case. Analysis, like shooting pool, is a skill that one must practice in order to get better.

We do synthesis activities later in the semester. As noted, synthesis is the process of putting things together into a whole. Outlining would be one example common to law school studying. I like to use charts that are partially filled in to help steer students in the right direction. For example, I might put up a partial outline dealing with battery, with each element a separate heading. I would let the students identify the specific elements (an analysis activity), and then we would take the cases that they read and put them in the correct heading and discuss why a particular case would go under this heading.<sup>9</sup> Consequently, we might create subheadings as part of our activity. Intent might be broken down into desire, knowledge with substantial certainty, and unlawful acts not intended to cause damage. In filling in this chart, students are assembling the entire concept of battery from its constituent parts as learned from their cases. They are also establishing a framework for dealing with a battery question. This type of activity can be recreated for virtually all subjects in the form of outlines, flow charts, or virtually any representation of a “chunk”<sup>10</sup> of law. The important thing is that the students create some whole from their parts.

### How to Teach These Skills

Assuming that the mastery of the analysis and synthesis skills will translate into exam success, the next question is how to teach these skills. Some of this has been touched on in the above paragraphs, but I will be a little more detailed now with how this fits into Madeline Hunter’s lesson design.

Madeline Hunter is credited with a style and an order of teaching and instruction still in use by many teachers today.<sup>11</sup> She particularly provides a useful model of instruction for teaching skills, as opposed to specific knowledge. At a very basic level, her model consists of the following components: (1) instruction, (2) guided practice and monitoring, and (3) independent practice.<sup>12</sup> These three steps help answer the how question.

For the first step, she identifies three major parts: input,

<sup>9</sup> Of course, some cases might belong under two headings.

<sup>10</sup> “Chunk” is a term I like to use with students to emphasize thinking more broadly than the individual case, yet within a defined subset of the course.

<sup>11</sup> See MADELINE HUNTER, ENHANCING TEACHING (1994). Madeline Hunter was a professor at UCLA and is generally credited in the education community for her work in lesson planning and instruction.

<sup>12</sup> *Id.* at 3. In fact, directly after listing these steps in her book, Dr. Hunter suggests that hers is not *the* model, but a model with the teacher deciding what is necessary. She even does not like using the terms “steps” to avoid the implication of a rigid model. *Id.*

modeling, and checking for understanding. Input would normally be through lecture or the imparting of the information. This format is generally not part of my process because students usually come with an understanding of a case, but there might be a little lecture and explanation since students need to be at the comprehension level prior to proceeding up the hierarchy. My main focus in this step is the modeling and checking for understanding.

Using an analysis activity as an example, the student and I might break down the rule of the case as mentioned before ( $X1 + X2 + X3 = Y$ ). We would then discuss each fact as crucial or not crucial as measured against the rationale of the case. Initially, I would tell the student exactly my thinking and how I arrived at my conclusion based on the case’s rationale. This is the modeling. I might do this for two or three cases, showing the student how to use this type of thinking in analysis of that particular case. Next, I would start playing with the facts, again explaining my thinking.<sup>13</sup> Then, as a check of understanding, I might have the student analyze the rationale and result with an additional fact that I introduce or subtract from the equation. They will have to explain their reasoning for their conclusion. During this discussion, I am checking their process to make sure they are going through the correct steps of isolating the fact and applying the rationale of the decision. Once I am comfortable that the student is ready, I move to the next step.

Let’s look at the familiar case of *Hamer v. Sidway*<sup>14</sup> for a more concrete example of how this works. Initially, I would express the rule of the case as a modeling activity. An expression of the rule from this case might be “promise by uncle to 16 year old nephew to pay \$5000 for not drinking, using tobacco, swearing, playing cards or billiards for money until he turns the age of 21 plus nephew actually not doing these things plus nephew having legal right to do equals enforceable promise.” We then start to play with the rule’s constituent parts. I would ask the following questions and then answer them, explaining my reasoning:

- If the promisee were not the nephew, what result? Why?
- If the promisor were not the uncle, what result? Why?
- If the parties were completely unrelated, what result? Why?
- If the nephew slipped and drank once during the five year period, what result? Why?
- If the nephew was on probation and had no legal right to do these things, what result? Why?
- If the nephew testified that he would not have done these things anyway, what result? Why?

There are any number of questions one might use in this activity. Initially, I am doing the modeling with these questions and answers; and then as we progress, I would ask the student to answer and explain, thus checking for understanding. Indeed,

<sup>13</sup> Dr. Richard Paul and Dr. Linda Elder refer to this process as explicitly modeling your thinking “moves” in their pamphlet *How to Improve Student Learning*, p. 21, Idea # 16.

<sup>14</sup> 27 N.E. 256 (N.Y. 1891).

we would eventually encourage the student to come up with good questions as a further check.

The next step in Hunter's design is guided practice. Extending the above activity into this part of the lesson would involve more independence from the student. I might give the student a particular case and have him or her express the rule in it as an equation. I might then ask questions similar to the above example. As the student gets more proficient, he or she could introduce new facts and discuss whether the outcome would change and why. All this discussion would be done with me, and my part is to guide the students through their thinking as they develop this skill.

The last step is independent practice. For this step I would have the students perform these activities outside of my presence, and then we would talk about their efforts and see if they have a good grasp on this analytical process. If not, we would reteach (more modeling) until the students are comfortable performing this task routinely with every case.

There is no magic time frame as students work through these activities. Modeling might take 10 minutes for some students to start to grasp the purpose of the activity, while it might take two or three sessions for other students. The important point is that students who struggle need some modeling and practice in order to become proficient. At the end of the day, the goal is for the students to ask these questions automatically as they read cases, thus developing an understanding of the rule of the case and the potential applications in other situations.<sup>15</sup>

I also employ Hunter's steps with synthesis activities. For instance, if we were working on their outlines, I would start by having the students give me a case and tell me something about it. Then I would place it on the outline in the place where I think that it would go. All the time, I would be modeling by explaining my thinking to the student. I might do this two or three times before moving to the checking for understanding step. One way to check for understanding is to have the students explain in their own words why the case was classified as it was.

For guided practice, I would introduce a case and then ask the student to classify it and explain their thought process. This activity works really well in a group setting. One student introduces a case, another classifies it, and a third explains the reasoning behind the classification. This might generate some discussion, all of which can be guided by the instructor and is helpful to develop the synthesis thinking skill.

The final step is the independent practice. I might give the students a group of cases and ask them to make some sort of classification, like an outline or chart. The next week I would look at it and we would talk about it. Negligence is a good area in which to do this process. I give students a five column chart with the following headings: duty, breach, causation, damages, and other

<sup>15</sup> Oddly, as a teacher, the greatest reward is the student who doesn't need you anymore.

considerations. I ask students to put all of their negligence cases in the correct column and explain why each belongs in that particular column. After practicing these synthesis skills, the students should begin to think about every case in relation to some whole chunk, thus developing good synthesis skills and a good framework for solving problems.

#### Purpose Behind Using These Frameworks

The purpose of using a framework, both Bloom and Hunter, is to make sure that we are moving toward a desired outcome, not just the ambiguous goal of becoming a better student.<sup>16</sup> I find that it is helpful to have some idea of where I am going with a student in order to assess how that student is doing and if that student is ready to advance further. I suspect that most academic support personnel do many of these same activities but may not put them in any sort of framework. I find the framework most helpful as a roadmap to steer our program at Campbell.

Sometimes students ask why we do these activities. They believe that they just need to know the cases better or memorize more rules or exceptions. I like to use the analogy of the car engine. As I tell them, I can read a book on car mechanics, comprehend it, and then take a written test on the book. Even if I make a decent grade on the test, I still cannot work on a car. Why not? I have not spent any time taking an engine apart and looking at the individual pieces (analysis) nor have I had to make pieces from a parts store or another engine fit onto an existing engine (synthesis). Because I have not spent time with these activities, I cannot successfully apply the information that I can comprehend to solve the problem that is the broken engine. The same is true for applying legal rules to new fact situations.

We are in the middle of first semester exams at the time of this writing. Next semester we will begin adapting and adjusting to the needs of our students based on the results of first semester exams. However, I cannot imagine that I will get very far from Benjamin Bloom when looking at what I need to do, nor very far from Madeline Hunter when examining how I go about it.

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### **Learning from *The Skillful Teacher***

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Educator and author Stephen Brookfield spoke at Suffolk University in early November as the guest of the university's Center for Teaching Excellence. Brookfield teaches in the field

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<sup>16</sup> Slightly better grades do not necessarily indicate better thinking skills.

of education at the University of St. Thomas in Minneapolis. His visit was preceded by book discussions of his recently released second edition of *The Skillful Teacher*, and these discussions took place in the law school, the business school, and the college of arts and sciences. *The Skillful Teacher* is a frank, insightful exploration of teaching and learning that includes excellent material on resistance to learning, impostorship, and the value of gathering regular feedback on student learning.

### Resistance to Learning

Brookfield attributes resistance to learning to fear of change and explores various manifestations of this fear that are familiar to any academic support professor. He notes that some students, despite their strong academic skills, experience serious self-doubt so that even a slight disappointment can throw them off course. These are the students who anguish in our offices over their first low grade on a legal writing assignment, distraught over the changed parameters of good writing. According to Brookfield, there is a normal rhythm to learning in which students take two steps forward, followed by one step back. He describes the initial enthusiasm for new learning that can be “followed by a disturbing period of confusion as [students] realize just how complex and unfamiliar is the new territory they are entering.”<sup>1</sup> This confusion, he adds, results in a “yearning to return to the comfortable certainties of old skill sets and attitudes.”<sup>2</sup> Some law students emerge from this step backward determined to embrace the skills necessary to succeed in law school while others decide to cling blindly to the study methods that worked for them as undergraduates. Brookfield further observes that even enthusiastic, committed students can “reach a point where they are overwhelmed by a grieving for lost certainties and a trepidation about what awaits in the future.”<sup>3</sup> Although Brookfield has not taught in law school and is not a lawyer, he precisely describes the near despair some first-year law students experience as they face their December exams.

Brookfield theorizes that resistance to learning can be reduced and contained but never completely overcome. He cautions against the dangers of “conversional obsession,”<sup>4</sup> which can cause faculty to focus disproportionate amounts of energy on a few hard-core resisters to the detriment of the larger number of students who are more receptive to assistance. Suggested steps toward reducing and containing resistance to learning include: sorting out the causes of resistance, learning about students’ backgrounds, modeling learning behaviors, using a variety of teaching methods, creating situations in which students succeed, and, in some instances, acknowledging that students have a right to resist the methods by which they are expected to learn.

1 STEPHEN D. BROOKFIELD, *THE SKILLFUL TEACHER: ON TECHNIQUE, TRUST AND RESPONSIVENESS IN THE CLASSROOM* 219 (2d ed. 2006).

2 *Id.*

3 *Id.*

4 *Id.* at 213.

### Impostorship

The topic of impostorship generated the most interest during the book discussion that took place at the law school prior to Brookfield’s visit. Brookfield defines impostorship as the belief held by students that “at some deeply embedded level they possess neither the talent nor the right” to be students in their current endeavor.<sup>5</sup> These students fear their secret is about to be discovered at any moment and that, upon discovery, they will be forced to leave the institution. Although some discussion participants expressed surprise that law students might experience feelings of impostorship, Brookfield reports that such feelings are experienced at all levels of education, apparently without respect to gender, class, or ethnicity. He explains that feelings of impostorship are generated by the gap students perceive between their idealized concept of a student and their own self-image as a student. Typical first-year law school pedagogy, with its emphasis on questioning individual law students in the classroom, puts extraordinary pressure on students who, believing they are impostors, fear public unmasking. Intense feelings of impostorship can be crippling. Brookfield writes:

Few of us are strong enough to continue learning or working if we are burdened with the sense that those around us are paragons of virtue while we are incompetent amateurs struggling to keep intact a false mask of command. The sense of aloneness this induces is almost impossible to bear.<sup>6</sup>

Brookfield believes that feelings of impostorship can be controlled only by making the phenomenon public. These feelings lose their much of their destructive power over students once they are named and students understand that these feelings are experienced by many learners. Brookfield recommends beginning courses with a panel of former students who have experienced and successfully controlled feelings of impostorship. Faculty who experienced feeling of impostorship when they were students also can reassure students by sharing their own experiences.

### Gathering Regular Feedback

The value of gathering regular feedback on student learning is Brookfield’s core belief about teaching and learning. Brookfield believes that, “The most important knowledge skillful teachers need to do good work is a constant awareness of how students are experiencing their learning and perceiving teachers’ actions.”<sup>7</sup> In much traditional law school pedagogy, faculty don’t find out if students are “getting it” until they administer the final examination.

Brookfield explores some of the many classroom assessment

5 *Id.*

6 *Id.* at 83.

7 *Id.* at 17.

techniques that can be used to gather regular feedback on student learning and students' reactions to teaching. He also has designed his own instrument called the Critical Incident Questionnaire, which, he writes, "has most helped me see my practice through students' eyes."<sup>8</sup> The questionnaire asks students about the moments at which they felt the most engaged and the most distanced from what was happening in the class, the action of a student or teacher that was the most affirming or helpful, the action that was the most puzzling or confusing, and what about the class surprised them the most. Brookfield administers the questionnaire to his students regularly. The anonymous student responses are summarized and reported back to the class. While he does not constantly change his teaching as a result, he uses the information gathered on the questionnaires to engage in dialog with students in which he explains his position and negotiates alternative ways of achieving his teaching goals that may work more effectively with that particular group of students.

In *The Skillful Teacher* Brookfield shares his teaching successes and failures with surprising honesty. He readily acknowledges that much of his own practice has been "muddling through."<sup>9</sup> The insights he shares about resistance to learning, impostorship, gathering feedback, and many other topics are grounded in authentic experience and are thoughtfully explored. *The Skillful Teacher* reassures us that despite the specialized nature of academic support work, there are universally experienced challenges in teaching and learning. Brookfield's theories can help ASP professionals understand the affective challenges of teaching and learning and then respond to those challenges with common sense and compassion.

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## Academic Support – Super Sized!

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Heddy Muransky  
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Center

In the fall of 2004, Nova Southeastern University (Nova) addressed its concerns over consistently low bar passage rates by developing a comprehensive mandatory academic support program with the goals of enhancing students' overall academic success and thereby increasing their bar passage results. The program, entitled the Critical Skills Program (CSP), is mandatory for all first-year students, as well as for second-year students who have a GPA below 2.60. A third-year bar review course is also mandatory for one semester. These courses are all non-credit, graded on a pass-fail basis, and taught by eight full-time Critical Skills Instructors with JD degrees.

8 *Id.* at 41.

9 *Id.* at 1-2.

The results of a study done at Nova (Report 05-02) by senior research associate Thomas MacFarland, Ed.D., on behalf of the Shepard Broad Law Center, demonstrate that there is a clear association between students' grades (measured both by GPA at the end of first year and GPA at graduation) and success on their first attempt at passing the Florida Bar Examination.<sup>1</sup> In order to address the concerns regarding its bar passage rate, Nova utilized this information by initiating an innovative mandatory academic support program for all first-year students. Designating the program as mandatory for all students has ensured that students are given an equal opportunity to excel in law school and ultimately pass the bar exam. Furthermore, making the program mandatory for all students has alleviated any negative stigma that might be associated with academic support programs that are available only to students identified as being at risk. Finally, Nova believed that making the classes mandatory would make them more effective because voluntary workshops and lectures are often not attended by many of the students who need additional assistance.

Results of the study show that more than 75% of the students who failed the Florida Bar Examination had at the end of their first year grade point averages of 2.59 or below.<sup>2</sup> Therefore, the program is structured so that students with a GPA below 2.60 at the end of their first year are required to continue with CSP in their second year.

CSP begins as part of a week long comprehensive orientation program, during which the first-year students are introduced formally to the legal system and the stages of a lawsuit, how to brief cases, how to implement strategies for time management, and how to discover their own learning styles. Additionally, the students take a Measures of Academic Proficiency and Progress Test, to facilitate detection of students' problems in the areas of critical reading and writing. Prior to attending orientation, the students are required to read the first 40 pages of *Learning Legal Reasoning: Briefing, Analysis and Theory*, by John Delaney. This book is provided free of charge to the students. They are also given a case to brief that is reviewed during orientation.

At orientation the students are introduced to their first doctrinal class, which is followed up by a "debriefing" with their CSP Instructor. During the debriefing the students are given a writing assignment that is evaluated by their CSP Instructor, in order to identify early on any particular writing problems and to provide the students' with prompt feedback on their work.

After orientation each section of the first-year students is divided into small groups (approximately 15 students in each group) that meet in a Legal Studies Skills Class (LSS) for 50 minutes, once a

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1 The report is specifically titled "The Association Between Grade Point Average (Grade Point Average at End-of-First Year and Grade Point Average at Graduation) and First-Attempt Status (Pass or Fail) on the Florida Bar Examination: Nova Southeastern University Students Who entered the Shepard Broad Law Center between 1993 and 2000 and Their Success With the Florida Bar Examination by February 2004 (Report-05-02)."

2 See *Report-05-02* at 9.

week, for eleven weeks, with their designated CSP Instructor. The classes teach skills using legal concepts covered during the students' first-year course curriculum. The topics addressed are case synthesis, case rationales and policy, course outlines, IRAC, issue spotting, legal analysis, suggestions for success with multiple-choice questions, study strategies for exams, and dealing with law school stress. The classes consist of a combination of lecture, small group activities, and in-class writing assignments, on which students receive detailed comments. Students have no additional assignments outside of class.

During the eighth or ninth week of the semester, the students are given an interim exam. The purpose of the interim is to provide the students timely feedback as to the quality of their legal knowledge, their ability to analyze a legal problem, and the strength of their writing skills, all in order to assist them with preparation for final exams. The interim includes three different types of questions: (1) multiple issue essay questions in two of their doctrinal subjects (similar to essays they could expect on a final exam); (2) short answer questions in one subject; and (3) multiple-choice questions in all of their first semester subject areas, in order to familiarize the students with the bar exam format. The essays are graded by the students' designated CSP Instructor based on a detailed grading guideline. After the exam, the CSP Instructors review in a small group setting selected multiple-choice questions and the best exam taking strategies, as well as the essay grading guidelines and the requirements for quality writing skills. Thereafter, CSP Instructors schedule individual appointments with the students who performed below the class average and with any students who want additional assistance.

Second semester is focused on further developing the students' critical reading and writing skills by practicing essay question writing in class and receiving feedback on the writing from their CSP Instructor. Students who are on academic probation, or are determined to be at risk, meet individually with their CSP Instructor to identify their strengths and weaknesses for the purpose of promptly developing a learning plan to address these issues.

The second-year students who earn a GPA below 2.60 (approximately one half of the class) are required to continue in CSP classes because their performance indicates they need supplementary practice to master the skills necessary to excel in law school and to pass the bar exam. The second-year class, Elements of Legal Analysis (ELA), is a pass-fail, non-credit course. It is composed of an initial individual conference with the students' CSP Instructor, followed by eight, 75 minute, small group (10-15 students), skills/writing workshops, which are focused around information introduced to the students' in their mandatory second-year classes. The class then ends with an individual assessment session. The students are divided into

two tracks, Track I and Track II. Track I is composed of students who earned below a 2.60 for the first two semesters; these students must take (ELA) for both semesters of their second year. Track II students earned below 2.60 for only one semester in the first year, but they have a cumulative GPA lower than 2.60 at the end of the first year. Track II students may opt out of the ELA program if they earn above a 2.60 in the first semester of their second year.

All third-year students must attend one semester of Advanced Legal Analysis (ALA), a pre-bar review class consisting of three components: (1) weekly faculty lectures that feature Florida law topics tested by the Florida Bar Exam; (2) Multistate Bar Exam Labs conducted by CSP Instructors; and (3) guided essay writing workshops that are followed up with written feedback on Torts, Constitutional Law, and Family Law essays that the students must submit. The course culminates with a pre-bar assessment test. ALA classes may be taken by attending class or online, or a combination of the two. An ALA-PLI class, which focuses on Multistate Bar Exam subjects and uses the Practicing Law Institute (PLI) program of learning, is offered as an alternative for those students who can document that they are not taking the Florida Bar Exam. As with the other CSP courses, these class are non-credit, pass-fail. In addition, an optional Multistate Professional Responsibility Exam course is offered to all third-year students.

Since its introduction, the Critical Skills Program has progressively evolved based on student evaluations, faculty suggestions, and CSP Instructors' appraisal. Informally, it appears that the majority of students appreciate the skills information taught by CSP, the prompt feedback on their work, and the guidance provided, as well as the availability and easy access to their CSP Instructor. Consensus is that the CSP classes are most effective when the faculty teaching the first-year doctrinal courses and the CSP Instructors are able to coordinate their efforts. Eventually, it will be the Florida Bar Exam passage rate of the students who have participated in the CSP which will demonstrate whether the program has been effective in increasing Nova's bar passage rate.

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### Improving Students' Planning for the Bar Exam May Improve Bar Performance

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While I have no "hard" proof, it is safe to assume that poor planning skills lead to poor study habits during the bar review course and poor performance on the bar exam. For example, I have seen students' plans for child care fall apart midway through the summer, students take jobs during bar review due to lack of finances, and students miss review classes due to vacations or housing moves. To improve their planning, I encourage third-year students to meet with me during the fall semester, alone or in groups of two or three,

to learn about the bar admission process and the issues they need to resolve before graduation. I schedule the winter graduates earliest.

I promote these meetings in several ways. First, I send each student a personal letter; I send out about 20 per week to keep some control over the appointments. Second, I remind students through the school's bi-weekly newsletter. Third, I tell students I know personally and urge them to bring in their friends. Fourth, I spread the word through the Family Law class I teach. Lastly, I ask faculty members who know the reluctant students to urge them to see me.

During our meeting, which occurs in my office, I use a two-page handout, the first of which is an overview of the exam in Illinois and Missouri, the two states where most of our students will be tested. (For students taking a bar in another state, I click on that state's web page and we review the requirements together.) We review the nature of the exam and the subjects tested on the bar. Although our school posts this information on a web page and shows it during 1L registration for upper class courses, clearly, many students are "hearing" the information for the first time in my office.

We then turn to planning for the bar exam, using the second page of the handout, which consists of steps to be completed and blank spaces. Students are to complete the blanks, after consulting the state bar examiner's regulations. For example, students are to determine the due date for the bar application form and the fees to be paid. They are to find out if they need to take the Multistate Professional Responsibility Exam (MPRE) and if so, on what date they will take it. I have chosen not to fill in the blanks on this handout, even though I know the information. I want to encourage some independence in studying the bar examiner's rules and procedures, and I want to help them remember the information because they found it themselves.

Most of our students face character and fitness due dates in early winter. Thus, I encourage them to complete the character and fitness form over the winter break and return ready to submit it. I inform them of the date when the bar admissions staff will be on campus to answer their questions.

Additionally, I discuss these topics:

- bar review course schedule;
- profile of typical recent grads' study time during the review course;
- importance of devoting full-time attention to the review course;
- support that our school offers during the bar review time;
- need to develop a budget and financial plan for the review time;

- importance of registering for bar-tested courses not yet taken.<sup>1</sup>

Finally, for students likely to have problems during the bar review course, I encourage them to seek my help during the review time. I assure them that, while the bar exam is difficult, they have the ability to master it.

These meetings are quite time-consuming for me. I see over 100 third-year students over five or six weeks, while also teaching one class and offering support to first-year students. My greatest challenge is reaching those students who most need to plan but who ignore my invitations for meetings. As noted above, several faculty members help by encouraging students to make and keep appointments. They do this via e-mail or in-person reminders; and their urging helped me see about 12 students at the very end. Although the meetings are not required, this year almost all of the 120 saw me – 5 did not.

In the past, we addressed many of these topics through large group meetings with some or all third-year students. That format was more efficient but not more effective. I can better reach those with the worst planning skills by meeting them across the table in my office. Last year was the first year I saw all the students in my office in the fall. And last year, we had our best bar performance in a decade. A coincidence?

### Bar Planning Handout

Below is the second page of the two-page handout I use. The first page is simply an overview of the exam process in Illinois and Missouri.

1. I will take the bar in \_\_\_\_\_.
  - \_\_\_\_ I have registered as a 1L.
  - \_\_\_\_ I need to update my 1L registration or change my address; by \_\_\_\_\_.
  - \_\_\_\_ I need to do my registration by \_\_\_\_\_.
  - \_\_\_\_ I need to apply to take the bar (may be same procedure -check).
  - The fees due are \_\_\_\_\_.
  - \_\_\_\_ I will keep a copy of everything I send.
  - \_\_\_\_ I will attend the talk by the Bar Admissions staff in Jan.
  - \_\_\_\_ I will attend the talk by the Bar Examiner in Feb.
2. To study for the bar, I plan to take:
  - BarBri, \_\_\_ here; \_\_\_ elsewhere
  - \_\_\_\_ I have registered for BarBri. The deadline for the next payment of \_\_\_\_ is \_\_\_\_\_.
  - \_\_\_\_ I will consider PMBR, 6-day, offered in Carbondale and other cities.

<sup>1</sup> I do not believe every student needs to take every bar-tested course while in law school, but we have seen that the graduates in the bottom half of the class struggle if they have not enrolled in several of the more difficult courses.

- The deadline for registering is \_\_\_\_\_ and the cost is \_\_\_\_\_.
  - \_\_\_\_\_ I will take the workshops offered at the school this spring.
  - \_\_\_\_\_ I understand the school offers workshops and individual assistance here in the summer and it would be wise to study here.
3. My state \_\_\_\_\_ does or \_\_\_\_\_ does not require the MPRE.
- I will take it on \_\_\_\_\_.
  - The deadline to register is \_\_\_\_\_ and the fee is \_\_\_\_\_.
4. While studying for the bar, I will live in \_\_\_\_\_.
- \_\_\_\_\_ I have housing arranged or \_\_\_\_\_ I need to arrange housing.
  - \_\_\_\_\_ I have these additional responsibilities I will need to care for before May: \_\_\_\_\_.
  - \_\_\_\_\_ I will not schedule a wedding or a vacation or other similar activities May 30 - July.
5. To pay for the bar-related expenses, \_\_\_\_\_ I have the money or \_\_\_\_\_ I will need to take out a loan or \_\_\_\_\_ I need to plan.
- I know to look at  
www.accessgroup.org  
www.estudentloan.com  
www.salliemae.org
  - \_\_\_\_\_ I know I should not work.
  - Budget:  
Housing and other housing related expenses, May-Aug.  
Food, gas, personal money, day care, health insurance, other expenses, May-Aug.  
Travel for interviews, etc.  
Hotel in Chicago, travel to Chicago for exam – likely \$600  
Bar courses - \$2500  
Bar registration fees
6. I need to consider taking bar-related courses:
- I have taken: Contracts, Torts, Property, Evidence, Crim Law, Con Law, Legal Profession.
  - I need to consider:
 

___ Crim Procedure	___ Trusts & Estates
___ Intro to UCC	___ Agency & Partnership
___ Corporation	___ Remedies
___ Family Law	___ Federal Courts
___ Conflicts of Law	

## Editor's Postscript: Seeing the Forest and Solving Legal Problems

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Each fall, something specific stands out to me as I work with a new group of first-year students. Last year, as I wrote about in the fall 2005 issue of *The Learning Curve*, I was struck by how the incoming students struggled with turning rule buzz phrases into complete rule sentences that they could use in an essay answer. This past fall, I was struck by how many incoming students faced difficulties by getting mired in the details of cases and rules and by failing to see how those details related to the larger, conceptual issues of their courses. In short, they did not see the forest for the trees. I had encountered such struggles many times in the past, but this recent experience reminded me how important it is as part of an academic success program to teach students how to see the big picture and how that skill relates to the problem-solving skills necessary for law school success.

Lawyers are problem solvers. This idea is not surprising to us, but it is to many first-year students.<sup>1</sup> Beginning in our summer program and academic orientation here at Regent, I therefore emphasize to students that their law school success relates to their ability to use their knowledge about the law to solve problems. In my first handout to them, I include a quote from *Getting to Maybe: How to Excel on Law School Exams*, in which Richard Michael Fischl and Jeremy Paul vividly compare law school exam taking to a hypothetical exam in engineering school.<sup>2</sup> A portion of that quotation reads:

You enter the room for the final examination, and the proctor presents you with a large box containing a seemingly

<sup>1</sup> Indeed, Russell Smith's article above discusses the role of problem solving in law school success, and Amy Jarmon's piece above mentions how Michael Hunter Schwartz and David Nadorney addressed the issue of problem solving at the recent LSAC Southwest Regional Workshop. Also, Harvard Law School recently revised its first-year curriculum to include a specific course on problem solving. See *HLS Faculty Unanimously Approves First-Year Curricular Reform*, at [http://www.law.harvard.edu/news/2006/10/06\\_curriculum.php](http://www.law.harvard.edu/news/2006/10/06_curriculum.php) (last visited December 30, 2006).

<sup>2</sup> Although I don't recommend this book to first-semester students, I think they benefit from seeing this vivid, well-written description of the law school examination process.

random assortment of materials of the sort studied in the course. On the blackboard, the proctor writes the following instructions: “Using the materials in the box before you, design and construct a widget according to the principles we studied in the course.” (Unlike law students, engineering students know exactly what widgets look like!) Confronted with this daunting task, you would no doubt find the mass of information you have mastered in preparation for the exam helpful—indeed, crucial. But you would obviously be making a serious mistake if you left the contents of the box untouched and proceeded instead to compose an essay on the fundamentals of materials and design and to submit it for the grade. The point of the exercise is not, after all, to regurgitate what you know, but to use what you know on what you happen to find inside the box.<sup>3</sup>

Throughout the fall semester, I continue to emphasize the importance of problem solving and seeing the big picture. I convey this emphasis through various methods, but perhaps I highlight it most as I discuss with students how the course outlining process relates to problem solving. I love the outlining and flow charting process and candidly admit to students that I’m a geek in that regard. The reason I do, and what I underscore to students, is that the best outlines synthesize the information in a format that provides students with an analytical framework for how to answer exam questions on the respective topics.

In my outlining discussions with students, I stress that outlines should be “concept-driven” and not “case-driven.” I specifically state that the concepts relate to the issues on an exam and should serve as the outline headings whereas the cases are merely illustrations for those concepts and should therefore be described very briefly using “fact triggers” under the respective rule element or factor to which they apply. In one of my workshops, we go through an exercise in which we “brainstorm the big issues” to help students see if their outlines are appropriately prioritized based on the major concepts and buzzwords from their courses. I then, however, encourage students to “take their outlines to the next level” by making sure that their outline under each concept or topic progresses in order through the steps they are going to analyze in solving a problem about that topic on an exam.

One example of how I emphasize this process to students is when I meet with them one-on-one to review their outlines. I pick a concept from their outline, such as bailment from Property class. I next ask them to tell me what is the problem that this section of their outline is designed to help them

solve. In other words, I ask them to give me a very general factual description of the type of scenario that would give rise to an issue where bailment law would be relevant. After some coaching, the students may say something like, “Well, there will be one person who loaned some personal property to another person, and while that property was in the other’s possession, it was damaged. Then, the problem becomes whether the bailee or the bailor is responsible for the loss.”

“And how do you determine that? What will you look at first?” I ask them.

Then, we review their outline to see if it guides them through the questions they need to ask themselves in order to solve that problem. For instance, the students need to understand that a logical place to start in this problem solving is to look at whether the elements for a bailment have been satisfied. Next, they should analyze the facts to assess what the standard of care for the bailee should be. Then, they should analyze the facts to determine whether the bailee met that standard. Their outline should walk them through these steps in logical sequence. I add that they can turn their outline headings into questions to help them see how their outline should be structured. Some topic areas are not that difficult to outline in this way while others are. Nevertheless, I encourage students to consider *every* topic area of their courses and analyze whether they can develop such a framework to help them solve exam problems.<sup>4</sup>

I also challenge students to see the big picture and “take their outlines to the next level” by considering how concepts relate to each other. As I write in the outlining handout I give to students in one of my workshops:

Good outlines are those that include all the relevant course information in a way that is organized by concept and includes illustrations (including case illustrations) to help explain confusing areas. Better outlines, however, are those that organize each concept area in a way that anticipates questions about that particular area. The best outlines are those that also connect concepts, if possible, to show the interrelationship of issues.

Students often learn discrete topics in isolation. Every year, I face resistance as I press students to think about the connections among the cases they read. They often just want to do the basic case brief and not think about such tough issues before class. This year, however, I was reminded how important it is for students to make those connections—both

<sup>3</sup> RICHARD MICHAEL FISCHL & JEREMY PAUL, GETTING TO MAYBE: HOW TO EXCEL ON LAW SCHOOL EXAMS 5 (1999). The full quotation I use is on pages four and five.

<sup>4</sup> Ben Madison, one of my colleagues who teaches Civil Procedure, is such a proponent of the analytical framework idea that he teaches students such frameworks for each of the major topic areas in his course.

among cases and among topics within a particular course. In my workshops and student meetings, I ask them to consider what topic areas are so similar that the same facts will likely give rise to issues in those areas. For instance, we discuss how the Property topics of finder's law, prior possession, and adverse possession relate to each other and therefore may all be present under the same facts on an exam.

This fall, as part of our Academic Success Program, I introduced a new component that relates to this skill of problem solving. Two of my colleagues, Eric DeGroff and Kathleen McKee, and I developed a workshop entitled "Problem Solving for Exam Success."<sup>5</sup> In the workshop,

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5 Profs. DeGroff and McKee approached me about holding the workshop in light of their research on law student learning styles. They conducted an extensive study of the learning styles of our law students, and the study will be published as an article entitled "Learning Like Lawyers: Addressing the Differences in Law Student Learning Styles" in the next issue (Volume 2006, No. 2) of the *BYU Education & Law Journal*.

we distributed to the students an analytical framework for a particular area of Property law. The students then divided into small groups of three, and we asked them to work through two hypothetical fact patterns that required them to apply the framework to solve the implicated issues. The other professors and I, along with one or two of my teaching assistants, circulated among the groups to coach the students. We then came together and discussed the problems in the large group. Student feedback on the workshop was positive, and I believe the workshop underscored to them the importance of problem solving to academic success in law school.

"Seeing the forest and not just the trees" is often easier said than done. However, I was reminded this semester how academic support programs benefit from asking students to take their studying to the next level by challenging them to see the forest and include problem solving strategies in their exam preparation. As I continue to reflect on this area and learn from others in our ASP community, I hope to glean new insights on how I can help my students be better problem solvers—in law school, on the bar exam, and in their future careers.

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