

AALS SECTION ON ACADEMIC SUPPORT

The Learning Curve

Spring 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 fall of 2006 and welcome your ideas and submissions at any time. You may contact me at 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: Reflections on Past, Present, and Future — 2006-2007

Looking back:

I know that each of you who was at the 2006 AALS Annual Meeting will join me in congratulating the program committee and the presenters on a great program! Kudos go to Ruth McKinney (UNC-Chapel Hill), David Nadvorney (CUNY), and Dorie Everson (Penn State) who wowed a full house with their information and demonstration in their session entitled "The First R: The Role of Students' Reading Skills in Decoding the Law and Performing Well in Law School." Our program committee (Mario Mainero (Whittier), Rachel Dawson (DePaul), Nerissa Skillman (Catholic), Linda Feldman (Brooklyn), Beryl Thompson (Southern), Jan Jemison (Hastings), and David Nadvorney) did an incredible job of identifying a topic that was relevant to our membership and to legal educators in general. Thank you all!

Elections followed the program and our section officers for 2006-2007 are:

Chair:	Marty Peters (Iowa)
Chair-Elect:	Nancy Soonpaa (Texas Tech)
Secretary:	Ellen Suni (UMKC)
Treasurer:	Kris Franklin (NY Law School)
Board A (term expires 2007):	Pam Armstrong (Albany)
Board B (term expires 2007):	Pavel Wonsowicz (UNLV)
Board C (term expires 2008):	Kristin Holmquist (UCLA)
Board D (term expires 2008):	Ellen Swain (Vermont)
Past Chair:	Carolyn Nygren (Nova)

The continental breakfast the day after the program was an opportunity to meet and greet friends old and new. A variation on this theme was the frequent first time face-to-face connection people were able to make with familiar names and contributions from our listserv communication.

Items of business included information about the two regional workshops in June (see details below) and the question of what times, besides June, might be good for our membership to meet. October was suggested as a potential new time for a program.

Reflections on the present:

Summer is upon us. We are almost half way through the January-January cycle. In addition to the upcoming regional workshops, I want to throw out some ideas for discussion.

- When our section began, we had a shared purpose, set of goals, and long term vision. While my sense is that

these remain relatively consistent today with their articulation almost 15 years ago, I do think that periodic self-examination is positive. I propose that in order to include as many people as possible, we attempt an internet conference. To do this we can designate a set number of days and generate some important topic streams. I would like to ask for input on this idea and for suggestions about critical topics.

- I am also interested in exploring ideas for a conference that would focus on our skills development. The structure for this type of conference would be an in-depth, hands-on exploration of a particular topic. The goal would be to learn a new skill or significantly improve a current one. The structure would be to involve ourselves in active learning by using our best resources to structure a positive learning environment and sequencing the learning, practice, and feedback steps for ourselves. A couple of topic examples are (1) Applying Learning Theories to Planning and Developing Active Teaching/Learning for ASP Units, and (2) Diagnosing Individual Needs of ASP Students. If you like this idea for a conference, please let me know your thoughts and ideas.
- We often talk about the stressors our students face. Might we find a way to do some stress management for ourselves? The goals of a conference like this would be to learn stress management interventions and to apply them first to ourselves to relieve our own stressors so that we can be more effective with our students.

Even if we cannot get together to do a full conference on managing stress, try to identify something to do for yourself this summer to refresh and heal from the past academic year. Consider this a professional obligation!

I also want to say THANK YOU for all of us to Natt Gantt for his work making *The Learning Curve* professional, practical, and a pleasure to read!

Looking ahead:

Our program committee for the AALS 2007 Annual Meeting is engaged in putting together what I think will be an incredible program. (See below for a more complete description.) Committee members (Robin Boyle (St. John's-chair), Pam Armstrong (Albany), Kris Franklin (NY Law School), Amy Jarmon (Texas Tech), and Michelle Mason (Florida Int'l)) developed a proposed topic and sent out a call for proposals. They then worked through all of the responses to come up with the group listed below. I am very much looking forward to attending this program in Washington, DC in January. Our meeting will follow the program and our continental breakfast is Friday morning.

Finally, I want to recognize and thank Nancy Soonpaa (Texas Tech), chair-elect of the section, and Ellen Swain (Vermont) for their willingness to serve as a special committee to encourage and support poster sessions at the 2007 Annual Meeting.

We have over half of our year yet to go. Please let me hear from you on your interest in an internet conference, an in-depth conference, perhaps in October, and stress management for ourselves. Anyone who wants a mentor or who is willing to be a mentor, please let me know by e-mail at marty-peters@uiowa.edu.

I wish you a nurturing and recuperative summer and an exciting fall.

Sincerely,
Marty Peters
Chair, AALS Section on Academic Support
Director of the Academic Achievement Program
University of Iowa College of Law

Section Program at 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. This workshop is geared towards both doctrinal and skills professors.

Moderator:

Tracey Banks 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, Dep't 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, Visiting Assistant Professor of Law, Southern Illinois University on "Integrating Academic Support into First-Year Contracts."

Michael Hunter Schwartz, Director, Ex-L at Charleston School of Law on "Integrating Bar Pass Concepts into Upper-Division Bar-Tested Courses."

Date: Thursday, January 4, 2007

Time: 8:30 AM

Place: AALS Annual Meeting, Washington, DC

Program Committee:

Chair, Robin A. Boyle (St. John's)

Members: Pam Armstrong (Albany), Kris Franklin (NY Law School), Amy Jarmon (Texas Tech), and Michelle Mason (Florida Int'l)

ANNOUNCEMENTS

Update on June Regional Academic Assistance Workshops

Roger Williams to Host Workshop for New ASPers

On June 15-16, 2006, Roger Williams University School of Law in Bristol, Rhode Island will host the Northeast Regional Academic Assistance Workshop for new ASP professionals. The workshop will include sessions on several topics of interest to new ASPers, including whom we support, academic support for students with LD/ADHD, program evaluation basics, the interrelation between academic and psychological counseling, teaching students how to answer exam questions, and other topics. Those who have attended the workshops for new APSers know how helpful these workshops are; they really are a must for new people. If you know new ASPers who may be unaware of the workshop, please inform them about the workshop and encourage them to attend. For more information, please contact Lorraine Nali, Associate Director of Academic Support, RWU School of Law, at 401-254-4593 or llalli@rwu.edu.

Capital to Host Workshop on For-Credit Bar Courses

The 2006 Midwest Regional Academic Assistance Workshop is being held in Columbus, Ohio at Capital University Law School on June 16-17, 2006. The program, entitled "Designing a For-Credit Bar Course," will highlight new and different ways to improve a law school's bar exam support services and bar passage results through the implementation of a bar preparatory course and other bar support programs that reach beyond the classroom and involve the entire law school community. More information about the workshop is available by contacting Yvonne Twiss, professor of bar services at Capital University Law School at 614-236-6619 or ytwiss@law.capital.edu.

Herb Ramy Authors *Succeeding in Law School*

Herbert N. Ramy
Associate Professor of Law and
Director of the Academic Excellence Program
New England School of Law

I directed Suffolk University Law School's Academic Support Program from 1999 to 2006.¹ During that time, I have learned a great deal from other members of the ASP community. Using ideas discussed at conferences, on the ASP listserve, and through publications like *The Second Draft* as a jumping off point, I began developing my own approach to serving law students. In June of 2006, Carolina Academic Press will publish these ideas in a book entitled *Succeeding in Law School*.

While law school instruction varies from school to school, experience has taught me that first-year law students have the same basic questions. They are concerned about their ability to assimilate into law school, whether they have what it takes to do well, and what are the differences between college and law school. Through this book, I answer these questions and many others. In the end, I teach students what law school will expect of them and what they can expect from law school.

In some instances, the chapters of my book will be quite familiar to anyone who has taught in an academic support program. For example, I include chapters and exercises on case briefing, legal synthesis, time management, and exam preparation. In a departure from some other outstanding ASP texts, however, I also include material on legal writing, the United States court system, and stress management. I included this material so that students would have a single source that addressed all of the concepts I believed were essential to succeeding in law school.

The concept of "active participation" is the thread that binds all the chapters of my book. To be successful in law school, students must become active participants in their education and have to accept the responsibility of becoming their own best teachers. Needless to say, every student must attend class and read the day's assignment, but these aspects of their studies merely serve as the beginning to each student's exploration of a given topic.

For example, we all understand how important classroom hypotheticals are to the study of law. Professors use hypotheticals to determine whether the class truly understands the implications of a given legal principle. By changing the facts and posing a question to the class, we can determine whether our students have simply memorized black letter law or whether they understand how to apply the principle to a variety of factual scenarios. An important limitation

on the effectiveness of classroom hypotheticals as a teaching tool is that they only tell us whether, at most, a handful of students understand the concept being discussed.

To address this limitation, I suggest that students take a more active role in their education and create their own hypotheticals, using the classroom discussion as a starting point. By creating their own hypotheticals, students enhance their understanding of the related processes of discerning the critical facts and developing legal analysis. Thus, a student's own mind becomes a limitless source of practice questions, and these questions can be further discussed and refined with a study group.

While active participation is the important unifying concept behind my book, in many ways I am most proud of the material on stress management and depression. It would be impossible to address fully the topics of student stress and depression in a single chapter of any book, and this was not my intent. Instead, I hope to make students aware that some approaches to the study of law are more likely to generate stress, which ultimately impacts student health and examination performance.

For example, most students enter law school with the belief that finishing in the top 10% of the class is a must if they are to succeed in the practice of law. For those who subscribe to this unfounded belief, 90% of the class must be failures. In contrast, I emphasize the need for students to strive for their personal best. Some might view the use of an amorphous standard like "personal best" as tantamount to coddling students. I strongly disagree. By definition, achieving your personal best means that you have done all you can, within reason, to succeed. The personal best standard requires the most that our students have to give, but this standard is also attainable by every student.

Unlike other texts in the field, *Succeeding in Law School* also includes a chapter on legal writing. The reason? Many of our students struggle with the concepts of legal analysis and critical thinking in their written form. While I address the topics in chapters entitled "Legal Analysis and Answering the Question 'Why?'" and "Law School Exams," I believed my book would be incomplete if I did not include a chapter devoted specifically to legal writing. In the chapter, I guide students through the process of writing a legal memorandum, which includes the reading of a transcript, a fact pattern, and several fictional cases. My goal was to relate the skill of legal writing to other topics, such as legal analysis, creating an outline, and the United States court system, addressed elsewhere in my text. In this way, students will hopefully begin to see the connections between all their classes which are readily apparent to all of us.

I am more than happy to further discuss *Succeeding in Law School* with anyone interested in using the text in their ASP classes or in conjunction with their orientation program. Please direct all inquiries to: Professor Herbert N. Ramy, New England School of Law, 154 Stuart St., Boston, MA 02108.

¹ I have accepted a tenure-track position at New England School of Law beginning August 1, 2006.

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).

ARTICLES

Helping Students Recognize and Survive Fear in Law School

Vinita Bali
Director, Academic Success Program
Santa Clara University School of Law

Fear is an emotion that is rooted in our system of legal education. Fear induces a loss of control over one's circumstances and destiny, a feeling of uncertainty over the future, and lack of assurance that there will be a favorable outcome. While generally considered to be a negative and undesirable emotion, fear can in actuality lead to a successful outcome. Ask anyone who has voluntarily engaged in an extreme sport or anyone who has involuntarily been in a situation that elicits intense apprehension. Fear triggers the survival instinct. Fear motivates one to find creative solutions. Fear exposes facets of a person's personality that were never previously apparent, driving a person to courageous, focused acts designed to overcome the fear-inducing situation.

What, then, makes fear a generally counter-productive emotion in the context of the first semester of law school? The answer is more complex than the observation that as individuals differ, so do the actual results elicited by fear. The critical difference between "positive-result-inducing" fear and first semester law school fear is this: In law school the longevity of the fear, uncertainty, and loss of control are generally protracted over an entire semester. In truth, fear is best handled in short doses. Loss of control over extended periods of time, with no reassurance or imminent relief, leads to a feeling of helplessness and a loss of desire to "survive." Depression and lack of motivation result from this unrelieved fear. The first semester law student, fumbling along in a fog, has little idea in what direction his or her education is headed, what the performance expectations are, and what the results will be. Given the typical fear-inducing first semester law school pattern of education, it is little wonder that the negative symptoms of depression and low motivation are often evidenced in first semester law students.

In support of this theory, observe the contrast between first and second semester law students. Fear resulting from poor

grades typically elicits a much more positive response in second semester law students than does the generalized fear in the first semester. The second semester student, now no longer uncertain about the law school process, takes on the challenge of law school with renewed vigor. This student is more engaged in the process and is in a position to formulate goals and direction for his or her education. This student is seen to "buckle down" and engage in the learning process in an observably more constructive and productive manner.

Given that the law school learning process is unlikely to change in the near future,¹ how can the first semester student turn fear into a positive force? The solution lies in showing students ways to regain control during the first semester. While a student's unique response to fear should be considered in designing any individualized solution, generally, creating some level of transparency in the law school process and designing avenues for feedback and assurance are keys to optimal student performance. For most students it is helpful to "expose" to him or her to the semester-end expectations of law school.

Our law schools' methodology is deficient in this regard. While some law teachers attempt to do so by presenting legal problems during the classroom discussion, they may not do so with a clear understanding of the student learning opportunity that is created through problem-based learning,² or with a view to presenting problems as a specific means of alleviating harmful fear. If an adequate level of intentionality towards these goals was maintained by law teachers and exposed to the students, students would use the teaching method to engage more effectively in the learning process, gain an understanding of the end-semester expectations, and thereby convert their fear to a positive learning opportunity. A further deficiency of law school teaching methodology is that even if problems are presented in the classroom discussion, students are rarely required to engage in written analysis, as is the clear expectation at the end of the semester. These deficiencies feed the unrequited fear that inhibits student learning.

There are various ways for law teachers, including Academic Support faculty, to cure these deficiencies while maintaining the pedagogical sanctity of the accepted law school process.

¹ An alternative to the widely accepted Langdell method is the problem-based teaching method. This practical approach has been absorbed by disciplines other than law, such as medical schools. See Vinita Bali, *Righting the Inverted Pyramid: A Student-Driven, Problem-Based Approach to Teaching Law*, THE LEARNING CURVE, Spring 2005, at 8, at <http://www.law.umkc.edu/faculty/profiles/glesnerfines/asp/Fall-2005LearningCurve.pdf> (last viewed May 8, 2006). Harvard Law School has recently announced that it is considering discarding the case method approach in favor of a problem-solving approach to teaching. See Sacha Pfeiffer, *Twas a Time for Change*, THE BOSTON GLOBE, May 7, 2006, http://www.boston.com/business/articles/2006/05/07/twas_a_time_for_change/ (last viewed May 8, 2006).

² See note 3 *infra*.

One suggestion is to do so case by case, creating complexity in proportion to the materials learned by the student. A factual scenario can be created around each rule of law extracted, and the student can be asked to analyze the situation.³ For example, the student may have just learned that the statute of frauds requires a writing signed by the party to be bound. The student can be presented with a fact pattern where the parties to the transaction engage in discussions and scribble some hurried notes on a restaurant menu; perhaps only the signature of the plaintiff is apparent. A student can engage in rudimentary analysis of this situation, being asked to assess (1) whether a writing is evidenced, and (2) whether the appropriate signature is present so as to bind the party to be charged.

Ideally, in order to replicate the semester-end expectation, this analysis should be performed in writing. As the student extracts a series of related rules from further readings, the student can learn the skills of synthesis while also constantly revisiting analysis through increasingly more complex fact patterns. Again, optimal results would be achieved if the student practices these skills in writing, thereby replicating more closely the last stage of the law school process—the end-semester law school examination. Through this method, the first semester student is better educated as to the process of learning the law and is therefore more in control of the situation.

Fear has the potential of being a very positive force. If understood and harnessed appropriately, it can be a catalyst to success.

The Role of Learning Outcomes in Academic Support Teaching

Janet W. Fisher
Assistant Professor of Academic Support
Suffolk University Law School

During the fall 2005 semester, Suffolk University faculty, including those in the law school, were invited to participate in series of events related to a full-day visit to the university by Ken Bain, author of the award-winning book *What the Best College Teachers Do*. Bain's book, which is based on a systematic study of some of the most effective college faculty in the country, identifies "planning backward" as one of the signature characteristics of the best faculty.

³ While many law teachers do so through Socratic dialogue, the effect is lost on many students because they do not make the connection between the classroom discussions and the year-end expectations. Once the connection is made in a direct manner and reaffirmed throughout the semester in an increasingly complex manner to accommodate the growing web of the law, the student will eventually understand the learning process. A useful side benefit of exposing the process is that the student will engage more effectively in classroom discussions.

Faculty who "plan backward" begin by identifying the results they intend their students to achieve. Developing learning outcomes prior to instruction is a method for beginning with such results, but concentrating on learning outcomes runs counter to higher education's traditional focus on inputs rather than outcomes. Institutions place great emphasis on what goes into education, such as the number of faculty, amount and quality of faculty scholarship, size of endowment, number of new buildings, and how "wired" the campus is, assuming that these inputs will produce an excellent education for students. Faculty, too, emphasize inputs. Doctrinal faculty are experts who have produced scholarship in their disciplines. They want to transmit as much of their knowledge as possible to students, assuming that these inputs will produce an excellent legal education. "Most customary instruction follows an organization that stems wholly from a discipline, a set of topics and subjects that need to be taught – or covered."¹ Academic support faculty often pursue this same inputs-oriented approach. We know the skills that work for law students: briefing cases, outlining courses, working with study groups, IRAC, writing practice exams. We assume that teaching these skills will help our students achieve an excellent legal education. Could planning backward by beginning with learning outcomes help academic support faculty work more productively with students?

After reading the book and listening to Kenneth Bain's presentation, I questioned whether I was "planning backward" in the individualized teaching I do in academic support. I had assumed that learning outcomes would naturally emerge in a situation in which I was able to give personal attention to each student with whom I worked. The Bain book has caused me to evaluate whether my work is indeed still input driven—just in a different way than it would be in a classroom.

In my work, I generally use the first meeting to get to know the student, explain the academic support program, and ask the student to complete the program's self-diagnostic survey. This survey inquires about briefing cases, outlining courses, meeting with study groups, writing practice exams, time management, exam-taking experiences, and difficulties with writing generally. At the second meeting, we usually discuss the completed survey and review examples of the student's work. From this discussion, I try to focus on improving whichever skills appear to be weak. I have been working from the assumption that if I preached my message of briefing, outlining, writing, etc. persuasively enough, improved learning would automatically occur. But, I wondered, is my intended result—the learning—clear to the student or had I become just one more voice nagging the student to work harder?

Clarifying and explicitly describing the desired learning outcomes may motivate the student to work more productively with academic support. This approach is the planning backward

¹ KEN BAIN, WHAT THE BEST COLLEGE TEACHERS DO 112 (2004).

Bain has in mind when he describes how the best faculty begin with learning outcomes that articulate at the outset just what students will know and be able to do as the result of faculty efforts. Increased cognitive learning, as opposed to behavioral or affective learning, is the intended result of most academic support teaching.

Michael Josephson has converted Bloom's taxonomy into a Law School Learning Pyramid in which levels of cognitive learning are arranged in ascending order from knowledge through understanding, issue-spotting, problem-solving, judgment, and finally, synthesis.² Josephson points out that the first two levels of cognitive learning relate to mastery of legal doctrine while the higher levels of cognitive learning address the way doctrinal information is used.³ And, of course, all of these levels of cognitive learning are measured on law school exams. First-year students, though, seldom fully anticipate the range of cognitive learning required for success in law school. Many rest comfortably at the knowledge and understanding levels, confident that briefing cases and memorizing course outlines are all that is needed for exam success. It is not until some of these students suffer the bruising experience of unsatisfactory or failing grades on their first exams that they realize that they had prepared inadequately.

In my work with students this year, I am trying to make these levels of cognitive learning explicit and identify them as the learning outcomes of our academic support work. For example, I no longer advocate course outlining as a task of self-evident value. Instead, I talk about the lack of schemata, or knowledge structures, which makes the first year of law school so difficult and how outlining will help the student to construct these new structures and to achieve the levels of knowledge and understanding required for mastery of legal doctrine. Issue-spotting and problem-solving skills are cognitive learning outcomes that can be achieved, in part, by working with study groups and writing practice exams. An understanding of basic legal method is a learning outcome of using IRAC, which also provides a format for organizing exam answers. While these examples of cognitive learning outcomes may be painfully obvious to the initiated, students often despair over having worked extremely hard to hit what one student described as a "moving target."

Frequently, students are overwhelmed by the inputs of the first-year curriculum. They encounter vast amounts of new content presented via an unfamiliar pedagogy. Many students do not fully understand what they are learning or what they are supposed to be able to do with what they learn. This lack of context contributes to the stress of the first-year experience. By planning backward, i.e. using learning outcomes to identify

explicitly the levels of cognitive learning that must be achieved in order to succeed in law school, academic support faculty can supply students with a context for their learning. This context, in turn, should help students understand and take control of their learning at an earlier stage and direct it toward more successful results.

Developing Blogs as Academic Support Tools

Suzanne Schmitz

Assistant Professor and Coordinator of Academic Support

Diane Murley

Reference/Web Services Librarian and Assistant Professor

Southern Illinois University School of Law

Southern Illinois University School of Law ("SIU") recently undertook the project of making its academic success resources available to students via the internet. The project is the result of the combined efforts of information technicians, a technologically savvy librarian, and the academic success coordinator at Southern Illinois University. Among other things, the new internet site will provide students with twenty-four hour access to bar passage and academic success information via weblogs. The goal is to provide helpful and convenient information to our graduates studying for the bar and to our present students struggling to master law school.

Blogs and Bar Prep

Some years ago, we decided to offer support to SIU graduates studying for the bar exam. This support includes both personal counseling and academic or exam assistance. For example, we offer workshops in writing bar exam essays and provide critiques of those exam essays.

Many of our graduates stay in the area and study for the bar exam, using a commercial course offered at the law school. We believe that those students who remain in contact with us are better prepared for the bar exam. Our limited research shows that those who are in the bottom quintile of the class and who study on campus, take the workshops we offer, or seek individual assistance perform better on the bar than their rank would predict.

The challenge is to offer services to those who must leave the area. Many study for the bar in their hometowns or locate to the city where their job awaits. One answer to the challenge of reaching those graduates studying away from the area is through the development of a bar passage blog. See <http://blogs.law.siu.edu/bar/>.

To create our blogs, we currently use Movable Type software. The first year we used Blogger software, but it did not allow us to upload documents to which we wanted to link. Like Blogger and Movable Type, most blogging software will automatically create

² MICHAEL JOSEPHSON, LEARNING & EVALUATION IN LAW SCHOOL: VOLUME 1: PRINCIPLES OF TESTING & GRADING, LEARNING THEORY, INSTRUCTIONAL OBJECTIVES 58 (1984).

³ *Id.* at 58-59.

and update a feed or channel, which notifies subscribers whenever something new is added to the blog. Students and graduates who already subscribe to news blogs or other feeds can subscribe to the bar passage blog with their news reader or feed aggregator (e.g., Bloglines, Feed Demon, or MyYahoo). Others, who may not be ready to embrace a new technology at this stressful time, can subscribe via e-mail.

When we offer a workshop on campus, we videotape it, digitize it, and place it on the blog. Those who are studying away can watch it in their homes within days of the live workshop. All they need is a high-speed internet connection and a computer with a media player. Any computer sold within the past three or four years should have a media player. The students can watch the videos via streaming video over a high-speed connection to the law school's media server, or the students can download a copy of the video to their own computers and watch the videos even when they do not have a high-speed connection. Of course, those on campus can watch the workshop if they were absent or if they wish to view it again.

If a handout is distributed to those studying on campus, we post that same handout on the blog. Again, it is available within minutes to those studying away if they have a computer with internet access. Handouts are smaller files, so a high-speed connection is not necessary. For those on campus, the handout is easily available should they lose their copy.

A second benefit of the blog is as a referral source to those studying away. We encourage those studying away to send sample essay exams for us to review and critique. We send our comments via e-mail, a written note on the exam which is returned to the student, or telephone. In doing so, we often refer to a prior workshop. We might say, "review the technique I demonstrated in the (date) workshop on essay writing." Since each blog entry has a "permalink," we can send someone a link directly to the blog entry that links to the workshop.

A third benefit is the creation of a library of digital video workshops. This winter we had a very small group of graduates preparing for the bar on campus and several others away. Rather than repeat all of the workshops live, we referred the students to selected workshops on the blog. Another benefit of having the library of pre-existing workshops was that students who were not going to have access to a high-speed internet connection could save all of the workshops to their laptops before they left and watch them at the appropriate time.

Because a blog is simply a kind of website, all that is needed in order to read it is a computer with internet access. Students may need additional software to access some types of information, but it is possible to format most types of information to be accessible on most computers. As mentioned above, most computers sold

within the past three to four years have a media player that can handle digital video. We save most documents as RTF files, so they can be opened with most word processing software. PDF files can be opened with a free Adobe reader. Not all computers have PowerPoint, but Microsoft has a free PowerPoint viewer, and we provide a link to the viewer download page whenever we post a PowerPoint presentation.

We do not yet record how often the blog is used, but we will be maintaining those records. As students become experienced at blogging, we hope the blog will expand our reach.

Success Strategy Workshops and Audio Taping

Have you ever scheduled a workshop on exam tips or other law school success strategies only to find the time is bad or the weather keeps folks at home or someone inevitably asks to have it taped? We have decided to make digital audio recordings of our workshops and post them, along with any workshop handouts, to the academic success blog. See <http://blogs.law.siu.edu/success/>. Students who miss the workshop may listen to the audio and view the handouts at their leisure, and those who attended may review the audio if they wish.

An audio workshop is a recording of the workshop that students can download and listen to at their leisure. Creating the recording is relatively easy, requiring only that speakers speak into a microphone that is attached to a digital audio recorder. This process is no more complicated than speaking into any microphone.

The equipment needed is a digital audio recorder, preferably one that records in MP3 format, although you can convert other audio formats to MP3. The reason that the MP3 format is preferable is that students can listen to that format on their iPods or other MP3 players or on their computers.

The two websites—the bar passage blog and the academic success blog—have many themes in common, but we kept them separate. First-year students may be willing to look at the academic success website but may feel overwhelmed by anything related to the bar exam. Likewise, bar students may believe they already know what is on the academic success website and therefore not consult it. We certainly may copy and paste items between the two.

Conclusion

These academic support aids are available to all of our students at any time they find it convenient to consult them, thanks to a partnership of faculty and staff. As we receive feedback on these blogs from the users, we will be happy to update everyone.

Providing Effective Skills Practice to Second-Year Students

Colleen Grady
Instructor, Critical Skills Program
Nova Southeastern University,
Shepard Broad Law Center

Approximately half of the second-year students at Nova Southeastern University Shepard Broad Law Center must take Elements of Legal Analysis ("ELA"), an academic support course that is part of the law center's Critical Skills Program. ELA classes consist of approximately 15 students each and last either for one semester or a full year, depending on the students' cumulative and semester GPAs. Because ELA is a non-credit course graded on a pass/fail basis, students have no outside class assignments. Realizing that students need practice to develop effective legal skills, the ELA instructors faced the challenge of how they could utilize only classroom time to build students' skills in critical reading, issue spotting, and effective legal analysis.

After designing and using a complex, closed universe problem this past semester, two of my fellow ELA instructors and I found two significant advantages. First, errors in analytical reading and writing were identified immediately so the students did not practice incorrectly. Second, by working through the problem in class, the instructors were able to model appropriate legal analysis and writing skills.

Project Design

In designing the family law problem for the course, we drew on the Multistate Performance Test ("MPT") model, which included a hypothetical, background facts, and a "library" containing all the relevant case and statutory law. The activity was also devised to be accomplished from start to finish within four and a half class periods of 75 minutes each.

After selecting the topic of custodial parent relocation, we researched the local Florida law on the issue, selecting two cases and two statutes, and crafted a hypothetical. We wrote an exam question, a model outline, and a model answer. From these completed models, we deleted various sections in order to create a bare bones framework for the students.

In-Class Read Aloud

During the first two classes, students took turns reading sections of the cases and statutes aloud. After reading each section, the class discussed the significant facts and laws in these materials. During that discussion, we identified numerous deficiencies in the students' critical reading skills, including a

failure of the students to self-check their understanding and to identify periodically the key points of the material read. Hearing the students process aloud provided us the opportunity to give immediate feedback, correcting the analytical errors and refocusing the students on the relevant parts of the cases and statutes. At the same time, as instructors, we modeled the legal reading process correctly. Finally, the students critically read the exam question aloud, and the class talked about the call of the question and the issues presented.

This "read aloud" method was effective; everyone was engaged and focused on the same task. Because the students were reading the material at the same time and sharing their thoughts as they read, our guided, soft Socratic-style questioning encouraged every student to participate.

In addition, this method also solved two fundamental challenges of upper level academic support. Students did not need to rely on their memory of what they read (or skimmed) the night before in order to participate in the discussion. Nor did they need to depend on the knowledge they might or might not recall from an earlier or current family law course.

Analyzing and Writing

During the third class, we worked through the model outline for the essay answer. For the first few sections of the outline, students tried a few lines on their own and then we checked their work as a group. The students thus had immediate feedback as to whether they were on the right track. As they progressed in the outline, they completed larger and larger portions independently. At the end of the class, we did a recap. We collected the outlines and provided individual written feedback on the work product. The corrected outlines were returned the following week and provided the structure for the students' exam writing practice.

In the fourth class period, students spent 75 minutes writing the essay. Once again, we employed the same tactics, providing immediate feedback after the students wrote for several minutes and then offering redirection as necessary. Then the students spent a substantial chunk of time writing independently, using only their critiqued outlines as guides. We collected the essays at the end of class so that we could provide individual written feedback.

During the fifth class, we spent about 30 minutes wrapping up the family law assignment. We reminded the students of the skills practiced and identified the major components of the process, including reading and analyzing the law critically, spotting the relevant issues, and outlining and writing an exam answer. We returned the critiqued students' essays and provided the model answer on which the essay framework had been based.

Findings

By the end of this assignment, the students had correctly and critically read two cases, two statutes, and an exam question. Perhaps for the first time, they had identified the issues raised in a question and had outlined an exam answer. Finally, they had written a full essay answer using an organized model format that forced them to identify effectively arguments and counterarguments by applying the facts to the law.

Most importantly, the students practiced the skills correctly. Because time is at a premium for struggling law students, this method served the students well. They did not waste time completing large portions of work only to discover they had done it incorrectly. Nor did they continue to use poor analytical skills. Also, those students who learn through modeling had an extended opportunity to do so. Overall, this exercise proved to be an effective technique that accomplished the goals we had set for our second-year students. Several students commented that this experience helped them address complex exam questions because they had experience with a format that was structured and because they had already practiced writing an extended essay and were comfortable with transitions and organization

Teaching IRAC to First-Year Students

Suzanne Darrow-Kleinhaus
Assistant Professor of Legal Methods and
Director of Academic Support Programs
Touro College, Jacob D. Fuchsberg Law Center

Teaching first-year students the structure of legal analysis is one of my most important and challenging responsibilities as a law teacher. I have come to realize that the most effective approach is a practical one: provide students with hypotheticals, have them write responses, and provide extensive feedback so they will see how an IRAC-based analysis actually works. Talking about it and reading cases is not enough—students must work through an analysis in their heads and on paper.

Writing should commence as soon as students have covered enough substantive law to analyze a factual situation, which occurs within the first two weeks of class. The problems should begin with a single issue and become increasingly more complex. Further, formats should vary between short fact patterns and long, complex fact patterns with multiple issues and parties. Each format presents a different challenge in issue identification and organization—whether for exams or memos. I have found the use of detailed evaluation sheets most helpful in allowing students to see whether they have answered the question appropriately. The goal is to show students how to critique their own work, identify flaws, and correct them by comparing them to

guidelines. In addition to employing this technique on a one-on-one basis and in teaching legal methods and Contracts, I now use teaching assistants (“TAs”) to guide small groups of from 10 to 12 first-year students in this process.

The program starts with teaching the teaching assistants. The TA is the group facilitator and directs discussion of the problem which varies weekly so that students practice problems in all the first-year subjects. Each TA attends weekly training sessions where we (the Assistant Director of Academic Development and I) provide hypotheticals, evaluation sheets, and specific guidelines in working through the material. We outline what should be covered in each TA session by providing a lesson plan and, in general, direct the TAs in what to cover, how to cover it, and how to deal with group dynamics.

After providing the TAs with their first problem (a short hypothetical dealing with assault and battery), an evaluation sheet, and a sample answer, I realized that they required further guidance in presenting IRAC to students. I provided the following outline for TAs to use in explaining IRAC. First, it provides specific language to guide students through formulating issues and rules. Second, it identifies and explains each step of the analytical process. Finally, it provides examples of how to do it. Although IRAC is a theoretical process, it needs to be presented in a practical manner so those new to it can understand enough to start working with it.

TA Outline for Explaining IRAC

What is IRAC?

IRAC stands for the “Issue, Rule, Application, Conclusion” structure of legal analysis. An effective essay follows some form of the IRAC structure where it is organized around an “issue,” a “rule,” an “application,” and a “conclusion,” for each and every issue and sub-issue identified as a legal problem.

While using IRAC doesn’t guarantee an “A” from the professor, it’s extremely useful in organizing an answer. And even though it’s not the only way to structure an answer, it helps to make sure that all the bases are covered. So until you achieve the level of mental and written fluency where you can weave together rule and fact in a seamless web and transition between thoughts without loss of either the substance or your reader, I strongly recommend that you rely on some form of IRAC to keep focused. While IRAC will never cover for a lack of knowledge nor substitute for a lack of analysis, you can use it as tool for organizing your thinking and your writing. Think of it as a supporting scaffold (or training wheels) to ensure that the necessary steps are followed. Once the process becomes instinctive, then the props can be discarded. But until then, you have something you can rely on to guide you through the process.

How to IRAC

1. Begin by stating the issue:

The issue is the most important element in the analysis because you need to know enough law to find the issue. The legal question is a blend of rule and the facts particular to the problem.

- Articulate the issue by formulating the legal question presented by the facts. To find the issue, ask yourself: "what is in controversy in these facts." (Of course you need to know the law to find a legal question in the facts.)
- Use the "whether, when" structure to help you isolate and write an issue statement.

Some professors might not want to see this language – "the issue is whether." You achieve the same result with other words – "Did" or "Can," for example. Don't get fixated on language. Follow your individual professor's instruction and realize that either way, you achieve the same result: identification of the legal problem.

But you can always use the following language to guide your thought process.

Begin with:

"The issue is whether,"

... then identify and state the legal conclusion you want the court to reach...

Don committed a battery, (or an offer was made, or the court can assert personal jurisdiction)

... and connect to the "relevant" facts (the relevant facts being those facts which will determine the outcome)...

when he pushed Pam even though he knew she was in no danger of being hit by the bicyclist (or when he said, "would you buy my watch for \$500 in cash on next Tuesday?" or when the defendant conducted business in the forum state, had an office and a full-time staff, and paid state taxes.)

When completed, the sentence will read:

"The issue is whether Don committed a battery when he pushed Pam even though he knew she was in no danger of being hit by the bicyclist."

2. State the controlling rule of law:

After you have identified the issue, you must articulate the rule. A useful guideline to writing the rule is to write enough about the law to provide the context in which you will analyze the facts. The rule and the facts are inextricably linked. Your analysis of the facts will not make sense unless you have first identified the rule which determines the legal meaning to be attributed to those facts.

Use building blocks for writing the rule of law by considering:

- elements
- definitions
- exceptions to the general rule
- limitations to the rule
- defenses

When writing, follow a hierarchy of concepts by:

- moving from the general to the specific
- defining each legal term of art

Identify:

The consequences of applying the rule – what will happen?
What are the consequences of this rule in this situation?

Which leads you to consider:

What does application of the rule mean here? What will be its effect? These questions help transition to analysis.

3. Analyze the facts in light of the law ("Application"):

The analysis or application is the heart of the discussion. It is where you examine the inferences/implications raised by the facts in light of the rule. As you write your analysis, work from your articulation of the rule to guide your application of the facts. Here, your statement of the rule provides a blueprint to follow for your discussion of the facts. You simply match up each element/factor you've identified in the rule with a fact, using the word "because" to make the connection between rule and fact.

"Because" is the single most important word to use when writing the analysis. Using the word "because" forces you to make the connection between rule and fact. You'll find that you can also make use of the words "as" and "since" — they serve the same function as "because."

Examples of how "because" works to change recitation (or conclusion) to application:

What not to write:

In this case, while Pete the police officer was giving Dan a sobriety test, he noticed that Dan fit the description of an eyewitness to the robbery, giving the police officer probable cause to arrest Dan.

What you should write:

*In this case, Pete the police officer realized that Dan fit the description of the suspect, providing probable cause for arrest, **because** Dan was extremely tall at 6'4", was wearing a green and tan sweater with purple patches and pointy-toed alligator cowboy boots, fitting the description provided by the eyewitness to the robbery.*

What not to write:

ABC Inc. engaged Dr. Jones to develop a drug that reduced hair loss. Dr. Jones worked in his own laboratory, hired and fired his own assistants and set their working hours as well as his own. He meets with the President of ABC every Friday morning to discuss progress on the project, and at this time, Dr. Jones submits his timesheet for payment. The President pays Dr. Jones weekly.

What you should write:

Here, Dr. Jones can be considered an independent consultant for ABC Inc. because he completes all the research and development work in his own laboratory, in a separate facility from that of ABC, where he has direct control over the employees because he hired his own assistants, setting their work hours. He also exercises direct control over his own work because he sets his own work hours and only meets with ABC once a week. Further, since he only meets with the President of ABC on a weekly basis to discuss progress on development of the hair loss product, the President does not supervise Dr. Jones on a daily basis as to the work which goes on in the laboratory.

4. Conclusion:

State your conclusion with respect to each issue. There is no right or wrong answer. There is only logical analysis based on the rule and the facts which lead to a reasonable conclusion.

Note: Repeat the process for each issue you identify — each issue forms the basis for a separate IRAC analysis.

Editor's Postscript: The Relevance of Writing

L.O. Natt Gantt, II
Associate Professor and Director of Academic Success
Regent University School of Law

Late this March, the academic support listserve was full of activity as many ASPers weighed in on the discussion regarding students' use of laptops to take notes in class. Apart from anyone's particular thoughts on the subject, the discussion made me reflect generally on the differences that exist between typing and handwriting as ways of processing and disseminating information. For most students today, I suspect that typing is as natural, if not more natural, as writing. As a consequence, and as several posts to the listserve indicated, typing can become

so natural that students become mere note transcribers rather than notetakers. These students can type so quickly that they simply transcribe on autopilot in a way that handwriters could never do.

We in the ASP community thus need to confront the rise of the laptop and educate our students about how interfacing with information via a computer may advance or hinder the learning process. I admit that I have not given the topic the amount of thought that it deserves. What I have discovered this past semester, however, underscores that real differences exist between typing and writing information.

First, in my discussions with students who are struggling academically, I sometimes recommend that they change their note-taking style. More than any semester in the past, I encountered this semester students who reported how they benefited from transitioning from typing to handwriting their class notes. Several students commented to me how handwriting their notes enabled them to engage better with the class discussion and process better the information being discussed. They also observed that, although their handwritten notes were often shorter than their typed notes had been, the handwritten notes were more focused and to the point.¹ A few further observed that they seemed to get more out of reviewing their handwritten notes in composing their outlines than they had in converting their typed notes into their outlines.

In reflecting on my experience and the listserve comments, I wonder if this anecdotal evidence points to a trend that, as students get more and more comfortable in front of a computer and are likely to disengage as they simply transcribe class information, more students may see cognitive benefits to reverting to handwriting their class notes. Moreover, this difference highlights how individuals' learning styles interact with their note-taking style and that students should reflect on how they learn best and not simply take notes in the method that seems the easiest for them.

Second, I encountered this semester the handwriting versus typing scenario in another setting as I was grading my Professional Responsibility exams. During the grading, it seemed to me that those who handwrote their essay answers were not doing as well as those who typed. I noticed this difference even though I was conscious not to penalize any handwriters simply because their answers were not as easy to read as the typed responses.

¹ In her e-mail to the listserve on March 22, 2006, Elizabeth Stillman of Suffolk University Law School similarly reported that a "fair amount" of students she advises do not go back to typing once they try handwriting their notes.

² Herb Ramy, now of New England School of Law, made a similar point in his e-mail to the listserve dated March 22, 2006.

In preparing to write this article, I therefore reviewed the class grades and did find a significant difference between the two sets of students. Specifically, the average exam raw score of the 40 students who typed was higher than the 22 who handwrote—95.08 versus 90.91, respectively (both out of 160).³ In contrast, the average law school GPA for the typists was lower than that of the handwriters—2.97 versus 3.05.⁴

Carole Wastog, Director of Academic Support Services at the University of Louisville School of Law, performed a similar analysis on the exam results from her school for the fall semester of 2003. In an e-mail to the listserv on March 9, 2004, she reported how she found that the students who used computers to type their responses had a higher mean and median final score. She further found that the average LSAT scores and undergraduate GPAs for these two sets of students were not different.

Although these findings at both schools are interesting, the number of students in both comparisons is too small to draw any real conclusions. However, Kif Augustine-Adams, Suzanne Hendrix, and James Rasband performed a much more sophisticated analysis of the issue in a 2001 article in the *Journal of Legal Education*.⁵ In their study, the professors analyzed 2,588 exams given to first-year students in several courses during four semesters between fall 1998 and winter 2000. The professors found that the typists scored 0.11 higher (on a 4.0 scale) than those who handwrote their exams, even after they controlled for several factors, including LSAT score, undergraduate GPA, LSDAS index, gender, and

minority status.⁶ They determined that the grade differential was statistically significant ($p < 0.0001$).⁷ They then discovered that those who wrote longer exams tended to receive higher grades and opined that adept student typists may receive higher grades simply because they can say more than those who handwrite.⁸ They concluded that their findings caused them to reflect further on whether their current exam approach “overrewards” exam length.⁹

We teach law students to write concisely and with appropriate focus, yet the movement towards keyboarding may sometimes reward typing skills over analytical ability. Those students who switched from typing their class notes to handwriting them certainly appreciated that “less is more” if the less enables them to absorb and process better the information being discussed in class. Perhaps less should also be more in exam writing if that writing is more succinct and to the point. Indeed, page limits or word limits might be an alternative to ensure that our students are not simply being rewarded for being good typists.

Regardless of our particular response to the handwriting versus keyboarding debate, my encounter with these issues this semester stressed that the difference between the two is indeed real. Typing versus writing may make a difference both in how students comprehend information and in how they compose responses to questions about that information. Hopefully, further study of these differences can aid our academic support to students as we advise them on how they can maximize their learning and performance in law school.

³ The 160 points on the exam consisted of 80 points devoted to 40 multiple-choice questions and 80 points devoted to two essay questions. These raw scores included students’ scores on both sections because I was interested in whether typing affected their overall performance. This raw score difference, however, was in fact less than the difference on the essay section alone; the average essay section score for the typists was 37.58 whereas it was 31.00 for the handwriters.

⁴ I used the GPA figures that included the students’ spring 2006 semester and thus included their Professional Responsibility grade. Including their grade in my class actually slightly decreased the GPA difference given that the handwriters scored lower in my class than the typists.

⁵ Kif Augustine-Adams et al., *Pen or Printer: Can Students Afford to Handwrite their Exams?*, 51 J. LEGAL EDUC. 118 (2001).

⁶ *Id.* at 126. Some of the exams analyzed had, in addition to an essay component, a multiple-choice or short-answer component. For those exams with an objective component, the authors examined the mean and median raw scores on the essay component, and that comparison yielded similar differences in scores. *Id.* at 121 n.11.

⁷ *Id.* at 126.

⁸ *Id.* at 127-28.

⁹ *Id.* at 129.

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