

# Best Practices in Legal Education: How Live Critiquing and Cooperative Work Lead to Happy Students and Happy Professors



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At Widener Law Commonwealth, the legal writing program organizes itself around best practices for the students and, also, best practices for the professors. Rather than catalog the innovative approaches that set our program and pedagogy apart from others, this article focuses on two central ideas and guiding principles for producing happy students and happy professors: 1) using live critiquing to provide feedback on assignments and 2) encouraging cooperative work among legal writing faculty.

Keeping students happy may seem like a quixotic idea in the legal academy. After all, there are plenty of anecdotes about how legal education confuses, overworks, and even bores students—but few, if any, regarding how happy it makes them.<sup>1</sup> At Widener Law Commonwealth, our first-year legal writing students are happy. They consistently provide feedback on how much they learned and enjoyed the course. For example, in course evaluations, students have commented that their legal writing course was “awesome,” “great,” and the “best experience of my first year.”

The key to receiving positive feedback from students is, in part, due to the formative feedback the legal writing faculty gives to them. The first and second semesters of our legal writing courses begin with a series of ungraded assignments designed to prepare students for their final, graded assignments.<sup>2</sup> For example, in the fall semester, students draft three papers that build on one another to complete the analysis section of a judicial opinion. In the spring semester, students complete a research project and two writing assignments that build on one another to produce a trial brief. Students take these practice assignments seriously because they know that they will receive meaningful feedback that they can apply to their final papers. Students appreciate the opportunity to make mistakes, from which they can learn, without the pressure of a grade attached to the exercise. One student remarked that having the opportunity to

practice was “excellent” because “it calmed my fears about the brief and gave me confidence that I knew how to approach it.”

Students not only appreciate practice assignments, but also enjoy the method through which we provide formative feedback on these early assignments. While we do not grade the students’ work, we do critique the papers as if we were grading them, and we do the critiques live. Students are required to attend several conferences, and their degree of preparation for each conference varies depending upon the length of the conference.<sup>3</sup> We meet individually with each student in our offices, read papers out loud, and provide on-the-spot written and verbal commentary on the papers. These live-critique conferences are conversations between us and our students, as we discover how best to improve the students’ work in the future. Because each conference provides formative feedback on an individualized basis, the conversation may focus on organization, analysis, writing mechanics, citation, or all of the above. Students leave with marked-up papers, completed rubrics, and audio recordings of the conference.<sup>4</sup>

Students often listen to these recordings several times after the conferences as they work on their next assignments. One student described the impact of the recorded conferences on learning:

My first semester started out rocky in this course. My first few writing assignments were terrible. I really listened to the feedback in my conferences with Professor Smith, however, and learned what I was doing wrong. At that point, a light went off in my head and I began to understand how to write better. I paid attention and when I was confused about something, I asked.

Live-critique conferences make for happy students and happy professors. Through these conferences, we can provide students with effective, meaningful feedback.<sup>5</sup> We tailor feedback to what students are ready to receive, clarify feedback when students do

not understand the critiques, and receive feedback from students about their learning so adjustments can be made to our future teaching. In addition, these conferences foster relationships between our students and us. We get to know each other better because we meet outside of the classroom several times throughout the semester.<sup>6</sup> Finally, we enjoy critiquing papers with our students more than writing comments on papers in isolation because we are able to share our practical, professional, and personal skills in conferences.

Not only is the live-critique process more enjoyable, but we have also discovered we are more efficient than when we provide written critiques. Written critiques

may take three weeks to complete, whereas conferencing is more concentrated, and takes place over a week-and-a-half. Students receive feedback more quickly after submitting assignments, allowing them to move to the next step of the writing process faster.

Keeping law professors happy also may seem like a new, and perhaps even extraneous, idea. After all, who really cares if we are happy at a time when legal education is struggling? And how would a law professor’s happiness be measured anyway?

At Widener Law Commonwealth, the legal writing professors’ measure of happiness goes beyond citation rates and conference invites, and includes doing meaningful work for our students by collaborating with each other and keeping our workload manageable. Just as we are happy to meet and work with our students, we also are happy to meet and work with our writing colleagues. Although we have some formal, scheduled meetings each year to share curriculum ideas, some of our best work occurs in informal meetings in the halls and after classes when we run our teaching ideas by each other.

In addition, we routinely circulate our lesson plans, PowerPoints, and handouts to each other. We create our assignments together. We work on our syllabi together. And we do all of this without a programmatic requirement to do so because we are not in a lock-

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step program where we all must use the same book and materials. Although we could each independently prepare our classes, we choose not to in favor of collaborating because it improves our teaching.

Collaborating declutters part of our work obligations and frees us up to think and work more deeply on our teaching. Like our students, we are not afraid to make mistakes in front of one another, and we appreciate the chance to learn from each other. We each have our areas of expertise, and we draw from the others' strengths. For example, when putting a problem together, we share the responsibilities of creating challenging facts, confirming the details, researching the law, and formatting the problem. This helps us balance the workload and keep each other in check when we get overly excited about a particular nuance in the law or aspect of the problem.

We have created a terrific bank of problems that we routinely revisit, reinforce, and recycle for use. Reusing problems and focusing on the same area of law has helped us gain expertise in different subject areas and has made us much better teachers in the classroom. Because we do not have to constantly learn the law for a new problem, we know what to anticipate in the classroom and do a better job presenting the material. Our collaboration has created a group expertise that cuts down on our work and makes us better able to help our students learn.

Perhaps unpredictably, our recycling of material has not led to plagiarism problems. Although we safeguard against cheating by changing jurisdictions and modifying fact patterns in our assignments, we believe we have not run into plagiarism issues because first-year students are highly motivated to learn. Their second- and third-year classmates counsel them on the importance of doing their own work to learn the material. They understand that they could take shortcuts, but honor code violations are easily evitable, and they choose to take advantage of the learning opportunities presented to them instead.

Conceivably, we have not had problems with cheating because our students also know that some of the keys to happiness are hard work, discovering strengths, and building relationships. At Widener Law Commonwealth, we ask our students to work as hard as we do, we help each other discover individual strengths, and we build professional relationships with our students and each other. As a result, our students and professors are happy, and our first-year writing program has excelled.

#### NOTES

1. See Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112, 113-15 (2002) (discussing the widespread "tales of law student and lawyer depression, overwork, dissatisfaction, alcohol abuse, and general distress").
2. See Carole Springer Sargent & Andrea A. Curcio, *Empirical Evidence that Formative Assessments Improve Final Exams*, 61 J. LEGAL EDUC. 379, 382 (2012) (noting that "[n]umerous studies suggest that feedback may be more effective if ungraded because students tend to focus on grades, not suggestions for improvement").
3. Conferences typically last twenty-to-sixty minutes. Depending on the length and purpose of the conference, students come to conferences with a prepared agenda, list of questions, or a completed self-edit.
4. Students may audio record the conferences on their phones or we may record the conferences with a hand-held recorder. If we record the conferences, we upload and share the MP3 files with the students.
5. Both college and law school professors recognize the pedagogical benefits to students of critiquing students' writing live. See Alan Rose, *Spoken Versus Written Criticism of Student Writing: Some Advantages of the Conference Method*, 33 C. COMPOSITION & COMM. 326, 329 (1982) ("I can communicate more to my students about their writing by talking with them than by writing comments."); Robin S. Wellford-Slocum, *The Law School Student-Faculty Conference: Towards a Transformative Learning Experience*, 45 S. TEX. L. REV. 255, 267-69 (2004) (discussing various ways in which "[t]he student conference is . . . superior to the written feedback and suggestions that a law professor can convey on drafts of student work").
6. MICHAEL HUNTER SCHWARTZ ET AL., *WHAT THE BEST LAW TEACHERS DO* 18-19 (2013) (noting that a common trait among successful law professors is that they "consistently choose to develop personal connections to their students").