LEGAL RESEARCH AND WRITING PEDAGOGY—WHAT EVERY NEW TEACHER NEEDS TO KNOW

BY JAMES B. LEVY

James B. Levy is a Legal Writing Instructor at the University of Colorado School of Law in Boulder.

New legal research and writing professors enter a tremendously rewarding career. In fact, we may have the best teaching job at law school. We enjoy the unique opportunity among the faculty to work closely with students to help them develop many of the skills they will need in practice. Because of this unique working relationship, we have all had the chance to watch students who struggled with the most basic tasks at the beginning of the year develop enough poise and confidence by year’s end to successfully deliver a moot court argument that makes us look great as teachers.

Along with the rewards, however, come great challenges. Indeed, some have suggested that, pedagogically speaking, teaching legal research and writing may be the most difficult job at law school because of the breadth of techniques needed to successfully impart the requisite skills to students.1 Not only do we teach students substantive law and analysis like our doctrinal counterparts, but we must also teach them a wide range of other skills like clear written and oral expression, logical organization, legal research, and proper citation form.

Given these responsibilities, it is especially important that new legal research and writing professors understand the pedagogical techniques that work best to impart these skills. The American Bar Association Communication Skills Committee recommends that all new teachers receive training in several different teaching techniques before entering the classroom for the first time. However, since most legal writing professors join academia after several years in

1 See Jan M. Levine, Leveling the Hill of Sisyphus: Becoming a Professor of Legal Writing, 26 Fla. St. U. L. Rev. 1067, 1072 (1999); Maureen J. Arrigo, Hierarchy Maintained: Status and Gender Issues in Legal Writing Programs, 70 Temp. L. Rev. 117, 152 (1997) (teaching legal research and writing may very well be more demanding than the job of teaching other courses).

2 See Section of Legal Educ. & Admissions to the Bar, Am. Bar As’n, Sourcebook on Legal Writing Programs 102 (1997) (asserting that new legal writing teachers should be trained in a “variety of classroom techniques—lecture, Socratic, collaborative group work, work in pairs, videos, role-playing, and in-class individual writing work”).
practice, few of us enter the job with relevant teaching experience. Accordingly, this article describes the basic pedagogical techniques every new legal writing teacher needs to know.

**Become a Legal Research and Writing Coach**

Legal research and writing professors primarily teach skills. One commentator has noted that “the skills of legal research and writing are akin to the skills of playing baseball and football.” Consequently, legal research and writing teachers may want to consider adopting a pedagogical approach that emulates the techniques successfully used by coaches to teach sports. A tennis instructor, for example, teaches her students how to hit a backhand by explaining the swing, demonstrating it for students, and then having them try it for themselves so she can critique their performance. Adopting this technique to the legal writing classroom means that teachers need to provide students with examples of the performance expected, give them a chance to try it for themselves, and then provide feedback so they can learn from their mistakes.

Just as no one would expect a tennis student to learn how to hit a backhand by reading a book about it, law students cannot learn how to write clear and concise sentences by listening to a class lecture. Instead, the coaching model suggests that a teacher should begin by explaining both the importance of good writing to the practice of law and then describing ways to do it such as using the active, rather than passive, voice and employing short, concrete words like “use” rather than “utilize.” Next, the teacher needs to show students how to write well by demonstrating the techniques of self-editing. For example, write some excessively wordy sentences on the board and then edit them so that everyone can see how to turn their writing into a model of pithiness. Finally, have students try it for themselves by asking them to edit other sentences you have written on the board or projected onto an overhead screen. You can then critique their performance so the whole class gets feedback on how to write more effectively.

The same approach can be used to teach students about legal research. For example, in connection with an open-universe writing assignment, begin by explaining that all research projects start with the formulation of search terms. Then brainstorm with the class about how to develop search terms for the research they’ll need to conduct for their own writing project. With the use of visual aids such as overhead transparencies or photocopied handouts, or by bringing the books to class, demonstrate for students how the search terms they just developed can be plugged into a descriptive word index that will lead them to applicable digest topics and then to relevant case citations. After showing students how to do this, take them into the library so they have the chance to use these materials for themselves while you make yourself available to answer questions and provide feedback on their mistakes.

This same approach can be used for all the other skills we teach, even using The Bluebook. For example, when teaching students about citation form, begin by explaining what The Bluebook is and how to use it. Then demonstrate for students how it works by using visual aids that show how to use the index to find the applicable rules on citation form. Finally, give students the opportunity to practice this new skill by calling on them and asking them to find the correct page in The Bluebook for the authorities you identify.

In the dark ages of legal writing programs when many of us who now teach the subject were students ourselves, the prevailing pedagogical approach often involved assigning a research and writing project and then setting students loose in the law library to figure out for themselves while you made yourself available to answer questions and provide feedback on their mistakes.

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3 Jill J. Ramsfield, *Legal Writing in the Twenty-First Century: A Sharper Image*, 2 J. Legal Writing 1, 18 (1996) (legal writing professors have an average of four to seven years practice experience before entering teaching suggesting that most of our professional experience is comprised of work as lawyers, not teachers).


5 See David Perkins, *Smart Schools— From Training Memories to Educating Minds* 55 (1992) (people learn a sport because the coach demonstrates the activity, observes the students’ performance, and then provides immediate feedback). M. Lauren F. Fitzgerald, *What’s Wrong with Legal Research and Writing? Problems and Solutions*, 88 Law Libr. J. 247, 263 (1996) (“Although there are a number of ways in which skills can be taught, most teachers would agree that, at the minimum, students should be permitted an opportunity to attempt the skill and receive feedback.”).
teaching technique. Instead, students need a clear explanation about how to perform the skill being taught, examples that show them how to do it, and then a chance to try it for themselves along with an opportunity to receive feedback from the teacher. While other pedagogical approaches may work, becoming a legal research and writing coach is sure to provide new teachers with success in the classroom.

Encourage Active Learning

The Socratic method is still the most popular teaching technique in law school for good reason. It encourages active learning. Nearly all educators agree that a pedagogical approach that encourages students to participate in the learning experience is better than one that results in the passive absorption of information. Educational psychologists recognize that students who actively discover the concepts being taught learn it better than those who merely listen to an explanation of the same material. One commentator summed it up by noting: “Ideas cannot be handed to students as if they were bricks.” As a result, most agree that the lecture method is not an effective way to teach law students.

Unfortunately, the typical legal research and writing curriculum is often not conducive to a purely Socratic teaching style. Many of the subjects we teach—like how to do legal research or write a brief—require extensive explanations. That often makes use of the lecture method unavoidable. In many instances, lecturing to students about key concepts or skills may be the most efficient way to impart that information to them.

Nevertheless, it is pedagogically important to incorporate the Socratic method into your teaching style whenever possible in order to actively engage your students in the material being taught. While it may be obvious how to do this in a doctrinal class—by engaging students in a colloquy that requires them to identify the pertinent parts of a judicial decision—it is less obvious how to adapt that technique to the legal writing classroom.

Here are some suggestions. When teaching students how to begin their research for an open-universe writing assignment, for example, call on students and ask them to suggest appropriate search terms. Write their suggestions on the board and then ask others in the class to critique them. If anyone disagrees with those search terms, ask them to suggest alternatives and explain their reasons for doing so. In this way, the entire class learns in an interactive way how to formulate search terms for that assignment.

Use the same technique to teach the class about proper citation form. After explaining how to use the index at the back of The Bluebook, call on students and ask them to find the correct citation form for a list of research tools you suggest such as Am Jur*®, ALR*®, or any other secondary source. Ask them to identify the page number in The Bluebook where the rule appears and then call on other students to say whether they agree with those answers or not.

You can even use a Socratic approach to teach students how to write a research memorandum. After explaining to the class how to write a thesis paragraph for the open-universe writing project, for example, ask a student to write one on the board. Then ask others in the class to comment on that student’s effort and, if necessary, suggest revisions. In this way, the entire class sees how to write a thesis paragraph in a way that engages them. Adopting a Socratic approach to the legal writing classroom may require a bit more creativity and resourcefulness than a typical doctrinal course, but, pedagogically speaking, it is an important technique to incorporate into your teaching style in order to ensure a meaningful learning experience for the students.

Give Students Immediate Feedback

Another very important principle of effective skills pedagogy that every new teacher should know is that students need immediate feedback on their performance. That is true whether students are learning how to write, to research, or to perform any other skill we teach. Experts
agree that feedback is most effective when it is temporally connected to students’ efforts to learn that new skill.10

Using the tennis analogy again, students want feedback from their instructor right after they attempt a backhand shot, not two weeks later. Similarly, law students want feedback on how to write more clearly and concisely while the assignment is still fresh in their minds, not later. Given the high student-teacher ratios in most legal writing programs and the heavy workload most faculty must carry, it is not always possible to give students feedback as quickly as they would like or as sound pedagogy suggests. M any of the writing projects we assign, like the open-universe research memorandum, require a great deal of time to review. Of course, legal writing professors never want to compromise thorough and conscientious feedback just for the sake of returning papers quickly.

Nevertheless, it is pedagogically important to include opportunities during the semester to provide students with more timely feedback. W ith respect to teaching students how to write, for instance, consider doing some in-class editing exercises—like the one mentioned earlier—that give everyone in the class a chance to get immediate feedback from the teacher on how to make their own writing better. In addition, reserve some time during the individual student conferences to do a self-editing exercise that gives them quick feedback on how to write better. As you review the students’ papers, demonstrate for them how to revise their own writing by editing a sentence while they look on. Then ask the students to try it for themselves by having them revise another sentence that you select. You can then critique their revisions so they get feedback from you at the moment they are engaged in the activity. Chances are, they will remember that feedback better than similar comments you may write on a paper that is not returned to them until much later.

The same approach works well for teaching students about legal research. After lecturing to them about how to use particular research tools, take students into the law library so they get an opportunity to ask you questions as they begin to work with those tools. It is important to create similar opportunities throughout the semester for all the skills we teach so that students can get immediate feedback from the teacher on what they need to be doing to improve.

Find Ways to Pique Student Interest

Another vital part of any good legal research and writing pedagogy is to find ways to make the subject matter more interesting to students. Educational theorists agree that effective learning cannot take place unless students are motivated to learn the subject matter.11 That motivation can arise either because the material is inherently interesting to students or because it relates to the educational or professional goals they want to achieve. With adult students in particular, it is especially important that the teacher present the material in a way that shows them how it will be used in practice.12

Consequently, it is important to keep this in mind as you prepare your class lectures and exercises. W henever possible, try to relate the assignments to the skills students will need in practice. T he more realistic you can make the assignments, the better motivated students may be to learn the material. T herefore, when designing writing problems, try to select topics that are


11 See Robert S. Redmount, A Conceptual View of the Legal Process, 24 J. Legal Educ. 129, 165 (1972) (“The subject matter ... must first seem to or must become important and relevant to the student. ... Without [this], learning may not take place.”); Barry J. Wadsworth, Piaget for the Classroom Teacher 78, 158 (1978) (students must be interested in the material for effective learning to take place).

12 Adults are characterized by a motivation to learn as they develop needs and interests that learning will satisfy. “Adult orientation to learning is life— or work— centered. Therefore, the appropriate frameworks for organizing adult learning are life- and or work-related situations, not academic or theoretical subjects.” Frederick H. M argolis & Chip R. Ball, Managing the Learning Process: Effective Techniques for the Adult Classroom 17 (1984). See Ellen M. C aliman, Simulated Research: A Teaching Mold for Academic and Private Law Librarians, 1 Perspectives Teaching Legal Res. & Writing 6, 6 (1992) (“Relevance should be the guiding principle ... That which is relevant is retained. That which is retained can be applied.”); Fitzgerald, supra note 5, at 263 (adult students need “to relate tasks directly to preparation for future social and professional roles”).
timely and realistic. Several articles have already been written that describe ways to find good ideas for writing projects.13 If you are still stuck for an idea, newspapers and other media sources are always a good place to start.

A simple technique I use to make the learning experience more realistic for my students is to turn the classroom into a law firm. I play the role of senior partner and refer to my students as associates. I explain our writing problems in terms of a client who has come to the class seeking our advice. We discuss the problem as if we are a group of lawyers trying to figure out a solution to our client’s problem. In this way, I try to make the material we teach come alive for them. I work very hard to instill in them a sense of excitement about all the material we teach. Indeed, sound pedagogy requires it.

In addition to making assignments as realistic as possible, it is also pedagogically important to make them interesting and enjoyable. Try to choose writing topics that you enjoy and feel passionate about. The more interesting you can make the subject matter, the better students will learn it. When I talk to students about learning to use the law library, I try to make it sound as exciting as possible. With great enthusiasm, I explain that the law library holds the answer to every legal question they will ever encounter in a lifetime of practice. The trick is knowing how to find those answers. I try to make learning about the law library sound like a milestone in their legal education that marks the metamorphosis from lay person to the lawyers they want to become. I work very hard to instill in them a sense of excitement about all the material we cover and the law school experience itself. As teachers, it is our responsibility to find ways to make the material we teach come alive for students. Indeed, sound pedagogy requires it.

**Have Fun**

Last, but not least, make the class fun. Not only will it make the learning experience more enjoyable for you and your students, but it is also part of a sound pedagogical approach. Studies show that new students find law school an extremely stressful experience. Indeed, law students, on average, experience more stress than students in any other graduate program, including medical school.14 Educational theorists note that students do not learn well when they feel stress.15 Students who experience stress lose confidence, which leads to lost motivation, and that results in an atmosphere in which no meaningful learning can take place.

With that in mind, try to make the classroom experience more enjoyable for students. Humor is one technique. If you can weave humorous anecdotes about the subject matter into your lectures, you will create an atmosphere more conducive to learning. However, using humor does have risks. Some teachers have a knack for humorous storytelling. If you are not one of those people, you may want to stay away from it. Nothing can bring the flow of a good class to a screeching halt quicker than a teacher who makes a botched attempt at humor.

So, if humor is not your forte, try thinking of other ways to make the learning experience more enjoyable for students. For example, to create a fun way to teach legal research, try an in-class game of “legal jeopardy” in which students compete in teams to answer questions about research tools. Hold up books at the front of class and then ask the teams to correctly identify them. Keep track of the points and award a winner at the end of class. The more fun you can make of otherwise mundane topics, the better success you will have as a teacher.

Finally, and most importantly, show enthusiasm for the subject. Students love a teacher who is passionate about the material. Enthusiasm is contagious: if you are able to project during class that you love what you do, the students will respond in kind. Do not be afraid to let the students know that you love to teach and look forward to every class.

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13 This periodical has published articles outlining sources for relevant and interesting writing topics. See e.g., Jan M. Levine, Designing Assignments for Teaching Legal Analysis, Research and Writing, 3 Perspectives: Teaching Legal Res. & Writing 58 (1995); James B. Levy, Dead Bodies and Dueling Be Creative in Developing Ideas for Open University Memoranda, 7 Perspectives: Teaching Legal Res. & Writing 13 (1998).

14 “Law students have higher rates of psychiatric distress than either a contrasting normative population or a medical student population.” Stephen B. Shonfield & Andrew H. Benjamin, Psychiatric Distress in Law Students, 35 J. Legal Educ. 65, 69 (1985).

15 See Redmount, supra note 11, at 150 ("[A]n excess of anxiety, whether from personal or pedagogical sources, shatters confidence, incites fear and may inhibit or prevent performance.").