

The Learning Curve

Winter/Spring 2022

Letter from the Editor

Inside this issue:

<i>Orienting the Family: A One-Day Program for the Families of First Generation Students</i> Sarah Garrison & Jessica Rouser	2
<i>Supporting Our First-Generation Students</i> Melissa A. Hale	6
<i>Success After Failure: Strategies for Working With Repeat Bar Takers</i> Katherine Silver Kelly	10
<i>Drawing Upon Choice Architecture to Improve Students' Study Practices</i> Jeff Minneti	13
<i>More Than Belonging: Tying Diverse Identities to Law School Success</i> Laura Riley & Nickey Woods	18
<i>Crisis Inspires Innovation</i> Haley M. Meade & Yolonda Sewell	23
<i>Leading Up: Academic Support and Power Dynamics</i> Elizabeth Z. Stillman	27
<i>Defying Middle Child Syndrome: A Proposal for Achieving Bar Success by Reimagining the 2L Experience</i> Eurilynne A. Williams	30

Dear Colleagues,

The past two years have been challenging times for those of us in the ASP community. We transitioned our work to a virtual world, supporting students who, like us, experienced increasing stress because of the pandemic. We faced bar exam delays and changing bar exam formats. Our workloads expanded to fill whatever time we gave them, taking over our personal spaces as we struggled to set our own healthy boundaries with our work. Law school administrators and faculty increasingly expected us to solve problems that arose outside our traditional job descriptions, giving new meaning to the phrase “other duties as assigned.” And all of this happened as we navigated the pandemic on a personal level as well, managing our personal anxiety and illnesses and wrestling with loss and grief. The combined effect of these challenges is that many in the ASP community are now experiencing serious burnout.

At the same time, with those challenges have come opportunities. ASP educators have a broad skill set that uniquely positioned us as experts within our law school communities during the pandemic. Our innovative, research-based teaching strategies translated well into virtual classrooms and demonstrated our expertise in teaching and learning. While we have missed our in-person conferences over the past two years, the rich offerings of virtual conferences and workshops have given us many opportunities to collaborate and learn from each other in ways not limited by travel budgets. We’ve explored all kinds of new technologies we can leverage in the future. And, through our efforts, the unequal status and pay issues associated with ASP roles have become a focus at more law schools, hopefully shifting the momentum in a positive direction going forward.

Now a “new normal” is beginning to take shape, and this issue of *The Learning Curve* reflects it. Our work will continue to be influenced by our pandemic experiences, but our attention has broadened once again. This issue’s articles consider many innovative ways we can support our diverse student communities, as well as how we can grow as leaders in legal education. I hope you find these articles as interesting and inspiring as I have. I also invite you to consider how you can engage in the ongoing ASP conversation in the future, by submitting articles to *The Learning Curve*, pursuing other writing opportunities, and presenting at ASP conferences and workshops. Maybe I will see you in person or virtually at AASE or another conference soon!

Sincerely,

Susan Landrum

Executive Editor, *The Learning Curve*

Orienting the Family: A One-Day Program for the Families of First-Generation Students

Sarah Garrison

Director of Bar Preparation

University of Detroit Mercy School of Law

Jessica Rouser

Director of Scholarship and Financial Aid

University of Detroit Mercy

Entering an institution of professional learning is terrifying. There are too many new experiences to count, and the workload is overwhelming. For some, the stories and advice from past generations will ease fears or at least temper the unknowns. For others, in increasing numbers, they have no such person(s) to turn to for guidance and shared experiences because they are the first to attempt an education at a professional level; they are first-generation students. First-generation students have many things going for them – ambition, hope, fortitude – but they face challenges, some of which come from within their support systems.

"First-generation students have many things going for them – ambition, hope, fortitude – but they face challenges, some of which come from within their support systems."

My institution proudly welcomed over 100 first-generation law students in the fall of 2021.¹ This number was nearly 80% of our first-year class.² We and other institutions across the country have noticed this trend in the last 3-5 years. The increase in this student population created additional needs that stretched past the conventional academic programming that we were providing to all first-year students. Some of our first-generation students were behind and struggling with the non-academic side of law school. They did not know the value of or art of networking, they were frustrated by financial aid concerns, and they were starting or finishing law school during a pandemic. Additionally, they felt alone because their families (parents, spouses, siblings, etc.) did not understand what they were experiencing and did not understand the pressures of law school. We decided that in addition to supporting our students academically, we also needed to educate their families on the great endeavor their family member was embarking upon, the challenges they would face, and the support they could and should give at home. Thus, the idea of a Family Orientation Day was born.

Overview of the Family Orientation Day

Family Orientation Day starts the process of educating our first-generation families about their students and the realities of law school. One of our goals is to alleviate some of the burdens and responsibilities placed on first-generation students by making families aware of the time commitment required for both populations. The purpose is to foster a sense of belonging and demonstrate that these students are not alone, nor are their families. The program will be held during the traditional orientation week as a half-day event. By hosting it during the traditional orientation week, we hope students will not feel singled out with special programming during their first weeks of school and show the importance (and legitimacy) by hosting it during the official orientation time.

Targeting the Right Objectives

When targeting the objectives of Family Orientation Day, we knew we had to start with the areas that affected our first-generation students the most. We also considered areas that could impact their family members. After much research and speaking with our students, we narrowed the areas to those concerning financial assistance, academic load, and building a support network.

Session 1 - Financial Assistance

First-generation law students borrow to finance their education at a rate of 93%, a rate nearly 10% higher than their peers.³ In addition to being more likely to borrow, they also borrow 24% more than their non-first-generation peers.⁴ They also spend 25% more time working for pay than their counterparts.⁵ As a regional law school, many of our students live at home and are an integral part of their family's social and economic structure. They not only work to defer their education costs but also to be contributing members of their family income. First-generation students financially supporting their families was even more prevalent during the pandemic. It was common for our students to increase their budgets to take out more student loan debt or work far more than the recommended weekly hours to help pay for family expenses. It became apparent that the pressures, real and perceived, being felt at home to contribute financially would have lasting ramifications on a student's financial well-being. Therefore, it became an objective to educate families on the financial opportunities and obligations associated with law school.

This breakout session will focus on the differences between undergraduate and graduate federal financing and the proper and improper uses of the funds. It is also critical for families to understand the realities of their student's earning capacity and to counter the misconception that all lawyers are higher earners. First-generation students are more likely to work in small firms (25 employees or fewer)⁶ with lower starting salaries than the perceived attorney income. Many of our students also indicated an interest in our institution because of our commitment to the community and their desire to practice in public service. As a result, this session will wrap up with earning potential at different sized firms and public service positions and, statistically, where students at our institution settle. We will also briefly talk to families about loan repayment options for our students, focusing on the accessibility of income-driven repayment plans.

"First-generation students are more likely to work in small firms ... with lower starting salaries than the perceived attorney income."

Session 2 -Academic Load

The next breakout session will focus on the academic rigors facing their students. It is important for families to understand that undergraduate work is quite different from graduate studies and especially the study of law. Explaining this difference is something the academic support world stresses with the students before they enter school and in their first several months; it is imperative for that message to be explained to the families as well. As stated earlier, many of our students live at home. They have obligations (childcare, working in the family store, caring for elderly grandparents, etc.) that are helpful and sometimes critical to their family's success. These obligations do not change once law school begins, but tensions can arise when the student needs to pull back due to their increased academic workload. It is difficult for families (and most students) to comprehend the shift from undergraduate work to law school. We use

phrases like “get you to think like a lawyer” and “think critically,” but we do not directly discuss the 40-50 pages of reading each night, creation of case briefs, deciphering foreign vocabulary, or the supplemental resources required to “think like a lawyer.” It became clear that we needed to outline the increased workload so families would better understand if their students could not always fulfill family obligations they had in the past due to schoolwork. Thus, we will have a mock class, distribute syllabi and reading schedules for the 1L courses, and outline a typical schedule for a first-year student.

Session 3- Building a Support Network

Due to the absence of role models and mentors practicing in the legal field, our first-generation students lack the blueprint to network and create a successful career path. Luckily for the students, the Career Services Office assists in multiple ways to show them how to open doors and impress those inside once you walk through those doors. It is important to highlight to the families the vast number of services provided to their students, but we also wanted to give families access to a network of first-generation alumni for the day. We also anticipate that families (parents, spouses, etc.) will create their own support network with the other families present. This breakout session will bring together first-generation alumni from the bench and the bar and also family members of those alumni for a small panel discussion with our families. The panelists will share their own experiences as first-generation students and what would have helped them during their time as a student. The family members of the alumni on the panel will share the challenges they faced while supporting their student and also what tools and resources would have helped them as a family member. The goal is to give the families a sense of belonging within the school community and provide them an opportunity to ask questions about the law school or the legal community from individuals who have experienced (in some part) what their students likely will experience. This session will immediately be followed by a luncheon where the students, families, and alumni can continue conversations in a more informal setting. To facilitate continued conversations, there will be ice-breaker activities present at each table with Detroit Mercy Law staff members and current students socializing between the tables to help the families establish peer support connections.

“The goal is to give the families a sense of belonging within the school community and provide them an opportunity to ask questions about the law school or the legal community”

Building Community Success

Securing avenues of success for our first-generation students is at the heart of this program. Expanding student support beyond the walls of an institution can only aid in this endeavor. The specific needs of students will differ among institutions (and can be modified based on the student population), but by educating families on the support needed and including them in our process, we can build a bigger community of support for each student.

¹ During the traditional Fall 2021 orientation (the week before classes start), students completed a diversity survey where they self-selected attributes such as ethnicity or gender. This survey also asked if they were first-generation students. In preparation for Fall 2022 orientation, when this program will take place, we plan to send this survey out early in the summer so as to identify the first-generation students and families early and market the program.

² See ABA 509 REPORT (2021), https://law.udmercy.edu/_files/pdf/admissions/Detroit-Mercy-Law-509.pdf.

³ Jessica Tomer, *First-Generation Law Students: Struggles, Solutions, and Schools that Care*, NATIONAL JURIST, (Mar. 22, 2019), <https://www.nationaljurist.com/national-jurist-magazine/ first -generation -law -students-struggles- solutions-and-schools-care>.

⁴ *Id.*

⁵ See LSSSE, *First Generation Law Students: Use of Time*, LSSSE INSIGHTS BLOG (May 4, 2016), <https://lssse.indiana.edu/blog/first-generation-law-students-use-of-time/>.

⁶ Avalon Zoppo, *First Generation Law Students Struggle in Post-Grad Market Compared with Peers, Study Shows*, LAW.COM (October 20, 2021), <https://www.law.com/2021/10/20/first-generation-law-students-struggle-in-post -grad -market -compared-with-peers-study-show/?slreturn=20220312195031>.

Supporting Our First-Generation Students

Melissa A. Hale

Director of Academic Success and Bar Programs

Loyola University Chicago School of Law

We need more first-generation law students because we need more first-generation lawyers. Historically, the legal profession has been reserved for the very wealthy, and let's be honest, the very white, and the very male. While progress has been made, we are still nowhere near where we should be. When speaking about diversity and inclusion in law school, first-generation students often overlap with students of color, and those that come from a lower socioeconomic background.¹ Attracting first-generation students to the profession provides socioeconomic diversity to the profession, which benefits the public. So, how do we attract these students? Law schools, like the University of Georgia, are looking to make sure first-generation students have robust financial aid.² But it's not enough to just admit first-generation students, law schools need to support them once they arrive, making sure they feel included, and that they can thrive academically.

"[I]t's not enough to just admit first-generation students, law schools need to support them once they arrive, making sure they feel included, and that they can thrive academically."

Lately, I have been working on multiple first-generation law student projects and want to share some things that I've learned about supporting first-generation students. This is a bit of a passion project for me. I am a proud first-generation lawyer. My grandmother, Honey, dropped out of school at about age 12. She had to; her family was poor, and she had to watch her siblings while my great-grandmother worked. My mother finished high school and worked until retirement as a secretary. Out of Great-Grandma's 20-plus great-grandkids, I was the first to go to college, and certainly the first to go to law school. This meant that I didn't grow up around professionals; I grew up in Detroit, with uncles and grandpas that worked in factories building car parts. My dad worked down manholes, making sure phone lines were connected in the era of land lines. College, and ultimately law school, was a different universe for me. And because of that, my passion has been to work to provide programming that I never had.

In doing research for various projects, I've learned that first-generation students come in with significant achievement gaps, less social capital, and imposter syndrome.³ I've also learned that first-generation students are more likely to have to spend time working or supporting their families, and are less likely to achieve the highest grades or acquire the highest paying jobs.⁴ This all feels very hopeless and, in fact, the more research that I do, the more I wonder how I made it out of law school! But all is not lost. First-generation students have grit and tenacity and are frequently fantastic problem solvers. This means, if we support our first-generation students, they can thrive!

So, what do we do? I'd like to share some things that I've been working on, that you are welcome to steal! I started by helping two students start a "First-Generation Law Student Group" (FGLS), and I currently advise them. I must admit that they were the driving force and did most of the work, but they inspired me to do further study in this area. I can also say that if your school doesn't have such a group, it's incredibly beneficial to start one. The student group has been a fantastic resource for incoming first-generation students and knowing that they have peers going through the same thing is more helpful than anything that I could do.

The student leaders also taught me so much as we worked together. If your school has such a group, I suggest working with them to find out what the membership currently needs. I frequently survey them to gather ideas for programming. For example, I have started including a “bar supporters’ night” into my bar programming. This is an opportunity for the soon-to-be graduates to bring their families, or close friends, into the conversation surrounding the exam. I even include my mother so that she can talk about her experience as a first-generation law student mother. This is because, as much as she always supported me, she was understandably skeptical that I needed to take ANOTHER exam after finals, couldn’t work as an attorney right after graduation, and that I was expected to study full-time after being in school for three years. The FGLS group also inspired me to make my law student glossary, which has circulated for a few years and become a part of other projects. Mostly, I have learned that they just want answers to their questions, and someone to make them feel like they belong. So, I share my story with them, and try to be a resource when I can. But all of this has inspired me to take on broader projects.

When I was asked to be part of the CALI Law School Success Fellowship in 2019, I was excited to try to build something that could help first-generation students bridge the achievement gap. Some of the fellowship members - Steven Foster, Allie Robbins, Nicole Lefton, and Laura Mott, and myself – wrote a law review article about our experience creating the CALI Skills Lessons, and how they can aid first-generation students.⁵ We are continuing to work on more lessons right now, with more of an eye towards what first-generation students might need. For example, Nicole just finished a lesson on course selection. It seems like such a small thing, but honestly, if you are a first-generation student and don’t have family to ask—or other mentors—where do you turn?

This work also prompted me to work to create a summer program, or pre-orientation program, geared towards first-generation students. This was inspired by Toni Miceli and her ‘Gateway to 1L’ program. We have decided to open the program to all incoming students admitted for the Fall. However, we will “push” it to the first-generation students a bit more, as we have geared the programming towards first-generation students. I have decided to do one synchronous zoom class in June, and one in July, with the opportunity for students to view asynchronous videos and complete CALI Lessons throughout June and July. Then, we will bring students on campus for two days prior to Orientation. The idea is that many first-generation students need to work during the summer, so they can’t attend in-person activities throughout June and July. This is especially true if they are not currently living on campus. We wanted to be mindful of the financial and work situations that first-generation students often deal with.

I have tried to frontload programming with introductory materials and skills development in the asynchronous materials. This means that when in person, we can accomplish two things that I think are incredibly important. First, we have set up two mock classes. The first mock class will be on Day One, likely a short 30-45 minutes. Then, we will “debrief” the class; I will be working with one of our torts professors, and in the debrief we will go over what students should have gotten out of the class. We will also discuss whether their case briefs worked, as part of the asynchronous activities will be reading and briefing. Then, that afternoon, they will get another 30-45 minute mock class, and another debriefing. The hope is that they will start to feel acclimated to class, and get a head start on what type of notetaking works. We will then review a

“Mostly, I have learned that [first generation students] just want answers to their questions, and someone to make them feel like they belong. So, I share my story with them, and try to be a resource when I can.”

very short hypothetical with them, based on the two classes, and discuss how to put it together. I'm a firm believer that one of the most difficult aspects of law school is that no one really tells you how things are tested, so you spend weeks taking notes on the "wrong" things. My hope is that showing them a hypothetical early on will help them start to see how things come together.

The second component of the in-person sessions will focus on networking and social interactions with current students and alumni. I'm very well aware that first-generation students often feel like a deer caught in headlights when it comes to networking; we've simply never done it before. My goal is to create a space, with other first-generation students and alumni, to help ease them into that process.

As part of developing the curriculum for the program, I decided that first-generation students needed a textbook, or guide, to supplement programming.⁶ It's written with the first-generation student in mind, knowing that not only is law school difficult for almost everyone, but first-generation students come with extra baggage and ramped up imposter syndrome! It's also meant to be interactive, with questions and exercises imbedded in the book.

In terms of the substance of the remote programming, I start with the basics. For example, we often forget that even the vocabulary and acronyms we use can be alienating to students who haven't been around lawyers. I always have to remind myself that even using abbreviations such as "civ pro" or "con law" can be incredibly confusing. And that's even worse when you think about the fact that students do not enter law school knowing what appellate means, "who" Regina is, or the difference between criminal and civil law. There is nothing wrong with any of this, and it's easy to forget that knowledge and vocabulary that are so second nature to us are alienating to those already struggling to feel like they belong. The summer programming begins with an overview of basic vocabulary, a description of common law, why we read cases and so forth. In addition, it obviously includes things like how to read and brief a case, what is an outline, how to synthesize rules, and so forth. You know, the legal academic skills 'basics,' so to speak. But that's not enough.

My programming also includes information on mental health, imposter phenomenon, and growth mindset. Obviously, this is not unique to only first-generation students, but any good first-generation program should address these issues.

I hope we can all start more programming for first-generation students. It's fine to start small, as I know we are all usually stretched quite thin. For example, last summer I simply didn't have the time to put together an extensive summer program, so I started by sending out CALI lessons to admitted students, encouraging them to complete those as part of summer reading. Honestly, even just by sharing your own first-generation story with your students, you are likely helping at least one person to feel less scared and alone, and that's all we can do!

¹ Stephen Foster, et al., *Closing the Law School Gap: A Collaborative Effort to Address Educational Inequities Through Free, Asynchronous Tools*, 14 J. MARSHALL L.J. 116, 123 (2022).

² For the second straight year, 100% of incoming first-gen students received aid, ADVOCATE VOL. 55 (2021), available at <https://advocate.law.uga.edu/article/law-school->

[provides-financial-support-for-100-of-its-first-gen-students/](https://www.aals.org/section-on-academic-support/section-on-academic-support-provides-financial-support-for-100-of-its-first-gen-students/) (last visited Apr. 7, 2022).

³ *Supra* note 1.

⁴ *LSSSE Survey 2021 and NALP Reports Employment Outcomes for First-Generation College Students Fall Below Those of Their Peers, and Disparities in Outcomes by Race/Ethnicity Persist*, NALP PRESS RELEASE, Oct. 20, 2021, available at https://www.nalp.org/uploads/PressReleases/NALPPressReleaseJobsandJDs_20October2021.pdf (last visited Jan. 19, 2022)

⁵ *Supra* note 1.

⁶ I also realized that it had to be free, so I'm pleased to announce that that the *First Generation Guide to Law School* will be available this summer as a free download through CALI.org.

Success After Failure: Strategies for Working With Repeat Bar Takers

Katherine Silver Kelly

Clinical Professor of Law & Director of Academic Support

The Ohio State University Moritz College of Law

Introduction

Growth mindset tells us that we learn from mistakes and that failure does not define us. While this is true, it is also true that failure is painful and challenging to overcome. Failing the bar exam often feels devastating and like the end of the world. In a way, it is because of the professional, financial, and personal consequences.

Oftentimes when someone fails the bar exam their instinct is reactive and they turn to “performative fixes” such as immediately doing practice questions, switching bar companies, buying extra products, hiring a tutor, starting the entire program from scratch, etc. They want to erase that failure and quickly move forward. However, to overcome failure and get a different outcome, you first have to examine the factors that led to it and figure out what inputs will achieve a different result. Hard work without awareness and change without reflection is not how to overcome failure.

When it comes to repeat bar takers, we want to assess and address three main factors: practical, mental/emotional, and intellectual.

Practical

The practical factor is setting up the framework of studying. It includes setting up a macro-level action plan and creating a study plan. But resist the temptation to make a study schedule too early. The first meeting should be about laying the foundation of support and providing a sense of direction. There is only so much the person can process so the first step is to communicate that you are there to support their success and you will work together to develop a plan. Start with a macro level action plan that includes things like requesting a score report, submitting the exam application, re-activating commercial bar prep, talking with their employer, setting up a meeting with career development, etc. These action items are more than perfunctory tasks, they provide information needed to create a workable study plan. For example, you can't make a schedule until you know your employment expectations- how much time off will you have to study, is it paid or unpaid?

One important reassurance to provide is that the person is not starting from zero. They do not have to “do this all over again.” This is where you create the connection from the practical skills to the mental/emotional skills.

Mental/Emotional

The mental and emotional factors include processing failure stigma, developing realistic optimism, and support not therapy.

We know that perfection is impossible and everyone fails. But failing the bar exam is a big fail and it hurts. Even using the word is difficult and although you can interchange it with “taking it again,” “didn't pass,” don't avoid it. Not saying “failure” gives the word

“[T]o overcome failure and get a different outcome, you first have to examine the factors that led to it and figure out what inputs will achieve a different result.”

power and stigmatizes it. As Brene Brown says, “shame loves perfectionists, it’s so easy to keep us quiet.”

Although we don’t want bar takers to be pessimistic about their ability to pass, we also can’t give a false sense of hope. Confronting failure has to be balanced with developing realistic optimism.¹ Realistic optimism- as opposed to naïve optimism (wishful thinking) is the idea of having faith in long-term success while being honest about short-term reality.

This means fully processing the failure so they can fully engage with bar prep. There will be times when the person wants to revert back to comfortable strategies like reading outlines and making flash cards. This only serves to avoid the uncomfortableness, the fear, the self-doubt. This is where our reassurance and support has to nudge them towards it, to go through the uncomfortableness.

To be sure, the person will experience low moments. Be ready to give them the space to go through it and simply acknowledge, “ok, this is hard” instead of trying to fix it or devalue their feelings with, “it will be fine,” as if the person shouldn’t feel this way.

We must also be conscious of the difference between support and therapy. Even if you are a therapist, you are not their therapist. Be clear and direct that your role is to support their success and help unravel some of their thoughts about the bar exam, but you are not a mental health professional. A therapist or counselor can help process through feelings—they have experienced a loss and it’s hard. This connection between self-worth and achievement is where the intellectual skill fits in.

Intellectual

The intellectual factor is more than studying. It involves metacognition: Assessing past performance and preparation to identify a new starting point, moving away from outcome and knowledge focused study habits to process and assessment strategies.

Assessing past performance starts by asking the person what they did the first time, what they think worked, what didn’t. Oftentimes the person did just about everything right so it’s a matter of identifying the gaps and adjusting accordingly. Figuring out the gap requires effortful learning and won’t happen instantly. The person is at point A and wants to get to point B but to do that they must first figure out how and then practice doing it. You cannot do this for them. Telling them how to get there is not the same thing as doing it themselves.

This helps with buy-in to the “new” strategies that aren’t comfortable, don’t outsource effort and don’t give a quick fix. This quick fix comes from grades, scores, and completion percentages. This is not feedback, it is a starting point. The person should be able to articulate why they earned a certain score, what questions they missed, why did they miss those questions, what is confusing, what isn’t, etc.²

Second, move away from knowledge-focused studying like memorization, reading and reviewing flashcards, or reading answer explanations. Learning does not happen when we put information into our brains, it happens when we pull it out.

Process and assessment based strategies center on developing the three basic skills tested on the bar exam: knowledge, understanding, and application. Too often we focus on knowledge but just as reciting the alphabet does not mean you can read, reciting a rule does not mean you understand what it means or can explain how it works.

“Learning does not happen when we put information into our brains, it happens when we pull it out.”

Here are a few examples of strategies that promote metacognition and focus on developing skills beyond basic knowledge:

- MEE “Just the Facts”- construct an essay response by starting with the analysis and writing the rules last. Read the fact pattern and explain the relevance of each fact and how it supports the outcome. Then write the rules supporting this analysis.
- MEE Issue-Because... - outline an essay response identifying as many issues as you can, using the facts to articulate why it is an issue (because...)
- MBE IRAC - Identify the central issue from the facts, recall the relevant rule, write out how they apply to answer choices.
- MBE- Elimination Reasoning- articulate the analysis process by writing out why you eliminate answer choices, why are they wrong.
- MBE Reason for the mistake- After answering questions, see what you got wrong but do not read the answer explanation. Figure out why your choice was wrong and others are correct. Use explanation to confirm.

Conclusion

Preparing for the bar exam is like learning to ride a bicycle. Bar prep material is the bike itself. To ride a bike you must be able to steer, balance, and pedal. To pass the bar exam you must develop practical, emotional/mental, and intellectual factors. When we learn to ride a bike we do not try to learn all three simultaneously, we use training wheels and incorporate the balancing skill after we have learned to steer and pedal, or we use a balance bicycle and incorporate pedals after we learn to steer and balance. Working harder at one does not improve the ability to do the others. The same is true for working with repeat bar takers. The practical, emotional/mental, and intellectual factors work together but they also have to be individually addressed. It is hard work but the reward makes it worth doing.

¹ Also known as the Stockdale Paradox, “you must maintain unwavering faith that you can and will prevail in the end, regardless of the difficulties, and at the same time, have the discipline to confront the most brutal of facts of your current reality, whatever they might be.” See Jim Collins, *Stockdale Concept*, <https://www.jimcollins.com/concepts/Stockdale-Concept.html> (last visited April 5, 2022).

² PETER C. BROWN, HENRY L. ROEDIGER III, & MARK A. McDANIEL, *MAKE IT STICK: THE SCIENCE OF SUCCESSFUL LEARNING*, 15-16, 43 (2014).

Drawing Upon Choice Architecture to Improve Students' Study Practices

Jeff Minneti

Director of the Academic Resource Center and Associate Professor of Law

Seattle University School of Law

The importance of engaging in interleaved, formative assessments to understand and retain new material is well established.¹ Academic support and bar preparation professionals know it (and preach it), doctrinal faculty know it, and students know it. When talking with students who are academically struggling, I regularly ask about the extent to which students are engaging in formative assessments. Nearly every student responds with something similar to "I know I should, but I don't." The students seem to make decisions and act in ways that are inconsistent with their own values and interests. I've seen similar behaviors in my studies of consumers' decisions around environmentally responsible practices, and I've written in the past about how behavioral economics offers explanations for consumers' suboptimal decisions and actions and solutions for dealing with them. My work in the environmental regulations sphere got me thinking about whether some of the same principles might apply to law students' decisions and actions around preparing for class and exams. Preliminary research revealed that our colleagues in K-12 and undergraduate education are a bit ahead of those of us in legal education. Those educators have applied behavioral economic principles—specifically choice architecture interventions—to a range of student behaviors, from the completion of financial aid paperwork to enrollment in college and class attendance and retention in school.²

Building on their work, I set out to explore whether behavioral economics offered any solutions to help law students make decisions and engage in actions that are in their own best interests. I'm in the midst of responding to a set of four questions: (1) What do I want students to do?; (2) Why aren't they doing it on their own?; (3) Which intervention, if any, will best help students exhibit the desired behavior?; and (4) Who will be the source of the intervention?³

What do I want students to do?

Responding to the first question was easy—as noted above, there is wide and well-established support for the practice of engaging in interleaved practice questions to assimilate new material. In the context of law school and particularly academic support and bar preparation, essay and multiple-choice questions are especially important.

Why aren't they doing it on their own?

Responding to the second question was not as easy. Rather than rely on anecdote, I generated a survey that asked students about the value they place on engaging in practice questions, whether they complete as many practice questions during the semester as they plan to at the start, and if not, what obstacles keep them from doing so.⁴ I also asked about whether students obtained feedback on their responses and whether they found the feedback helpful. I administered the survey to 2L students during the middle of their fall semester. My thinking was that this group of students had

"The students seem to make decisions and act in ways that are inconsistent with their own values and interests."

likely well-established study habits around practice questions. 213 students were invited to respond to the survey, 64 did so, and of those, 55 fully completed the survey. In a separate piece, I will summarize the students' survey responses. For the purposes of this article, I note that students recognized the importance of engaging in practice questions, and students generally acknowledged that they did not complete as many questions during the semester as they planned to at the start of the semester. Students' reasons for not doing so clustered in two areas: a sense of cognitive dissonance and making decisions about study practices that spring from ineffective, if not errant mindsets.

Cognitive dissonance arises when individuals sense a conflict between two competing values or interests.⁵ Law students often experience cognitive dissonance when they make decisions about whether to spend study time reading and briefing for class or preparing for exams by engaging in essay and multiple-choice questions. Each is of great interest and value to the students, but often the immediacy and urgency of preparing for class draws students into spending their best study time, if not all their study time, reading and briefing for class. Students generally recognize that doing so may adversely impact their exam performance, giving rise to the conflict in interests and values, but they resolve the conflict by telling themselves that they will be able to prepare for exams tomorrow, or the next day, or the next week, or the next month. And so they focus their time and attention on preparing for class and do not invest the time they should during the semester preparing for exams.

"Law students often experience cognitive dissonance when they make decisions about whether to spend study time reading and briefing for class or preparing for exams by engaging in essay and multiple-choice questions."

Mindsets significantly impact student behavior and choices. Two have a particularly strong impact on law students' choices: fixed mindset and imposter syndrome or lack of a sense of belonging. Students operating with a fixed mindset avoid engaging in practice essay and multiple-choice questions for several reasons, including a belief that their performance on the questions will indicate whether they have the innate capacity to learn the material or that engaging with the questions is a waste of time because they are not proficient with the question format and will never be proficient with the format. Students making choices from an imposter syndrome or lack of a sense of belonging mindset avoid engaging in practice questions because they believe that their performance on the questions will confirm their belief that they are outsiders who do not belong in law school.

Which intervention, if any, will best help students exhibit the desired behavior?

Having identified what I want students to do and isolated why students are not doing it, my attention next turned to the third question—which intervention is best? Behavioral economics interventions involve choice architecture interventions—interventions that shape the decision landscape that students operate in and students' decision-making competencies. Two such interventions are nudges and boosts.

Nudges target specific behaviors, such as responding to practice essay and multiple-choice questions to prepare for exams, and nudges steer individuals toward those behaviors.⁶ Rather than expose students' cognitive biases or weaknesses, nudges reverse or leverage them so that students, perhaps unwittingly, find themselves choosing to engage in the behaviors.⁷ Nudges can be classified as educative and non-educative.⁸ People tend to prefer educative nudges because the nudges "increase people's capacity to exercise their own agency."⁹

Educative nudges can provide decision information and/or decision assistance.¹⁰ Decision information nudges include making the information associated with the decision

more accessible or providing social reference points for the decision.¹¹ Examples include labels, warnings, and testimonials. In the context of practice question engagement, such nudges include (1) providing clarity on the kinds of questions that will appear on graded assessments and linking the graded questions to sources of practice questions or (2) sharing sample study calendars that reflect time spent reading and briefing for class and time spent engaging in practice questions. Decision assistance focuses on students' self-regulation failures and includes reminders, commitment support, goal-setting, and accountability.¹² In the context of practice question engagement, such assistance could come in the form of reminders from professors about the importance of engaging in practice questions, asking students to set particular goals for the completion of practice questions, holding students accountable for their goals through behavioral contracts, and seeking class-wide commitment to regularly engage in the questions.

Non-educative nudges impact the structure of decisions by adjusting the options available to students and/or the range or composition of the options.¹³ The clearest example of such nudges is a default-based choice architecture.¹⁴ In such a scheme, all students engage in a particular behavior, unless they affirmatively select not to. Defaults leverage the human tendency to prefer the status quo.¹⁵ In the context of practice-question engagement a default intervention would require students to regularly complete sets of practice questions, unless they prefer to submit their briefs/notes from their class reading prior to class. Non-educative nudges might also limit the options available to students, for example by requiring students to select and respond to a set of practice questions from a list of possible questions.

Nudges have been criticized as "local" and "short-term" fixes to choice architecture.¹⁶ They tend to be local because the interventions have a very close relationship to students' decision landscape. They may be short-termed because once the nudge is removed, students may not continue to exhibit the desired behavior. Other critics note that nudges assume students' decision-making skills are fixed or, at a minimum, too costly to change, and nudges may not allow students to learn from their mistakes.¹⁷ Others are concerned that nudges are rooted in a paternalistic assumption that the educators know best what students need to do to experience academic success.

Nudges have been used and studied at all levels, with most empirical work happening at the undergraduate level. Results have been mixed. The most effective nudges are those that impact yes/no single point in time decisions, such as whether to complete a FAFSA form, seek financial aid, or apply to a particular type of school.¹⁸ In the context of academic support interventions, nudges, including reminders, online academic coaching, online coaching with intensive follow-up communications via text, and in-person regular meetings with coaches, have not significantly impacted students' academic performance, though they have favorably impacted students' sense of subjective well-being and the extent to which students believe the university cares for the student.¹⁹

In response to the critique of nudges, some scholars argue that boosts may be a more effective intervention.²⁰ Boosts target students' decision-making competencies and empower students by equipping them with the knowledge and skills they need to make more desirable decisions. Nudges, in contrast, steer students toward desired behaviors.²¹

"Boosts target students' decision-making competencies and empower students by equipping them with the knowledge and skills they need to make more desirable decisions."

Boosts are classified as short-term or long-term.²² Short-term boosts develop competencies that are limited to a particular context.²³ For example, a professor might offer students insight into best practices for learning a particular topic and why those practices are important. Short-term boosts overlap with educative nudges because both provide information designed to impact choice. Long-term boosts, theoretically, permanently change students' decision-making because they add a new decision-making competence or enhance an existing one.²⁴ Long-term boost examples include (1) teaching students about the science of brain health and the importance of taking "brain breaks" while studying and (2) the importance of engaging in mindfulness practices, especially as high-stakes exams approach. Boosts are a relatively new choice architecture tool. They have not been well-studied in education.

Who will be the source of the intervention?

For this phase of the project, I am working with two 1L property professors. Several weeks ago, I administered a survey designed to capture a baseline level of practice question engagement in both property sections. In consultation with the faculty, we have identified 2 nudges and 2 boosts that we plan to use in one of the professor's classes. At the end of the semester, I will administer the survey again, and perhaps find that the students in the section where the interventions occurred engaged in as many (or more) practice questions as they'd planned to at the start of the semester. The nudges include: (1) the professor will eliminate reading pages/topic coverage from the syllabus and instead require students to spend the time they would have spent reading for class engaging with practice questions, telling the students that he has done so because he believes that the students should prioritize practice question engagement; and (2) as the practice question assignments draw near, the professor will remind students to complete the questions and emphasize their importance to the students' learning. The boosts will be two brief video presentations. One video will explain the impact of a growth mindset on studying and the importance of cultivating and maintaining a sense of belonging. The other will include testimonials of upper-level students explaining, from a growth-mindset perspective, why they engaged in practice questions, how they modified their study practices to regularly include practice questions, and how doing so (regardless of how they performed on the questions) helped them feel less like imposters and more like they belonged in the law school classroom.

Stay tuned for the results of my project. In the meantime, consider drawing up a choice architecture project of your own and share it with me; I'd love to hear about it.

¹ Jennifer M. Cooper & Regan A.R. Gurung, *Smarter Law Study Habits: An Empirical Analysis of Law Learning Strategies and Relationship with Law GPA*, 62 ST. LOUIS U. L. J. 361, 388 (2018); Louis N. Schulze, Jr., *Using Science to Build Better Learners: One School's Successful Efforts to Raise its Bar Passage Rates in an Era of Decline*, 68 J. LEGAL EDUC. 230, 232-33 (2019).

² See, e.g., Philip Oreopoulos, *Promises and Limitations of Nudging in Education*, IZA INST. OF LAB. ECON. DISCUSSION PAPER SERIES NUMBER 13718 (Sep. 2020) (curating and summarizing recent studies).

³ Saugato Datta & Sendhil Mullainathan, *Behavioral Design: A New Approach to Development Policy*, CGD POL'Y PAPER 016, Washington D.C. Ctr. for Global Dev. (2012); Robert Muncher, Max Vetter, & Thomas Scheuerle, *A Review and Taxonomy of Choice*

Architecture Techniques, 29 J. BEHAV. DEC. MAKING, 511, 512-13 (2016).

⁴ Survey on file with the author. Feel free to request a copy, if you wish.

⁵ Pauline H. Tesler, *Goodbye Homo Economicus: Cognitive Dissonance, Brain Science, and Highly Effective Practice*, 38 HOFSTRA L. REV. 635, 639 (2009).

⁶ Ralph Hertwig & Till Grune-Yanoff, *Nudging and Boosting: Steering or Empowering Good Decisions*, 12(6) PERSP. ON PSYCHOL. SCI. 973, 973 (2017).

⁷ *Id.* at 977.

⁸ *Id.* at 976.

⁹ Cass R. Sunstein, *People Prefer System 2 Nudges (Kind of)*, 66 DUKE L. J. 121, 129 (2016) (defining educative nudges and linking them to system 2 thinking).

¹⁰ Hertwig & Grune-Yanoff, *supra* note 7, at 977; Muncher, Vetter, & Scheuerle, *supra* n. 4, at 514-15.

¹¹ Muncher, Vetter, & Scheuerle, *supra* note 4, at 514-15.

¹² Hertwig & Grune-Yanoff, *supra* note 7, at 977; Muncher, Vetter, & Scheuerle, *supra* note 4, at 519.

¹³ Hertwig & Grune-Yanoff, *supra* note 7, at 977.

¹⁴ *Id.*; Muncher, Vetter, & Scheuerle, *supra* note 4, at 516.

¹⁵ Muncher, Vetter, & Scheuerle, *supra* note 4, at 516.

¹⁶ Peter H. Huang, *Boost: Improving Mindfulness, Thinking, and Diversity*, 10 WM. & MARY BUS. L. REV. 139, 150-51 (2018).

¹⁷ *Id.* at 155-56.

¹⁸ Oreopoulos, *supra* note 3, at 3-4.

¹⁹ Philip Oreopoulos & Uros Petronijevic, *The Remarkable Unresponsiveness of College Students to Nudging and What we Can Learn From It*, NAT'L BUREAU OF ECON. RES. WORKING PAPER 26059 at 5-6 (2019).

²⁰ Huang, *supra* note 17, at 143; Hertwig & Grune-Yanoff, *supra* note 7, at 974.

²¹ Huang, *supra* note 17, at 164.

²² Hertwig & Grune-Yanoff, *supra* note 7, at 977.

²³ *Id.*

²⁴ *Id.*

More Than Belonging: Tying Diverse Identities to Law School Success

Laura Riley

Associate Professor of Lawyering Skills

University of Southern California Gould School of Law

Nickey Woods

Assistant Dean Diversity, Equity and Inclusion

University of Southern California Gould School of Law

It is no secret that certain racial, socioeconomic, and other groups were historically excluded from elite spaces, including law schools, and still continue to be underrepresented in them. Now that law schools are trying to change the makeup of their student populations, it is important to not just take steps to include students of color, those with disabilities, and others, but also to ensure that diversity of experiences and identities are not just “differences” even if they’re celebrated. One way to accomplish this is by creating new ways to acknowledge success in law school. Doing this completely would entail radical shifts to the law school curriculum, grading structure, and hiring processes, subjects that some academic success and diversity, equity, and inclusion (DEI) scholars write more extensively about. In this article, we propose what could be an initial step in re-envisioning the law school experience that would benefit students as they enter law school—tying diverse identities to law school success via collaborative ASP and DEI programming.

“Law students begin law school with high life satisfaction and strong mental health measures, but within the first year of law school, they experience a significant increase in anxiety and depression.”

ASP and DEI Partnership

In the Summer/Fall 2021 Edition of *The Learning Curve*, Belinda Dantley and Petina Benigno shared the history of academic support programs in law schools and encouraged a return to focusing on the needs of students the programs were initially created to assist.¹ We agree with this argument and suggest that ASP do so in a holistic way by partnering with DEI offices and utilizing research-based educational approaches. This article’s learning objectives are to demonstrate how to: (1) apply ASP and DEI teaching strategies to increase law students’ sense of belonging; and (2) construct spaces and engagement opportunities for students to tie their diverse identities to law school success. The goals behind these objectives are centered on student outcomes, specifically to: (1) increase students’ sense of belonging and psychological safety in law school; and (2) have them connect their backgrounds and experiences with characteristics of law school success.

The Reality of the Law School Experience for Marginalized Students

Law students begin law school with high life satisfaction and strong mental health measures, but within the first year of law school, they experience a significant increase in anxiety and depression.² Research suggests that law students are among the most dissatisfied, demoralized, and depressed of any graduate student population.

For marginalized students, stress related to the rigors of law school is exacerbated by negative perceptions related to their intellectual capabilities and ability to succeed in law school. Contending with the notion that marginalized students' presence in law school is the result of their race rather than academic merit, scholars have long described the law school classroom as a "hostile education environment" for marginalized students.³ Underrepresented students are also less likely to participate in class and must contend with cultural stereotypes that influence both student and instructor perceptions.

Student Belonging and Psychological Safety in Law School

To foster a student's sense of self-efficacy and academic engagement, educational environments should promote two things: (1) a sense of belonging, and (2) psychological safety.⁴ Rooted in Maslow's hierarchy of needs, a sense of belonging supports feelings of security, identity, and community. Psychological safety encourages students to take risks in the classroom and reaffirms the idea that their identity, perspectives, and contributions to classroom discussions are valuable.

Both a sense of belonging and psychological safety are elusive when marginalized students must navigate racial bias, stereotype threat, and imposter syndrome. When a sense of belonging and psychological safety are absent from the educational experience, students invoke defense mechanisms that monopolize their cognitive energy. This results in diminished academic performance, leading to withdrawal or dismissal from law school. This only serves to perpetuate systemic issues of inequity and a racial imbalance in the legal profession. Thus, for marginalized students, tending to issues of belonging and safety are critical to their academic success and persistence in law school.

The Importance of Creating Spaces for Students to Explore Their Identities

Embarking on a rigorous academic journey in an educational environment that can exacerbate stress for marginalized students requires counterbalancing ideas, messaging, and of course, realities. First, there must be an authentic communication of what characteristics help students perform well academically in law school. Second, there must be a space where faculty and administrators help students interpret how the characteristics they already possess are precisely those that will help them academically in law school and beyond as they enter into practice.

"Both a sense of belonging and psychological safety are elusive when marginalized students must navigate racial bias, stereotype threat, and imposter syndrome."

How to Create Safe Spaces

Because law school students are perceived to be high achievers, driven, and competitive, there is typically not much thought given to creating safe spaces for them – spaces where belonging and safety are prioritized. Spaces are safe when they prioritize belonging, respect, growing self-esteem, establish a sense of connection, and promote self-actualization. Because all of these pursuits, particularly self-actualization, are active ones, they are not always comfortable—but the spaces that facilitate this growth should be safe.

Safe spaces could be informal or organized by various groups outside of ASP or DEI offices in law schools (possibly starting with admissions, career services, social events in partnership with student groups). Here we discuss some more formalized workshop structures that ASP and DEI professionals can partner together on, or academic support faculty can facilitate using their own expertise with input from literature that links

academic support and DEI.⁵

In the past, at the University of Southern California Gould School of Law, we held two separate sessions on Community Building (Nickey Woods) and Reflections (Laura Riley) as part of a pre-orientation program geared towards students who identified as needing transitional support into law school, many of whom were first generation law students. After this experience, we created an additional workshop that we plan to implement in Fall 2022. The workshop will follow a safe space format that combines individual writing, pair sharing, mapping and facilitated reflection, and group dialogue, as explored below.

Tying Identities to Law School Success Workshop: 3 Activities⁶

Activity 1: Focus on Growth Mindset

- i. Quick Write: Provide students with the following prompt and give them 3-5 minutes to reflect and write.
Visualize yourself in an undergraduate class or past work position. Bring to mind one project that you did really well or an initiative you spearheaded or participated in that made you proud. Write down three personal characteristics that helped you perform well.
- ii. Pair/Share: Put students in groups of two (no more, to ensure each person shares) and ask them to share their successes and characteristics behind them.
- iii. Moderated Group Dialogue: In advance, prepare a list of characteristics that you believe are vital for law school success. Then, ask groups to share either their or their partner's characteristics. Write those on the board. Map the prepared list to the ones the students share, while reinforcing that their current strengths match the ones necessary for success in law school—you'll see, they do!

Activity 2: Focus on Resilience

- i. Quick Write: Provide students with the following prompt and give them 3-5 minutes to reflect and write.
What words or phrases express your thoughts and feelings about starting law school? This could be modified to feelings about their performance in the first semester or year of law school depending on when the workshop is being held.
- ii. Pair/Share.
- iii. Moderated Group Dialogue: Emphasize the importance of dedicating time to personal and professional reflection during law school. Teach students that reflection⁷—thinking critically about why we are doing something and the way in which we are doing it—is key to the legal practice and suggest that this is important in both our legal assignments and our personal approaches to law school. Suggest a few forms of reflection, whether it is once a week to check in via journaling for 10 minutes, going for a walk, checking in with a study partner on how life is going outside law school, or any other forms your students find helpful. You can also emphasize resilience and how key it is to restarting mentally when facing the challenges of law school.

Activity 3: Focus on Belonging and Community

- i. Quick Write: Provide students with the following prompt and give them 3-5 minutes to reflect and write.

What steps could you take during the first month of the semester to increase your sense of belonging in the law school community? How might you help others feel more connected to the law school community?

- ii. Pair/Share.
- iii. Moderated Group Dialogue: Bring out the themes of individual belonging and the role each person has in the “4 C’s”: care, concern, and connection in community.

This pre-orientation workshop structure is certainly not the only way to help demonstrate (and help students discover for themselves) how aspects of identities relate and tie to characteristics necessary for success in law school. You could center an entire workshop around one of these activities, add one to an existing workshop, or spread them throughout a semester.⁸

Permission to Experiment/Conclusion

As instructors and shapers of the law school experience give students permission and tools (growth mindset, reflection, ways to connect with community) to do the same, they help shape students’ law school experiences by encouraging them to utilize those abilities and tools to navigate issues they may encounter—particularly in the first year. Utilizing ASP and DEI strategies to increase law students’ sense of belonging and psychological safety and constructing spaces that foster engagement opportunities ensures that we are maximizing students’ sense of belonging and psychological safety in law school, thereby ensuring that students can connect their diverse backgrounds and experiences with characteristics of law school success.

¹ See Belinda Dantley & Petina Benigno, *Expansion and Collaboration: A Multi-Office Approach to Supporting First Generation Law Students*, THE LEARNING CURVE 21 (Summer/Fall 2021).

² See Bree Buchanan & James C. Coyle, NATIONAL TASK FORCE ON LAWYER WELL-BEING: CREATING A MOVEMENT TO IMPROVE WELL-BEING IN THE LEGAL PROFESSION (2017), available at <https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf>.

³ See Leslie P. Culver, *White Doors, Black Footsteps: Leveraging White Privilege to Benefit Law Students of Color*, 21 J. GENDER RACE & JUST. 37 (2017).

⁴ Erin Cristina Dallinger-Lain, *Racialized Interactions in the Law School Classroom: Pedagogical Approaches to Creating a Safe Learning Environment*, 67 J. OF LEGAL EDUC. 780 (2017).

⁵ Moin Syed, Margarita Azmitia, & Catherine R. Cooper, *Identity and Academic Success Among Underrepresented Ethnic Minorities: An Interdisciplinary Review and Integration*, 6 (3) J. OF SOC. ISSUES 442-68 (2011) available at <https://bridgingworlds.ucsc.edu/docs-pdfs/Syed,%20Azmitia,%20and%20Cooper%202011.pdf>.

⁶ Professor Russell McClain’s THE GUIDE TO BELONGING IN LAW SCHOOL is a helpful reference for themes on all three of these activities. See RUSSELL A. McCCLAIN, THE GUIDE TO BELONGING IN LAW SCHOOL (2020).

⁷ Articles on teaching and assessing reflection include Timothy Casey, *Reflective Practice in Legal Education: The Stages of Reflection*, 20 CLINICAL L. REV. 317 (2014); Jodi S. Balsam, Susan L. Brooks, & Margaret Reuter, *Assessing Law Students as Reflective Practitioners*, 62 N.Y.L. SCH. L. REV. 49 (2017-2018).

⁸ If you experiment with other models or timing we would love to hear about them and can pass along to others who contact us, if you give permission (lriley@law.usc.edu; nwoods@law.usc.edu).

Crisis Inspires Innovation

Haley A. Meade

Interim Senior Director of Academic Skills and Director of the Skills Center

City University of New York School of Law

Yolonda Sewell

Interim Executive Director of Bar Support and Licensing Programs

City University of New York School of Law

Quarantined and thrust into remote teaching, the pandemic and the nationwide racial unrest spurred an empathy for students' humanity, which propelled law professors to rethink the way they teach. This forced reimaging culminated in ideas and techniques that mostly centered around fostering inclusion and community. But the need for inclusion in law school is not new. Law schools have never been a place known for their inclusivity,¹ and this is a cause for concern because research shows that a sense of belonging, or lack thereof, impacts academic success and well-being.² While it is unfortunate that it took a global health pandemic and a racial revolution to shine a spotlight on the great disparities that exist in our country and our schools, it has also provided us with a tremendous opportunity to make some vital and long overdue changes.

As we prepare to enter a post-COVID world, it might be tempting to get back to "normal," but, before we do, it is imperative that we consider a "new normal" that centers on inclusivity and a sense of belonging in law schools. We implore law schools to employ curb-cut thinking. The curb-cut effect is a concept rooted in years of disability activism. Cuts were initially installed in curbs in an effort to be more inclusive of wheelchair users, but this change benefited society at large -- travelers with wheeled luggage, bike riders, and those learning to walk to name a few. Angela Glover Blackwell explains it this way:

[t]here's an ingrained societal suspicion that intentionally supporting one group hurts another. That equity is a zero sum game. In fact, when the nation targets support where it is needed most—when we create the circumstances that allow those who have been left behind to participate and contribute fully—everyone wins. The corollary is also true: When we ignore the challenges faced by the most vulnerable among us, those challenges, magnified many times over, become a drag on economic growth, prosperity, and national well-being.³

Here are some basic changes to traditional law school teaching that professors (hopefully) made during the pandemic that must be permanently ingrained into our academic culture if we want to continue to promote a more equitable and inclusive law school experience for students.

Build community.

One of the simplest ways to build community with your students is to open up a little; to humanize yourself. Nowadays, Haley includes a candid picture of her and her family at the Women's March in 2017. Sure, it's a little outdated, but it gives students a window into her life, her family, and what's important to her. Likewise, Yolonda includes a vid-

"Law schools have never been a place known for their inclusivity, and this is a cause for concern because research shows that a sense of belonging, or lack thereof, impacts academic success and well-being."

eo entitled “Introducing Professor Sewell.” The video provides a snippet of who she is: her background, interests, and values. Rather than perpetuating the idiomatic expression “sage on the stage,” these images highlight that beyond the tough exterior and underneath the fancy garb is a person -- a human.

It is equally important to learn your students’ names and how to pronounce them correctly. It is said that a person’s favorite sound is the sound of their own name.⁴ If you have trouble remembering names, have students use name tents. If you have trouble with pronunciation, ask students to submit an audio clip before the semester begins.⁵

Another way to foster inclusivity is to start strong and maintain course. Start strong with your syllabus. The course syllabus is likely the first interaction you have with your students. Lay a solid foundation by paying particular attention to the language and tone used in your syllabus. Including a statement of diversity, inclusion, and belonging in your syllabus is one the most obvious additions you can make. Consider adding discussion ground rules to democratize the classroom environment. Share your pronouns and ask students to do the same if they are comfortable doing so.

Once the semester is up and running, maintain course by continuing inclusive practices. Though our noble profession demands professionalism, bypass the archaic policy of calling students by their last names to avoid the gender binary prefixes of “missus” and “mister.” Instead, try using “counselor.” It works to dismantle imposter syndrome and stereotype threat while reinforcing a belief in our students.

“Adding structure to the learning environment can reduce inequities, create inclusion, and improve student success.”

Last, use an icebreaker to help students get to know one another. Haley’s current favorite is the “ricebreaker exercise.”⁶ You simply put students into small groups and ask, “How does your family/culture cook rice?” The answers often vary greatly because rice is a universal ingredient. This exercise helps to model that students’ answers to questions will be different depending on the background they enter law school with, which helps illuminate the notion that background can influence perspectives. It illustrates that the same topic can have different meanings to different people. It can serve as a fairly benign, yet important, reminder that the way we engage with differences matters.

Yolonda’s favorite is “A Little About Me.” Students are instructed to write three things about themselves. Without exposing student identities, commonalities are revealed. Inevitably, in completing the exercise there are expressions of isolation and fear. Being the first or the only is historic and exciting while simultaneously paralytic. This endeavor is uncharted territory. There are no footprints in the sand. It is natural to proceed with some fear or trepidation. But this icebreaker normalizes student feelings by showcasing that everyone is afraid of something. In acknowledging they are *not* alone, the apprehension subsides, and students realize that FEAR is merely false evidence appearing real.

Incorporate structure.

Adding structure to the learning environment can reduce inequities, create inclusion, and improve student success.⁷ Harkening back to curb-cut thinking, these steps are actions from which all students can benefit. Begin by sharpening the structure of your pedagogy, syllabus, assignments, and assessments. Set clear expectations so students know what to do before, during, and after class to be successful. Students need dependability around due dates. Students need to know how to do well in your class, so be transparent about the format of your assessments and how students will be graded. Rubrics and sample answers are a must.⁸

One of the most overlooked areas vis-à-vis structure is small-group discussions. In the *Updated Survey on Law Student Well Being*, students indicate a need for less competition and more collaboration.⁹ Small-group discussions are a great way to achieve this end. After all, we are training lawyers who collaborate by partnering or working in law firm sections. Provide added structure and organization to your breakouts rooms to maximize efficiency and effectiveness. Consider giving clear, written instructions that include a time limit and an assignment of roles. You may want to assign a task that makes the small groups accountable for their work, such as submitting a Google form with the names of group members and their answers.

Polls are another great tool for adding structure to the learning environment. Remember the gunner? The slightly less eager extrovert? Polls are multifaceted in encouraging engagement, fostering self-regulated learners, and affording professors the ability to be the guide on the side. This engagement facilitates learning in a low-stakes environment and brings diversity of thought and perspective to the forefront.

Be flexible.

During the pandemic, law schools and professors showed their ability to be flexible in countless ways—whether it was offering credit/no-credit rather than letter grades, relaxed attendance policies, or open-book exams. Because law schools exhibited the capacity to be flexible during what is being termed “zoom school,” students are now expecting the same flexibility as we make our return to pre-COVID policies. Certainly, not all pandemic-inspired policies should continue, but there are some that you may want to incorporate into your repertoire, namely, flexible deadlines and fewer high-stakes assessments.

We must change our collective vernacular from law students to lawyers-in-training. As legal educators, we are charged with equipping our scholars with essential skills for the practice of law. Our accrediting body committed to this effort by requiring experiential education for graduation. Could we not do the same by being flexible with our deadlines? It has been a long while for many of us, but in our practitioner era we used Rule 11 agreements to give counsel flexibility with a deadline. Greater still, many of us have sought extensions for syllabus, exam, or grade submissions. Could we not extend the same grace to our lawyers-in-training? Perhaps, we could institute a “due week” where assignments are due during a specified week rather than a particular day. In anticipation of the collective law professor gasp, breathe. Such policies exist across the educational spectrum and, contrary to our anecdotal thinking, most students do not wait until the last minute.¹⁰ By incorporating flexible deadlines, we leverage the power of flexibility on fostering an inclusive environment as well as achieve the added benefit of reducing stress and increasing productivity.¹¹ Our lawyers-in-training would benefit and be appreciative.¹²

Like flexible deadlines, low-stakes assessments are essential. The ABA issued guidance on the need for formative assessment. These assessments more accurately reflect the learning cycle and permit lawyers-in-training an opportunity to identify their strengths and evaluate areas that require additional growth before the conclusion of a semester. This is especially true when courses are progressive. The paramount concern with more low-stakes assessments is time, time to administer as well as time to grade and provide quality individualized feedback. Polls are one excellent way to alleviate the concern and achieve the goal. Much of the rigidity in legal education is born out of ritualistic hazing behavior. The pandemic has caused an extreme overhaul, and

“We must change our collective vernacular from law students to lawyers-in-training.”

the resulting curb-cut effect is that all involved benefit from the changes.

Now, the hope is that law school teaching and culture will be forever changed for the good. As the old adage goes, when you know better, you do better. The pandemic gave legal education a schoolyard-bully shove into the twenty-first century. Now we can and should do better. As we shed our proverbial mask, let us shed our old way of thinking, of teaching. The changes discussed here can have an immediate, positive impact. They are not herculean tasks, but a concerted effort is required. Be intentional. Let's right the wrongs of the past.

¹ According to the 2020 Law School Survey of Student Engagement (LSSSE) survey, 26% of Black women see their schools doing “very little” to create an environment that is supportive of different racial or ethnic identities, compared to just 5.5% of white men. M. E. Deo & C. Christensen, DIVERSITY AND INCLUSION (Indiana University Center for Postsecondary Research, Sep. 2020) 7.

² Victor D. Quintanilla, *Guest Post: A LSSSE Collaboration on the Role of Belonging in Law School Experience and Performance*, LSSSE UNDERSTANDING LEGAL EDUCATION BLOG (Jan. 25, 2019), <https://lssse.indiana.edu/blog/role-of-belonging-in-law-school-experience-and-performance/>.

³ Angela Glover Blackwell, *The Curb-Cut Effect*, STANFORD SOC. INNOVATION REV. (Winter 2017), https://ssir.org/articles/entry/the_curb_cut_effect#.

⁴ DALE CARNEGIE, HOW TO WIN FRIENDS AND INFLUENCE PEOPLE (Simon & Schuster ed. 2009).

⁵ See, e.g., NameCoach, <https://cloud.name-coach.com/>. See also *Integrating NameCoach with the Blackboard LMS*, <https://name-coach.zendesk.com/hc/en-us/articles/115010463368-Integrating-NameCoach-with-the-Blackboard-LMS>.

⁶ For a description of Dr. Ambry Spry’s “ricebreaker” see Evan Kleinman, host, *Using a “Ricebreaker” to Start a Conversation About Cultural Identity*, GOOD FOOD (KCRW, Dec. 31, 2021).

⁷ Beckie Supiano, *Traditional Teaching May Deepen Inequality. Can a Different Approach Fix It?*, THE CHRONICLE OF HIGHER EDUCATION (May 6, 2018), https://www.chronicle.com/article/traditional-teaching-may-deepen-inequality-can-a-different-approach-fix-it/?cid2=gen_login_refresh&cid=gen_sign_in.

⁸ Vijay Sathy & Kelly A. Hogan, *How to Make Your Teaching More Inclusive Advice Guide*, THE CHRONICLE OF HIGHER EDUCATION (July 22, 2019), <https://www.chronicle.com/article/how-to-make-your-teaching-more-inclusive/#4>.

⁹ KATHERINE M. BENDER, DAVID B. JAFFE, & JEROME M. ORGAN, UPDATED SURVEY ON LAW STUDENT WELL BEING.

¹⁰ Erik Ofgang, *Flexible Due Dates: How it Works in College & K12*, (Jan. 3, 2022), <https://www.techlearning.com/news/flexible-due-dates-how-it-works-in-college-and-k12>

¹¹ *Id.*

¹² See generally, BENDER, ET AL., *supra* note 9.

Leading Up: Academic Support and Power Dynamics

Elizabeth Z. Stillman

Associate Professor of Academic Support

Suffolk University Law School

As Academic Support folks¹ take on new roles in law school academia, there is still the issue of status in the hierarchy that makes us distinct. We are not tenured or usually even eligible to seek tenure. And yet, Academic Support folks tend to teach as much, if not more, than faculty members who have tenure. We also produce voluminous scholarship and are asked to engage in a great deal of service to our schools. According to the AALS website information about becoming a law teacher, academic support professionals are listed under clinical faculty, but explained this way:

Academic support faculty provide advice to students on how they can best succeed in law school. Academic support positions are not always faculty positions; they may be contract positions on the administrative staff. If they are faculty positions, academic support positions tend not to be on tenure-track and may not come with the same voting rights (or the same scholarship or teaching expectations) as those held by tenure-track faculty.²

This makes leading a committee as an academic support professional a strange exercise in managing up. For the past two years, I have been the chair of the Learning Outcomes Subcommittee. When I first joined this committee many years ago (as a last-minute substitute for another faculty member), it was a robust committee with about twelve members (eight of whom regularly showed up for meetings). The committee then had legal writing faculty, doctrinal tenure track and tenured faculty, clinical faculty, and me from academic support. We met almost weekly to make sure we crafted published learning outcomes in order to be compliant with ABA Standard 302.³ Once we succeeded in formulating these outcomes and pinpointing the assessment metrics that we would use to determine our success, we met less frequently to be sure we were collecting and analyzing the data we needed. This was all great—until they asked me to chair the committee.

Now, let me be clear, I have three children, a bunch of cats, and a dog, so I am used to telling folks what to do (and equally accustomed to being ignored at times), but this assignment left me panicked. Who was I, as an Academic Support person, to call a meeting and assign the people who attended tasks to do? I felt like an imposter (and, honestly like a stalker) when I pulled up everyone's Outlook calendar to find a meeting time. I tended to rush through the meetings because I was so nervous. In the meetings I chaired, I blew through the agenda, determined that everything was going well, declared my team the best ever (evah because we are Massachusetts), typed up the afternotes and then took a nice, long shower. Then I dreaded the next meeting I'd need to call. In short, I really wondered why would anyone entrust this job to me?

This year, instead of the usual charge of, "carry on and collect the data," we were asked to explore drafting and implementing a new Learning Outcome on Diversity, Equity, and Inclusion ("DEI"). My water bill has been pretty high. This charge, at least to me, is extremely important. I look at a published learning outcome as a contract we

"[Our status in the academy] makes leading a committee as an academic support professional a strange exercise in managing up."

enter into with our matriculated students. We are promising that our graduates will know certain things and will have attained certain skills. Our accreditation in the future might depend on whether we have followed through on our promises. I needed to move past my somewhat paralyzing imposter syndrome and get this done. We needed to draft a potential outcome for a faculty vote and determine a method for assessing⁴ whether we had succeeded in teaching it. I believe that this outcome needs to be meaningful, and not just performative, aspirational, or symbolic.

My committee is now made up of seven of us: three people with decanal titles, one amazing clinical/data superhuman, two tenured professors (one who had previously chaired this committee), and me: your friendly neighborhood ASP person. My past method of drive-through leadership wasn't going to work on a task of this magnitude. So, I did what academics do: I decided to be a student.⁵ I applied to our university's Leadership Institute and upon my joyful acceptance, I have learned a lot about how to get this important work done even if I am the member of my team with the lowest status.

Here is what I learned: my leadership style was as an innovator and relator,⁶ but my team was not made up of people just like me (nor should it be, honestly). My team was made up of people who wanted their time to be used wisely, people who wanted to have something to bring to the faculty and see if we are moving in the right direction before perfecting all the details, and people who were skeptical about making change just for the sake of change. I learned that I needed to lead by telling my team, and then the entire faculty, why we were doing this (not just because we were told to), and why any changes needed were both manageable and worthwhile.⁷ After that, we needed to tell everyone how we were attempting to get there.

Armed with this newfound insight, I put words on paper. I circulated the drafts and asked for feedback within a certain timeframe. We came up with an idea of how to assess a DEI learning outcome that did not involve creating a new required class but rather a required two courses from a menu of classes that organically address and engage with DEI subjects.⁸ Then we put ourselves on the agenda for the next "deep dive meeting."⁹

Now, the happiest ending here would be that I ran this meeting without breaking a sweat, everyone loved everything we did, there was a Ferris Bueller type parade when we finished, and I was granted immediate retroactive tenure (with a sabbatical) for this amazing bit of work. While this is not what happened, there was an overall positive response to the idea of adding the outcome and a healthy conversation about the assessment method. I did sweat and, frankly, ramble a bit. I still need to call a meeting to debrief and reformulate some of our ideas based on the deep dive, but I am not actually dreading it. I truly think we will be able to discharge the responsibility we were given by the end of the academic year.

Leading up from the position of Academic Support has been (and still is and will continue to be) challenging. Asking Academic Support folks to work on important initiatives like this is a double-edged sword. On one side, it is amazing that I was given the opportunity to engage in this relevant leadership. However, on the other side, needing to stand on a status step stool to be heard can be degrading.¹⁰

My fervent hope is that someday, someone will scroll through our website, see our Learning Outcome and assessment structure, and say, "of course this happened because of Academic Support."

"Asking Academic Support folks to work on important initiatives ... is a double-edged sword.

On one side, it is amazing that I was given the opportunity to engage in this relevant leadership. However, on the other side, needing to stand on a status step stool to be heard can be degrading."

¹ I use folks here to be the most inclusive. Some of us are faculty, some of us are administrators, some have short-er contracts, and some of us are essentially adjuncts.

² AALS, *Becoming a Law Teacher*, <https://teach.aals.org/> (last visited Apr. 7, 2022).

³ABA Standard 302,

https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2021-2022/2021-2022-aba-standards-and-rules-of-procedure-chapter-3.pdf (last visited Apr. 7, 2022).

⁴ All Learning Outcomes require assessment pursuant to ABA Standard 315. *Id.*

⁵ Being a student while being a teacher is refreshing and gives you some necessary perspective in working with your classes.

⁶ Meaning that I was concerned about consensus within my team and good at presenting ideas, but not necessarily as skilled in making plans beyond the idea phase. This comes from the “5 Paths to Leadership” assessment available at <https://www.academicimpressions.com/product/5-paths-leadership-assessment/> (last visited April 7, 2022).

⁷ Simon Sinek, *How Great Leaders Inspire Action*, available at https://www.ted.com/talks/simon_sinek_how_great_leaders_inspire_action?language=en (last visited Apr. 7, 2022).

⁸ This was not my idea, but it was love at first sight for me.

⁹ These are what we call meetings on the in-between weeks when there isn’t a full faculty meeting.

¹⁰ Just to be clear, my team is really the best team ever and has not engaged in any power dynamic shenanigans. The call about feeling inadequate to the challenge was mainly coming from inside the house.

Defying Middle Child Syndrome: A Proposal for Achieving Bar Success by Reimagining the 2L Experience

Eurilynne A. Williams

Interim Director and Instructor of Academic Success and Bar Preparation

FAMU College of Law

Middle child syndrome is the belief that middle children are excluded, ignored, or even outright neglected because of their birth order.¹ Traditional American law schools, just like many families, are comprised of several “children,” or more accurately stated, groupings of children consisting of 1L, 2L, and 3L students. The unspoken (or at least not very often spoken) truth about law schools is that the proverbial middle children, the 2Ls, have to a degree been excluded, ignored, or even outright neglected by the legal academy. While there is a body of research dedicated to children’s personality traits based upon birth order,² this article speaks to the treatment law school 2Ls as middle children are subjected to, whether it be actual or merely perceived.

Let’s presume law professors and administrators are the equivalents of the parental units who provide instruction and guidance with expectations that their students (the children in this analogy) will absorb information, engage in the metacognitive process,³ and develop their own ideas about the law and aspirations toward rewarding legal careers. The students voluntarily, yet sometimes apprehensively, become members of the law school family, an institution of unknowns. They are subjected to unfamiliar curricula and teaching methodologies, surrounded by newfound academic siblings.

Consider the following descriptions of each “child’s” place in the law school family.

“The ... not very often spoken truth about law schools is that the proverbial middle children, the 2Ls, have ... been excluded, ignored, or even outright neglected by the legal academy.”

1L Experience: The parental units are undoubtedly excited to receive each new class of 1Ls, spending countless hours feverishly preparing for their arrival. Some law schools offer pre-orientation programming designed to build a foundation of critical skills. It’s the equivalent of the baby shower, where a child receives gifts before claiming their place in the family.

Next comes the official 1L orientation program filled with sessions covering numerous topics, including course registration, financial aid, library/research tools, tutorials, student affairs matters, professionalism, mock classes, peer mentoring, and programming intended to demystify the law school learning experience. In the jurisdiction where I teach, the Board of Bar Examiners sends live (yes, live!) representatives to campus to explain the bar application process and encourage 1Ls to take advantage of a discounted application fee by applying early. It’s personalized service at its best!

Orientation is generally followed by a one or two-semester ASP course that complements substantive law courses and a mandatory, year-long Legal Research and Writing course. Student organizations are ever-present throughout the first year, seeking out new members from the incoming class, while commercial bar vendors are actively establishing connections with the new cohort by visiting classes, tabling, and offering free study aids.

This description of the 1L experience is certainly not intended to be exhaustive. I liken it, however, to the two separate baby showers hosted by family, friends, and coworkers to celebrate the arrival of my first child. There were far more gifts than I needed at the

time, some of which I didn't even know how to use. Suffice it to say, the deluge of information imparted to 1Ls is utterly overwhelming for most, but the "parents" see it as a necessary showering of the newcomers with transitional resources and support networks.

For an adequate contrast, let's skip the 2L experience and next reflect on the 3Ls.

3L (and beyond) Experience: At this stage, the parental units are concerned about their children on the verge of leaving the nest. It's time to pull out all the stops! Many American law schools boast a third-year bar course as a precursor to the official bar preparation season. Some offer two separate courses, one that emphasizes the state-specific components of the exam and one that highlights the MBE.

Besides these specialized course offerings, the Board of Bar Examiners again appears either live or remotely to explain the bar application process and encourage 3Ls who have not already completed their bar applications to do so before graduation. There are numerous workshops and presentations centered around bar preparation and bar passage. The registrar provides instruction on securing final transcripts and the dean's certification. Financial aid advising is amplified to ensure students have access to the funds needed for post-graduation studies. Administration invests in supplemental commercial bar preparation resources that are delivered to 3Ls at no expense to the students.

The 3L parental attention extends into the post-graduation bar prep season, with bar prep coaching and/or tutoring, health and wellness resources, substantive law workshops, etc. Law school library hours and rules for study room reservations are often adjusted to accommodate bar-preppers. The list goes on.

These descriptions are by no means criticisms of the enormous effort law schools pour into every graduating class. I am encouraged by this attentiveness to the success of our first- and third-year students and suggest that we extend it to 2Ls who may feel neglected and overlooked like middle child(ren).

Because we may overlook the 2L potential opportunities to impact ultimate bar passage, we must then examine what we typically provide to enhance the 2L learning journey.

2L Experience: When it comes to 2Ls, from what I've observed, the parental units pay far less attention to the middle children. Maybe the law school offers a third semester of Legal Research and Writing, or not. Perhaps there's an upper-level skills course offered, but it's usually designated for students on academic probation. But what about the 2L who is not on probation and earned a D in a first-year required course and didn't have to retake it? The subject is still one for which the student must demonstrate minimum competency on the bar exam, relying primarily on a commercial bar company's coverage to fill the gap. This anemic 2L programming in the law school setting pales in comparison to the robust catalog of programming, services, and resources intentionally directed to 1Ls and 3Ls. From my perspective, the 2L experience is precisely where the middle child syndrome is exposed.

Catherine Salmon, Ph. D., a co-author of *The Secret Power of Middle Children*, opines that "[m]iddle-borns don't have the rights of the oldest or the privileges of the youngest."⁴ Dr. Salmon's words couldn't ring truer in the law school family dynamic. Generally, 2Ls don't have the same rights as 3Ls, nor do they benefit from equivalent privileg-

"This anemic 2L programming in the law school setting pales in comparison to the robust catalog of programming, services, and resources intentionally directed to 1Ls and 3Ls."

es as the 1Ls. The COVID-19 pandemic has only exacerbated the impact of middle child syndrome on the current cohort of 2Ls—the class of 2023. Across the country are scores of 2Ls who had their entire first year of law school delivered remotely. But that's an in-depth discussion to be reserved for a separate article.

For the remainder of this article, I'll share my reimagined version of the 2L experience through the lens of recent interactions with two 2Ls and one graduate. A lens through which I see opportunities (and missed opportunities) to employ Self-Determination Theory (SDT)⁵ and the potential for improved bar exam performance. According to SDT, learners have three basic psychological needs: autonomy, competence, and relatedness. Every learner needs these nutrients to actively and positively be involved in learning. These are innate needs, and their satisfaction is fundamental to fostering intrinsic motivation and internalized forms of extrinsic motivation (i.e., the process by which non-fun activities can still be valued and embraced by learners).⁶

Student #1: A 2L on academic probation stated, “1L year was tough. I didn't know what I was doing; online classes created laziness, and transitioning to being on campus for 2L year was a whole new ball game.” The student also succumbed to the challenges of limited course selection during the 2L year, which I will discuss in the proposal for Student #2 below. A detailed conversation revealed this student's innate abilities, high self-imposed academic standards, and the traits of a genuine servant leader. So, what went wrong? I'll acknowledge that the pandemic threw everyone a curveball. Pandemic aside, though, if a student doesn't know what they're doing in the first year of law school, there's little chance they will have a grip on things during the second year.

Proposal: Begin the 2L experience with a general re-orientation to law school and all available resources, similar to the 1L experience, albeit a scaled-back version. Add study skills workshops and time management coaching to right these 2L wrongs.

Addressing laziness requires more attention with SDT as the backdrop. This student's struggle with self-described laziness is reversible by tapping into the student's intrinsic and extrinsic motivators. SDT suggests that the need for autonomy refers to learners' need to be the initiator of their actions and to a sense of psychological freedom when engaging in a learning activity. The need for competence refers to learners' feelings of effectiveness and their need to experience confidence in achieving desired outcomes.⁷ With these motivational tools in mind, I propose increased use of formative assessments facilitated by all faculty who teach 2Ls as a great starting point. Self-guided or teaching assistant guided exercises that present opportunities for 2Ls to draft exam questions for study purposes, followed by quizzing their study partners, would aid in satisfying the autonomy and competence nutrients, resulting in a more self-motivated 2L experience. The cost is minimal, yet the benefits could be profound.

Student #2: A full-time 2L earned a fall semester GPA that resulted in academic alert status at the start of the spring term. Of the 30 credit hours allocated for the 2L year, the student dedicated less than half to required or bar-tested courses. The student's chosen electives were ones that “sounded interesting” and accommodated a preferred schedule of attending school only twice per week, despite having no other non-academic obligations for the remainder of the week. This ill-informed course selection during 2L year resulted in the student entering 3L year still needing to fulfill multiple requirements. The student still needed to complete the upper-level writing requirement, six credit hours of experiential learning, professional responsibility, and other courses that could bolster their understanding of bar-tested subjects.

Proposal: Institute 2L priority registration dates staggered with 3Ls, with a designated number of slots reserved for 2Ls or more available sections of bar-tested electives. Additionally, implement mandatory advising for 2L course selection. The registration steps should be relatively seamless. Truly defying middle child syndrome would require a commitment from administration and faculty to (1) ensure enough qualified faculty are available to teach the added sections and (2) provide a qualified advisor to counsel all rising and continuing 2Ls on effective course selection.

Student #3: I offer this scenario as an example of a missed opportunity for 2L year intervention that impacts bar exam performance. A post-graduation bar prep advisee asked, “When do I use the mailbox rule—is it when I’m analyzing the offer or the acceptance?” The bar exam was just a few short weeks away, and the question was concerning, indeed.

Proposal: Incorporate into the 2L year Framework Development workshops focusing primarily on bar-tested MBE subjects. During the workshops, students would learn to conceptualize the subject area they’re studying—to see the “big picture,” practice issue-spotting and analyzing questions, and build the confidence to communicate answers in any question format. This early intervention would reduce the risk of a graduate being deficient in the fundamentals of a bar-tested course, particularly one that most law school graduates saw only during their first year of law school. The timing would also give way for the student to take a related course, such as, in this student’s instance, Sales or Contract Drafting, with opportunities for further assessment and remediation well in advance of the bar exam.

The general idea is that if we invest in robust programming and services for 2Ls, we can defy the effects of middle child syndrome. We must include, attend to, and nurture our middle child(ren) with the same vigor afforded their academic siblings.

“Truly defying middle child syndrome would require a commitment from administration and faculty . . .”

¹ Carly Werner, *Birth Order and Personality: The Science Behind Middle Child Syndrome*, HEALTHLINE (Nov. 10, 2021), <https://www.healthline.com/health/mental-health/middle-child-syndrome>.

² Alfred Adler, PROBLEMS OF NEUROSIS 96-120 (1964).

³ *Metacognition: The Awareness of One’s Thought Process and an Understanding of the Patterns Behind Them*, WIKIPEDIA, <https://en.wikipedia.org/wiki/Metacognition> (last visited Apr. 13, 2022).

⁴ Rose Kennedy, *Does Birth Order Affect You in the Workplace?*, ATLANTA JOURNAL-CONSTITUTION (Dec. 6, 2017), <https://www.ajc.com/business/does-birth-order-affect-you-the-workplace/nyGt7BPJQG9oux1Fa1htcN/>.

⁵ Edward Deci & Richard Ryan, *Self-Determination Theory*, in 1 HANDBOOK OF THEORIES OF SOC. PSYCH. 416, 416-36 (P. Van Lange, A. Kruglanski & E. Higgins eds., 2012).

⁶ Maarten Vansteenkiste, *Characterization of Basic Psychological Needs*, CTR. FOR SELF DETERMINATION THEORY, <https://selfdeterminationtheory.org/application-basic-psychological-needs/> (last visited April 13, 2022).

⁷ *Id.*

The Editors

Executive Editor

Susan Landrum

Assistant Dean of Academic Success & Professor of Practice

*Nova Southeastern University
Shepard Broad College of Law*

Associate Editor

Michele E. Cooley

Assistant Dean of Academic and Bar Success

Indiana University Robert H. McKinney School of Law

Assistant Editor

Krishnee Coley

Director of Academic Success

*North Carolina Central University
School of Law*

We're on the Web!

You can find us on the Association of Academic Support Educators website at <https://associationofacademicsuppor teducators.org/learningcurve/>.

Call for Submissions

The Learning Curve is published twice yearly, once in the Winter/Spring and once in the Summer/Fall. We currently are considering articles for the Summer/Fall 2022 issue, and we want to hear from you! We encourage both new and seasoned ASP professionals to submit their work.

We are publishing a general issue so we are considering all ideas related to academic support. If you have a classroom activity you would like to share, individual counseling techniques, advice for the academic support professional, or any other ideas, we want to hear from you! Presenting at AASE or another conference? Conference presentations often make a good foundation for a *Learning Curve* article!

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

Please send your article submission to LearningCurveASP@gmail.com by no later than **Thursday, June 30, 2022**. Attach your submission as a Word file. (Please do not send inquiries to the Gmail account, as it is not regularly monitored. Instead, please email one of *The Learning Curve* editors directly with any questions.)

Articles should be 500-2000 words in length, with light references if appropriate. Please include references as endnotes at the end of the article, not as footnotes. See articles in this issue for examples.

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

- The Editors

About *The Learning Curve*

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