

The spillovers from the vocational to the undergraduate courses of more innovative teaching methods have been slow, not least because the vast majority of older universities do not engage in vocational education. There is also doubt as to whether the type of skills training undertaken on the vocational courses is appropriate for the undergraduate program. But this demonstrates a confusion at the heart of the undergraduate enterprise. It is no part of the undergraduate program to teach students to draft legal documents or interview clients but that does not mean that nothing can be learnt from the vocational programs to instil into undergraduates those competences which they should acquire. Many of these are close to the heart of the law librarian and provide the basis for the skills which are later pursued on the professional courses. They include legal research, problem solving, the analysis of complex texts, and effective legal writing. These are well capable of being taught, indeed are better taught in the wider ranging liberal education about law at the undergraduate stage.

The move towards an information age will affect all academic disciplines, but it will have a particular impact on law. Law teachers have their part to play in delineating the territories in which this learning can usefully be done, and in developing analytical skills. But much of the future learning will not take place in the classroom or under their direct guidance.

However, we cannot assume that the learning will take place in the law library but certainly not the law library as we know it. Guidance for such students may be required on a one-to-one basis. The capacity to guide the student around the material may be prized more than a claim to be able to tell the student what the material says.

How then would one describe the role of those who make themselves

available to help the students along this path? There will remain a clear need for both subject and information specialists, but the traditional division of roles between the two may have to be renegotiated. This is already happening in commercial legal practice where there are regular 'know-how specialists' working as members of the legal team and employed on solicitors' salaries. It is time to break down the wall between the law school and the law library so that the law team can begin its job.

SKILLS

Toward a more perfect union: using lawyering pedagogy to enhance legal writing courses

D Harris & S Susman

49 *J Legal Educ* 2, 1999, pp 185-202

Teaching legal writing and teaching other lawyering skills are often viewed as separate and conflicting endeavours. Teachers of legal writing often shy away from lawyering pedagogy for fear of losing the focus on writing or because they lack familiarity with the techniques of teaching lawyering simulation. Others incorporate lawyering into the first-year writing curriculum but at varying costs to instruction in legal writing and research. While good legal writing remains one of the goals of the lawyering-based courses, introducing students to the various roles lawyers play and developing interpersonal and other nonwriting skills engages a substantial portion of the time and resources traditionally devoted to the teaching of legal writing.

Incorporating lawyering methodologies into a legal writing and research course can enhance the writing program's effectiveness by improving student understanding of a document's rhetorical context and helping students grasp the important relationship between law and facts. A by-product of

this approach is that students are exposed to a variety of nonwriting lawyering skills early in their law school career.

Brooklyn Law School (BLS) historically has been focused on the fundamentals of legal writing for its first-year students. But in 1996 the BLS writing department decided to experiment with systemically incorporating more context in its pedagogy. With the goal of enhancing, not replacing, a focus on the writing process, BLS set out to integrate aspects of lawyering that would deepen its students' understanding of a client-advice letter's rhetorical context and their understanding of their own roles as lawyers.

BLS' experimental segment on the client-advice letter is taught as part of a course in which students write and rewrite a substantial appellate brief and prepare to argue their case orally. It was decided to use classroom critiques of faculty-simulated interviewing and counselling sessions and of the students' role-plays and to devote class time to the actual writing of the document.

Two videotapes were created: the first a client interview and the second a client-counselling session. The students could critique these models before conducting their own interviews and writing a client-counselling letter. The relationship between the client-counselling tape and the writing of the letter was direct: the students were unlikely to be able to draft an effective letter without understanding the role of the lawyer as counsellor. The next challenge was to identify a client problem that would require the students to summarise the governing law in a way understandable to a lay person.

During the first year five class periods were devoted to the client letter. Before showing the interview tape, most teachers handed out a summary of issues focused on the structure of the

interview and the development of the attorney-client relationship. The students then actively learned about their audience either by interviewing as the attorney or by playing the client. Class three was a relatively traditional issues class, in which students discussed the governing law and the implications for the client. Class four's basis was the client-counselling tape. The final class focused on the particulars of writing a client-advice letter, keeping in mind the counselling considerations discussed in the previous class.

Simulations and active learning can promote student involvement and rhetorical analysis by contextualising the writing of advisory memos and briefs in the first year, and of contracts, statutes and judicial options in more advanced legal writing courses. On the most simplistic level, the facts of client memoranda in the first semester can be introduced through an interview of a live client, be it a colleague or a former student. The client letter may also be connected to a persuasive brief, rather than standing on its own as a separate segment of the writing curriculum. Under this scenario, the semester could begin with a client interview to gain the relevant facts of the case. After the students conducted research and discussed in class the role of the lawyer in client decision making, they could write a letter to the client explaining the client's options.

Simulation techniques can also enhance the teaching of contract drafting. Rather than simply giving students a canned set of facts to use to draft a contract, the instructor can heighten the students' understanding by placing the assignment in context. Contextualising the teaching of legal writing can only enhance students understanding of each document's rhetorical context and of their own roles as attorneys.

TEACHERS

Herding cats: improving law school teaching

M M Simon, M E Occhialino & R L Fried

49 *J Legal Educ* 2, 1999, pp 256-274

What makes a good law teacher? Is excellence in teaching largely a matter of intellectual brilliance, of superior organisation and delivery of material, of friendliness and fairness to one's students? Or does it have more to do with style, with stage presence, with the ability to engage an audience in the act of reflective and spontaneous thinking?

While the question of how to define and evaluate teaching necessarily bedevils deans and tenure committees who must make personnel decisions, the focus on defining the competent teacher has obscured from faculty attention the more fundamental question: how can we implement a system to improve faculty performance across the board? In many law schools, despite the institutional lipservice paid to teaching, scholarship and other outside activities are understood to be more highly valued than good teaching, perhaps because the quality of teaching is so hard to measure.

The efforts law schools make to improve teaching are generally focused on newer faculty and take place in the emotionally charged context of tenure decisions. Few if any schools have a systematic program to encourage tenured and experienced teachers to improve their use of class time.

The authors describe the program adopted at their law school to improve their faculty's classroom teaching. Their first step was to ask all ABA-approved law schools for details of any programs they had introduced to improve teaching. What emerged was the virtual lack of any program systemati-

cally to improve teaching in the responding schools.

In faculty discussions, it became apparent that it was nearly impossible to agree collectively on what constitutes good teaching. The lack of a clear set of standards reduces almost any system of evaluation to one based on assessments of superficial style characteristics. Peer visits were used based upon a standardised protocol designed to achieve an individualised assessment, while providing sufficient guidance to make the process effective.

The article discusses the peer-review program adopted in first semester, including the formation of paired faculty teams, meetings before class, class observation and followup. In the second semester this program was supplemented by monthly sessions on teaching techniques. Teacher self-study was also introduced with each member developing a teaching portfolio containing reflective pieces on their own teaching. The next stage was that the faculty engaged a visiting professor who was acknowledged as a gifted teacher to fill teaching needs occasioned by sabbaticals and to take the teaching effectiveness program. Finally, a new first-year course on lawyering skills was used to foster co-operative teaching efforts among the faculty by having them co-teach each week with a colleague.

One lesson from the program is that it is almost impossible to take any scientific measurement of improvement in teaching performance. It is best to pay attention both to the response from students and to the professional culture that unfolds around the question of improved teaching. Do students talk about the 'teaching' they experience? Do they know teachers are trying to do a better job?

There is a collective responsibility to give students the best legal education that can be delivered. This respon-