

Critiquing Students' Writing: Providing Effective Feedback

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I. Importance

- “[E]xperts agree that providing written individual feedback on law students’ papers is [perhaps] the most important ... teaching moment legal writing professors have. Consequently, it is critical that new legal writing professors begin their careers with the best information available on how to go about critiquing student papers.”¹
- “[S]tudies of how expertise develops ... are unanimous in emphasizing the importance of feedback as the key means by which teachers and learners can improve performance.”²
- In its recently published *Educating Lawyers*, the Carnegie Foundation for the Advancement of Teaching described legal writing instruction as a welcome “form of simulated practice” and praised it for helping law graduates “transition into practice.”³ The Foundation was “impressed by how often students raised the topic of legal writing. One student’s comment summed up many others. She noted, ‘It is the feedback you receive from the teachers, as opposed to just so much reading’ in ... doctrinal courses that made the writing course so important”⁴

II. Characteristics

- “Critiquing student work is ... one of the most demanding elements of teaching legal writing because it is time consuming and intellectually challenging. The average legal writing teacher provides feedback on 1,204 pages of student writing each year. Reading and commenting on this much student writing requires a substantial investment of time and energy.”⁵
- “Appropriate feedback means **positive reinforcement for successful work and judicious criticism for mistakes**. ... [A] careful balance of praise, criticism, and sensitivity to student confidence levels [is] required to coach students to higher achievement in their writing.”⁶
- “[Feedback] must identify three things. First, students must be able to see how their work compares to the expected performance standard. Second, students must be shown the

¹ Anne Enquist, *Critiquing and Evaluating Law Students' Writing: Advice From Thirty-Five Experts*, 22 Seattle U. L. Rev. 1119, 1129 (1999).

² William M. Sullivan, Anne Colby, Judith Welch Wagner, Lloyd Bond, Lee S. Shulman, *Educating Lawyers: Preparation for the Profession of Law* 171 (2007).

³ *Id.* at 106-07.

⁴ *Id.* at 104.

⁵ Daniel L. Barnett, *Triage in the Trenches of the Legal Writing Course: The Theory and Methodology of Analytical Critique*, 38 U. Toledo L. Rev. 651, 652 (2007).

⁶ B. Glesner Fines, *The Impact of Expectations on Teaching and Learning*, 38 Gonz. L. Rev. 89, 115 (2002-03) (emph. added).

consequences of remaining at their current level of skill or knowledge. Finally, students must be shown how to improve, if improvement is needed.”⁷

- “The learning loop is complete only if what the teacher learns about the student’s performance is communicated to the student, so that the student knows how to improve.”⁸
- “[L]ack of written, ‘detailed precision’ regarding our expectations for students will increase the hours we spend with individuals [helping them to understand our evaluative standards]. ... [B]oth simple fairness and common sense dictate that we should thoroughly describe, in writing, how students may best succeed in the course.”⁹
- Other goals for critiques of student writing include:¹⁰
 - “Dramatizing the role of the reader[:] ... reflect the reactions of the reader to let writers know whether they have attended to or ignored the targeted reader’s needs or interests.”
 - “Creating motivation for change in future writing[:] ... encourage students to understand and accept the need to approach writing tasks differently in a new draft or a future paper.”

III. Techniques

A. Prioritizing

1. “Triage”

“The first skill that teachers must learn is to prioritize

“[If the teacher does not articulate priorities for a rewrite], the student will be unable to prioritize the issues that need to be addressed ...[,] will become overwhelmed ...[, and typically] will focus on the smallest details when rewriting the assignment, ignoring the larger, more complex issues Furthermore, if the teacher attempts to address every problem in most student papers, the teacher also will be overwhelmed and quickly become exhausted.

“So, what is the answer? Triage. ... [T]he legal writing professor must focus on the most important issues Therefore, the teacher must focus on analytical problems first. Major flaws in the student’s understanding of the substantive legal ideas and how those misunderstandings affect organizational choices in the student’s paper must be corrected before writing and stylistic problems can be effectively addressed. ... The student’s legal ‘thinking’ must be clear before comments on basic writing will be helpful.”¹¹

2. Avoiding “Over-Commenting”

“[O]ver-commenting is ... [a] tragedy ... because it represents a well-intentioned but misdirected effort and because it frustrates students and teachers alike. ...

“Jessie Grearson has identified four different problem types [in Jessie C. Grearson, *From Editor to Mentor: Considering the Effect of Your Commenting Style*, 8 Leg. Writing 147 (2002)]. The first is the commenter who has not taken the necessary steps of establishing clear priorities for the assignment before commenting, and ends up commenting profusely on many

⁷ Kristin B. Gerdy, *Teacher, Coach, Cheerleader, and Judge: Promoting Learning Through Learner-Centered Assessment*, 94 L. Lib. J. 59, 79-80 (2002).

⁸ Gregory S. Munro, *Outcomes Assessment for Law Schools* 151 (2000).

⁹ Craig T. Smith, *Teaching Students How to Learn in Your Course: The “Learning-Centered” Course Manual*, 12 Perspectives: Teaching Leg. Res. & Writing 1 (2004).

¹⁰ Susan M. Taylor, *Students as Revisionaries: Or, Revision, Revision, Revision*, 21 Touro L. Rev. 265, 291 (2005).

¹¹ Barnett, *supra* n. 5, at 654-55 (footnotes omitted).

different aspects of the paper. ... This commenter provides a great deal of inconsistent and scattered feedback, which results in a confused student.

“The second problem is the teacher who has set too many priorities and who provides too many comments. Here, the student is overwhelmed ... [and] often confused

“The third ... is the teacher who ... has not ... convey[ed] ... priorities beforehand. ...

“Finally, there is the teacher who ... conveys very few priorities and who provides very few comments. This problem invariably invokes great hostility from students. The anger is justified because students receive inadequate feedback, they have no identifiable audience for whom to write and they have no incentive or direction for future change.

“To avoid these problems, ... follow these suggestions for making comments effective:

1. Have clearly identified and communicated priorities. ...
2. Select writing issues to comment on. Follow a hierarchy of concerns
3. Use comments to reinforce points made in class. Effective comments draw on and extend ideas from previous classes or conferences with students. ...
4. Use end comments ... to ... define and prioritize tasks for the next draft or paper.
5. Make ... comments as specific and as easy to read as possible. Do not use a ‘rubber stamp’ or generic comment for all problems. Treat each student as an individual
6. ... [G]ive some positive points for each assignment. Students respond to praise as long as it is genuine.”¹²

B. Effective Strategies

“Consider using these effective teaching strategies:

- a. limit the number of comments;
- b. give students positive feedback;
- c. develop teaching and critiquing priorities;
- d. write end comments;
- e. write margin and interlinear comments;
- f. tie the comments to the text, class, and writing conferences; and
- g. think through how to survive the critiquing/grading process.

“Beware these potential pitfalls:

- a. marking everything;
- b. not considering the tone of comments; and
- c. using problematic assignments.

“Avoid the following types of comments on students’ papers:

- a. sarcastic, angry, and overly negative comments;
- b. ambiguous comments or marks; and
- c. assumptions about the student’s effort.”¹³

C. Appealing Strategies: Student Preferences

“1. **A well-written end comment is ... crucial** [An end comment begins] with an overview of the paper and then discusses the paper’s strengths and weaknesses

“2. **Students prefer comments that elaborate or give examples or both**. Short, cryptic, coded, or label[ed] comments [are preferred less].

¹² Taylor, *supra* n. 10, at 292-95.

¹³ Enquist, *supra* n. 1, at 1163.

- “3. **Students need positive feedback about their writing.**
- “4. **Instructors should monitor the number of comments they are writing on students’ papers.** ... Excessive commenting may overwhelm the student and create an unnecessary barrier to learning and improvement.
- “5. **Instructors need to pace themselves as they comment on a given paper.** ... [I]nstructors should be aware of the number of comments they are making throughout a paper and take care not to run out of critiquing energy.
- “6. **Students appreciate comments that discuss the rationale underlying the critiquer’s comments** ... and use a specific instance in a student’s writing to teach a general principle about effective legal writing.
- “7. **Comments phrased as questions can be effective, but they may also have some hidden dangers.** Too many questions ... can create an antagonistic reaction”¹⁴

D. Checklists

“Published checklists can provide comprehensive guidance for [students] in creating and assessing [their] work. Legal writing teachers frequently use checklists or comment sheets, either standardized or custom tailored to the assignment. A danger of such lists, though, is that they may lead [students] to neglect the big picture in favor of spending an inordinate amount of time on a relatively unimportant decision, such as how to abbreviate the party’s name in a citation. [Students should not view any] guideline or checklist as setting up rules applicable to all situations, or formulas that must be slavishly followed whether or not the legal analysis for the case fits the formula.”¹⁵

E. Holistic Evaluation

“[H]olistic scoring [means to] evaluate an essay in terms of its overall impression. The impression is not a snap judgment; rather, it is derived from the readers’ thorough understanding of the criteria and their training in applying those criteria to papers. Considering all writing elements without focusing unduly on any single trait, [the instructor evaluates the paper] on the basis of how successfully various writing traits, such as development, focus, clarity, organization, diction, and mechanics, combine to work together within a piece.”¹⁶

F. Separate, Collective Feedback to All the Student Writers

“[I]mportant information can be effectively conveyed through a classwide feedback memo that includes the common, recurring problems rather than individual memos for each student. Such a group feedback memo is useful not only for individuals who had particular problems but also for students who did not have the problems because it identifies areas where they were successful and helps them avoid the problems should they arise in the future.”¹⁷

¹⁴ Anne Enquist, *Critiquing Law Students’ Writing: What the Students Say is Effective*, 2 Leg. Writing 145, 188-89 (1996).

¹⁵ Terry Jean Seligmann, *Why Is a Legal Memorandum Like an Onion? – A Student’s Guide to Reviewing and Editing*, 56 Mercer L. Rev. 729, 730-31 (2005).

¹⁶ Willa Wolcott, *Holistic Scoring*, 13 Perspectives: Teaching Leg. Res. & Writing 5 (2004).

¹⁷ Gerdy, *supra* n. 6, at 79-80.

Bibliography

Daniel L. Barnett, *Triage in the Trenches of the Legal Writing Course: The Theory and Methodology of Analytical Critique*, 38 U. Toledo L. Rev. 651 (2007).

Mary Beth Beazley, *The Self-Graded Draft: Teaching Students to Revise Using Guided Self-Critique*, 3 Leg. Writing 175 (1997)

Kirsten K. Davis, *Designing and Using Peer Review in a First-Year Legal Research and Writing Course*, 9 Leg. Writing 1 (2003).

Anne Enquist, *Critiquing and Evaluating Law Students' Writing: Advice From Thirty-Five Experts*, 22 Seattle U. L. Rev. 1119 (1999).

Anne Enquist, *Critiquing Law Students' Writing: What the Students Say is Effective*, 2 Leg. Writing 145 (1996)

Essays by Members of the [Legal Writing] Institute on Responding to Student Writing, 14 Second Draft No. 1 (Nov. 1999) (available online at <http://www.lwionline.org>).

Judith D. Fischer, *How to Improve Student Ratings in Legal Writing Courses: Views From the Trenches*, 34 U. Balt. L. Rev. 199 (2004)

Jane Kent Gionfriddo, *The "Reasonable Zone of Right Answers": Analytical Feedback on Student Writing*, 40 Gonz. L. Rev. 427 (2004-05).

Christina R. Heyde, Susan E. Provenzano, *E-Grading: The Pros and Cons of Paperless Legal Writing Papers*, 12 Perspectives: Teaching Leg. Res. & Writing 139 (2004).

B. Glesner Fines, *The Impact of Expectations on Teaching and Learning*, 38 Gonz. L. Rev. 89 (2002-03)

Kristin B. Gerdy, *Teacher, Coach, Cheerleader, and Judge: Promoting Learning Through Learner-Centered Assessment*, 94 L. Lib. J. 59 (2002)

Jessie C. Grearson, *From Editor to Mentor: Considering the Effect of Your Commenting Style*, 8 Leg. Writing 147 (2002).

James B. Levy, *Legal Research and Writing Pedagogy – What Every New Teacher Needs to Know*, 8 Perspectives: Teaching Leg. Res. & Writing 103 (2000).

Gregory S. Munro, *Outcomes Assessment for Law Schools* 151 (2000).

Terry Jean Seligmann, *Why Is a Legal Memorandum Like an Onion? – A Student's Guide to Reviewing and Editing*, 56 Mercer L. Rev. 729 (2005)

Melissa J. Shafer, *Effective Assessment: Detailed Criteria, Check-Grading, and Student Samples*, 14 Second Draft 6 (1999).

Sophie M. Sparrow, *Describing the Ball: Improve Teaching by Using Rubrics – Explicit Grading Criteria*, 2004 Mich. St. L. Rev. 1.

William M. Sullivan, Anne Colby, Judith Welch Wagner, Lloyd Bond, Lee S. Shulman, *Educating Lawyers: Preparation for the Profession of Law* (2007).

Susan M. Taylor, *Students as Revisionaries: Or, Revision, Revision, Revision*, 21 Touro L. Rev. 265 (2005)

[Various Authors:] *Teacher's Manuals*. A teacher's manual typically accompanies legal writing textbooks and provides some advice about commenting on students' writing.

Willa Wolcott, *Holistic Scoring*, 13 Perspectives: Teaching Leg. Res. & Writing 5 (2004).

Emily Zimmerman, *Toto, I Don't Think We're in Practice Anymore: Making the Transition From Editing as a Practitioner to Giving Feedback as a Legal Writing Professor*, 12 Perspectives: Teaching Leg. Res. & Writing 112 (2004).

Emily Zimmerman, *The Proverbial Tree Falling in the Legal Writing Forest: Ensuring That Students Receive and Read Our Feedback on Their Final Assignments*, 11 Perspectives: Teaching Leg. Res. & Writing 112 (2002).