Principle 4: Good Practice Gives Prompt Feedback

Terri LeClercq

Knowing what you know and don’t know focuses learning. Students need appropriate feedback on performance to benefit from courses. When getting started, students need help in assessing existing knowledge and competence. In classes, students need frequent opportunities to perform and receive suggestions for improvement. At various points during college, and at the end, students need chances to reflect on what they have learned, what they still need to know, and how to assess themselves.1

When an infant, playing with mouth sounds, emits a “da-da,” parents smile, laugh, repeat the sounds in encouragement. Teenagers with newly spiked blue hair walk through the mall expecting immediate reactions. A businessman, putting money into a stock, reads the NASDAQ daily to learn how his money is faring. Feedback is an essential element of all education: it helps steer students as they absorb what they are being taught and as they attempt to express their new knowledge. Without feedback, none of us could know whether we clearly understood what we thought we understood.

Feedback Without Martyrdom

Perhaps the greatest hindrance to feedback in law schools is teachers’ assumption that feedback needs to be extensive; they have vivid memories of a Miss Fitzditch covering their college papers in red ink. Add to that depressing image the reality of large first-year classes, and it’s a wonder that law teachers offer students even the scant feedback they do. It will take conscious reconditioning to alter their behavior patterns; perhaps the institution will have to offer faculty seminars devoted to explaining that effective feedback might require only a few words, or check marks, or a simple grid. The problem is not limited to first-year classes. Teachers in upper-division seminars would also find it useful to investigate the many options to tedious, detailed marginalia on a final draft.

Here are several methods for offering feedback that are by no means burdensome.

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Daily note cards. Have students pick up a 3-by-5 note card as they enter each class. Just before they leave, they write down the major concept of the class and, if they wish, write a question. After class you can take five to ten minutes reviewing the note cards and pull out incorrect ideas to discuss at the beginning of the next class. Or if several students have a similar question, you can begin the next class with a clarification.

Initial questionnaires. At the beginning of the semester, you can get feedback that helps you organize or emphasize material with a view to the students in that particular class. Your questionnaire might ask: What is your short-term goal in this class? Your semester goal? How does this class fit into the others you are taking this semester? That you have already taken? How might this course relate to your future?

Debriefing. After the first few classes, hold an optional debriefing session where you create an outline on the board or ask students to share their outlines while you make necessary adjustments. In this way, the students should gain insight into the analytical process you expect.²

Course schema. Offer handouts or overheads that visualize the cases and content being discussed. Students will fill in these roadmap aids during discussion and use them later for summaries at the end of sections or before final exams. You can also intersperse practice exams throughout the semester and offer a scoring sheet and a sample answer.

Peer critiques. Have students write something short, perhaps an outline or the beginning of a memorandum. Certain (predetermined) students agree to put their writing on file, and other (predetermined) students fill out a critique that you provide. The critiques are given to the authors. You might put a few (anonymous) papers and critiques on overhead for general discussion. Both authors and critics might explain to the rest of the class what they've learned from the process.

Semester highlights. Divide the semester into thirds or fourths and ask students to prepare answers to the following questions: What cases were most important during this section and why? What issues were most important during this section and why? What key concepts and variations were important during this section and why? Then collect each student's answers and read several aloud. Ask the class to decide which is most valuable, which misses key points, and so on.

Question-draft-question. Mary Kate Kearney and Mary Beth Beazley offer a "five-step structured dialogue" scheme for constant feedback to law students.³ The instructor assigns an instigating question that students research. Each student writes a series of "focused drafts" and "private memos" to answer the question. Because the series of assignments breaks down analysis into small units, the instructor can respond on each paper to the particular focus—and


need not respond to other aspects of the answer. Where possible the instructor responds with a question rather than an answer; that way, students have feedback that prompts additional thinking. At some point in the process, each student attends a conference where the instructor gives more feedback, asking additional questions to help the student toward the goal. Finally, the student revises the answer according to ideas from the earlier responses and the conference. Then, and only then, is the feedback a grade.

**Student-created grading sheet.** After they have completed a written assignment, ask students to assign a numerical value to the parts of the assignment they identify as important; for instance, if the assignment was an outline of two cases, students might decide that the major headings should have been points of comparison or contrasts. On a scale of 1 to 10, how important is it that the writer put the comparisons in the major headings? Students call out the important aspects of the assignment; you open the discussion of relative worth to the class, which must reach a consensus. This technique lets student inside your grading thought process, because students take a grading role when they identify important aspects and also analyze their relative importance.

**Student-initiated classes.** For each class, ask two or three students to prepare written questions for class discussion of the assigned readings. At the beginning of the class, collect the questions and use them to organize the discussion around themes from the questions. Also hand out one or two pages of typed comments and questions about that day’s readings, and use them for the rest of the discussion.

**Introspective journals.** Some teachers have had success with journals: the students respond to the daily readings in a journal that the teacher reads several times during the semester. Journals can give you valuable understanding of the way students perceive the course. Usually journals are not graded, but students receive some feedback in the margins throughout the year, allowing them to adjust their understanding before the end of the semester.

**Problem method.** Many teachers use problems rather than cases. The problem method forces students into a thinking and analyzing role early in the semester. Have students prepare hands-on assignments. You may use their homework outlines in class to prepare a megaoutline on the board or overhead. Thus students learn through each problem which concepts they have conquered and where they may have gone astray, and you can trace problems in thinking well before the final exam.

**Learning groups.** An innovative approach to the first year is to assign students to “law firms.” The groups are given a legal question and helped through it by “senior associates”—second- or third-year students and librarians. The draft

answers are discussed openly within the group; students exchange opinions and the group reaches a consensus. The product is judged by the "partners," the faculty.

**End-of-semester questionnaire.** Did this course meet your short-term goal? How so/not? Your long-term goal? How so/not? What areas are you satisfied you understand? What areas will you continue to explore/study after this semester?

### Choices in Feedback

#### Prompt or Delayed

You may choose to give feedback immediately or later, depending on your teaching goal. Generally, immediate feedback is good for short-term projects, like an answer offered in class. "That's right," you say, or "I don't think the court says that in this case." Another example might be a mock trial practice: you can interrupt, offering tips for corrections, or you can stop the process after each speaker to summarize good and bad points. Generally, delayed feedback is appropriate for longer projects, more abstract thinking, and teaching experiences that require analysis of several components. Delayed feedback might be the grade on a final research paper or the final exam.

The great value of prompt feedback is that it allows midcourse corrections; if someone has not understood the case holding, your explanation can get the student back on track. Prompt feedback can take the form of saying "Correct" or "Incorrect" in response to a student's stating of the case (rather than turning to another student and asking yet another question). Prompt feedback can also be short notations on homework assignments throughout the semester.

The value of delayed feedback, on the other hand, is that it allows the student to absorb multiple variables without having to reach a conclusion too early. It removes some of the fear of failure by allowing the student to try any number of avenues before receiving an outsider's judgment. As long as it is not the sole feedback, delayed feedback can both summarize progress and evaluate the final results.

But when the only feedback for a course comes at the end of the semester, as is typical in first-year law classes, the result is frustration and confusion.

#### Formative or Summative

Before you offer feedback, ask yourself why you are giving the feedback and what the student is supposed to do with it. Learn from it? Incorporate it into a final version? If the feedback is a comment on a final exam, the options for its use are rather limited: the student may never return for the exam and your comment is of no use at all. But if the feedback occurs before midterm, you expect the student to read it and make necessary changes.

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7. See Bari R. Burke, Legal Writing (Groups) at the University of Montana: Professional Voice Lessons in a Communal Context, 52 Mont. L. Rev. 373, 391 (1991).
Feedback can be formative or summative, or sometimes both. Formative feedback tries to assist in improvement. It focuses on the ongoing and developing. Seven categories of formative responses have been identified: correcting, emoting, describing, suggesting, questioning, reminding, and assigning. Each attempts to help the student improve. 

Summative feedback measures, grades, or compares performance to expectations. Final grades are summative. Grades on a research paper, if given only at the conclusion of the paper, are summative. A teacher who responds to drafts of the research paper offers formative comments and even judgments, and then summative evaluation through the final grade. According to the extensive research literature on evaluative feedback, teachers should recognize the four Rs of evaluation: it should be relevant, reliable, recognizable, and realistic.

Positive or Negative

Both professionals and students hold differing opinions about positive comments on papers. The critical literature is full of experiments about positive feedback. One model is an exam returned with marginalia reflecting the teacher's thoughts throughout; the marginalia provide excellent feedback for the student and a second education at the same time. In experiments, students responded best to positive comments, but several worried that the instructor was not being tough enough and that they couldn't learn how to improve without some comments that were less positive. The consensus is that feedback should be weighted toward the positive but include enough negative to make the comments valid and encourage students to do better.

General or Specific

Feedback can involve both general and specific responses. After reading all the midterm exams, a teacher of Civil Procedure might offer general feedback to the class: "On the midterm, most of you understood *Erie* but had trouble applying the facts of the hypothetical." Students can apply such general feedback to their own answers. If you say, "Your outlines for the brief seem to have ignored the jurisdiction problem," they can return to their briefs and make necessary corrections. Or if you say, "This seminar cannot work well unless you are better prepared," students can choose to read the material more carefully. General feedback requires students to take the inductive leap of application, which for some is an additional or even impossible step. A marginal comment like "Vague" or "Awkward" may lead the writer to become more specific—or may add to the writer's confusion.

Specific feedback is a comment that you direct to an individual student to apply to a certain answer, paper, or performance. Rather than returning an

8. See Nancy Soonpaa, Using Composition Theory and Scholarship to Teach Legal Writing More Effectively, 8 Legal Writing 81, 97 (1997).
exam with marginalia grades of +2, +1, -3, you might write in the margin: "Although you were able to give both rules and apply the two variables, you missed the age distinction." Specific feedback might include an e-mail response to a series of class questions, a checklist that addresses certain elements expected in a research paper, or evaluation of specific writing objectives in a portfolio.\(^\text{11}\)

**Inadequate, Overwhelming, or Useful**

Surely most of us remember our own first-year experience in law school and that dizzying insecurity that overwhelmed the first month—or semester—of classes. The first year is still, unfortunately, dizzying to those entering law school: first-year courses offer the least amount of feedback to our most insecure students. Remember that casebooks are compilations of cases, rarely tied together through textual discussion, so students cannot depend on their once-dependable reading abilities to understand an assignment. And the large size of first-year classes prohibits casual question-and-answer format.

Typically, students who are called on during class receive instant feedback from the teacher through a series of challenging questions, responses, and then more questions. Other students are excluded from the exchange, but the theory behind the Socratic method is that all students get feedback by internally responding to the student on the hot seat and to the teacher’s comments. All too often, however, the teacher does not let them know whether an answer is correct or even in the ballpark. Instead, the teacher moves on to another topic or another student. We ought to remember that this lack of closure about even the smallest units of thought can frustrate an entire class: no one knows what we wanted them to learn. Until the final exam is graded and returned, few first-year students will know whether they have grasped the concepts and important distinctions.

Curiously yet historically, in their second and third years students receive more feedback and need it less. In seminars and small classes, they have more opportunity for a two-way discussion with the teacher, for text-guided reading, for receiving comments about research papers and presentations. In lawyering courses and clinics, they get feedback on their performances and professional skill. If administrators and curriculum committees are interested in serving law students’ needs, perhaps they should recognize the positive correlation between the increasing number of students requesting additional skills courses and clinics and the practical feedback these courses provide.

The feedback that students get from their teachers can parallel the experience of Goldilocks: too little, too much, or just right. Probably one of the most interesting variables in law teaching is how much feedback any one student wants and can handle. No formulaic answer can cover the many needs of a varied class. Usually, though, most students are frustrated when feedback is inadequate—when the only grade is the grade for the final, or when the comments are all general and not specific to the project or paper, or when

they feel that the considerable time they put into a project has not been
rewarded with a similar effort by the teacher.

But there is such a thing as too much feedback.\textsuperscript{12} Everyone has a memory of
a paper returned covered with red ink, destroyed by the process that was
supposed to make it better. Or a ten-minute public lecture about an error, or
even a two-minute private response to something that was not intended to be
the point of the paper but that the instructor happened to fasten upon. Most
of these overwhelming responses are probably well intended, with the instruc-
tor assuming that every detail explained will be a detail learned. (Why we
think that, I'm not sure, since most of us have memories to the contrary.)

Useful feedback is appropriate to the students' needs and the assignment.
It can summarize a judgment, offer advice for correction, or simply place the
project into a perspective. No matter what the form, you can provide useful
feedback that is clear, valid, reliable, and of interest to the student. Teachers
of composition courses continue to debate whether it is pedagogically wise to
take a holistic approach to grading the assignments or better to use an
elaborate breakdown of points specifically quantifying all aspects of the docu-
ment from format and analysis to citations and sentence structure.\textsuperscript{13} Some
comprehensive legal writing programs do both: a holistic comment on one
aspect of the assignment and a breakdown of the parts being emphasized in
that assignment.

Proponents of the current process believe that what first-year students are
learning is how to think like a lawyer; that is, the focus of the first-year is not
information per se but rather the process of considering and discarding
answers based on precedent, social policy, and so on. In their view, nothing
needs to change. It may be that the legal academy has to box off the traditional
first year from the application of the seven principles—a proposition rich for
discussion.

Other Sources of Student Feedback

The educational system depends on teachers offering feedback to learners.
But the learners have other sources of feedback.

\textit{Self}

Students constantly provide their own feedback during law school: they
reward themselves for a hard night of studying, they torture themselves about
a bad answer or an uncompetitive brief, and they hold a never-ending mono-
log with themselves, responding to whatever is the impetus at the time.
Helping students assess themselves can be rewarding for faculty; one set of

\footnotesize
\textsuperscript{12} See Terri LeClercq, The Premature Deaths of Writing Instructors, 3 Integrated Legal Res. 4,
6–7 (1990/91).
\textsuperscript{13} See Jean S. Ketter, Using Rubrics and Holistic Scoring of Writing, in Alternatives to Grading
Student Writing, ed. Stephen Tchudi, 291 (Urbana, 1997) [hereinafter Alternatives] (including
questions, discussion topics, and activities for a workshop on holistic editing); Gail M.
Young, Using a Multidimensional Scoring Guide: A Win-Win Situation, in Alternatives, supra,
225 (giving three advantages of quantifying rubrics).
researchers describe their experiments with the "transformative power of student self-evaluation."

You can make large strides in feedback by allowing students the opportunity to assess their own progress. Not only does their self-assessment cut down on your work, but the feedback is then a part of their learning process. Several researchers have specific suggestions for law teachers. For example, self-graded drafts help the writer focus on specific areas of a report or project before even turning it in. An early checklist before an assignment is due helps the writer understand the instructor's priorities and adjust before turning in the assignment. Even in clinics and seminars, students can be instructed to evaluate themselves through the use of videotapes and self-reflective journals.

**Peers**

An important mode of feedback is the reaction of peers. Students receive peer feedback within a study group. They are aware of peer feedback when they are called on in class: the slightest moan or a reassuring smile from a classmate can help keep them on track as they recite key issues. Without additional feedback from faculty, though, students worry that peer responses are as uninformed as their own and not really trustworthy.

A number of exercises can encourage peer feedback. You can ask students to exchange drafts of an assignment. Students can act as each other's judge and listen to oral arguments. In cooperative or collaborative projects, peers can help each other with research and act as sounding boards for ideas. Whenever you ask students to comment on their peers' writing or thinking, it is important to offer a clear set of criteria to apply. And you need to set the tone of the peer responses. For example: "Review the organization of your classmate's paper as if you were another lawyer working on the same team toward the same goal," or "As you review these papers, offer constructive advice on counterargument and persuasive tone used."

**Professional Overseers**

In internships, clerkships, and clinics, students get direct feedback from practicing attorneys. Law schools should expand the influence of practitioners throughout the full community. Teachers might bring in attorneys as

judges for moot court sessions, as outside observers in negotiating practice, and as storytellers. Sara Jane Coffman suggests having a professional visitor take over a class in midterm to elicit feedback from students about the course design, materials, teaching, and so on; divided into small groups, students fill out a three-question evaluation that the visitor and the teacher review later.19 Including practitioners in the law school curriculum is important to students today because, as summer clerks and interns, they will rarely have undivided attention from a supervising attorney (as might have happened in a past era).

Other professionals who can add to the learning community include faculty from the undergraduate campus, citizens who have experiences to share, and experts in—for example—health, or technology and human values.20

Computer Programs

Computerized learning allows students to learn instantly, at their own pace. Students can receive constant score reviews and perhaps have a librarian or lab proctor's feedback as well. Resources for computerized legal materials are multiplying rapidly. Some law schools have all casebooks on disk, with an area for notes and questions. Some law libraries offer individualized programs in specific courses. Other programs—for instance, a primer on law school plagiarism—can be used at home. The Center for Computer-Assisted Legal Instruction has lessons in more than twenty-five subjects. As more publishers promote these programs, faculty need to incorporate them into their syllabi as an additional tool for feedback.

Feedback for Faculty

Feedback is as essential for the teacher as it is for the learner. But researchers have discovered that teachers at all levels resist feedback, associating it with judgment and criticism instead of positive change. Reasons for their resistance include fear of being less qualified than their colleagues, unwillingness to try new techniques, a belief that teaching is too complex to evaluate, a grandiose notion that no one else can properly appreciate their work, a tension between teaching accountability and academic freedom, the belief that no perfect system exists for evaluating teaching, and the suspicion that evaluation doesn't lead to improvement.21 How then can law teachers receive useful feedback about their job performance? The traditional mode is through the promotion and tenure committees that investigate teaching, scholarship, and service.

Teaching

How do we know if we are effective teachers? Most law schools make heavy use of end-of-term evaluation by students. The critical literature is wary of its

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20. See Faith Gabelnick et al., Learning Communities: Creating Connections Among Students, Faculty, and Disciplines 54 (San Francisco, 1990).
validity, recognizing that students are lenient in these evaluations. But student feedback can be useful, particularly if the teacher designs at least some of the questions.

Most law faculty could concentrate on early feedback; that is, teachers can ask for student feedback before the end of the semester. If you encourage your students to give you feedback throughout the semester, you can counter any criticism early, explain the purpose of aspects of the course that have baffled the students, recognize diverse aspects of the student body, offer feedback and criticism, and give students a little ownership of class responsibility. Earlier feedback can help you anticipate student evaluations and perhaps improve the final results—which may be important if your school takes student evaluations seriously.

Other traditional means of feedback on teaching include a colleague's (or an outsider's) observation of a class, anecdotal feedback, student test performance, videotaping, and teaching portfolios. Daniel Gordon has suggested that alumni and employer surveys could be added to the mix of feedback. Faculty dialog about teaching can stimulate interest in good teaching. And, of course, a particularly satisfying sort of feedback occurs when we meet a former student who says, "You were the best teacher I ever had."

Scholarship

Law faculty are rewarded for their scholarship above and before any awards for their teaching: hiring, promotion, and tenure all emphasize scholarship. And so law faculty, who constantly receive this feedback, constantly emphasize scholarship over teaching. If we ever wonder about the effect of feedback, we need only look to this concrete example.

Faculty receive feedback on their scholarship from within their institution and from outside. Faculty workshops allow us to experiment with an idea in front of our peers before we offer a more finished product to an outside jury. Outside juries read our papers and comment on them, accepting or rejecting them for publication. In many law schools, published articles and books are listed in alumni newsletters and displayed in glass cases for all to see. We can keep track of references to our articles and speeches and draw conclusions.


26. See Gordon, supra note 22, at 73-75.

27. See Weimer, supra note 23, at 93-94.
about our academic worth from those numbers. We can even measure ourselves by the hierarchy of journals in which we publish.

**Citizenship**

As members of the academic community and our larger social communities, we receive and dispense feedback. We can belong to civic and scholarly clubs and conferences where our opinions are a part of the larger dialog. We can also function as consultants, offering opinions that the practicing bar or the media may analyze and use outside the law school setting. By taking part in trials and clinics, we can receive feedback on our practical skills as well as our thought process.

**Feedback for Institutions**

How do institutions know if they are doing a good job? Institutions are usually large, bulky, multidirectional, unresponsive to change, and—at least perceived as—uncaring.

Feedback to law schools comes from several obvious sources. Alumni call and write administrators about a school's effectiveness; their annual giving record sends a clear message. The state bar surveys practitioners and shares its finding through both meetings and publications. National surveys, most notoriously that of *U.S. News and World Report*, rank law schools. The faculty's publications and the jobs that graduates get become concrete feedback for an institution.

More subtly, law schools are given feedback by the number of and quality of visiting faculty, by the faculty's willingness to sacrifice for an institutional goal, by the number and quality of student applications, and by the level of contentment within the staff.

An area for future concentration should be the law faculty's feedback to the institution. Every three years or so, administrators should provide a forum that allows open and free faculty discussion about the state of the institution. Perhaps a two-sided question could generate meaningful feedback: What one thing would you change about the institution (that would not involve additional monies)? Or: What is the strongest aspect of this institution that should be preserved—no matter what? Faculty are uniquely placed to observe (among other things) student satisfaction, staff abilities and workload, library facilities and needs, and curriculum deficiencies, and yet we are rarely asked to share our observations. It may be that faculty have to take the lead in creating such a faculty forum—and perhaps two additional forums, one for students and one for staff. Each of these groups has a unique insight into the problems and joys of law school.

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When deciding whether to concentrate on feedback, and whether to add additional feedback to their courses, teachers need to remember their student days. What would have helped you as a first-year student? How did you learn what teachers wanted on exams and papers?
Usually, answers to these questions emphasize the need for and value of feedback. One questionnaire sent to law graduates asked practitioners which courses they now realize should have received more emphasis. Here are their responses: trial practice, general practice, clinical courses, procedure and evidence, and legal writing and advocacy.\textsuperscript{28} What do these courses have in common? They all provide feedback—measurable results.