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It Takes a Village to Solve the Problems in Legal Education: Every Faculty Member's Role in Academic Support

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IT TAKES A VILLAGE† TO SOLVE THE PROBLEMS IN LEGAL EDUCATION: EVERY FACULTY MEMBER'S ROLE IN ACADEMIC SUPPORT

*Melissa J. Marlow**

I. INTRODUCTION

My days as a teacher began as a student teacher in an elementary school. The first lesson was the arrival of the school buses. In a few minutes over 200 school children exited a string of buses, navigated the winding hallways, and entered their classrooms for another day of learning. There were teachers to meet the buses, teachers posted at all doors, and teachers in the hallways to keep students moving. Observing the unspoken language among this veteran group of teachers was amazing. They only needed to look or motion to each other to know exactly what to do in the herding process. A sense of team spirit was evident, and I quickly realized that in order to make the educational process work well, there must be a community of teachers from the time the students exit the buses in the morning until the time they load up to travel home. While each teacher might instruct a group of students in a classroom, the teachers were all connected in a much larger way. This was the first lesson.

Imagine how differently teachers in law schools operate. Granted, we do meet regularly as a faculty and have standing committees on curriculum and other academic issues. And some law faculty frequently share their ideas with other colleagues and may even team teach a segment of their course. But, the community of teachers concept has not been fully realized at law schools. If it had, academic success programs would not be functioning as they do today. If law faculty were truly working as a teaching unit, every faculty member would play some role in the academic support process.

Part II of this article explores how legal education arrived at the current division of labor in teaching weaker students. Part III examines why the current situation is not the best plan of action for maximizing student learn-

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† Traditional African proverb expressed in different forms in several African languages. Rev. Joseph G. Healey, *African Proverb of the Month* (Nov. 1998), http://www.afriprov.org/resources/explain.htm.

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ing. Finally, Part IV touches upon possible solutions that would work toward uniting law faculty in their common purpose of preparing all students for the rigors of legal practice. In doing so, this article suggests a fundamental shift in the way traditional faculty view their role in academic support, from merely assisting with academic support duties, such as review or exam prep sessions,[1] to becoming equally responsible with academic support faculty for student achievement.[2]

II. TODAY'S DIVISION OF LABOR FOR TEACHING STRUGGLING LAW STUDENTS

It seems much of the literature on academic support, and a good number of law faculty, assume academic support programs grew solely out of the alternative admissions process and the admission of nontraditional students.[3] Certainly there was a time when American Bar Association (ABA) accredited law schools could assume entering students had similar baseline skills. That was due in part to students coming from a limited segment of society, a class of people with money and elite educations.[4] Now law

1. *See* Ellen Y. Suni, *Academic Support at the Crossroads: From Minority Retention to Bar Prep and Beyond—Will Academic Support Change Legal Education or Itself be Fundamentally Changed?*, 73 UMKC L. REV. 497, 504 (2004) ("While regular faculty occasionally assist in such programs, for the most part, they are not core participants. Regular faculty members often tolerate such programs and occasionally support them."); Jacquelyn H. Slotkin, *An Institutional Commitment to Minorities and Diversity: The Evolution of a Law School Academic Support Program*, 12 T.M. COOLEY L. REV. 559, 586 (1995).

2. In fact, ten years ago, Sam Jacobson suggested law schools could meet the needs of struggling students without a formal academic support program. M.H. Sam Jacobson, *Providing Academic Support Without an Academic Support Program*, 3 LEG. WRITING 241, 257 (1997).

3. *See* Kathy L. Cerminara, *Remembering Arthur: Some Suggestions for Law School Academic Support Programs*, 21 T. MARSHALL L. REV. 249, 250 (1996) (pointing out that in the late 1960s and early 1970s law schools started offering academic assistance to minority students); Paula Lustbader, *From Dreams to Reality: The Emerging Role of Law School Academic Support Programs*, 31 U.S.F. L. REV. 839, 840 (1997) ("The underlying purpose of most Academic Support Programs . . . is to diversify the legal profession by helping more diverse students gain admission into, remain and excel in, and graduate from law schools, so they can pass a bar examination and gain entry into the legal profession."); Slotkin, *supra* note 1, at 560–61 ("[L]aw schools have begun to realize their obligation to provide minorities with access to a quality legal education.").

4. *See* ROBERT STEVENS, LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S 234 (G. Edward White ed., 1983) (discussing how homogeneous law student populations were even as recently as the 1960s: "In 1963, women had comprised only 2.7% of the profession. In the academic year 1969–70, only 6.35% of the degree candidates at law school were women. . . . In 1969, blacks . . . only accounted for 1% of the bar, a situation reflected in low statistics in the law schools as well. A study of selected elite and semi-elite schools for the classes of 1970 and 1972 showed that the majority of students came from relatively high-status economic groups. . . .").

schools have much more diverse student populations in every respect. There are older students returning to school with family pressures.[5] There are English as a second language (ESL) students with their own needs.[6] There are many students from non-professional families with no sense of the behavioral norms of the professional class.[7] There are minority students[8] who face stereotypes and negative expectations,[9] and the Americans with Disabilities Act (ADA)[10] has meant there are many more students with disabilities, with a different set of needs.[11] And, of course, there are many more women,[12] for whom the traditional Socratic method just does not work as well.[13]

And while it is true that law schools began opening their doors to non-traditional students in the last half century,[14] additional forces may have created, and, to some extent, shaped the current growth of academic support programs. The upsurge in these programs has caused an interesting division of labor in law schools, with academic support professionals bearing primary responsibility for assisting struggling law students. But, before we can

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5. *See* Judith Wegner, *The University of North Carolina School of Law: A Sesquicentennial History III. The Evolution of the Modern Law School: Crucial Trends That Bridge Past and Future*, 73 N.C. L. REV. 725, 748 (1995).

6. *See* Mark E. Wojcik & Diane Penneys Edelman, *Overcoming Challenges in the Global Classroom: Teaching Legal Research and Writing to International Law Students and Law Graduates*, 3 LEG. WRITING 127, 127–29 (1997).

7. *See* Stephanie Francis Ward, *A Question of Class: White-Collar Lawyers with Blue-Collar Backgrounds Often Straddle Dissimilar Worlds*, 90 A.B.A. J. 37 (July 2004).

8. *See* WILLIAM M. SULLIVAN, ET AL., EDUCATING LAWYERS 3 (2007) (In 2004, 22.3% of law students in the 193 ABA accredited law schools were nonwhite.).

9. *See* Paula Lustbader, *Construction Sites, Building Types, and Bridging Gaps: A Cognitive Theory of the Learning Progression of Law Students*, 33 WILLAMETTE L. REV. 315, 318 (1997) ("[A]s primarily white, middle-class institutions, law schools create cultural barriers to learning. Many nontraditional and diverse students experience cultural and value conflicts leading to feelings of isolation and disenfranchisement.").

10. 42 U.S.C. § 12101 (2000).

11. Jennifer Jolly-Ryan, *Disabilities to Exceptional Abilities: Law Students with Disabilities, Nontraditional Learners, and the Law Teacher as a Learner*, 6 NEV. L.J. 116, 118–22 (2005) ("The numbers of people with disabilities and the laws that assist them in achieving access to a legal education are growing.").

12. STEVENS, *supra* note 4, at 246 (discussing the rapid increase of women in law schools between 1968 and 1979: "[D]uring a ten-year period women moved from less than 10% of law students to more than one-third of the total.").

13. Ann Iijima, *Lessons Learned: Legal Education and Law Student Dysfunction*, 48 J. LEGAL EDUC. 524, 531 (1998) ("In general, women may find the predominant methods of classroom instruction more alienating than men."); LANI GUINIER ET AL., BECOMING GENTLEMEN: WOMEN, LAW SCHOOL, AND INSTITUTIONAL CHANGE (1997); *see also* Beth L. Goldstein, *Little Brown Spots on the Notebook Paper: Women as Law School Students*, 84 KY. L.J. 983 (1995–96) (providing transcripts of interviews with women law students, which discuss their often times unique experience in law school).

14. *See generally*, STEVENS, *supra* note 4.

consider the question of whether the structure of today's academic support programs is the best means of addressing the problem of law students who are not meeting expectations, it is important to take a closer look at the forces, other than nontraditional students, that may have led law schools to develop the current academic support model of instruction.

A. *U.S. News & World Report* Rankings and Scholarly Pursuits

The significance of the *U.S. News & World Report* rankings on legal education has been widely discussed. Some argue the rankings are a valuable source of information about the quality of law schools,[15] while others maintain the rankings are inaccurate and damaging to legal education generally.[16] One area in which these rankings have had a sharp impact is on the law faculty's role as scholars. Granted, some of the current emphasis on scholarship can be attributed to the marketplace, in that candidates for law teaching positions no longer need to show a "potential for scholarship," but in fact demonstrate that they already have a publication record.[17] But, it is hard to ignore how much pressure, whether direct or indirect, is being placed on law faculty by increased publication expectations.[18]

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15. *See* Mitchell Berger, *Why the U.S. News and World Report Law School Rankings are Both Useful and Important*, 51 J. LEGAL EDUC. 487, 496–500 (2001); Russell Korobkin, *In Praise of Law School Rankings: Solutions to Coordination and Collective Action Problems*, 77 TEX. L. REV. 403, 426–28 (1998).

16. *See* Jon M. Garon, *Take Back the Night: Why an Association of Regional Law Schools Will Return Core Values to Legal Education and Provide an Alternative to Tiered Rankings*, 38 U. TOL. L. REV. 517 (2007); Jeffrey Evans Stake, *The Interplay Between Law School Rankings, Reputations, and Resource Allocation: Ways Rankings Mislead*, 81 IND. L.J. 229 (2006); Nancy B. Rapoport, *Ratings, Not Rankings: Why U.S. News & World Report Shouldn't Want to Be Compared to Time and Newsweek—or the New Yorker*, 60 OHIO ST. L.J. 1097 (1999).

17. Association of American Law Schools, *Uncloaking Law School Hiring: A Recruit's Guide to the AALS Faculty Recruitment Conference*, 30 J. LEGAL EDUC. 345 (1988), *available at* http://www.aals.org/frs.jle.html.

18. *See* Michael H. Schwartz, *Teaching Law By Design: How Learning Theory and Instructional Design Can Inform and Reform Law Teaching*, 38 SAN DIEGO L. REV. 347, 360 (2001) ("This emphasis on scholarship derives from law schools' aspirations for upward mobility within the law school hierarchy. Law schools enhance their prestige based, in significant part, on faculty publications; teaching skill or effectiveness is not considered in the rankings."). Schwartz went on to point out that law schools send out mass mailings highlighting the scholarly achievements of their faculty and "never send out anything about the teaching accomplishments." *Id.* at n.44. *See also* Jan M. Levine & Grace C. Tonner, *Legal Writing Scholarship: Point/Counterpoint*, 7 No. 2 PERSP: TEACHING LEGAL RES. & WRITING 68, 68 (1999) ("Scholarship is the 'coin of the realm. . . .'"); Patrick J. Schiltz, *Legal Ethics in Decline: The Elite Law Firm, the Elite Law School, and the Moral Formation of the Novice Attorney*, 82 MINN. L. REV. 705, 751 (1998) (discussing how important scholarship is to upward mobility within the legal academy).

The result of law faculty's heavier commitment to scholarship is decreased time for teaching and student support, leaving precious little time in the work day to work individually with students.[19] The casual rapport enjoyed by faculty and students may well be suffering as faculty, conscious of time management, attempt to crank out a substantial article every year or every other year. The literature on the topic of scholarly production itself[20] is evidence of how much time and effort law faculty are devoting to honing their skills as scholars. Additionally, the number of articles that focus on how to create time for scholarship and give other time-saving tips[21] shows how difficult it is for today's law faculty to successfully fulfill their dual roles as teachers and scholars. It is as if the successful law faculty today have learned how to squeeze every minute out of the day. This squeezing of minutes has not come without its costs.

In fact, some have spoken openly about the costs to students:

> In theory, of course, we all have a three-part duty: to teach, to write, and to serve our community. Off the record, however, we all admit that tenure, salary, academic rank, and professional mobility depend much more on scholarship than on effectiveness in teaching . . . .
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> . . . .
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> Law schools that emphasize teaching likely will see the scholarly production of their faculty decline. If enough of the faculty shifts its focus, a school may seem less scholarly and its national rankings may suffer—even as the quality of its teaching rises![22]

It is easy to imagine how the hectic pace of life in the legal academy and scholarship expectations leaves less time for after-class conversations, in-depth office conferences, or informal mentoring relationships. These one-

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19. Bridget A. Maloney, *Distress Among the Legal Profession: What Law Schools Can Do About It*, 15 NOTRE DAME J.L. ETHICS & PUB. POL'Y 307, 315 (2001) ("[M]any professors do not make themselves available to their students outside of class because they are busy working on their own research."). *See also* Kennon M. Sheldon & Lawrence S. Krieger, *Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory*, 33 SOC'Y FOR PERSONALITY AND SOC. PSYCHOL. BULL. 883, 883 (2007) (pointing to the "overvaluing theoretical scholarship and undervaluing the teaching function" as contributing to student stress level in law school).

20. Robert H. Abrams, *Sing Muse: Legal Scholarship for New Law Teachers*, 37 J. LEGAL EDUC. 1 (1987); James Lindgren, *Fifty Ways to Promote Scholarship*, 49 J. LEGAL EDUC. 126 (1999); William R. Slomanson, *Legal Scholarship Blueprint*, 50 J. LEGAL EDUC. 431 (2000).

21. Christian C. Day, *In Search of the Read Footnote: Techniques for Writing Legal Scholarship and Having It Published*, 6 J. LEGAL WRITING 229, 233–34, 250–51 (2000); Alfred C. Yen, *Advice for the Beginning Legal Scholar*, 38 LOY. L. REV. 95, 95–96 (1992).

22. Dennis R. Honabach, *Precision Teaching in Law School: An Essay in Support of Student-Centered Teaching and Assessment*, 34 U. TOL. L. REV. 95, 99, 103 (2002).

on-one student interactions are increasingly delegated to the academic support professional whose primary role is to work individually and closely with students. In a sense, the "heavy lifting" in teaching has been delegated to a few who are deemed to have the expertise, and more importantly the time and patience, to teach the students most difficult to reach.[23] This shifting of teaching duties in turn frees up time for most faculty to focus their out-of-class time on scholarship.

B. Increased Competition to Attract Students

The number of ABA accredited law schools has grown in recent years, with 195 schools enjoying official status.[24] At the same time, law schools have been "compet[ing] for a dwindling pool of law school applicants."[25] Add to that the growth of academic support programs in undergraduate institutions,[26] and it becomes clear that potential law students have come to expect these types of programs in the graduate experience.[27] A group especially expecting of this extra layer of assistance are students who came through public school special education programs, which exploded in the 1970s,[28]

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23. Suni, *supra* note 1, at 506 ("Academic support programs are tolerated and supported by law schools because . . . they free the doctrinal faculty from having to assist weaker students."). In fact, while Cerminara suggested faculty involvement in academic support programs, she also noted that "budgetary constraints, tenure requirements, and publishing pressures all may impact on the feasibility of such a move." Cerminara, *supra* note 3, at 269.

24. A.B.A., *ABA-Approved Law Schools*, http://www.abanet.org/legaled/approvedlawschools/approved.html (last visited Aug. 5, 2007).

25. Wegner, *supra* note 5, at 740; *see also* James R. P. Ogloff et al., *More than "Learning to Think Like a Lawyer:" The Empirical Research on Legal Education*, 34 CREIGHTON L. REV. 73, 79–80 (2000) (providing some historical review on admissions and pointing out that during the 1960s and 1970s law schools began to accept a "greater proportion of the pool of those aspiring to be law students.").

26. For a discussion of how law school academic support programs tracked the development of these programs in undergraduate settings, beginning in the early 1960s, see Paul T. Wangerin, *Law School Academic Support Programs*, 40 HASTINGS L.J. 771, 773–77 (1989).

27. Suni, *supra* note 1, at 502 n.35 ("As more schools developed and advertised their programs, students began to ask about these programs as part of their selection of a law school. In the competitive admissions environment, this questioning led to greater funding and support, and eventually true institutionalization, of such programs at many schools.").

28. *See* ELIZABETH E. GETZEL & PAUL WEHMAN, GOING TO COLLEGE 12 (Brookes 2005). Getzel and Wehman detail the laws that opened up educational access:

> Since the 1970s, an array of federal legislation has been enacted in an attempt to enhance access and supports to students with disabilities in American education: the Individuals with Disabilities Education Act (IDEA) of 1990, the Individuals with Disabilities Education Act (IDEA) Amendments of 1997, the Individuals with Disabilities Education Improvement Act of 2004, Section 504 of the Rehabilitation Act of 1973, the American with Disabilities Act (ADA) of 1990, and the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1998. (Citations

making college and law school possible for students with learning and other disabilities.[29]

As a result, the absence of assistance programs may well cost a law school in admissions decisions. The solution for many law schools was simple: add a separate and formal academic support program, and advertise it in official law school materials.[30]

C. National Decline in Bar Passage

Bar exam passage rates have always been an important aspect of any law school's work. Perhaps more than anything else bar exam pass rates provide the teachers at an institution a definite and certain measure of how they have prepared their students in the basic competencies. With recent bar passage rates on the decline nationally,[31] the exam has become an even more important area for faculty discussion and study. In order to stay competitive, most law schools have included some kind of bar passage assistance.[32] This specialized assistance is usually provided under the umbrella of "academic support."[33]

> to public law numbers omitted.) As students with disabilities are increasingly included in prekindergarten through high school general education programs, more students are becoming interested in postsecondary education . . . . Nearly all public postsecondary institutions now enroll students with disabilities and provide some level of services to assist access to education.

Id.

29. *See id.* at xiv. ("For many years, most of what did exist in the way of 'services for students with disabilities' was provided to students with physical or sensory disabilities. Beginning in the 1980s, new types of students with disabilities (e.g., students with learning disabilities, students with psychiatric challenges) were beginning to enter the postsecondary education arena at higher rates.").

30. Suni, *supra* note 1, at 502 ("Academic support became more institutionalized, as the demand for such programs grew and their successes were touted in the recruitment and admissions process.").

31. Schwartz, *supra* note 18, at 357; *see also* B. Glesner Fines, *The Impact of Expectations on Teaching and Learning*, 38 GONZ L. REV. 89, 97 (2002–2003); Leslie Y. Garfield, *The Academic Support Student in the Year 2010*, 69 UMKC L. REV. 491, 491 (2001) ("Low predictors have, indeed, led to lower bar pass rates.").

32. Garfield, *supra* note 31, at 497–98 (discussing the expansion of academic support to include bar exam assistance: "Historically, most law schools were unwilling to concern themselves with ensuring that students pass the bar exam. However, recently declining pass rates has made this a more pressing concern. For the first time, law schools are offering supplemental programs and some are even redesigning their curricula with an eye toward helping students pass the bar."). *See also* Suni, *supra* note 1, at 507.

33. *See* Leslie Y. Garfield & Kelly K. Levi, *Finding Success in the "Cauldron of Competition:" The Effectiveness of Academic Support Programs*, 2004 BYU EDUC. & L.J. 1, 4–5 (2004); Ollivette E. Mencer, *New Directions in Academic Support and Legal Training: Looking Back, Forging Ahead*, 31 S.U. L. REV. 47, 47 (2003).

D. Educational Experience Prior to Law School

Although there is still some debate about the health of the American public school system and the interpretation of seemingly declining student achievement scores, there does seem to be agreement that public schools are not teaching basic skills as rigorously as two generations ago.[34] Nationally, we have fallen behind other developed countries in math and science.[35] Additionally, we have a whole generation of students with electronic addictions,[36] further weakening their basic reading, writing, reasoning, and research skills.[37]

The impact on the readiness skills of entering law students has been tremendous.[38] "Part of the terror of the Socratic method may lie in the continually changing and diminishing preparation of students who plan to attend law school."[39] Today more law students begin their course of legal study

34. *See* Elizabeth R. Parker & Sarah E. Redfield, *Law Schools Cannot Be Effective in Isolation*, 2005 BYU EDUC. & L.J. 1, 5 (2005) ("It is not news that schools from preschool through high school are in need of reform."). And "ACT concluded that we are facing a crisis in student preparation. In the three benchmark areas of reading, math, and science only 22% of students taking the ACT achieved at a level for all three that would predict their college success in English composition, algebra and biology." *Id.* at 33.

35. National Center for Educational Statistics, *Highlights from the Trends in International Mathematics and Science Study (TIMSS) 2003*, http://nces.ed.gov/pubs2005/times03/index.asp (last visited Nov. 7, 2007) (pointing out that in 2003, United States fourth and eighth graders scored lower in math than their peers in five other OECD-member countries, fourth graders fell behind students from Japan in science, and eighth graders scored lower than students in three other OECD-member countries in science).

36. *See* M.H. Sam Jacobson, *A Primer on Learning Styles: Reaching Every Student*, 25 SEATTLE U. L. REV. 139, 140 (2001) ("And at every level of education, the rooms are filled with computers, alive with color and motion, beeps and clicks.").

37. *See* Dionne L. Koller, *Legal Writing and Academic Support: Timing Is Everything*, 53 CLEV. ST. L. REV. 51, 59 (2005–2006). Dionne Koller noted that currently entering law students "are spending relatively little time on writing during their undergraduate educations." Lustbader, *supra* note 9, at 338 (discussing how education prior to law school involves "memorizing and regurgitating predigested, prepackaged, and organized information obtained from textbooks, lectures, and the media."). Lustbader notes this leaves students without the skills to "read critically, synthesize rules, or analyze material to the extent required in law school." *Id.*; *see also* Fines, *supra* note 31, at 107 (discussing the results of the National Survey of Student Engagement on undergraduate preparation for class, studying, and writing).

38. *See* Parker & Redfield, *supra* note 34, at 77 ("The disintegration of our nation's K–12 educational system is a problem which has received much comment. We are now realizing how this problem of inadequate preparation has begun to extend beyond high school to college and professional schools."); *see also* Jacobson, *supra* note 36, at 140 ("[T]he law student population has changed both in the way the students have been learning and in their make-up.").

39. Paul Bateman, *Toward Diversity in Teaching Methods in Law Schools: Five Suggestions from the Back Row*, 17 QUINNIPIAC L. REV. 397, 402 (1997).

with poor study and metacognition skills, not accustomed to independent and active learning.[40]

The lack of rigor in educational experiences prior to law school has affected nontraditional as well as traditional students, resulting in "fewer applicants with credentials as strong as those who applied previously."[41] Increasingly, law schools' response to this problem has been the creation of academic support programs, which are open to all students.[42] In fact, a recent archival study found that all law students can benefit from academic support and that "no one racial, ethnic or other diversity group necessarily benefits more or less than another."[43]

E. Stress and Emotional Problems

There is now a growing body of literature focusing on how America's children are overly stressed and how that stress creates emotional problems and impacts learning.[44] If even small children are experiencing unhealthy levels of stress, it is easy to understand why an increasing number of law students enter our halls with preexisting stress-related emotional issues. The student who enters her first year of law school on medications for anxiety or depression (for which side effects can include drowsiness) will find the physical demands of the first year more challenging. The student who suffers from a panic disorder may well find himself in an academic support program because he "froze" on the law school exam.

These prior emotional issues may explain why most law faculty have witnessed a few students who enter law school with high predictors and fail to succeed.[45] Granted, their failure could be the result of a weak work ethic[46]

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40. Ruta K. Stropus, *Mend It, Bend It, and Extend It: The Fate of Traditional Law School Methodology in the 21st Century*, 27 LOY. U. CHI. L.J. 449, 473 (1996) (discussing the lack of training in "independent thought, critical analysis, and verbal communication" in undergraduate education).

41. Cerminara, *supra* note 3, at 254.

42. *Id.* at 250 ("Currently, some schools are recognizing the value of providing academic support to a wider range of students, often even to the entire student body."). Another reason these programs were opened up to all students centered around challenges to the constitutionality of affirmative action efforts in law schools. *See* Suni, *supra* note 1, at 502.

43. Garfield & Levi, *supra* note 33, at 44; *see also* Garfield, *supra* note 31, at 496–97 ("In addition to focusing on minorities, law schools now consider a wide range of factors such as socio-economic status, years out of school, geographical background and undergraduate major.").

44. *E.g.* DAVID ELKIND, THE HURRIED CHILD: GROWING UP TOO FAST TOO SOON (3d ed., Da Capo Press 2001).

45. Sheilah Vance, *Should The Academic Support Professional Look to Counseling Theory and Practice to Help Students Achieve?* 69 UMKC L. REV. 499, 502 (2001) (pointing to some of the possible reasons for failure as "learning styles, language differences, self-esteem issues, past poor exam performance, and test anxiety.").

or a distracting personal situation while in school.[47] Often times, however, the student was not able to handle the stress of law school[48] due to prior emotional problems. And even for those students who manage stress well, the law school experience itself can create enough stress and anxiety to send them over normally accepted levels on most psychological scales.[49]

III. STAND ALONE ACADEMIC SUPPORT PROGRAMS ARE NOT THE BEST PLAN OF ACTION

How many law faculty would like to bear primary responsibility for remedying student achievement problems they had no part in creating and be assessed on their ability to address those problems in a relatively short period of time, working with overly stressed students, and with little assistance from others? It does not sound like a tour of duty most of us would sign up for. Yet, this is often times what we are asking the academic support faculty in our law schools to do.

Most law schools already have academic support programs in place, and several models exist.[50] There is a large demand for academic support

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46. *See* Wangerin, *supra* note 26, at 780 (noting that "laziness" and "conflicting priorities" result in academic problems for law students).

47. Cerminara, *supra* note 3, at 270–71 ("The nonacademic problems that students may face include financial pressures, family or relationship problems, conflicting cultural values, social isolation, self-doubt, and illness.").

48. There has been much written about stress in law school, but Lawrence Krieger's handbook for students nicely summarizes some causes of stress not often discussed or considered. LAWRENCE S. KRIEGER, THE HIDDEN SOURCES OF LAW SCHOOL STRESS (2005).

49. *See* Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112, 144 (2002); Gerald F. Hess, *Heads and Hearts: The Teaching and Learning Environment in Law School*, 52 J. LEGAL EDUC. 75, 77 (2002) (noting that the stress of law school can lead to the "inability to sleep, headaches, allergies, lethargy, weight gain and loss, inability to concentrate, difficulty in relationships with family and friends, and anger at colleagues and teachers."); Chris K. Iijima, *Separating Support from Betrayal: Examining the Intersections of Racialized Legal Pedagogy, Academic Support, and Subordination*, 33 IND. L. REV. 737, 748–49 (2000); Slotkin, *supra* note 1, at 565–66; Stephanie A. Vaughan, *One Key To Success: Working With Professors . . . Outside the Classroom*, 29 STETSON L. REV. 1255, 1258 (2000); *see also* Ruth Ann McKinney, *Depression and Anxiety in Law Students: Are We Part of the Problem and Can We Be Part of the Solution?*, 8 LEGAL WRITING 229 (2002) (discussing teaching techniques which could help our students avoid depression and anxiety in law school). Also pointing to the link between student stress level and law school teaching, Vernellia R. Randall noted, "student anxiety can be lessened with improved legal instruction and with a legal pedagogy that is consistent with the principles of learning." Vernellia R. Randall, *The Myers-Briggs Type Indicator, First Year Law Students and Performance*, 26 CUMB. L. REV. 63, 68 (1995–1996).

50. *See* Cerminara, *supra* note 3, at 265 ("Indeed, if there is a generalization that can be made in this area, it is that no generalizations can be made."); Kevin H. Smith, *Program Evaluation: Defining and Measuring "Success" in Academic Support Programs*, 2003 MICH.

professionals, and these positions have become the wave of the future for employment in law schools.

In the rush to start quickly fixing student achievement problems, have we really thought about the best way to approach the problem? Were these programs simply a stop-gap measure to fix short term problems, with no thought about how they would function ten or twenty years from now? Academic support programs are certainly a necessary part of the solution, but not the entire answer to the student achievement problems in legal education for a host of reasons.

A. Struggling Students Are Helped Most by Learning in Context

It seems there would not be much disagreement among law faculty that sound teaching begins with students learning subject matter in context. In fact:

> Studies have shown that teaching skills in the abstract, for example, a lecture on briefing not connected to a particular subject, is not very useful for students. However, teaching those skills in the context of a substantive course, where the student is applying the skills they are learning to what they are learning, enhances not only the learning, but also increases the transferability of those skills to new situations.[51]

Somehow, even with this knowledge about student learning, a good number of law school academic support programs function alongside, or in addition to, the regular curriculum. Academic support programs provide training in close reading, case briefing, synthesis, outlining, exam strategy, and a number of other necessary skills for student success.[52] Some programs even go so far as to provide a lab type experience to a substantive course.[53] And while these lab programs are providing student learning experiences in context for one course, even these fall short of meeting the goal of providing our students comprehensive contextual learning experiences that will develop higher order thinking skills and efficient transferability.

Academic support faculty are not to blame. Most academic support faculty inherently understand we could be reaching students more effectively

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ST. DCL L. REV 177, 178 (2003) ("The vast majority of ABA-accredited law schools now offer some form of academic support program.").

51. Lustbader, *supra* note 3, at 854; Kristine S. Knaplund & Richard H. Sander, *The Art and Science of Academic Support*, 45 J. LEGAL EDUC. 157, 183 (1995) ("[A]cademic support is not effective in empowering students academically when its lessons are taught in isolation from courses to which students can immediately transfer and apply what they have learned.").

52. Smith, *supra* note 50, at 205–06.

53. *See* Adam G. Todd, *Academic Support Programs: Effective Support Through a Systemic Approach*, 38 GONZ. L. REV. 187, 200 (2002–2003).

by providing more context-based student learning experiences. These faculty do not lack knowledge about how to meet student achievement goals. Indeed, the cause is much more complex, going to the heart of how law schools are structured and have historically functioned, as well as traditional faculty's unwillingness, due to time constraints, inability, or disinterest, to become equal partners with academic support faculty in reaching struggling students.

B. Creating an Optimal Learning Environment Is Only Possible Through Comprehensive Faculty Commitment

As law teachers, we spend a fair amount of time preparing to teach, creating problems and exams, and grading student work. Before undertaking any of these tasks, we should be asking ourselves whether an environment for optimal student learning exists.[54] This question cannot be pondered in the privacy of our individual offices. We, as a faculty, must jointly decide how to best create a learning environment that maximizes the potential for student learning. Creating this environment cannot be delegated to the academic support faculty. Success can only be found by every single faculty member signing on to the task.

When the entire faculty is committed to creating an environment conducive to maximum student learning, the stigma previously attached to academic support programs and its teaching methods decreases.[55] Speaking to this stigma, Professor Chris Iijima writes:

> [A]s important as concentrating on the creation of an empowered learner is[—]and it certainly is a necessity-concentrating on the learning environment solely *within* academic support programs [(ASPs)] can only be a partial solution. ASPs are usually marginalized operations, often not considered a vital or even valuable aspect of the law school's offerings.

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54. Iijima, *supra* note 49, at 756 ("[T]he successful study of law requires a student's engagement in his or her study. For students to be engaged, a supportive atmosphere . . . must be encouraged."). Gerald Hess identified eight aspects of an optimal learning environment for law schools: "respect, expectations, support, collaboration, inclusion, engagement, delight, and feedback." Hess, *supra* note 49, at 76; Sheldon & Krieger, *supra* note 19, at 884 ("the development of positive motivation is importantly forwarded or impeded by the characteristics of the social environment.").

55. BARLOW BURKE, ET AL., A PRACTICAL GUIDE FOR LAW SCHOOL ACADEMIC ASSISTANCE PROGRAMS, 10 (Alex M. Johnson, Jr. ed., JR. ED., Law School Admissions Council, Inc. 2000) ("Law schools generally do not, in their mainstream curriculum, account for the disparate education backgrounds that exist among entering students. Yet academic assistance programs, which arguably bring greater balance to law school playing fields, are often characterized as 'remedial' if they are marginally successful, or are challenged for providing an 'unfair advantage' if they are very successful. In either instance, a degree of stigma attaches.").

> As such, the exclusive use and identification of alternative pedagogical approaches within ASPs may even serve to stigmatize such approaches within the larger law school population, student and faculty alike, as not 'real' or 'rigorous' law school education.[56]

Additionally, a comprehensive faculty commitment to creating an optimal learning environment is necessary if law schools are going to successfully address the non-academic reasons for student failure.[57] Academic support faculty can only do so much given the limited way in which they interact with law students. For example, the contracts professor may notice that "Amy" is consistently not prepared for class, is frequently late or absent. Or the property professor may observe that "Joe" looks like he is on the verge of a meltdown every time he sees him in the hallway or in class. Maybe the legal writing professor observes that "Adam" is not prepared for conferences and, when questioned, reveals that he has small children to care for and student loans are not providing enough funds to feed and clothe them. These teachers have the ability to observe students in situations in which the academic support faculty is not present. These teachers have the ability to question students and begin to diagnose what the source of the non-academic problem might be. These teachers also have the ability to direct the student to the resources that might help them remedy the non-academic issue that could impact their ability to succeed in law school.

The good news about creating an optimal learning environment is that it is within all faculty's reach. Creating an optimal learning environment begins in our own classrooms, and we can all easily implement academic support teaching methods in our classes. "AAP's pedagogical approach is simple: It creates a safe and effective learning environment; it is student-oriented; it reinforces students' logic and values; it provides challenges and ways to help them achieve those challenges; it responds to student voices; and, as a result of the above, it empowers students."[58]

Creating an optimal environment outside the classroom is also an easy task. Iijima points out that teachers could create a supportive environment by encouraging students to take advantage of office hours.[59] Most students do not use faculty office hours "probably because they are somewhat intimi-

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56. Iijima, *supra* note 49, at 765 (emphasis added).

57. *See* Iijima, *supra* note 13, at 527 (noting that while academic support programs "help many students, they fail to address and remedy a fundamental problem faced by law students in general: a lack of the 'balance' essential to optimal academic performance and emotional health.").

58. BURKE, *supra* note 55, at 64; *See also* ROY STUCKEY, ET AL., BEST PRACTICES FOR LEGAL EDUCATION 30 (Clinical Education Association 2007) (discussing what we want to avoid in law school classrooms: "where students feel isolated, embarrassed, and humiliated, and their values, opinions, and questions are not valued and may even be ridiculed.").

59. Iijima, *supra* note 13, at 533.

dated by their teachers and because they are reluctant to admit to any difficulty with the material."[60] Faculty could let students know that questions are common and that they expect to see them stopping by during office hours to clear up confusion.[61]

C. The Current System Is Not Efficient for Students

Today's law school experience is potentially more time intensive for students than in the past. Consider the typical fifteen hour semester courseload, which involves time spent in classroom instruction, out-of-class preparation, and hopefully some additional segments of time creating outlines and attending study group sessions. Add to that additional blocks of time spent in academic support sessions and tutoring. Academic support is only helpful if we are leaving students time for normal life activities, such as exercising, eating well, family care responsibilities, recreation, and adequate sleep. If more law teachers started infusing academic support teaching methods into their instruction, the law school experience could be so much more efficient for students. With some small shifts in the way we teach, we could likely avoid much of the extra time students are currently spending in academic support instruction.[62] Essentially we would be allowing students to have "lightbulb moments" in the regular classroom instead of in academic support sessions.

For example, the property professor could require students to outline a segment of the course, perhaps four weeks of material.[63] The professor or a teaching assistant could then quickly review these outlines to see if students were absorbing the material and then ask the academic support faculty to meet individually with the handful of students who need extra assistance mastering this skill. Or the Torts professor could do a close reading exercise early in the semester and incorporate it into regular classroom activities. In other words, each law teacher could volunteer to cover an essential study skill and make coverage of that skill part of their classroom instruction. Not only would this save the students' time, but it has the added benefit of covering the skill in the context of the substantive material. And there would

60. *Id.*

61. *Id.*

62. Speaking to this point, Knaplund and Sander cautioned, "A support course held in tandem with a substantive course may siphon off time needed for study." Knaplund & Sander, *supra* note 51, at 162.

63. Professor Alice Noble-Allgire, who teaches at Southern Illinois University, asks her students to engage in such an exercise; *see also* Schwartz, *supra* note 18, at 414–15 (noting that while law teachers encourage their students to outline and develop their own examples, most never explain to students how to do this or monitor progress on these out of class activities).

still be a role for the academic support faculty as support and resource personnel. Also, after traditional faculty identified students who were struggling, the academic support professionals could then be available to provide additional assistance to the very weakest of students.

D. Every Law Teacher Should Be Reaching Every Student

The teaching profession is a noble calling, similar to medicine, ministry, or the law. At its core, teaching is a helping profession. Law teachers cannot, in good conscience, shift their responsibility for teaching students who do not initially succeed to the academic support faculty at their school. Simply put, we are not fulfilling our role as teachers if we do not play some part in ensuring every law student's success.[64]

Certainly there are teaching situations that call for a division of labor in reaching weaker students. Required elementary and secondary education are good examples of situations in which the regular classroom teacher cannot be expected to reach every student, given the variety of learning and behavioral disabilities, as well as readiness skills. The model seen in compulsory public school education does not fit, however, when we are working with adults in graduate school. Law students have the basic raw intelligence, past performance track record, and motivation to succeed. And while some of them have learning disabilities, all have been deemed to possess the requisite predictors for law school success by an admissions committee.

If law students have the ability to succeed, then the question becomes why are they having so much trouble these days?[65] Due to the reasons outlined in Part II of this article, law faculty have to be even better teachers[66] than in the past in order to reach every student. Additionally, "experimental research has revealed that many under-achieving students failed because of

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64. Mary Beth Beazley points out that in the past law schools "had the luxury of admitting all of the applicants and then dismissing those who could not adapt to the teaching methods. It may now be time to supplement the case method/final examination system of teaching to reach students with more varied learning styles." Mary Beth Beazley, *Better Writing, Better Thinking: Using Legal Writing Pedagogy in the "Casebook" Classroom (Without Grading Papers)*, 10 LEGAL WRITING 23, 24 (2004).

65. *See generally* Fines, *supra* note 31. Barbara Glesner Fines pointed to one reason we do not often consider: teachers' expectations of students. *Id.* Fines further stated that "[t]eacher expectations can influence student achievement through their effect on teacher behavior alone. When teachers expect more from students they may allocate more personal resources to their teaching, which, in turn, facilitates greater student learning and achievement." *Id.* at 98.

66. "We must reward faculty members for being very effective teachers and . . . demand that every faculty member make strides toward becoming a better teacher." Honabach, *supra* note 22, at 103.

inappropriate instructional approaches used with them."[67] In becoming better teachers, some changes, independent from academic support programs, will need to take place both in and out of the classroom.

To reach every student, we as law teachers will need to expand our teaching methods.[68] Legal scholars have long pointed to the frequent use of the Socratic method in law schools, especially in first-year classes.[69] "[B]y diversifying our approaches to the way we present material in the classroom, we are more likely to reach more students more of the time."[70] Professor Honabach suggests we move away from thinking about teaching to the class, and consider teaching more to individuals:

> We do not employ what might be termed "precision teaching"—the use of pedagogical techniques that permit us to focus on the needs and abilities of individual students. Instead, we teach to the hypothetical average student who may not mirror the abilities of any of the real students in our rooms. Indeed, being the traditionalists we are, we employ what we might term "average" instructional strategies . . . . Teaching individual students is something with which most of us have had little experience.[71]

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67. Robin A. Boyle & Rita Dunn, *Teaching Law Students Through Individual Learning Styles*, 62 ALB. L. REV. 213, 247 (1998); *see also* Michael H. Schwartz, *Teaching Law Students to Be Self-Regulated Learners*, 2003 MICH. ST. DCL L. REV. 447, 451 (2003).

68. For a discussion of why so little has changed in teaching methods in law schools in the last century see generally Schwartz, *supra* note 18, at 360–65 and Beazley, *supra* note 64, at 32 *See also* SULLIVAN, *supra* note 8, at 186 ("Compared to other professional fields, which often employ multiple forms of teaching through a more prolonged socialization process, legal pedagogy is remarkably uniform across variations in schools and student bodies."); Boyle & Dunn, *supra* note 67, at 214 (stating law professors "teach an entire class of aspiring attorneys in exactly the same way, with the same instructional materials, and in the same amount of time-regardless of the differences in the students' intelligence levels, aptitudes, experiences, interests, and learning styles."). *But see* Stropus, *supra* note 40, generally making the case for continued use of the Langdellian method.

69. For a discussion of the disadvantages of the Socratic method in law schools see STUCKEY, *supra* note 58, at 132–41; *see also* Bateman, *supra* note 39, at 398. Bateman goes on to describe the results of a survey which "indicated that the most widely used teaching technique was the Socratic method: a staggering ninety-seven percent of those teaching first-year classes reported using the Socratic method, with the use of alternative teaching techniques decreasing as a teacher became more experienced or tenured!" *Id.* at 404; *see also* Vernellia R. Randall, *Increasing Retention and Improving Performance: Practical Advice on Using Cooperative Learning in Law Schools*, 16 T.M. COOLEY L. REV. 201, 206 (1999) ("First year law classes usually have between 70 and 90 students . . . . [E]ven the best of socratic questioners can only actively and effectively engage four to eight students per fifty minutes. Thus . . . most students are passive participants in the learning process.").

70. Bateman, *supra* note 39, at 399.

71. Honabach, *supra* note 22, at 95–96; *see also* Steven I. Friedland, *How We Teach: A Survey of Teaching Techniques in American Law Schools*, 20 SEATTLE U. L. REV. 1, 21 (1996).

Teaching to individuals is one of the reasons academic support programs have achieved success in law schools. If we are going to reach every student, all law faculty will have to step up to the plate and begin working toward teaching to all kinds of learners,[72] with varying abilities. And when faculty step up, administrators will need to step in to reward faculty for good teaching. Currently, traditional faculty have no motivation to improve their teaching with the emphasis on scholarship. Faculty are rewarded for closing their doors and concentrating on abstract thoughts, instead of planning, evaluating, and adjusting their teaching methods to meet the needs of individual learners. And according to a recent study spanning three years by Sheldon and Krieger, this emphasis on scholarship over teaching will result in decreased student need satisfaction, well-being, career motivation, and bar performance.[73] Sheldon and Krieger concluded:

> [L]aw schools traditionally emphasize theoretical scholarship and the teaching of legal theory, and many hire and reward faculty primarily based on scholarly potential and production. Our findings suggest that schools will benefit from reevaluating faculty priorities regarding such issues and from considering carefully the effect of their teaching methods and practices on students. Changes toward employing faculty with more teaching and lawyering (including public service) experience, offering a balance of practical skills training, or providing more training and rewards for teaching excellence might also ultimately enhance students' sense of autonomy and engagement.[74]

In addition to rethinking classroom instruction and its rewards, traditional law teachers will also need to work more intensively with students outside of class in order to reach every student.[75] "All people within legal education have the opportunity and responsibility to recognize that teaching and learning happens both in and out of the classroom."[76] Office hours are one way law teachers satisfy the ABA requirement[77] to consult with students,[78] and technological advances now allow us to communicate with our

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72. For ways to reach different kinds of learners, see Boyle & Dunn, *supra* note 67, at 228–32 for suggestions on reaching auditory, visual, tactual, and kinesthetic learning styles.

73. Sheldon & Krieger, *supra* note 19, at 894.

74. *Id.* at 894–95.

75. *See* Hess, *supra* note 49, at 92–93 (discussing the benefits of student-faculty contact).

76. Martha M. Peters, *Bridging Troubled Waters: Academic Support's Role in Teaching and Modeling "Helping" in Legal Education*, 31 U.S.F. L. REV. 861, 874 (1997); *see also* Vaughan, *supra* note 49, at 1255.

77. A.B.A., STANDARDS AND APPROVAL OF LAW SCHOOLS, 404(a)(1) (2007–2008), *available at* http://www.abanet.org/legaled/standards/20072008StandardsWebContent/Chapter%204.pdf.

78. Vaughan, *supra* note 49, at 1256.

students via e-mail or course web-sites.[79] But, becoming equal partners with academic support faculty will require a little more[80] than what we are currently doing as traditional faculty. It will require that we truly begin to "open the door" to our students' questions and concerns and begin to form real personal and academic connections with our students.[81]

E. Helping a Student Succeed Is One of Teaching's Greatest Rewards

There are many rewards to teaching at the law school level. Having the opportunity to work with a highly motivated set of students in a context that also provides a comfortable salary and flexibility in schedule are certainly hard to ignore. But, one of the greatest joys a law teacher can have comes from reaching a struggling student. It is the very essence of teaching. Did not we sign on to create understanding for the students who came through our classes? Do we not have an obligation to the bench and bar to produce attorneys who can handle today's legal problems? If we abdicate our teaching duties to the academic support faculty, then we may be missing out on the sense of accomplishment and triumph that accompany reaching out to all students.

Not only are we rewarded for "getting down in the trenches" with students, but we also learn the most about how to improve our teaching by working with students who do not initially succeed with our methods. This work will not be an easy task for traditional faculty. Some faculty may need to revise their lesson plans to reach more learning styles.[82] Others will need to completely revamp their teaching approach to take into account theories on education and instructional design as well as information processing.[83]

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79. *Id.* at 1261.

80. It could be as simple as letting students know that "you will not schedule any other work during office hours and that 'nothing [you] do is more important than meeting with [students].'" Hess, *supra* note 49, at 90.

81. Vaughan, *supra* note 49, at 1258 ("Stress management is critical to success in law school and the professor who has an 'open door' policy may help the student in this area, as well."); Maloney, *supra* note 19, at 328 ("[L]aw school faculties need to take an interest in law students . . . more than just calling on them in class or grading their exams—professors should take a personal interest in their students.").

82. Recent scientific research tells us that "one size fits all doesn't have much of a place in education since we've begun to understand better how brains work and people learn." NEA Higher Education, *Learning Styles*, 24 ADVOC. 1, 1 (Apr. 2007); see Randall, *supra* note 49, at 71–74 for a discussion of learning styles. Randall also notes that the "traditional pseudo-socratic teaching style fits the learning style of only some learners." *Id.* at 101.

83. For example, there is the Kolb Learning Styles Inventory, that asks teachers to design lessons which include concrete experience, reflective observation, abstract conceptualization, and active experimentation. NEA, *supra* note 82, at 6. Or the Learning Progression, which is a "cognitive theory that explains the evolutionary learning process of law students."

Still others will have to make time in their hectic academic schedules to work closely with select students. But, the words of wisdom we heard as children that "nothing in life worth anything is ever easy" can become our new mantra as academics. And once the rush of victory is felt by reaching the first struggling student, the hard work will seem easier with the next student.

IV. POSSIBLE SOLUTIONS

The title of this article references a traditional African proverb: "It Takes a Whole Village to Raise a Child."[84] In order to build a community of teachers who share the burden of helping struggling law students, some rethinking and restructuring will need to take place in many law schools and their academic support programs. Academic support programs are clearly necessary in law schools, but these programs are only the first step in addressing student achievement problems. The time has long since passed for traditional faculty to begin playing their part in this process.[85] In addition to the strategies discussed in Part II of this Article, one or more of the following suggestions may be of some help in getting the discussion started about how to accomplish this.

A. Rotate Faculty into the Academic Support Program

Some academic support faculty rotate into the regular classroom by providing a lab type experience to a casebook class or teaching collaboratively with a casebook class, "infusing it with academic support pedagogy."[86] Why not rotate traditional faculty into the academic support program? Every academic year one or two traditional faculty could rotate into the academic support program, working alongside the program's existing members. The academic support administrators could remain the same year to year, but the infusion of traditional faculty into these programs could build the necessary bridge between faculty and academic support. Such a rotation would ensure that every faculty member understood the unique challenges facing academic support faculty. If a majority of faculty rotate in, over the

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Lustbader, *supra* note 9, at 321. For a discussion of other types of information processing theories, see Randall, *supra* note 49, at 71–72.

84. *See supra* note †.

85. In fact, according to the Law School Admission Council (LSAC), one of the key requirements for a successful academic support program is that "faculty be willing to work with the program." Mencer, *supra* note 33, at 65. *See also id.*, at 75–78 (advocating faculty involvement to further student achievement in law schools).

86. David Dominguez et al., *Inclusive Teaching Methods Across the Curriculum: Academic Resource and Law Teachers Tie a Knot at the AALS*, 31 U.S.F. L. REV. 875, 887 (1997).

course of time, they would see how work with struggling students is accomplished as well as inform their own teaching, causing them to change the way they teach.

B. Be Flexible in Structuring and Revamping Academic Support Programs

Academic support program structure could be assessed every three or so years to see if the current model is working for a given student population and uniting the traditional and academic support faculty in their common mission. If there seems to be a disconnect between academic support and traditional faculty, a task force could be assembled to study the problem and make recommendations. If the academic support director is a member of the traditional faculty, the responsibility for directing the academic support program could rotate among faculty members—or there could be a permanent academic support director, with an assistant director position rotating among the faculty. There are potential negatives to these suggestions given the frequent turnover that could occur and the need to consistently monitor and assess student achievement. But, the ability to prevent burnout, to which academic support faculty are susceptible, as well as the opportunity to get traditional faculty involved in academic support in meaningful ways, may well outweigh any potential negatives.

C. Consistently Use Faculty in the Diagnostic and Tutoring Functions

When traditional faculty are involved in academic support, "the program gains credibility and thus power and effectiveness."[87] A natural way to involve faculty in support services is by asking them midway through a semester to identify students who are struggling, as well as to assist in diagnosing the factors contributing to their performance (avoiding, to some extent, the problem of students being identified for support services after grades are earned). Legal writing faculty may be uniquely suited to the diagnostic task in the first year, given the small class size and opportunity to observe student work and personal interactions. Although this is more challenging with first-year courses that are large, it is still possible. Even in a first-year class that has over sixty students, it is still a straightforward task to identify which students failed the midterm or assigned class problem and which students are performing significantly off pace when they participate in class discussion. Faculty could briefly record information about these weaker students and pass that along to the academic support team. And upper-class electives are fertile ground to bring traditional faculty into the di-

87. Cerminara, *supra* note 3, at 269.

agnostic aspect of academic support, as often times these courses have small enrollments with opportunities to closely observe students. Upper-class faculty teaching these courses can easily monitor students and assist the academic support faculty with retention efforts.

Along with the academic support team, traditional faculty could also offer tutoring during the course of the semester to the students they have identified early on as weaker students. The tutoring could take on many forms, from working intensely with individuals, to group sessions for students who failed a midterm or class project. Faculty could require students who failed a midterm to meet individually for thirty minutes to discuss academic and nonacademic factors that might be contributing to their performance. In courses that span an entire academic year, such as contracts or property, faculty could encourage students who failed the first semester to bring in their outline on a bi-weekly basis during the second semester. Thus, faculty involvement in academic support can take place in many different ways and vary over time depending on how a particular class of students performs. And the benefit will lie not only in the particular activities chosen, but also in the fact that faculty are part of the student support process.

D. Take on a Few "Special Cases" Each Semester

A few years ago, I decided as a regular classroom teacher, not part of the formal academic support program at our school, to start making a difference in reaching struggling students. So far, the steps have been small in terms of numbers of students reached. Rather than provide support to dozens of students, I took on a few students each semester whom I deemed "special cases." "Special cases" were students who had the raw intelligence and work ethic to succeed but were obviously struggling for one reason or another. There was nothing formal about any of this, just simply a gentle nudge here and there to "Stop by this week if you have time—I'd like to see how you are doing with outlining your casebook courses." Or "Let me know if I can be a listening ear as you think about final exams and managing your stress load." Or "Why not take a practice exam and bring in the answer and we'll discuss it?" All of these gentle nudges were easy to make since students are often in my office for legal writing conferences.

My first fear in offering limited extra assistance was that other students would accuse me of favoritism or giving some students an advantage over others. Another concern was that I would begin blurring the lines between being their legal writing teacher and their academic support advisor. Also, I worried that I would not have the time to provide this extra layer of teaching in an already full load. Thankfully, none of my fears were realized. No one complained, no lines were blurred, and the countless hours I spent working with these students was a very good investment of time as it stretched me as a teacher, helping me see ways I could better reach the students in the

courses I teach. Close one-on-one work with a student really lets you "get inside their head" and unravel the mysteries of why they are having trouble succeeding in law school. Armed with this knowledge, I was able to become a better teacher and more efficient at delivering instruction, both in and out of the classroom.

E. Require Real Connections Between Coursework and Academic Support

Much has been written about how traditional coursework can be linked to academic support efforts, and many legal scholars have offered excellent ideas for infusing academic support pedagogy into the regular curriculum.[88] At some schools, this fusion is actually occurring.[89] But sadly, for most schools "business as usual" persists,[90] and unless faculty are required to build real connections between the instruction they provide and academic support methods, change will occur far too slowly.

Requiring real connections could come about by a faculty resolution, which could detail the specifics of how this would occur in a particular school. Although not as likely to happen because law schools operate under principles of faculty governance, a courageous administrator could issue an executive order of sorts strongly encouraging faculty to move in this direction. After all, a law school dean often times enjoys the same powers of persuasion as those occupying other bully pulpit posts. This could take on even more significance if it were linked to faculty merit evaluations and raises. And curriculum committees could play their part by recommending such initiatives as writing across the curriculum,[91] which tend to encourage individualized instruction techniques even for large classes.

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88. *E.g.*, Dominguez, *supra* note 86. The authors who played different roles in their law schools described the team building process in which they engaged while planning to speak at an AALS conference, stating "We write these words with the hope of encouraging other academic support and traditional law teachers to collaborate in a healthy critique of one another's teaching methods, thereby increasing opportunities for new and better applications." *Id.* at 878. *But see* Koller, *supra* note 37, at 59 (warning of some disadvantage in connecting legal writing with academic support, including the fact that legal writing courses are already filled to capacity on content).

89. Mencer, *supra* note 33, at 52.

90. *See* Dominguez, *supra* note 86, at 881 ("As academic support teachers, we direct our programs often without working directly with classroom professors."); Suni, *supra* note 1, at 499 (offering some reasons why academic support and traditional classroom teachers find difficulty uniting: "academic support has the potential to threaten the existing hierarchies in legal education . . . . Academic support departs from the established structure, both in format and philosophy.").

91. Pamela Lysaght & Christina D. Lockwood, *Writing-Across-The-Law-School Curriculum: Theoretical Justifications, Curricular Implications*, 2 J. ALWD 73 (2004); Carol

F. Use Academic Support Resources Wisely

The best use of academic support faculty is as resource or support staff to the traditional faculty. Too many law schools are viewing academic support programs as the primary place for students who are struggling in law school to learn how to succeed. Traditional faculty's primary purpose as teachers is to ensure every student has opportunities to succeed, and the academic support personnel's time would be better spent helping the faculty figure out how to do just that. Instead of helping students succeed, academic support professionals' energies should be focused on helping faculty learn how to succeed as teachers. Paula Lustbader concisely highlighted how academic support faculty could use their expertise as resource personnel:

> [S]everal ASP teachers advise other faculty on curriculum and course development and work to integrate ASP pedagogy in substantive courses. Substantive faculty consult with the academic support faculty regarding teaching methods, problems with students, ways to address issues of diversity in a sensitive manner, and ways to avoid alienating students. Some academic support faculty team-teach courses with substantive faculty. . . . [S]ome academic support faculty review exam questions for potential problems before the exam is given and share ways for the substantive faculty to conduct an exam review for the students.[92]

Using academic support resources wisely as educational consultants to the faculty would have several benefits. It would ensure that the primary responsibility for teaching remains with the classroom teacher. There would be more learning experiences in context. An optimal learning environment would exist, and there would be efficiencies for students, as they would be spending less time in academic support sessions.

As a caveat, even if law schools transition from academic support faculty to traditional faculty for helping weaker students, there will likely still be some need for academic support staff to work individually with students. But, the number of students with whom they would be working would be far less, and the time spent would be necessary to target more challenging learning issues beyond the scope of most regular faculty's time or expertise. In other words, the academic support faculty would only be called in for full student support services on the most difficult of cases.

McCrehan Parker, *Writing Throughout the Curriculum: Why Law Schools Need It and How to Achieve It*, 76 NEB. L. REV. 561 (1997).

92. Lustbader, *supra* note 3, at 844.

G. Require Academic Support Training and Mentoring for New Faculty

Academic support pedagogy has already had quite an impact on legal education.[93] Academic support faculty have been visible at legal education conferences, and their ideas have influenced "traditional legal pedagogy."[94] Most faculty, however, have not been fully immersed in ASP teaching methodology or education theory,[95] and required training[96] for new faculty members would certainly go a long way towards building a community of law teachers.

In fact, some have predicted[97] that academic support faculty will be influential in changing the climate in law schools in this century through training traditional faculty on cutting edge educational concepts:

> Legal educators will develop more innovative pedagogical strategies geared to their students' multiple intelligences, incorporate new insights offered by adult learning theory, and embrace opportunities to reshape the culture of legal education . . . . The evolving theory of multiple intelligences . . . will very likely have become more influential, as teachers and students in elementary and secondary schools become more cognizant of strategies for developing distinctive forms of intelligence, and as businesses place a greater premium on teams whose productivity is enhanced by diverse and complementary talents and skills. The need to train and re-train workers to compete in rapidly changing global markets will stimulate more widespread appreciation for the nuances of adult learning theory.[98]

This training for new faculty could begin with an intensive two or three day session conducted during the summer before the new faculty member

93. *See id.* at 845; Peters, *supra* note 76, at 870 (noting these programs "promote greater recognition and acceptance of individual, racial, and ethnic differences as positive values in legal education and the legal profession.").

94. Lustbader, *supra* note 3, at 845–46.

95. Honabach, *supra* note 22, at 101 ("There has been a great deal of work done in the field of learning assessment. We law professors tend to be unaware of much of that work, however, because as a group we lack any serious training in curriculum design and education theory."); Schwartz, *supra* note 18, at 350 (noting that the Langdellian tradition has "persisted even in the face of the explosive evolution of learning theory throughout the twentieth century and the rise, in the second half of the century, of the field of instructional design, a field devoted to the systematic and reflective creation of instruction.").

96. Speaking to the lack of teacher training in law schools, Vernellia Randall noted, "[t]he only requirement for teaching in law school is superior academic grades from top rank law schools, law review experience, prestigious judicial clerkships, scholarly publications, and having most of the current faculty believe you will fit in. Law schools require no prior training to teach, no prior teaching experience, and sometimes no experience practicing law." Randall, *supra* note 69, at 208.

97. Wegner, *supra* note 5, at 748.

98. *Id.* at 747.

begins full-time teaching in the fall semester (or through attending the AALS new law teachers workshop conference in Washington, D.C.).[99] The training could be followed up with classroom observations during the first and second year of full-time teaching and debriefing sessions with the academic support director, as well as various informal meetings to discuss any topic of concern to the new faculty member. The academic support director would become a teaching mentor to the new junior faculty member. An added bonus would be that the director could also be consulted at the critical pre-tenure stage and asked to comment on the junior faculty member's progress as a law teacher. Such insight by someone who had worked intensively with the junior faculty member would be far superior to the typical peer reviews that are conducted strictly for purposes of promotional review.

H. Conduct Annual Surveys

As part of the annual review process, the dean could ask each faculty member to complete an academic support involvement survey. The survey could cover a variety of issues, including the following: (1) how many students used office hours; (2) how faculty varied their teaching techniques to meet the needs of individual learners; (3) what tutoring they engaged in with weaker students; and (4) what training sessions they participated in on teaching effectiveness. The dean or associate dean could also meet with faculty, review the results of this survey, and strategize for the upcoming year about faculty involvement in student support. The results of the survey could also be shared with the academic support team as an assessment tool for the previous year and to assist in planning future programs. The academic support faculty may want to follow up in individual meetings with some or all faculty after reviewing the survey results. Additionally, this same type of information could be captured from the students' perspective by revising student evaluation forms to include questions about individual teachers' level of commitment to academic support.

I. Encourage Faculty Discussions on Teaching

Perhaps the simplest way to ensure faculty are reaching all students with coordinated efforts is to start talking with each other more about their teaching.[100] If law faculty met regularly to discuss and coordinate teaching

99. The Association of American Law Schools, 2007 Workshop for New Law Teachers & Workshop for Beginning Legal Writing Teachers, http://www.aals.org/events_2007nlt.php (last visited Sept. 26, 2007).

100. E-mail from Christine Haight Farley, Professor and Associate Dean, American University Washington College of Law, to Associate-Assistant-Deans@mail.abanet.org (July 24,

efforts, the benefits to students could be enormous. A recent study of law schools by the Carnegie Foundation for the Advancement of Teaching recommended:

> [T]o produce integrative results in students' learning . . . communication and mutual learning must first occur among the faculty who teach in the several areas of the legal curriculum. The faculty responsible for curriculum and pedagogy in these areas must communicate with, learn from, and contribute to each other's purposes.[101]

Weekly luncheons held in the faculty lounge to discuss teaching could become a regular part of faculty life. Even a half-day faculty retreat focused on coordinating teaching efforts prior to the beginning of each semester could go a long way toward achieving the student success we are all striving for.

V. CONCLUSION

The first lesson I learned as a student teacher was that the educational process was truly a team game. A spirit of cooperation among the teaching staff and a sense of common purpose were necessary to help every student reach their potential. Personal agendas had to be set aside to achieve the greater collective good. Similarly, learning how to function as a unified legal teaching unit[102] is critically important to our success, especially when we are noticing an increasing number of students who find law school an unusually challenging task. Traditional faculty could help their schools better meet these students' needs and achieve these common goals[103] if they joined forces with academic support faculty and became equally responsible for the academic achievement of struggling students. Building a community of teachers is the only real and lasting solution.

2007) (copy on file with author) (describing the faculty collaboration and regular meetings held by the faculty at American in launching their "Integrated Curriculum Program").

101. SULLIVAN, *supra* note 8, at 13.

102. *Id.* (pointing to the need for faculty to work more closely together in reforming legal education).

103. *Id.* at 89 ("In our study, we discovered that faculty attention to the overall purposes and effects of a school's educational efforts is surprisingly rare, partly due to the general tendency of faculty to focus on only their particular areas of the curriculum and partly due to the culture of legal education.").