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# THE YEAR OF MAGICAL TEACHING: LESSONS LEARNED FROM ONE CLASS IN THREE MODALITIES

By Debra Moss Vollweiler\*

This article narrates eight key lessons learned by an experienced law professor teaching one course in three different ways during one academic year. During the 2021–2022 academic year, I taught one course—Secured Transactions—three times, for three different schools, and in three different modalities. While I certainly do not stand alone in self-reflecting on my teaching during recent times,<sup>1</sup> in the recent year I had a unique situation that allowed me to isolate and consider my *teaching* of a subject, away from *preparing the doctrine of the subject* itself.

Although thinking about “teaching” historically was not the focus of law professors in legal education, there has been a slow steady change in the interest of the discipline of teaching among legal educators.<sup>2</sup> It is clear that reports on legal education in the past twenty years “reawakened interest in innovative ways to educate lawyers, including the release of the Carnegie Foundation for the Advancement of Teaching’s comprehensive study of legal education and the Clinical Legal Education Association ‘Best Practices for Legal Education.’”<sup>3</sup> Such excellent, thorough works clearly kick-started the modern pedagogy conversation.

Articles on “reform” in legal education then debuted with more frequency in the wake of the recession in the late 2000s—and the subsequent drop in enrollment for many law schools.<sup>4</sup> At the time,

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<sup>1</sup> Amy Soled, *How COVID-19 Made Me a Better Teacher*, 34 THE SECOND DRAFT 1 (Aug. 2021); Timothy Casey, *Reflections on Legal Education in the Aftermath of a Pandemic*, 28 CLINICAL L. REV. 85 (Aug. 23, 2021).

<sup>2</sup> Brent E. Newton, *The Ninety-Five Theses: Systematic Reforms of American Legal Education and Licensure*, 64 S.C. L. REV. 55 (2012).

<sup>3</sup> Deborah Jones Merritt, *Pedagogy, Progress, and Portfolios*, 25 OHIO ST. J. DISP. RESOL. 7, (2009).

<sup>4</sup> Newton, *supra* note 2.

law schools were receiving extensive negative publicity in the mainstream media about the dominant methods for teaching in law schools.<sup>5</sup> These articles suggested and led to many reforms in legal education that improved student learning.<sup>6</sup> A report on the state of legal education twenty years after MacCrate documented shifts in legal education teaching methodology, away from the Socratic method and toward problem-based and other teaching techniques then new to law schools, in an effort to show legal education's intrinsic worth.<sup>7</sup>

More recently, it is already clear that the global pandemic of 2020 has awakened a new wave of thinking about teaching in legal education, although this time hitting more faculty more personally.<sup>8</sup> While an economic crisis for a law school regarding attendance or reputation may have felt like an indirect pressure on individual faculty, there was no escaping the pressures of the pandemic on those individuals doing the teaching and learning—anywhere in legal education.<sup>9</sup> In the wake of the pandemic, it is clear that law faculty all need—and that students deserve—support and training in best educational practices to ensure success.<sup>10</sup> The lessons learned in this past year can further that goal.

Teaching multiple modalities of the same course during one academic year certainly was possible only because of the pandemic; but the lessons I consider throughout this article are not limited to pandemic-time teaching. Instead, I have isolated various reflections and explored them in the context of solid pedagogical theory.

The first part of this article sets out the context of the teaching throughout the year. The second part discusses goals for good teaching and lessons learned about pedagogy from this experience and provides a narrative guide for professors at all experience levels to better their teaching through understanding these

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<sup>5</sup> COMM. ON THE PRO. EDUC. CONTINUUM, A.B.A., *Twenty Years After the MacCrate Report: A Review of the Current State of the Legal Education Continuum and the Challenges Facing the Academy, Bar, and Judiciary*, (Mar. 20, 2013) at 4.

<sup>6</sup> Newton, *supra* note 2.

<sup>7</sup> *Twenty Years After the MacCrate Report*, *supra* note 5, at 8.

<sup>8</sup> Deborah Archer et al., *Clinicians Reflect On COVID-19: Lessons Learned And Looking Beyond*, 28 CLINIC L. REV. 15 (2021).

<sup>9</sup> Meera E. Deo, *Pandemic Pressures on Faculty*, 170 UNIV. PA. L. REV. ONLINE 127 (2022).

<sup>10</sup> Christian Sundquist, *The Future of Law Schools: COVID-19, Technology, and Social Justice*, 53 CONN. L. REV. ONLINE 1 (2020).

experiences. Putting these experiences into the context of good teaching from resources across disciplines provides a road map for those seeking to set down a path of excellent teaching or to refresh and adjust law teaching during and, hopefully, in the wake of the pandemic. The third part of this article offers some conclusions as to whether and how the goals were met and how to move forward and use these lessons productively.

It is important to note additionally that this article does not comment on the students with whom I worked or their abilities, achievements, or attitudes. It was very clear that I had bright, enthusiastic, engaged students at each institution in which I engaged, and rather than focusing on their experiences as I perceived them, this article is limited to talking about the differences and lessons I encountered in preparing to teach, actually teaching, and assessing a singular class across these different populations and in these different modalities. Any feedback from students is relayed how it was given to me, and for the sole purpose of pulling a lesson from that information moving forward. I had an unquestionably positive experience with each university and class that I engaged in and am thankful for these opportunities.

## **I. CONTEXT: THE CLASS AND THE MODALITIES**

### **A. Class One: Daytime and In Person**

The class I taught is Secured Transactions, a typical commercial law course. The first course I taught was a two-credit course, meeting two hours per week, once a week, over a thirteen-week semester.<sup>11</sup> The course description is as follows:

UCC: Secured Transactions (2 Credits)

This course studies Article 9 of the Uniform Commercial Code, focusing principally on secured transactions involving personal property and fixtures. The course explores commercial secured financing relationships and examines the debtor-creditor relationship in state

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<sup>11</sup> Taught at my home institution, Nova Southeastern University, Shepard Broad College of Law.

law as well as in bankruptcy.<sup>12</sup>

This course was taught entirely in person. The approximately sixty students met in a very large classroom, and I and the students were masked the entire term. Given the large size of the classroom, and the class, it was difficult to learn to identify the students in the classroom, despite using name cards. The course was designed and conducted for in-person attendees, although a policy existed to allow students to attend remotely under only very limited circumstances. In any given week two or fewer students attended remotely, with many weeks in which no student attended remotely at all. Therefore, in essence, this course ran, and was taught as, a fully in-person course.

Secured Transactions generally has a reputation of being both difficult and inaccessible—an important distinction that drives enrollment in this course each semester. It is clear that in any given semester the largest cohort of students have enrolled out of concern for the bar exam.

While the course description allows for alignment of the course with material tested on the bar exam (in Florida, a study guide published by the Florida Board of Bar Examiners outlines the material tested on the Florida bar exam<sup>13</sup>), it also allows room to include important practice-related information. As a result, students are prepared for the bar but also know how to spot and deal with issues that might arise in the practice of law as well.

In fall of 2021, this course met on Tuesday afternoons from 1–3 p.m. It is in my experience teaching this course (twenty years) a good time of day to teach difficult material—not too early, not too late, and generally between meals.<sup>14</sup> As part of each class session I used some prepared PowerPoints, I built problems together on the whiteboard, and I showed some videos. All prepared materials were shared in Canvas, the learning management system used to manage the course and course materials. Students could follow along with any materials pre-loaded onto Canvas (and have them

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<sup>12</sup> *Course Descriptions*, SHEPARD BROAD COLL. L. (2023), <https://www.law.nova.edu/current-students/course-descriptions.html>.

<sup>13</sup> *Id.*

<sup>14</sup> I have always thought of this time slot as the “Miss Congeniality of time slots” (the perfect date). See Andrea Towers, *Miss Congeniality Stars Celebrate Today Being the ‘Perfect Date’: April 25*, ENT. WKLY (Apr. 25, 2022, 5:20 PM), <https://ew.com/movies/miss-congeniality-stars-celebrate-perfect-date-april-25/#:~:text=Ask%20any%20Miss%20Congeniality%20fan,t%20let%20you%20forget%20it.>

in the future for study aids). The class was recorded and available for students to review.

In pre-pandemic teaching, I used PowerPoints about twenty percent of the time and no visual aids about ten percent of the time, and I used the whiteboard to create content in real time the remaining time. However, during and in the wake of the spring 2020 semester when we began remote teaching, I converted all the visuals to PowerPoints for all classes to ease the transition to remote learning and assist with engagement when teaching through Zoom. Many of those additional PowerPoints survived the transition back to the in-person classroom and became a part of teaching the course.

However, I returned to whiteboard use for this course extensively. As discussed below during a lesson learned, “crowdsourcing” to build a problem together in real time was an effective technique. As part of this course is designed to teach students not only the substance of the law but how to effectively and efficiently solve problems using the doctrine, demonstrating, or modeling, was an extremely productive way to work with students.<sup>15</sup> With the class in person, it was easy to return to that trusted tool.

For many years I have used interim assessments of different types in this class, which is already problem-based. These assessments have ranged from a required practice exam review problem to additional hypothetical problems given in class to a required midterm exam. In addition, this term, I added discussion board posts—additional required practice problems done between class sessions as review of the class material, released on only Canvas. The important lessons learned from these are discussed in Part II of this article. Last, the textbook I used for the course was identical for all three courses taught.

## **B. Class Two: Late Night, Entirely Online**

In the fall of 2021, I also served as a distance visitor for a college of law with which I had no previous connection, where I taught a three-credit-hour version of this course, which was listed as a “required or bar-tested” course on the schedule.<sup>16</sup>

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<sup>15</sup> See Christine N. Coughlin, *See One, Do One, Teach One: Dissecting the Use of Medical Education's Signature Pedagogy in the Law School Curriculum*, 26 GA. ST. U. L. REV. 361, 365–66 (2012).

<sup>16</sup> This course was taught for the University of Toledo College of Law.

The course description for this iteration read as follows:

SECURED TRANSACTIONS [3 hours] The creation, enforcement, perfection and priority of security interests in personal property under Article Nine of the Uniform Commercial Code and the federal Bankruptcy Code.<sup>17</sup>

This class was very similar, but slightly more expansive in scope. Rather than meeting once per week for two hours, it met twice a week for ninety minutes each. As such, there was fully half again the amount of time to spend with students. This setup allowed me to do a few things. First, I could expand topics that I felt were getting treatment that seemed too superficial or rushed in the two-credit offering. Second, I could add some depth to some topics, covering rules and aspects of the course I had simply eliminated. Third, I could spend more time on review and exam writing. Overall, the course met for the same number of weeks (thirteen), so I had three hours per week instead of two, twenty-six classes instead of thirteen.

The class met online, only at a far less desirable time of day for student engagement — 8–9:30 p.m. — in my experience, for many students, not the prime of their learning attention. Additionally, for an online class, the enrollment was very large—in the midfifties; even with the expanded Zoom screen, I could not easily see everyone at once. Best practices generally suggest a far smaller class size for best learning in an online environment.<sup>18</sup>

I approached the problems due in class the same as with both other classes. In each class, I created groups of four or five students (I allowed students to choose their groups). After students selected and finalized their groups, I assigned each group several problems from the term. Because there were so many groups, each group found themselves assigned about three problems, spaced

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<sup>17</sup>UNIV. OF TOLEDO, COLLEGE OF LAW COURSE DESCRIPTIONS 4, <https://www.utoledo.edu/law/academics/pdf/CourseDescriptions.pdf> (2022).

<sup>18</sup> Wayne D’Orio, *One Size Does Not Fit All*, INSIDE HIGHER ED. (May 16, 2017), <https://www.insidehighered.com/digital-learning/article/2017/05/17/online-class-sizes-one-size-doesnt-fit-all#:~:text=But%20Steve%20Covello%2C%20an%20instructional,betwe en%2012%20and%2015%20students>.

throughout the term. Each class usually had three groups pre-assigned as being on call. “Being on call” is a technique I have used with upper-level students for many years—to give them notice of when they would be “on call” rather than “cold-calling.” I found years ago that it assisted with ensuring the appropriate level of preparation for each class to able to move steadily through the complicated problems, and to allow upper-level students the ability to best plan their preparations. In this class, the result was that for each ninety-minute session, about twelve students—just less than a fourth of the class—were on call each day, approximately the same number of students “on call” as in the two other offerings.

Visually, I utilized all of my prepared PowerPoints created for remote teaching, with only an occasional use of “live” problem-solving, discussed more fully below. However, with the added time in the course I was able to include more assessments rather than being limited by time constraints to selecting only a few. These included discussion boards, additional hypothetical problems, a required midterm review mock test, and a required final review mock test, as well as additional problems. I gave individual feedback for all review problems, even given the large size of the class. In short, except for a small, expanded amount of additional doctrine, I taught the course the same as I had when I had converted the course initially to live, remote previously. The course was recorded, and the recordings were available to all students. The students and I were almost entirely unmasked, except for a few students logging in from public places, and as such I could see their faces, along with the screen names, and quickly came to recognize them. However, of course, we never had any opportunity to meet in person.

### **C. Class Three: Midday and Hybrid**

The last class was taught was in the spring of 2022, when I was a full-time, in-person visiting professor.<sup>19</sup> The class was also a three-credit offering, with the following course description:

This course covers encumbrances of personal property and fixtures, focusing primarily on Uniform Commercial Code Article 9 consensual security interests.

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<sup>19</sup> The Elisabeth Haub School of Law, Pace University.



Coverage will include state lien law  
and the effect of the Bankruptcy  
Code on Article 9 Security  
Interests.<sup>20</sup>

The course description was again similar to that of the previous courses, ensuring that I could use the expanded framework I had set for the previous three-credit offering without any further doctrinal changes, and was noted specifically in materials as being tested on the bar exam. The twice-a-week ninety-minute sessions met from 11:15 a.m. to 12:45 p.m.—generally, in my experience, an alert time for students, but different from the other two classes in two key respects. First, the class was far smaller than either of the other versions that I had taught—only twenty-five students—fewer than half the number in either the entirely in-person or online version. The second key difference, which informed my teaching enormously, was that because of school policies, the class was designed and taught as a synchronous hybrid course, with some students attending in person and some online. In addition to students who might periodically appear online because of transient health reasons, the course had a number of students who were granted *permanent* accommodations to attend remotely—meaning that I was no longer considering that a small percentage of students *might* attend remotely on any given day, but planning that almost a quarter of the class was permanently online.

The technological resources for accomplishing this hybrid teaching are discussed further below but allowed me to see all students separately from any materials I was using, for all the in-person students to see the online students (and vice versa), and for the online students to have a view of the whiteboard. As such, I used a hybrid of my previous two teaching methods.

The problems in this class were identical to those in the online version, but the techniques I used for visuals were far closer to the in-person course (use of the whiteboard, reduced use of PowerPoint). The assessments were the same as in the online course, with individualized feedback. Students online were unmasked, while I and the students in person were masked for the majority of the semester. I was slower to learn to recognize the

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<sup>20</sup> *Secured Transactions*, PACE UNIV., <https://law.pace.edu/courses/secured-transactions#:~:text=This%20course%20covers%20encumbrances%20of,Article%209%20consensual%20security%20interests> (last visited Aug. 11, 2023).

students coming in the classroom each day, while the students online were more quickly identified.

In sum, although the depth of coverage was different for one iteration of the class, this situation—the same doctrinal course three times in one year—is the closest I have come in my twenty-year teaching career to eliminating a variable—the subject matter—to isolate student learning based on differences in teaching. The following lessons I learned focus on the ways to maximize student learning across all disciplines.

## II. GOALS FOR TEACHING AND LESSONS LEARNED

### A. Goals

I had in mind some educational goals that I wanted to work toward in considering this experience and identifying and solidifying the lessons learned. First was the goal to have a more engaging classroom, one in which the student feels a sense of community and connection. It is clear that learning occurs best if the “experience of the learner is engaged.”<sup>21</sup>

Second, related to engagement, I wanted to work ensure students became invested in the course so that they had intrinsic motivation for success.<sup>22</sup> Intrinsic motivation moves people because it “furthers their interests, values, or enjoyment.”<sup>23</sup> This kind of motivation is associated with good mental health and performance.<sup>24</sup> By creating an atmosphere in which students have this intrinsic motivation to learn, rather than solely external pressure, a class can set up a student for success.

A third issue I considered was the “transfer of learning” problem.<sup>25</sup> Transfer “is the use of knowledge or a skill acquired in one situation to perform a different task.”<sup>26</sup> In other words—

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<sup>21</sup> Jan Wrenn & Bruce Wrenn, *Enhancing Learning by Integrating Theory and Practice*, 21 INT’L J. TEACHING & LEARNING HIGHER EDUC. 258, 259 (2009).

<sup>22</sup> Gerald F. Hess, *Humanizing Legal Education Symposium: Humanizing Syllabus: Collaborative Course Design: Not My Course, Not Their Course, but Our Course*, 47 WASHBURN L.J. 367, 368 (2008).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Tonya Kowalski, *Toward a Pedagogy for Teaching Legal Writing in Law School Clinics*, 17 CLINICAL L. REV. 285 (2010).

<sup>26</sup> Mary Nicol Bowman & Lisa Brodoff, *Cracking Student Silos: Linking Legal Writing and Clinical Learning Through Transference*, 25 CLINICAL L. REV. 269, 271 (2019) (quoting Lauren Currie Oates, *I Know I Taught*

whether students can take information from one part of the course to another (critical in this course, as the doctrine continually builds on prior knowledge), but also whether they can bring their knowledge from one course to another. This problem has been noted by legal educators, with one clinic professor recalling, “[A] perplexing phenomenon tends to occur each semester when a new group of student enters the clinic. Even those with top grades in their previous courses seem to lack even novice-level proficiency in research, writing, and analysis.”<sup>27</sup> This idea that students can transfer the knowledge and skills obtained in previous courses and experiences should be an important goal of every course in legal education, but unfortunately not all courses are created to properly effectuate this goal.<sup>28</sup> The continuity of transferring learning must continue throughout the education process, as it is also essential for students to be able to transfer the skills from their educational experience to their employment experience.<sup>29</sup>

My last goal was to build community among law students in these difficult times. I believe that by building community, students would be more engaged, develop their own motivation, and better transfer learning among their different experiences, facilitating all of my goals. Each of the lessons I learned worked to accomplish at least one of these goals.

## B. The Lessons Learned

### 1. *It All Starts With the Syllabus*

Although many instructors do not give it much thought, a clear way to improve teaching and better connect with students is through a better use of the syllabus.<sup>30</sup> For many faculty, “syllabus design may appear to be a mundane task that can be glossed over

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*Them How to Do That*, 7 LEGAL WRITING: J. LEGAL WRITING INST. 1, 1 (2001)).

<sup>27</sup> Kowalski, *supra* note 25, at 288.

<sup>28</sup> *Id.*

<sup>29</sup> Deesha Chadha, *A Curriculum Model for Transferable Skills Development*, 1 ENG’G EDUC. 19, 19 (2006), <https://www.tandfonline.com/doi/full/10.11120/ened.2006.01010019>.

<sup>30</sup> Drew C. Appleby, *How to Improve Your Teaching With the Course Syllabus*, ASS’N FOR PSYCH. SCI. (May 1, 1994), <https://www.psychologicalscience.org/observer/how-to-improve-your-teaching-with-the-course-syllabus>.

without much effort.”<sup>31</sup> But that attitude toward the syllabus is “both outdated and unsatisfactory.”<sup>32</sup>

One question that is perennial in education is “What the purpose of the syllabus?”<sup>33</sup> There are a variety of purposes that a syllabus may serve, including a communication tool, a planning tool for the professor, a course plan for students to follow, a tool for teaching, a resource for teaching, and a record of the course for evaluation and for accreditation purposes.<sup>34</sup> Depending on which of these purposes a syllabus is seeking to meet, a different set of information may need to be included.<sup>35</sup> One author has identified seven distinct purposes for a syllabus:

1. Helps plan and clarify your course;
2. Introduces you to students;
3. Explains why students should take your course;
4. Explains the various aspects of your course;
5. Explains how students will develop by successfully completing your course;
6. Communicates the course’s nature and content to faculty/administrators; and
7. Provides a documented record of your teaching career.<sup>36</sup>

The syllabus should serve “as a contract between teacher and students, which delineates their respective responsibilities and guides their behavior during the course.”<sup>37</sup> But it should go further than that, setting the tone and motivation for the course, leaving a lasting impression on students.<sup>38</sup>

One of the most traditional uses of a syllabus is as communication mechanism.<sup>39</sup> However, there are actually two factors in that one purpose. According to a study examining syllabi

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<sup>31</sup> Donal K. Casey, Mary Dobbs, Alan Greene, James Lawless & Niamh M. Mulholland, *Transforming Researching into Educations: Some Reflections on the University College Dublin School of Law Syllabus Design Workshop 2010*, 12 GERMAN L. J. 1511, 1511 (2011).

<sup>32</sup> *Id.*

<sup>33</sup> Susan B. Fink, *The Many Purposes of Course Syllabi: Which are Essential and Useful?*, SYLLABUS, (2012), at 1.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Appleby, *supra* note 30.

<sup>37</sup> Hess, *supra* note 22, at 374.

<sup>38</sup> *Id.*

<sup>39</sup> Fink, *supra* note 33, at 2.

conducted by Drake University, the first is communication of content—the basic course information, assignments, grading, and administrative requirements.<sup>40</sup> In my experience in legal education, this is as far as many faculty consider the use of their syllabus.

The second factor of communications is *how* that content is expressed.<sup>41</sup> The style of communication in the syllabus itself can “have an impact on the student and the course.”<sup>42</sup> In this way, the syllabus actually can tell students far more about the class and the professor than about the subject matter conveyed and can set the tone for the class to come.<sup>43</sup> In other words, it can start to build a community, one of my many teaching goals. Several features of the syllabus can make an impression on students and affect their experience in the class. These include the organization of it, the amount and type of information chosen to be included, and even the use of pronouns.<sup>44</sup>

A syllabus can help a professor plan a course to measure the appropriate content of the course both in terms of doctrine and skills.<sup>45</sup> If a course focuses on skills, the syllabus should track the learner’s use of those skills.<sup>46</sup> Such tracking can ensure that students understand the full scope of the outcomes of the course—beyond doctrine—and can “shift the responsibility for learning” to the students to achieve those skills.<sup>47</sup> Such shift can meet the goal of having students intrinsically motivated to succeed.

Traditionally, many law school syllabi have been focused only on the faculty member and their goals. For example, telling students “I will cover . . .” or “I will require . . .” However, having a learner-centered syllabus focused on student outcomes has a positive effect on student learning.<sup>48</sup> A good syllabus that brings the students in on the goals and experience, rather than externally

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<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> Jeffrey Thaler, *Experiential Educating in the Classroom: Designing an Administrative Law Practicum Meeting New ABA Requirements and Student Needs*, 68 ME. L. REV. 164, 174 (2016).

<sup>46</sup> Philip G. Schrag, *Constructing a Clinic*, 3 CLINICAL L. REV. 175, 238 (1996).

<sup>47</sup> Mariana Ulfah Hoesny, *From Syllabus Design to Curriculum Development*, 3 JURNAL LINGUISTIC TERAPAN 20, 30 (2013).

<sup>48</sup> Aaron S. Richmond, *Constructing a Learner-Centered Syllabus: One Professor’s Journey*, IDEA PAPER #60, Sept. 2016, at 2.

dictating, can “establish solidarity” with your students.<sup>49</sup> Because the syllabus may be the first communication a student gets from you—long before the course actually starts—such a syllabus can engage students from the outset.

I learned that treating the syllabus as a communication beacon was an even more important tool in connecting with different groups of students in different modalities, both for conveying technical content and for setting a community-based tone. First, I learned it was very important to be as explicit as possible in the syllabus as to content, particularly with remote students. There were a few reasons for this. First, separate from the modality, these students were completely new to me, and because of the modality, we had no opportunity to interact in any way directly before the first day of class. When you teach in one school for a period of time (as with my in-person class), your reputation precedes you, whether it is accurate or not. Students come in with a largely preformed belief as to whether you are approachable for questions, whether you stay “on topic,” and whether you are hiding information from them. Your message may be the same, but students will often seek to learn about you from their classmates before they ever see your syllabus, which may color their perception of it.

Second, however, the modality contributed to the ability to communicate about the syllabus after its release. With my remote students, even though I always logged on early and stayed late, online students were by and large less likely to interact with me in this informal way. I found I could not be detailed or clear enough with my expectations for the course, the assignments, the class preparation expectations, and rules and, as a result, spent large portions of class time clarifying information that appeared clear to me from my syllabus, a practice that was concurrently unnecessary with in-person students.

Such an experience shaped and changed my teaching. When I then taught the course in the hybrid format, I continued the use of time in class to ensure clarifications and expanded the information in the syllabus in a more detailed way. The feedback that I received from students indicated that I may have spent too much time trying to ensure an understanding of the syllabus. The change in clarity in the written document may have been enough to effectuate that communication properly. Calibrating the

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<sup>49</sup> Diann L. Baecker, *Uncovering the Rhetoric of the Syllabus: The Case of the Missing I*, 46 COLL. TEACHING 58, 61 (1998).

differences with communications between remote students and in-person students is still a work in progress.

As for how I expressed that information—, I learned firsthand that through tone and inclusiveness the syllabus itself can model enthusiasm and encourage student interest.<sup>50</sup> There were two places that I sought to make that connection and community with students through the syllabus. One was in the section detailing the assignments. In addition to the standard textbook and statutory information, I included more informal readings and even a “playlist.” The informal readings were articles or other written materials in which students could see the subject we were studying play out in the real world. For example, an article about a law firm making an error in the law—a story large enough to reach a major news outlet—not only illustrated the law we were learning but humanized the practice of it and showed students how the subject fit into the world outside the classroom. The playlist was merely a link to a song or video that humorously (possibly—more about this later) evoked the subject matter covered that day. For example, when we were discussing a loan being made by a creditor, I linked Pink Floyd’s “Money.” When we covered the rules of priority—in which one creditor had the very best right to the debtor’s assets over all others—I linked ABBA’s “The Winner Takes It All.”

Did all the students enjoy them? I’m not quite sure. But I could see that some of the students felt more personally connected to me and the material, because they got the joke or enjoyed the same music. Some students online would log on with the music playing, while others came into the room commenting about the artist and their opinion of them. As we reviewed for the final exam, I indicated that I could test you on “anything” in the syllabus, carefully stressing that it meant any links as well. For a very low-stakes extra credit, I asked students to name one song from the playlist on the syllabus. The percentage of students who could do so was the highest in the hybrid class—which was also the class in which I built in the most time to incorporate talking about the requirements of the syllabus and reviewing it with them and had a large percentage of informal interactions. Second was the in-person class, where students, as in the hybrid class, often had informal interactions about the syllabus. The lowest percentage

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<sup>50</sup> Fink, *supra* note 33, at 3.

who could name this add-on was in the online class, with whom I otherwise had the least “informal” connection time.<sup>51</sup>

Another issue that is important to consider is the use of pronouns on the syllabus—not only for gender inclusiveness, but as they relate to issues of power and authority.<sup>52</sup> Because English, unlike other languages, does not distinguish between the use of the word “you” in a formal and informal sense, there is no way to clearly convey respect or formality simply by its use.<sup>53</sup> By contrast, the use of “we” in a syllabus conveys a teamwork approach to the classroom situation.<sup>54</sup> To build a sense of community and student investment in learning, I am going to be using an inclusive approach to these communications moving forward. A syllabus that sets only “my” requirements and assignments can motivate students to learn only for the grade, rather than those that indicate what “we” are going to do, which encourages students to embrace all of the learning available to them.<sup>55</sup> Additionally, communications that dictate to students create only extrinsic motivators that appear to manipulate the learner and control the entire learning experience for them, which can be less motivating and even anti-productive.<sup>56</sup> By contrast, an inclusive communication brings students in to become part of the community, setting the stage for both engagement and internal motivation success.<sup>57</sup>

My lesson is that tone and content matter in a syllabus, because that connection to students matters. In the future, in a class in which I will have lower informal ability to connect with students to ensure their understanding of me and the course, I will be even more aware of the need for utmost clarity and inclusive tone with students to try to ensure that motivation and engagement. While I will strive for this in every class, I am also now aware that even if a syllabus sets a more formal tone or leaves students with questions about our class, certain types of classroom environments can compensate and correct that situation and establish that connection, while others will be more of a challenge.

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<sup>51</sup> As a further lesson, I learned that this informal time makes an invaluable connection and that I need to ensure that that connection is made in every course, regardless of modality.

<sup>52</sup> Baecker, *supra* note 49.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> KEN BAIN, *The Promising Syllabus*, in WHAT THE BEST COLLEGE TEACHERS DO 74, 74–75 (2004).

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*



Additionally, where those connections are not happening organically, I need to be aware to use our class time to ensure that I make them, and that the syllabus is not a dividing tool between students and their learning.

These issues regarding reshaping syllabi sometimes raise concerns for faculty. Faculty sometimes express reluctance to “promise too much” or even bind themselves to specific ideas in a syllabus—citing instances in which students have tried to enforce language in a syllabus.<sup>58</sup> While there are situations in which controversies can occur, being inclusive and focusing on students can set the stage for cooperation and interaction between students and the faculty, rather than conflict. Welcoming, inclusive, and clear communication in a syllabus can avoid conflict, improve engagement, motivation, and community, and be an incredible tool for student learning—regardless of modality.

## ***2. Preparing for Students Online Isn’t the Same as Preparing for In-person Students***

Although this lesson may sound obvious, particularly after the past few years of pandemic preparations, being faced with the task of preparing the same subject for students attending in person and online simultaneously was still a new challenge. When I first began full-time teaching in 2001, most of the guidance that I received about teaching concerned the subject matter I was teaching. These questions included what Bob Seger so poetically called “Deadlines and Commitments/What to leave in, what to leave out”<sup>59</sup>—which cases and topics belonged in the course. Whether it was true, it *felt* true that faculty teaching Secured Transactions courses generally prioritized their energy in preparing the doctrine, carefully working on *what* was taught, but with far less thought about *how* it was taught.

My perspective in preparing that course years ago was a little different. At that time, in addition to teaching Secured Transactions, I also taught the first-year legal writing course, in which I was introduced much more thoroughly to the discipline of teaching itself—and received a lot more discussion and guidance

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<sup>58</sup> See Todd A. DeMitchell, Suzanne Eckes & Richard Fossey, *Caveat Emptor? The University Syllabus and the Marketplace of Ideas*, 336 ED. LAW REP. 1, 1 (2016).

<sup>59</sup> *Bob Seger – Against the Wind Lyrics*, LYRICSFREAK, [https://www.lyricsfreak.com/b/bob+seger/against+the+wind\\_20021964.html](https://www.lyricsfreak.com/b/bob+seger/against+the+wind_20021964.html) (last visited Aug. 11, 2023).

about how to teach the material. This was an unusual situation in itself—at most law schools at the time (and still frequently today), faculty who taught legal writing did not also teach traditional doctrinal courses, nor the reverse. Much has been written about the excellent early pedagogy in the legal writing community, and how the focus on teaching from that discipline could be used in other classrooms.<sup>60</sup> Talking about curricular and legal education reform was starting to take hold in 2001, but individuals thinking about teaching itself were largely still scarce in the traditional doctrinal classroom.<sup>61</sup>

Because as a new professor I had the opportunity to exist in both the traditional doctrinal classroom world and the more creative, innovative teaching world of legal writing, it was not long before I realized the lessons I was learning in how to creatively teach the discipline of writing could be brought to any subject. Despite having this in mind, I still largely prepared my doctrinal courses differently than my writing course, with incremental changes in pedagogy throughout the years. The most significant change I have made came about during the pandemic—like many others, out of necessity.

As part of that evolution, I learned that there are various principles for good online teaching. One resource that enumerated these resonated with me as I prepared my materials for online versus in-person class time. I learned that a good online professor:

1. Encourages contact between students and faculty;
2. Develops reciprocity and cooperation among students;
3. Encourages active learning;
4. Gives prompt feedback;
5. Emphasizes time on task;
6. Communicates high expectations; and
7. Respects diverse talents and ways of learning.<sup>62</sup>

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<sup>60</sup> See, e.g., Mary Beth Beazley, *Better Writing, Better Thinking: Using Legal Writing Pedagogy in the "Casebook" Classroom (Without Grading Papers)*, 10 LEGAL WRITING 23 (2004).

<sup>61</sup> See Mary Beth Beazley, *Finishing the Job of Legal Education Reform*, 51 Wake Forest L. Rev. 275 (2016).

<sup>62</sup> BEST PRACTICES IN ONLINE TEACHING: GUIDEPOST FOR THE INSTRUCTOR, MINOT STATE UNIV., <https://www.minotstateu.edu/oit/documents/BestPracticesinOnlineTeaching.pdf> (last visited Aug. 9, 2023).

Although these best practices were enumerated in the context of online teaching, there is no question that these goals are simply good teaching goals, regardless of modality.<sup>63</sup> Meeting these best practices required me to prepare my individual class meeting sessions differently in each modality. My focus in this lesson was student engagement and intrinsic student motivation, and it most prominently presented itself in my class preparation in what seems like the straightforward task of preparing visuals for a class.

In my in-person class, I planned that my visuals would be largely spontaneous, created in real time, and easily “crowdsourced” to produce flowcharts, timelines, and relationships among doctrines on the whiteboard. While doing these I learned that I could personally watch students in their note-taking capacity be engaged with what was happening in real time. While I planned classes with some prepared PowerPoints that covered large-scale law and policy points, I entered the classroom largely with an idea of what visuals *could* be created, and how they *would* look, but with a flexible, real-time approach to their use. The “answers” to the problem-based work were not in any prepared materials, but rather were created together. This group energy increased engagement—my standing at the front of the room, with a marker hovering over a whiteboard, waiting for students to contribute the next step seemed to bring out the motivation of students. Many students seemed to thrive on having the power to solve the problem quickly and clearly while creating for themselves the process that they could use in the future for their learning.<sup>64</sup>

By contrast, I prepared for the online class in entirely the opposite manner. I instead had prepared visuals, in great detail. I had found in my previous online teaching that spontaneous creation of visuals was far more difficult and less fruitful. The issue was twofold—one, technological clunkiness, and two, an inability to “read” the room as in the interaction with students when the visuals were being created in real time.

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<sup>63</sup> Scott Cooper, *10 Best Practices To Be An Effective Online Teacher*, ELEARNING INDUS. (Sept. 24, 2016), <https://elearningindustry.com/10-best-practices-effective-online-teacher>.

<sup>64</sup> Tara García Mathewson, *How To Unlock Students’ Internal Drive for Learning*, THE HECHINGER REP. (Mar. 27, 2019), <https://hechingerreport.org/intrinsic-motivation-is-key-to-student-achievement-but-schools-kill-it/>.

Therefore, I prepared for online classes instead by converting my PowerPoints, from general contextual doctrine and clues to detailed problem-solving ones. This required many adjustments, as it was not helpful to either student engagement or intrinsic motivation to “feed” them the answers via slideshow. However, in considering the goals of intrinsic motivation and the ability to facilitate information transfer, I still needed to focus on the *process* of learning how to solve a problem as much as the actual doctrinal answer to any one individual problem. The challenge I faced was how to free myself from the distracting, disengaging work of creating live visuals for an online class while maintaining the engaging, self-motivating energy.

The first step was to try to create PowerPoints that contained enough information to engage students and allow them to have a meaningful visual, but without solving the problems for them. Additionally, I always release my PowerPoints to students. If I duplicated what I ultimately did on the whiteboard in an in-person class by solving the problem in the PowerPoint, now, instead of a general outline/study guide, I would be “permanently” releasing the specific answers to each question. In Secured Transactions, unlike many other subjects, there is almost always a clear and definitive answer, as in a math problem. But again, like a math problem, the important part of the problem-solving is learning the process of how to solve an issue and be able to repeat it in the future—showing that you understand how you got to an answer, not just the answer.

This change led to other preparation issues—in my use of assessments. I found that if I chose to release, in writing, the detailed process models of how to exactly solve problems, I now had to consider more closely how I wanted to evaluate their work on these assessments—was part of the evaluation now dependent on whether they followed my models to get to the answer? If so, how closely, and, when appropriate how were points awarded for process rather than law or analysis tackled differently?

Additionally, for student ease, I have always loaded these slides into the LMS and made them available for students to follow along in real time from their own computers in addition to using a screen-share. With more detailed slides, this could clearly result in the students privately skipping ahead several slides and simply relying on that rather than their own problem-solving skills. I had to determine where and how the reveal of the material fit into the skills and doctrine I was building and make adjustments in what I released when, to ensure student engagement, self-motivation, and ownership of material. I learned that other faculty had

general concerns about delivering materials in a permanent format to students at the end of class. Some faculty have indicated that such a practice discourages students from note taking themselves—contributing to the belief that students are waiting to be fed prepared materials. Simply put, the concern is that students are not doing the work in class. However, there is support for the opposite view—that students who are not concerned with ministerial tasks of note taking are more able to focus on the concepts, participate in discussion, and critically think about the material and engage with it, rather than stepping in the shoes of a court reporter trying to mechanically capture every word said.<sup>65</sup>

In response, I created two different types of slides. Depending on the specific class doctrine, one type was a detailed *process* explanation system in the slide, detailing what the steps should be, but not giving the answer in the problem. Alternatively, I gave the answer to the problem but without the explanation or context. Either way, the slides gave enough guidance to be able to engage students while requiring that they participate to create the missing content, be engaged, and put in the work.

Additionally, I found myself, depending on the material, not always releasing the PowerPoint for personal use live during class time. Much as with the use of a whiteboard in person, I required students to attend to my shared screen, where I alone could control the pace and reveal of information. Second, for particular subjects, I found that prepared slides were not suitable but yet still wanted to reserve my focus on the students online, read their faces, and watch for their comments. As I never became comfortable with any online teaching whiteboard tool, I instead would create a real-time visual by opening a blank Word document, screen-sharing it, and using that as best I could as a whiteboard. That simple technique of typing in real time what you might have written on a board was far less demanding of technology or focus but came with benefits and drawbacks. On the one hand, the typing is certainly clearer than my handwriting often is, and at the end of the class I could save the document. On the other hand, often the work I build on the board in real time entails visual representations of concepts—such as diagrams and flowcharts—that are more difficult to reconstruct in a Word document alone.

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<sup>65</sup> See Deborah J. Merritt, *Legal Education in the Age of Cognitive Science and Advanced Classroom Technology*, 14 B.U. J. SCI. & TECH. L. 11, ¶ 39 (2008).

Despite this more limited use, I found that for some topics I could successfully reserve the “detailed” part of an answer for this “live” creation and meet my student learning goals. In this way I sought to try to balance my limited abilities online to connect with students while creating content but meet their needs with more active engagement. I was unable, however, to assess the students’ note taking and engagement with these documents. It is far more difficult to see students online while creating materials than it is to do so in an in-person classroom. As a result, I would sometimes then release “the answers” we created together after the fact, in the hopes that students would later actively bring together the information from the slides and these documents. It was clear that the remote students asked for prepared visuals and post-class documents the most frequently.

In my hybrid class, neither approach was fully satisfactory. I retained the higher-level, more general doctrinal/study guide PowerPoints from my in-person class—and released them each class for student review, ensuring that all students always had a visual. However, the in-person students truly engaged the most when I used the whiteboard. In theory, the whiteboard was in view of the online students, thanks to the technological setup (discussed more below); but in reality, it was likely far more difficult to see than it appeared to me. As such, although I used the whiteboard, I ended up narrating my work along with creating it, which was time-consuming and likely repetitive for the in-person students. As an alternative, I also tried the online Word document technique in lieu of the whiteboard, although its limitations were clearly apparent to the in-person students and reduced their engagement; still, the remote-attending students seemed to engage more with it, from my perspective. In short, with two distinct audiences, neither method of visuals was entirely adequate—and, as such, I was preparing both for each class session. Moving forward, some changes in these visuals are needed.. In more recent classes since this year of teaching, I have had students in class capture the whiteboard drawings in a photo that they then shared with hybrid students. Additionally, in the same later class, I had a student volunteer to create an uploadable document of the drawings to share with the class on the learning management system. Both options produced more inclusiveness with hybrid students than any previous efforts.

Teaching the same class three times in one year would imply to a faculty member that they had little class preparation to consider on a weekly basis. In fact, the opposite was true. I found myself preparing more for each class than I had in many years—

something that was undeniably positive for all my students—because I was considering daily and weekly throughout the term how best to convey the material, and not just thinking about the material. To meet all students learning goals, all faculty, no matter how long they have been teaching a subject, can improve the students' learning experience through this rigor.

### 3. *Less Flexibility Affects the Transfer of Learning*

The Rule of Three for learning stipulates a requirement that “students be given the opportunity to learn something at least three times before they are expected to know it and apply it.”<sup>66</sup> The same is true for those in law teaching—it is informally accepted that you need to teach a course three times to make it “yours.” There are several rationales for this theory, including engagement with the material, practicing with the material, and being able to produce materials from that learning.<sup>67</sup> In teaching in a law classroom, this can translate to preparing doctrinal material and becoming comfortable with it, refining the material, and then developing depth to the experience. One reason a teacher develops this deeper connection with the material is that through repetition, you get a sense of how classes interact with material, and of the “shape and feel” of a unit of material—how long it will take to accomplish a unit of learning—where discussion might expand and contract in the classroom, and where students often will have questions. This understanding leads you, as a teacher, to be able to be more flexible with your approach, knowing how to navigate classes with more instinct. Having taught Secured Transactions for twenty years, I have a fluency in the doctrine that in recent years has allowed me a great deal of flexibility in teaching the doctrine; if a class appears to have a need in a particular topic, I can, at a moment's notice, take a different direction or speed without any concern about coverage or other classroom management issues.

The different modalities, if not quite putting the brakes on that flexibility, at least put a different focus on it. Anecdotally, many professors report that teaching either online synchronously or in a

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<sup>66</sup> Ben Johnson, *Using the Rule of Three for Learning*, EDUTOPIA (Apr. 27, 2016), <https://www.edutopia.org/blog/using-rule-three-learning-ben-johnson#:~:text=The%20Rule%20of%20Three%20for%20learning%20helps%20us%20as%20teachers,helps%20the%20students%20to%20remember.>

<sup>67</sup> *Id.*

hybrid format simply takes longer to cover the same material.<sup>68</sup> Just about everyone I have spoken to about their conversion to online teaching informally indicated the same idea—they seem to cover less material in the same amount of time online in real-time sessions than they do in person in a classroom with the real-time session.

There may be many explanations for this. One, despite the close-up view of students' faces online (and without masks), it is still harder for many faculty to read a room remotely than in person. Second, asking questions and engaging in spontaneous discussion is harder when students are online or when some students are online and some in person. I found online students generally were not as free to speak out spontaneously. When you are physically in a room with other people, it is easy to determine when you can speak without stepping over anyone else. When at least some of the group is online, such flow is much harder. As a result, students often all spoke at the same time, causing confusion and often stifling their willingness to simply comment or ask questions. A more formal discussion system is called for to ensure an orderly discussion, but even that calls for different protocols. Physically raising a hand in a room of people is harder to miss than a student raising an electronic hand in a small box. When you are screen-sharing and thus not seeing as many students or have students both online and in person (and thus are looking back and forth at different cohorts), it is even harder to ensure a smooth encouragement of student participation. Such technological obstacles interfered with the timing and community flow of a class, stifling what I had experienced as a flexible flow of the time spent together.

Second, more pauses and breaks are needed online or when some students are online. Not only is screen fatigue part of the equation, but the inability to physically see whether students were still taking notes or to observe their body language of engagement led me to check in on students' progress far more often. For many students, this more frequent invitation from me to them seeking feedback was a welcome change and should be continued regardless of modality, but the requirement to build it in strongly influenced the timing and "routine" of a subject long taught.

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<sup>68</sup> Larry Ferlazzo, *Strategies for Teaching Students Online and Face to Face at the Same Time*, EDUC. WEEK (Feb. 28, 2021), <https://www.edweek.org/teaching-learning/opinion-strategies-for-teaching-students-online-face-to-face-at-the-same-time/2021/02>.



As a result, I found that my online and hybrid classes were less flexible. I simply needed more time to accomplish the same level of learning than I was used to and needed more formal protocols to ensure the classroom time was engaging. As such, I was less comfortable spontaneously throwing out a hypothetical, letting student break into groups, or allowing a discussion to take a tangent. I was simply more reluctant to be spontaneous, because it was simply harder to do so.

The amount of material covered is an additional important factor in student learning. First, there are cognitive load issues. It is understood that people can retain only a certain amount of new information at any given time.<sup>69</sup> Despite that, there also must be enough in-depth study “to allow students to grasp the defining concepts in specific domains in a discipline” rather than “superficial coverage of all topics in a subject area.”<sup>70</sup> Working to find the balance of enough topics to grasp the subject from head to toe while allowing for a deep dive into key areas should be the goal of all courses. However, external pressures to cover any subject matter in its entirety have been on law school classrooms from a variety of sources, including textbook scope, bar exam scope, or simply the curricular design of the school. As such, planning the course to have the “right” amount of coverage, with the right amount of depth, yet leave room to ensure the engagement of students regardless of modality remains an important challenge.

I noted that the change in flexibility that reduced spontaneous classroom-generated tangents also affected the transference of knowledge for students. Because the classes were more highly structured, with a more careful eye on the planned material, other subjects less frequently made their way into the course from student input, a key way for students to make connections in their learning. To preserve the transfer-of-knowledge benefit that comes from flexible teaching, I had ironically less flexibility to plan to make those connections for students rather than enjoying the true benefit of their making those connections themselves. Thus, because of the change in modality resulting in students’ driving less of the class time themselves, I ended up sacrificing some of my goals toward community and student engagement in favor of

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<sup>69</sup> Terrell Heick, *What is the Cognitive Load Theory? A Definition for Teachers*, TEACHTHOUGHT (Sept. 15, 2017), <https://www.teachthought.com/learning/cognitive-load-theory/>.

<sup>70</sup> NAT’L ACAD. PRESS, *HOW PEOPLE LEARN: BRAIN, MIND, EXPERIENCE, AND SCHOOL* 20 (M. Suzanne Donovan, John D. Bransford & James W. Pellegrino eds., expanded ed. 2000).

ensuring a solid target to achieve transfer of knowledge. Prioritizing this one goal was important here, as I developed other ways to build community and engagement but had fewer opportunities elsewhere in my teaching to ensure that knowledge transfer. One further way to do this is by creative use of discussion boards, discussed below. I will be continuing to work to create an environment to produce this learning, no matter the modality.

#### **4. *Communication Outside the Classroom: Stay in Touch***

With goals of student learning as engagement and community, it seems obvious that one method to achieve them is to ensure constant, positive communication that fuels their intrinsic motivation.<sup>71</sup> A constant stream of connection from faculty to student can shape students' interaction with the subject matter, their preparation for class, and their attitude about you and the class as a whole. It can also set the stage to ensure that students make learning connections to other work in their time outside the classroom. It is clear that there are many options for online communication tools to "extend the interaction time beyond the classroom."<sup>72</sup> I learned quickly and thoroughly that leveraging my learning management system (LMS) was an easy and effective device to accomplish these goals.

The first step to establishing a community happens within the syllabus, largely discussed above.<sup>73</sup> However, the additional, constant communication outside of the classroom continues to build on the tone set in that initial communication. Using your LMS to communicate with students *outside* of the classroom has become the strongest tool in my toolbox to create a good learning environment *in* the classroom. In sum, to ensure students are engaged during class time, engage with them while they are *not* in the classroom, and ensure that students understand that they will now be participating in a productive "virtual community of practice"<sup>74</sup> that can support their further learning. That constant flow of information and connection—a sense that class doesn't end

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<sup>71</sup> See Mathewson, *supra* note 64.

<sup>72</sup> Anita D. Bhappu, Noam Ebner, Sanda Kaufman & Nancy Welsh, *Online Communication Technology and Relational Development*, in CHRISTOPHER HONEYMAN, JAMES COBEN & GIUSEPPE DE PALO, *RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE* 241, 242 (2009).

<sup>73</sup> Richmond, *supra* note 48.

<sup>74</sup> See *generally* Bhappu, et al., *supra* note 72.

when the proverbial bell rings—creates a sense of community, which feeds engagement in the class, enhancing students' class prep, their interest in the material, and their energy to come to class and be a consistent part of the learning environment. Because you are not limiting your communication or their learning to the few hours you are together, they are preparing for your class not in a void but rather with your constant guidance. And because this may happen when they are engaged in other study activities, you are also paving the way for them to make their own connections across all of their studies. These benefits were effective for students in all modalities, and I will continue to use these strategies in the future in all classes.

Engagement outside of the classroom has huge rewards, but there is a concern that it takes up too much time for faculty, who have many responsibilities. However, there are ways I learned to use an LMS of any type efficiently to create that sense of community in class with a huge payoff for student learning. I divide my communications into three categories:

#### **a. Announcements**

All learning management systems have an “announcement” function. This easy-to-use feature allows you to send a message to all your students in class at once and provides a record in the course of that communication. In most LMSs, you can time-release announcements in addition to sending them live, allowing you to keep a flow of information coming to them without constantly having to remember to send information at a certain time. While some announcements discussed below are best created in real time based on a particular happening in a class session, it is also appropriate to connect with students on a particular topic at a particular point in the semester and pre-load those announcements at the beginning of the week, month, or term and allow them to time-release. As such, you can control your workflow. Most systems allow you to set them up to push either the announcement or a notification that there is an announcement to the student's email. While not all students may utilize that function (even when instructed to do so), it also may help to keep more students in the loop about your various types of communications.

### i. Class Wrap-up: Where You Were and Where You are Going

One area in which out-of-class communications may be useful is ensuring that students understand that they met certain learning outcomes during a particular class session. One study looked at the concept that students seemed to prefer passive lectures to active-learning activities—with the belief that they learned more from the traditional lecture experience.<sup>75</sup> It was demonstrated that the students’ perception of their learning wasn’t clear—they simply did not make the correlation to the amount that they learned with active learning as much as with traditional lectures.<sup>76</sup> When a law school course has been less traditional—rather than a mere, expected Socratic review of cases—it likely involves learning environments that some students may consider “different” for law school, such as interactive activities, problem-solving, or group work. In these instances, a wrap-up message confirming what students learned from a particular class session can reinforce the productivity of that class session and further ignite students’ appreciation of these teaching methods and their learning environment. Studies have shown that students “warm up to the idea [of active learning] once they begin to see the results.”<sup>77</sup>

These messages also assist with the concept of “visibility of learning trajectories,” an important concept that helps foster student learning in any modality.<sup>78</sup> In short, this addresses a frequently frustrating but often-heard problem of students’ perception that they were “never taught” a concept or skill, or that certain material wasn’t covered by the course.<sup>79</sup> Making learning outcomes and their achievement of them visible leads students to connect and understand the scope of their learning.<sup>80</sup> In essence, these communications can improve students’ awareness of “their

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<sup>75</sup> Peter Reuell, *Study Shows Students in ‘Active Learning’ Classrooms Learn More Than They Think*, HARVARD GAZETTE (Sept. 4, 2019), <https://news.harvard.edu/gazette/story/2019/09/study-shows-that-students-learn-more-when-taking-part-in-classrooms-that-employ-active-learning-strategies/>.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> Leoniek Wijngaards-de Meij & Sigrid Merx, *Improving Curriculum Alignment and Achieving Learning Goals By Making the Curriculum Visible*, 23 INT’L J. ACAD. DEV. 219, 220 (2018).

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

position within the curriculum” by making that progress visible to them.<sup>81</sup> These messages improve that understanding and improve learning transference among subjects.

Communicating these messages is a small, easy way to incorporate two additional effective learning techniques—retrieval practice and scaffolding.<sup>82</sup> Retrieval practice is a strategy designed to improve long-term learning retention by having students deliberately bring up and use past knowledge. These wrap-ups, by reviewing the topics covered, lead students to remember and reflect on what they learned, achieving that goal.<sup>83</sup> Additionally, as the wrap-ups are a continual series of my asking students the following “where we have been, where we are and where we are going” as these messages help with scaffolding, building concepts upon one another slowly as the material progresses.<sup>84</sup> This technique helps learners “integrate new information into existing frameworks of knowledge.”<sup>85</sup> Last, the technique of “future applications” can also be introduced—signaling where a concept or skills may be used again the future, and also improving and smoothing the path for learning transference.<sup>86</sup>

## ii. Clarifications: Did a Discussion Not Quite Finish or Go a Little Off Topic?

This technique of clarifying black-letter or doctrinal law via post-class message is rooted in the concept of the flipped classroom. A classroom that is flipped has two components—first, content that was traditionally delivered during in-class time is now delivered outside of the class time; and second, the freed-up class time is now used to engage in “active learning experiences.”<sup>87</sup>

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<sup>81</sup> *Id.* at 219.

<sup>82</sup> Adam Eckart, *Deal Me In: Leveraging Pedagogy to Integrate Transactional Skills into the First Year Legal Research and Writing Curriculum*, 21 U.C. DAVIS BUS. L.J. 125, 145 (2020).

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> Bowman & Brodoff, *supra* note 26, at 278 (quoting Shaun Archer et al., *Reaching Background and Stretching Forward: Teaching for Transfer in Law School Clinics*, 64 J. LEGAL EDUC. 258, 265 (2014)).

<sup>86</sup> *Id.* at 272.

<sup>87</sup> Carrie A. Bredow, Patricia V. Roehling, Alexandra J. Knorp & Andrea M. Sweet, *To Flip or Not to Flip? A Meta-Analysis of the Efficacy of Flipped Learning in Higher Education*, 91 REV. EDUC. RSCH. 878, 879 (2021).

By using the out-of-class time to clarify and solidify course content—rather than waiting until the next in-class time period—I have essentially partially flipped the classroom, leaving more time when I am “live” and engaged with students to practice skills with them rather than review doctrine.

In addition, the clarification of doctrine in this asynchronous, out-of-classroom way served multiple purposes. In addition to freeing up the class time, it also allowed me to reinforce doctrine, under the theory of spaced repetition—multiple exposure to doctrine over a planned period.<sup>88</sup> Last, this reinforcement and spreading out enhanced their learning opportunities—a good practice, considering cognitive load theory, allowing students the time to integrate the information into their long-term memory before they need to use it again in class the following week.<sup>89</sup> In short, I was more effective in reviewing doctrine with them asynchronously than if I had used class time. In the future, I may consider engaging in this technique with a video announcement as an alternative to written announcements as well.

### iii. Subject Matter in the News: Is There a Big Case or Article About the Subject?

The course I teach is heavily rooted in transaction skills. Because “transactional skills are often marginalized in legal education,” any attention you can bring to their importance in the world can reinforce the teaching of them and excite students for these sometimes-unfamiliar environments.<sup>90</sup> One way to do this is to share any mainstream news about the subject matter.

The science of learning indicates that it is important to engage students’ preconceptions about “how the world works” in the classroom while teaching new information.<sup>91</sup> By connecting outside people, companies, or situations that they may already be familiar with to the new law they are learning, you ensure that they integrate their new learning better and use it to build on. For

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<sup>88</sup> *Spaced Repetition: How to Make Your Training Unforgettable*, EDAPP (June 22, 2022), <https://www.edapp.com/blog/how-spaced-repetition-works/>.

<sup>89</sup> Bredow et al., *supra* note 87, at 883.

<sup>90</sup> Eckart, *supra* note 82 at 127.

<sup>91</sup> See, <https://www.sdcoe.net/ngss/evidence-based-practices/key-findings-from-how-people-learn#:~:text=If%20their%20initial%20knowledge%20is,those%20conceptions%20influence%20their%20learning> (last visited September 10, 2023).

example, in Secured Transactions, we briefly cover bankruptcy and the impact on secured creditors. Inevitably, during any particular semester, a retail company with which they are familiar files bankruptcy; a simple finance-focused article about that filing and how it may operate will not make them experts on either bankruptcy or creditors' rights, but it both makes the subject matter from the classroom tangible and connects concepts from outside the classroom to the new material to allow for that important repetition and connection. While this simple technique of placing a subject in the context of the "real world" is far from new, the use of it has become both easier with the increase in the use of the LMS for information distribution and more effective as part of other asynchronous information they are digesting. In the future, a discussion thread regarding these events could be a way to engage students further in them, further building community.

### **b. Discussion boards**

In addition to my specific goals to improve learning, a core goal of learning is always to ensure that students gain competence in the relevant material. According to the National Academy of Sciences, "to develop competence in an area of inquiry, students must:

- (a) have a deep foundation of factual knowledge,
- (b) understand facts/and ideas in the context of a conceptual framework, and
- (c) organize knowledge in ways that facilitate retrieval and application."<sup>92</sup>

In working with students in person and remotely, I have realized that strategic use of the discussion board function helps students to organize, remember, and use their knowledge. A discussion board is an asynchronous forum in a learning management system that can be used "to engage students in the content and to assess learning."<sup>93</sup> An online discussion board can bring together some of the best practices in education.<sup>94</sup> Its

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<sup>92</sup> *Id.* at 16.

<sup>93</sup> Larry Ferlazzo, *Effective Strategies for Using Online Student-Discussion Boards*, EDUC. WEEK (Oct. 23, 2020), <https://www.edweek.org/teaching-learning/opinion-effective-strategies-for-using-online-student-discussion-boards/2020/10>.

<sup>94</sup> *Id.*

purpose is to “provide a way for students to interact and discuss components of the course.”<sup>95</sup>

As I used it, I assigned additional problems—similar to the ones assigned for in-class use—that students were required to complete online for additional practice and application of the material between class sessions. The point of the discussion board problems was not merely to have an additional minutes of class preparation, or to technically track their engagement—there are other more effective methods to do that.<sup>96</sup> Instead, I considered the discussion board an additional interaction opportunity—a way to reinforce skills learned in class and to give students additional practice solving problems that were similar to what they would see on an exam. My goals of community, student-driven learning, and engagement could all be furthered by this additional individual interaction.

Pedagogically speaking, in evaluating competency in the material, I found the use of the discussion board was a good addition that worked for many students’ learning progress. The use of forums to assess students learning is well established.<sup>97</sup> In a code-based upper-level class like Secured Transactions, previous feedback I received from students was frequently along the lines of “I understood it when we did it together in class but couldn’t replicate it on my own when I was studying.” These written, out-of-class reinforcement problems were a way to help students take ownership of their learning and ensure they could solve a problem on their own. Additionally, given the class sizes, not all students could be called on each week to present problems—and this requirement ensured that all students engaged with the material each week regardless of whether they were “on.” The use of the discussion board sought to—and I believe, did—solve that problem, particularly with my larger classes. I used them regardless of modality and saw the effectiveness for many students across all modalities.

Practically speaking, however, their use was less clearly entirely positive, although not because of any burden on me as the faculty member. Setting up the problems from my end was very

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<sup>95</sup> Stephanie J. Blackmon, *Outcomes of Chat and Discussion Board Use in Online Learning: A Research Synthesis*, 9 J. EDUC. ONLINE (2012).

<sup>96</sup> Ferlazzo, *supra* note 93.

<sup>97</sup> Dhanielly P.R. de Lima, Marco A. Gerosa, Tayana U. Conte & José Francisco de M. Netto, *What to Expect, and How to Improve Online Discussion Forums: The Instructors’ Perspective*, 10 J. INTERNET SERV. & APPL. (2019).



easy. At the beginning of the term, when creating my syllabus of problems to complete for each class session, I simply held one back from selected classes spread periodically throughout the term and pre-loaded it in the LMS. I could set them to become “live” after the class in which we covered the material and to close immediately before the next class session. I set up the thread so that students had to post their answer before seeing the thread of other answers and embedded these assignments into the syllabus so there were no surprises assignments due. Good-faith, timely completion of these problems on the discussion board counted toward the participation grade of each student. After the thread closed, I reviewed all submissions and posted a sample answer of each problem and invited students with questions to contact me. If I noticed an answer that was particularly off—completely in the wrong direction—I privately reached out to that student asking if they wanted to talk further about the problem. As such, these assignments were low-stakes formative assessments, giving both me and the students feedback on their progress and creating opportunities for an intervention on the material before the semester’s end.

However, student buy-in of these assignments was less smooth. Students reacted very differently to these assignments, regardless of the mode of the class. Some students let me know that they appreciated them—notably mentioning to me directly, by email, or by evaluation, that the opportunity to practice the material beyond what was presented in class was very helpful. But other students let me know they disliked what they called the “busywork”—which they viewed as simply an additional class requirement for the sake of more work. That attitude came from some students across all modalities, so I concluded it was not that the work was an online “add-on” itself, but rather that it was simply more work. Faculty should consider this work in the context of ABA Accreditation Standard 310 and interpretation 310-1, which indicate proportion and amounts of both in-class and out-of-class work appropriate for a credit hour.<sup>98</sup>

There was also the practical issue that students took these problems at different levels of seriousness—most truly seizing the opportunity to learn as much from them as possible, with others

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<sup>98</sup> AM. BAR ASS’N, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS, 23-24 (2023), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/standards/2022-2023/22-23-standard-ch3.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2022-2023/22-23-standard-ch3.pdf).

merely completing the assignment in the most minimal way to receive the participation credit for them. This problem is not unique to discussion boards—often a student will get out of a course largely the effort they put into it overall. I was generous with granting the assigned credit but also tried to privately point out to students when their answers to problems clearly did not rise to the level of an answer needed on an exam. Such feedback sometimes became a negative interaction—rather than taking it as constructive feedback about what was needed to improve their skills, some students instead took my comments only as criticism of their work or knowledge. Even though this feedback was always given privately and not posted on the public discussion board and was accompanied by an invitation to meet with me regarding the material, the negative buzz around these problems persisted across some students in all modalities and thus had the opposite of the intended effect.

One other concern that took me completely off guard was that some students felt that the discussion board was an unfair platform to use and actually destroyed the sense of community. They believed that the requirement was designed purposefully to embarrass them. They indicated that because these problems were akin to exam problems, they should have been submitting them for private feedback only. There were concerns that public sharing was unnecessarily stressful to them, exposing to their classmates their (often lack of) progress in the course. Despite the fact that many educational experts consider the use of discussion boards a positive addition to online learning by creating a connection to other humans,<sup>99</sup> this connecting opportunity very clearly did not resonate with all students. I had viewed the work on written problems as a version of the problems that students were required to share in class, and I had learned that the use of online discussion boards was sometimes considered a better alternative for introverted students than in-class participation.<sup>100</sup> As such, I had thought that the opportunity to solve problems in writing would actually reach more students in a positive way, but I learned otherwise.

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<sup>99</sup> Elizabeth F. Barkley & Claire F. Major, *Making Good Use of Online Discussion Boards*, CROSSCURRENTS, <https://kpcrossacademy.org/making-good-use-of-online-discussion-boards/> (last visited Sept. 1, 2023)

<sup>100</sup> Jeff Knutson, *6 Online Discussion Tools to Fuel Student Engagement*, COMMON SENSE EDUC. (Aug. 21, 2023), <https://www.common sense.org/education/articles/6-online-discussion-tools-to-fuel-student-engagement>.

Another obstacle to their smooth use was a mere administrative one; for the majority of the course, the problems assigned were due *for* that class day—done before class and brought to class. As these discussion board problems were instead designed to be periodic reinforcement problems, they were done after classes periodically (five throughout the entire term). It was a larger obstacle than I anticipated for students to manage which work was due before class and which after class, causing more chaos than help in some situations.

One last concern that potentially affected students across all modalities was a perception about the work being distributed throughout the term. Even though these problems were effective review for the final, spaced throughout the course, some students complained about the resulting diminished cache of practice problems at the end of the course. Although I did provide “final” practice problems to them, many students did not readily make the connection that the discussion board problems that they had been completing all along were part of that review. Communicating that I had effectively scheduled their efforts of learning and review throughout the term, rather than allowing them to cram it all in at the end as many were accustomed to doing, was challenging. When the realization hit that I had provided them with plenty of review, some students were still dissatisfied—not truly trusting that they had had enough practice opportunities just before the final exam. Ensuring that students trusted the learning process—that they had met outcomes—required additional reinforcement.

Additionally, I occasionally used the discussion board for a different purpose than substantive review, one that was more informal. Throughout the term, I would occasionally post a thread asking for feedback on a topic or having students share ideas for a hypothetical in class news items on topic. My goal was to create a sense of community that was less directly dependent on the material taught. I had planned that these interactions would continue the engagement and community in a more informal way; but as I did not require participation, in fact I had a small rate of participation across all classes in all modalities. In reviewing a study on the use of online forums, I learned that this problem is not unique to my situation.<sup>101</sup> In an analysis of use, it was clear that “low student motivation to use the forum has been reported by many experienced instructors and is associated with the lack of

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<sup>101</sup> De Lima et al., *supra* note 97 at 6.

features in the forum that can capture their attention.”<sup>102</sup> There was no discernable connection to the frequency of this discussion board use based on the modality of the class.

Moving forward and thinking about students’ feedback, I am considering a few changes to the discussion board use. First, I need to be sure I change the communication around these problems—to make the purpose of them clearer. Even though I thought I had given a positive, compelling reason to complete the work, resistance to completing them existed across all modalities. Second, I am considering grading the responses in a substantive way and counting that grade differently toward the final course grade. Although I believe that the very low-stakes formative assessment is a good fit for these problems in the course, a slightly higher stake may spur participation in such a way as to provide a more reliable indicator of assessment—in other words, if it is graded substantively, students may simply try harder and I can more accurately gauge whether they have attained competency in the material rather than debate whether any apparent gaps in knowledge were due to a “participation” grade last-minute bare-bones completion. Third, I am considering adding the “other” types of discussion board interactions more heartily to the course so that students become more comfortable with using the board as a place to interact as if in class, thus making them more comfortable with their community and thus with sharing, both in class, and on the discussion forum, their work on the problems for feedback. . And last, I am considering converting some problems to privately submitted ones that are graded substantively—taking away some of the public nature of the problem completion and allowing them to feel comfortable in sharing their level of knowledge and best allowing me to assess their competency. Overall, I still believe that a discussion board can further community and engagement, and I will continue to use this tool.

### **c. Handouts and Reminders: Pre-loaded and accessible**

When I first started teaching, any visuals, including handouts, were a welcome addition to the expected “discussion only” Socratic method. I had a filing cabinet full of handouts, organized by class session, and I would photocopy each handout in turn when needed. Later, I kept those handouts organized in my computer files, but with the same result—printing and photocopying as needed.

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<sup>102</sup> *Id.*

Based on the busyness of the copy machine before class times in more recent years, I know I was not alone in that habit and that handouts became more mainstream throughout more classes taught in legal education. However, one lesson from the pandemic—regardless of where the students are physically—is that using an LMS to distribute handouts and other information has real pedagogical benefits beyond ease, the environment, and the pandemic motivation of being contact free.

The most important of those reasons is access for students with disabilities.<sup>103</sup> Students may have a wide variety of disabilities, and sharing of handouts, PowerPoints, and other class materials through the learning platform can make the difference for many students between being adequately prepared for class and able to follow up on their learning, and feeling left out or unable to engage with material.<sup>104</sup> When creating these materials for distribution, I also learned to ensure that any video content contained closed captioning, that articles were “clean” and that PDF documents were accessible.<sup>105</sup> All students appreciated the use of materials in this way and the ability to access them on their own devices.

A second reason for the use of the LMS was the longevity and record of these handouts. Students, who largely keep their materials digitally, could continue to do so and have a library of all handouts used during the term and the easy ability to retrieve them at any time. Last, ease of use. Because I could pre-load them at the beginning of the term (and choose to time-release them to coincide with class), I no longer needed to organize my pre-class time around ensuring that I handouts ready to go for each class session. I could access them in the LMS and screen-share or project them in any modality at my convenience during class.

Along with handouts, I built reminders of assignments and upcoming needs for the course into the LMS system. From a teaching point of view, both types of communications could be pre-loaded—that is, set up at the beginning of the term, unit, or week to be time-released as needed. As one complaint about the use of

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<sup>103</sup> Dana C. Gierdowski & Joseph Galanek, *ECAR Study of the Technology Needs of Students with Disabilities: Online Access to Materials and Resources*, EDUCAUSE (June 1, 2020), <https://www.educause.edu/ecar/research-publications/ecar-study-of-the-technology-needs-of-students-with-disabilities/2020/online-access-to-materials-and-resources>.

<sup>104</sup> *Id.*

<sup>105</sup> U.C. Santa Cruz, *Disability Resource Center: Creating Accessible Course Materials* (Oct. 3, 2022), <https://drc.ucsc.edu/faculty/creating-accessible-course-materials.html>.

LMS on top of classroom use is the administrative burden, this technique proved effective to eliminating that burden—I was able to complete this task once again at the beginning of the term, when I was planning the course, and create effective touchpoints with all students throughout the entire term regardless of modality. Each week, students discovered more information live in their LMS, which promoted the sense of community and engagement with the material.

### 5. There's a Reason Dancers Train with a Mirror

Reviewing videos of yourself teaching to engage in self-reflection and improve teaching is not new and is advocated at all levels of teaching.<sup>106</sup> If you've ever watched yourself teach, whether on a recorded video or, for many of us in the past few years, on Zoom, we have all learned that we have physical habits, expressions, and quirks that we had no idea we were doing and that unintentionally may convey things that we don't mean to students. However, other than perhaps in early years of teaching, when being reviewed by other faculty on the road to a longer-term contract or tenure, most of us are not seeking or receiving feedback on the physicality of our teaching throughout our careers. I learned that this is a mistake.

While teaching in person, I was slightly newly aware of my physical presence in the classroom—mostly because of the changes I made in response to social distancing. I no longer roamed the aisles, physically stopping near students to chat before or during class. Other than the feeling that I was unnaturally constraining myself behind a lectern, I gave little additional thought to the presence I projected. When teaching online only, I had more awareness—after all, I spent most of class seeing a small picture box of my own image alongside those of my students and registered for the very first time many facial expressions, hand movements, and other physical attributes relating to, literally, my head space. Seeing the expressions I made (often involuntarily) that students likely have been seeing for years was a literal eye-opener, and I then made efforts to ensure a positive, inclusive expression throughout the term that I was never previously aware was necessary.

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<sup>106</sup> Princeton Univ., *Watching the Video of Your Teaching*, MCGRAW CTR. FOR TEACHING & LEARNING, <https://mcgraw.princeton.edu/faculty/instructional-consultations/watching-video-your-teaching> (last visited Sept, 1, 2023)

However, when I was teaching hybrid this past spring, I truly learned the most. There was a wonderful tech setup in my classroom consisting of a giant TV screen to the side of me logged into Zoom, showing both me and the students—but *not* showing my screen-sharing, which was instead projected directly to remote students and on a projector at the front of the classroom. This setup allowed both me and the in-person students to continue seeing all of the students online, even while I was using other visuals. However, in addition to viewing the remote-attending students, I was also projected on screen—both in front of me on a computer placed on the lecturn (a traditional Zoom box of my face) and simultaneously, on the side TV, in a longer full-length shot of me in the classroom. I spent an entire semester being able to watch myself *both* up close and from a distance while teaching.

The result? I was far more conscious of both my body language and facial expressions to promote community and engagement in the classroom. However, I was also conscious of constantly having other thoughts intruding on my teaching focus, regarding my appearance, body language, and even posture. I learned that the fact that I had these distracting thoughts without the ability to process and correct them immediately to improve my teaching was normal, and to be frustrated by that was also normal.<sup>107</sup> A study of student teachers learning from recordings of themselves inspired them to want to make changes in their habits—but showed that it takes some time.<sup>108</sup>

Those “teaching the teachers” often have advice for those reviewing videos of themselves teaching. Reviewing videos of a full class for a deep dive into the entire educational experience has enormous benefits and can provide many points to consider in moving forward with teaching.<sup>109</sup> However, that’s not quite the situation I was in. I was not doing a full review of a prerecorded class. I was instead doing a daily, involuntary live critique of my classroom presence. While I could try later to recall what I had seen during class, I could not “turn it off”—I couldn’t view my

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<sup>107</sup> Harv., *Teacher Video Selfie: A Self-Guided Module for Analyzing Videos of your Own Instruction*, CTR. FOR EDUC. POL’Y RSCH. (2015), [https://cepr.harvard.edu/files/cepr/files/11a\\_teacher\\_video\\_selfie.pdf](https://cepr.harvard.edu/files/cepr/files/11a_teacher_video_selfie.pdf).

<sup>108</sup> Eva-Marie Harlin, *Watching Oneself Teach—Long-Term Effects of Teachers’ Reflections on Their Video-Recorded Teaching*, 23 TECH., PEDAGOGY & EDUC. 507 (2014).

<sup>109</sup> 9 *Questions to Reflect Critically on Your Own Teaching*, TEACHTHOUGHT (Nov. 30, 2020), <https://www.teachthought.com/pedagogy/reflect-critically-on-your-teaching/>.

remote-attending students without viewing my own presence, and as such I had to work to limit my internal critic and focus on my teaching and address only those changes that I could make while still conducting the class. Some of these questions that I focused on while teaching were<sup>110</sup>:

- Was my body language engaged at the start of the class?
- Where was my eye contact?
- Did I appear organized, or instead was I presenting a disheveled tone for the class?
- Did I use nonverbal cues as well as verbal ones that might affect the class learning environment?<sup>111</sup> Did I, for instance, involuntarily have a facial expression that could be discouraging class interaction or contribution?
- Did my body language change depending on who was speaking? What did it look like when I was speaking with students of different backgrounds, students who have contributed differently in past classes, or with whom I'd had more or less pleasant or productive interactions?

While not a personally easy lesson, watching yourself teach live is a professionally easy one—there are changes you can make that can have an immediate and significant impact on student engagement, motivation, and community, creating a more productive classroom situation. By focusing on these questions, I believe I improved community by ensuring I was inclusive and welcoming. Additionally, watching yourself live-teaching can mitigate the prospect of watching recorded classes—where you can do that deep dive into a wide range issues to improve your teaching—and set yourself up for further success with students. It was some of the best classroom training I have ever gotten, and I am committed to continuing to evaluate my physical presence in every class I teach.

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<sup>110</sup> *Watching the Video of Your Teaching*, *supra* note 106.

<sup>111</sup> Rachael Williams, *What you might learn from watching yourself teach*, TCHR. (Feb. 25, 2019), [https://www.teachermagazine.com/sea\\_en/articles/what-you-might-learn-from-watching-yourself-teach](https://www.teachermagazine.com/sea_en/articles/what-you-might-learn-from-watching-yourself-teach).



## 6. *Sometimes, You're Just Not Funny*

Humor in the classroom has been considered a positive addition to the educational process.<sup>112</sup> According to an expert, "Humor builds a learning relationship through the joyful confluence of head and heart," and that there is more and more understanding how "humor reduces stress and tension in the classroom, improves retention of information, and promotes creative understanding."<sup>113</sup> Using "interesting and light-hearted personal examples to highlight important points" can improve the student enjoyment of learning.<sup>114</sup> For many years of teaching, I and many others have used humor to smooth over difficult topics, class situations, and to enliven the classroom experience. My goals of community and engagement have long depended on humor. However, I along with likely many others, have experiences with some jokes working and other jokes not working in the classroom for reasons that are sometimes unknown. Unfortunately, failed humor can negatively impact student learning as well.<sup>115</sup>

There are universal challenges to humor in the classroom. One reality is that faculty may experience is a generational divide of humor that seemingly widens every year of teaching, potentially impacting the students' perception of the use of humor. Additionally, as we welcome more diverse classrooms of students, humor that depends on a shared culture can also cause issues in its use.<sup>116</sup> While these are real challenges that need to be considered in the use of humor, they were not new to me or lessons learned specifically in the past year. Instead, I am focusing here on lessons regarding humor learned because of the changes in modality of my classes.

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<sup>112</sup> Maurice J. Elias, *Using Humor in the Classroom*, EDUTOPIA (Mar. 30, 2015), <https://www.edutopia.org/blog/using-humor-in-the-classroom-maurice-elias>.

<sup>113</sup> *Id.*

<sup>114</sup> Drew C. Appleby, *Using humor in the college classroom: The pros and the cons*, AM. PSYCH. ASS'N (Feb. 2018), <https://www.apa.org/ed/precollege/ptn/2018/02/humor-college-classroom>.

<sup>115</sup> *Id.*

<sup>116</sup> Stacia Levy, *Is That Supposed to Be Funny? Using Humor in the Classroom and Avoiding the Pitfalls*, BUSY TCHR., <https://busyteacher.org/10093-using-humor-in-the-classroom-avoid-pitfalls.html>.

In the context of considering stand-up comedy, it has been noted that there are two requirements for successful humor.<sup>117</sup> First, the joke must be “comprehensible to the audience. If it is not clear what the point of an attempted joke is, or if it is not clear that it is a joke at all, then the joke will suffer and possibly fail completely.”<sup>118</sup> Second, the joke must gain the participation of the audience as part of the process—usually through laughter.<sup>119</sup> Both elements can be affected by trust—in this case, one party trusting another in a specific circumstance.<sup>120</sup> Trust affects comprehension in the audience’s understanding that a comment is in fact a joke, and second, that the audience must have enough connection to the communicator to understand and believe that the communicator is in fact joking with them so that laughter is appropriate<sup>121</sup>:

For example, when my uncle leans across the table to me and asks, “how do you sell a deaf man a banana?” I am trusting him that he is beginning a joke and not earnestly asking me how to sell a deaf man a banana. The reliance condition is met because I am acting—listening, interpreting, understanding—on the supposition that my uncle is joking. I am playing the role of audience to the joke. The reflexivity condition is met by my uncle taking my acting as audience to tell the joke with me as audience. How much the would-be humorist is trusted depends substantially on how well the audience knows them, and what the audience thinks of them. I know my uncle quite well, I know the sorts of things he talks about, and I know the sorts of jokes he likes to make, so it is easy for me to trust that he is joking when he asks me, “how do you sell a deaf man a banana?”

Were I asked the same question, in the same tone of voice, by a stranger on the bus, I would be much less likely to trust that they were joking. The stranger would have to do something to build that trust, like ask, “would you like to hear a joke?” For the

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<sup>117</sup> Daniel Abrahams, *Winning Over the Audience: Trust and Humor in Stand-Up Comedy*, 78 J. OF AESTHETICS & ART CRITICISM 491 (2020).

<sup>118</sup> *Id.* at 492.

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> *Id.* at 493.

joke to be comprehended, the audience must trust that the would-be humorist is joking.<sup>122</sup>

However, as I taught in the different modalities, it became clear that establishing that trust for humor to work was more difficult, and I believe the root of that problem was that the trust that often develops organically in an in-person learning environment is harder to develop when students are not physically present in the room with a professor, as was the case with two of my classes. As a result, jokes that may work when you are in person can fall completely flat—or worse—with students remotely. My lesson was that understanding the relationship you have as a faculty member with students clearly became the key to using humor in the classroom successfully. Scholars have called this issue “bridging”—indicating the “action you take in order to form connections with the other through the exchange—connections that support you in affecting the other.”<sup>123</sup>

One way that the trust is built is through informal interactions—or bridging—with students.<sup>124</sup> Again, students participating only online may have fewer opportunities, or take advantage of few opportunities, to interact with you regarding anything other than course material. For example, with all my classes, I would often chat with students as they came into the classroom about their activities—did they see a new show or movie?—and as such developed a common understanding between us based in shared pop culture interests. My in-person class met immediately after the lunch break. Students often were already in the classroom when I arrived, or arrived over a longer period of time, as they had already been in the building and were enjoying the community. As such, more students were part of that informal conversation—once they walked into the room, they became part of it. By comparison, when students were online, more of them either logged on at the last minute, or more easily disassociated from pre-class chatter with a turned-off camera. For students participating in the informal discussions, any jokes made relating to pop culture during class time thus became immediately recognizable as jokes to those students who had been part of the informal community-building relationships, while students who

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<sup>122</sup> *Id.* at 493-94.

<sup>123</sup> Andrea Kupfer Schneider & Noam Ebner, *Social Intuition*, in *The Negotiator's Desk Reference* (Christopher Honeyman & Andrea Kupfer Schneider eds., 2017) (Marquette L. Sch. Legal Stud., Paper No. 18-05, 2018), <https://ssrn.com/abstract=3123336>.

<sup>124</sup> *Id.*

were not were not often would not have any idea that I was joking at all. However, there are effective techniques to build online trust to further relationships, which should be considered and studied by those engaging online.<sup>125</sup>

Another challenge is that, oftentimes, humor can be physical, or have a physical aspect to it. An otherwise potentially serious-sounding statement or comment can reveal itself to be humorous by body language.<sup>126</sup> Without seeing full body language, students often may not know a joke is happening or be willing to recognize it. Without seeing me fully, students could not learn to trust nonverbal clues relating to humor. That lack of sense of trust in the relationship can make a joke simply fail.

Last, relevant to the times in which these classes were taught, humor is harder when people are stressed, as has been the case in the past academic year, with no signs of dissipating quickly. Although the benefits of humor for those stressed are well documented,<sup>127</sup> it is not always easy for a stressed-out, worried person to easily see or participate in humor.<sup>128</sup> This lesson was clearly learned in the past year and must be emphasized by faculty in the future, given the many uncertainties and pressures that students are facing.

Having seen the impact of humor in different situations, I have rethought its use in the classroom. First, I work more deliberately to build that trust with all students, regardless of modality, to allow them to organically be part of any humor that I use in the classroom. I will use the first few minutes or the break time of class to work to create that connection rather than let it happen informally. Second, where I am unsure that trust exists, I have started explicitly signaling that I am making a joke—which itself can be done humorously, generally in a self-deprecating manner

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<sup>125</sup> See Noam Ebner, *The Human Touch in ODR: Trust, Empathy and Social Intuition in Online Negotiation and Mediation*, in *ONLINE DISPUTE RESOLUTION: THEORY AND PRACTICE* 73 (Daniel Rainey, Ethan Katsh & Mohamed Abdel Wahab eds., 2d ed., 2021).

<sup>126</sup> *Stand-Up Comedians: Using Body Language to Convey a Message*, SLIDEGENIUS (July 17, 2013), <https://www.slidegenius.com/blog/how-stand-up-comedians-can-teach-us-about-using-body-language-to-convey-a-message>.

<sup>127</sup> *How Does Humor Affect Mental Health?*, WEBMD (Apr. 5, 2023), <https://www.webmd.com/mental-health/how-does-humor-affect-mental-health>.

<sup>128</sup> Heidi Hanna, *How to Build a Humor Mindset to Shift Stress in Difficult Times*, AM. INST. STRESS (2021), <https://www.stress.org/how-to-build-a-humor-mindset-to-shift-stress-in-difficult-times>.

(blaming their potential lack of upcoming laughter on my own delivery or joke). That signaling itself—letting the audience know that there is a joke and implicitly inviting them to participate—can build the foundation of trust for future humor. Third, I’ve started redirecting the humor to funny professional stories or generic word play rather than one-off lines or references that would be most funny only when faculty and class know each other well. Last, where I don’t feel that either of those techniques will work, I discard the humor, even though I know in previous classes it was effective. Overall, the lesson on humor has been a difficult one—I truly believe that humor can help meet student learning goals. However, if the ultimate effect is to destroy rather than build that community, changes are necessary.

### **7. *The Office-Less Office Hour is the Future***

There are a variety of ways in which students may use office hours to improve their learning, to seek help when they are struggling with the material; to make a with the professor to improve motivation or to overcome personal obstacles to participation, to build a sense of community, and to open themselves up to opportunities.<sup>129</sup> Traditionally these were in-person opportunities, constrained to set limited available times which the professor committed to being physically in their office.

However, much has been said about, and many have advocated for, the flexibility that online office hours have provided—and the enhanced connections that can be made.<sup>130</sup> From the flexibility of time to the ease for students who don’t live on campus to the accommodation of students with disabilities, the many reasons for continuing online office hours in addition to traditional in-person ones are compelling.<sup>131</sup>

There have been concerns expressed that “that hybrid educational model that blends in-person and online learning may cleave students, faculty and staff by race, ethnicity, tribe, age, and health,” undermining commitments to diversity, inclusion, and

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<sup>129</sup> Ellen Andersen, *The Importance of Office Hours: Why You Should Go*, COLLEGE RAPTOR (Dec. 22, 2022), <https://www.collegeraptor.com/find-colleges/articles/tips-tools-advice/importance-office-hours-go/>.

<sup>130</sup>Michael Furman, *Virtual Office Hours Should Be Here to Stay*, INSIDE HIGHER ED (June 1, 2021), <https://www.insidehighered.com/advice/2021/06/02/why-faculty-should-hold-virtual-office-hours-even-after-return-person-classes>.

<sup>131</sup> *Id.*

“First Amendment values that support educational dialogue.”<sup>132</sup> With that dire warning in mind, I was careful to consider how I structured office hours to ensure access and the ability to maintain a connection for all students.

Regardless of the mode of the class I taught, I offered individually scheduled and group online office hours to all students. My in-person students also had an in-person option, scheduled the same way. What I encountered with these dual options was that even students who were entirely in person wanted online office hours. Without fail, these office hours were as productive or even more so than most in-person conversations I had had in years past, or as compared with in-person ones for the same class. I connected personally with students, I answered their questions, I had larger discussions with them about the world and their perspectives, and we were all happy with the flexibility that the online environment provided. None of the limitations or student reservations that I had otherwise experienced in building relationships in online classroom experiences spilled into the office hours, and I plan to conduct office hours this way in the future.

I am clearly not the only instructor who believes that virtual office hours, layered on top of in-person interactions, are both more productive and more equitable.<sup>133</sup> The convenience for students who don’t live on or near campus, the lack of intimidation for first-generation students, the flexibility for students with jobs, and the technology assistance for students with disabilities make virtual office hours an answer to a problem that many faculty may not even have known existed.<sup>134</sup>

Like other aspects of teaching, virtual office hours have best practices to make them as efficient and productive as possible. Best practices for virtual office hours include:

1. Using reliable software and technology;
2. Deciding how frequently you’ll have virtual office hours;
3. Setting clear guidelines for students;
4. Following up on appointments after meeting with students;

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<sup>132</sup> Catherine J.K. Sandoval et al., *Legal Education During the COVID-19 Pandemic: Put Health, Safety and Equity First*, 61 SANTA CLARA L. REV. 367, 375 (2021).

<sup>133</sup> Furman, *supra* note 130.

<sup>134</sup> *Id.*

5. Creating a virtual waiting room; and
6. Asking for student preferences.<sup>135</sup>

These best practices do not pose a huge challenge to any faculty member in legal education, and I found that I had been enacting many best practices without conscious planning. First, in the past few years, most law professors have become comfortable with videoconferencing software, whether Zoom or Teams or the like. Ensuring that what you use is also comfortable for students and is something you can use to maximize the best practices will continue to ensure the much-needed accessibility and use by students.<sup>136</sup>

Second, establish how often you'll hold office hours, and third, set clear guidelines for students.<sup>137</sup> These two best practices work together to ensure that these meetings truly serve their purpose. I found that virtual office hours could be simultaneously more flexible and available while allowing me to continue to manage my responsibilities. I operated two ways with office hours, regardless of their modality. First, throughout the semester, I indicated to students that if they wanted to meet with me either in person or via Zoom, they just needed to email me and ask, and we would find a mutually convenient time. Students largely seemed to have no trouble sending emails to me (which I also learned for many students felt more accessible than walking in a door), and through the email conversation we could agree on a mutually convenient time—even if was a weekend, a night, or another time when I would have been unlikely to be available to them in person. By conducting this conversation via email, with open-ended questions (“Are you available any night?” “Is there any time at all on Tuesdays?”) students could privately and carefully communicate to me their needs, and I could do the same. If a review of my calendar revealed too many appointments in one week, I could simply let them know of my unavailability that week. Because no one was “on the spot” in a face-to-face conversation trying to find an available time, students and I always seemed to easily come to a mutually agreeable meeting time. While some in-person appointments resulted from this process, most resulting appointments were online.

However, to ensure that students who may still have been reluctant to reach out were also served, I established virtual online

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<sup>135</sup> Jennifer Bui, *Virtual office hours: Benefits & best practices for teachers*, DIALPAD, <https://www.dialpad.com/blog/virtual-office-hours/>.

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

and in-person time periods when I was available. In person, I had a fixed time period when students could drop in, whether it was a specific time of day on a specific day of the week, or a general notice that if my door was open students could come by. Virtually, I set up time periods when I was sitting online, in an open videoconference call, waiting for students. Unlike in-person sessions, in which the awkwardness of someone's suddenly appearing at your door may curtail your activities, with online hours I could have my camera off, continue my work and, when I heard the ding of the waiting room (a technique discussed below), could organize my thoughts (and self) to be ready to have a meaningful conversation with a student. Either way, these notices to students allowed me to manage and balance my time for all of my responsibilities while meeting student needs.

Fourth, follow up with students.<sup>138</sup> What I discovered after the fall semester of holding office in this manner was that scheduling online videoconference calls with students gave me a clear record of whom I had met with, and sometimes why they wanted to meet. Such a record allowed me to follow up with students later in the week or term to ask them if they had other questions, further opening the door for accessibility and access. Once I realized this, I purposefully began in the spring term adding these meetings to my calendar with more information—even after the meeting—about the substantive topic discussed, for example, so that I could follow up with this student but also remind myself that perhaps other students might have similar questions. The record of the interactions—tracking which class material students wanted to discuss—became another tool I could use to gauge the progress of my students and continue to work with them, and that log helped me and will continue to help me improve my teaching of those subjects.

Fifth, virtual waiting rooms serve as a technical strategy.<sup>139</sup> I often scheduled students back-to-back, or when I had open hours, using the waiting rooms to hold students while I finished with another student or got myself organized to work with a student, or to manage availability. This was particularly effective during these pandemic times, when often the information that a student wanted to convey—even during a drop-in time—was of a more private nature—a personal challenge that they were experiencing, waiting rooms encouraged students to feel comfortable about

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<sup>138</sup> *Id.*

<sup>139</sup> *Id.*



sharing their challenge or their need for help without fear of being interrupted.

Ultimately, the most useful best practice I employed was asking the students themselves how they wanted their office time to be managed.<sup>140</sup> I asked the students for any preferences when setting their time, but also again during the session. For example, during drop-in time, even when using a virtual waiting room, if we were discussing something substantive, I would ask a student, “Do you mind if your classmate joins us if they have a similar questions?” Once that setup was established, I would change the meeting from an individual one to a group one. Under those circumstances, the conversations were always productive, with students—even though they had not planned it—building their questions off one another, simply by being part of the larger conversation, and further building community.

While my experience with office hours in this format was universally positive, I am aware that I was able to evaluate those interactions only for self-selected groups. As no office hour was mandatory, I could evaluate only the interactions with those students who chose to engage with me in that way—students who were likely self-motivated. However, the percentage of students I met with in all three classes was high compared with previous semesters. I felt an undeniable uptick in community and engagement. As the subject matter was the same, and the numbers of students across the modalities was roughly the same, I can unscientifically attribute the rise in participation to the flexibility that the different modalities afforded all students and the power that I put in their hands to better control the meetings. I will continue to conduct office hours in this way consistently moving forward.

### ***8. Formative Assessments are the Thread that Holds it All Together***

There has been much written for legal educators about assessments and their use in legal education.<sup>141</sup> I have been proponent and early adopter (for legal education) of assessments, given their benefits in promoting all student learning goals. It has been said very clearly in educational learning theory: “Formative assessments—ongoing assessments designed to make students’

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<sup>140</sup> *Id.*

<sup>141</sup> See generally LAW SCH. ASSESSMENT, <https://lawschoolassessment.org/>.

thinking visible to both teachers and students—are essential. They permit the teacher to grasp the students’ preconceptions, understand where the students are in the ‘developmental corridor’ from informal to formal thinking, and design instruction accordingly.”<sup>142</sup> It should now be clear to all law faculty that they must become fluent in appropriate assessments to maximize student learning, particularly in the use of formative assessments that meet the important purpose of helping faculty understand and evaluate their students’ learning during the semester.<sup>143</sup>

Summative assessments are designed to measure whether the learners have met the learning outcomes that a course presents, usually in the syllabus.<sup>144</sup> Summative assessments, whose main purpose is often to assign a grade for the course, such as in a final exam, are well established in legal education.<sup>145</sup> However, formative assessments should be doing something very different, and this is where I focused my self-reflection this past year, in trying to ensure engagement and transfer of learning for students in different modalities. A valuable formative assessment should establish for the learner three things: where they are, where they are going, and how to close the gap between those first two questions.<sup>146</sup>

Additionally, it is now well established that the ABA Standards of Accreditation require schools not only to create learning outcomes, but also to develop an assessment plan that both demonstrates whether these learning outcomes are met and “improves student learning.”<sup>147</sup> Once learning outcomes are defined, “the next step is that the faculty must develop a series of benchmarks or stage-development performance levels (from novice to expert) for each competency included in the faculty’s learning

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<sup>142</sup> NAT’L ACAD. PRESS, *supra* note 70 at 24.

<sup>143</sup> Rogelio A. Lasso, *Is Our Students Learning? Using Assessments to Measure and Improve Law School Learning and Performance*, 15 BARRY L. REV. 75, 77 (2010).

<sup>144</sup> Anthony Niedwiecki, *Prepared for Practice? Developing a Comprehensive Assessment Plan for a Law School Professional Skills Program*, 50 UNIV. S.F. L. REV. 245, 266 (2016).

<sup>145</sup> Lasso, *supra* note 143.

<sup>146</sup> Niedwiecki, *supra* note 144.

<sup>147</sup> *Id.* at 249.

outcomes.”<sup>148</sup> Assessments are the tool that determines “if or when” an outcome has been met.<sup>149</sup>

However, what schools are doing with these assessments and how they are actually being used is still very much developing. The main lesson I learned in this year of teaching is that while many faculty still consider formative assessments optional, or an “add-on” to a course, that thinking is outdated. Formative assessments must be an integral part of every single law school course moving forward and can enable you to best meet your students’ learning goals.

Professors should be seeking to incorporate competency-based assessment into their courses—evaluating students on an “articulated set of core skills and behaviors”—the way students are likely to see themselves evaluated when they enter the legal profession.<sup>150</sup> In many law firms, decisions regarding compensation and promotion are based on the attorney’s performance as measured against the performance criteria and benchmarks deemed essential to competency levels, and go beyond merely legal knowledge.<sup>151</sup> Likewise, skills-based assessments can help students stay engaged in their courses as they get feedback related to their real-world skills and gain an understanding of how this process will be part of their employment situation.

One skill that legal education has long asserted is central to its function is that of “critical thinking.” In this context, it means that legal education should produce graduates whose thinking is “criteria-based”—they can distinguish fact from fiction, synthesize and evaluate information, and clearly communicate that thinking

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<sup>148</sup> Neil Hamilton, *Formation of an Ethical Professional Identity (Professionalism) Learning Outcomes and E-Portfolio Formative Assessments*, 48 UNIV. PAC. L. REV. 847, 852 (2017).

<sup>149</sup> Joni Larson, *Getting Up to Speed: Understanding the Connection Between Learning Outcomes and Assessments in a Doctrinal Course*, 62 N.Y.U. SCH. L. REV. 11, 17 (2018).

<sup>150</sup> TONI JAEGER-FINE, BECOMING A LAWYER: DISCOVERING AND DEFINING YOUR PROFESSIONAL PERSONA 18 (2019).

<sup>151</sup> *Id.*

to solve problems.<sup>152</sup> Critical thinking is well acknowledged to be a skill needed for “both academic and career success.”<sup>153</sup>

The COVID-19 pandemic helped open the eyes of many faculty to the need to do more assessment, and with good reason.<sup>154</sup> Students who are not physically present in a classroom, or students facing a multitude of external challenges never before seen, are learning differently, at a different pace.. As such, ensuring that both they and the faculty member are constantly checking their learning progress is critical. Additionally, it is clear that “multiple ongoing formative assessments give students the opportunity to learn more doctrine at a deeper level,” which is an undeniable goal for any law school course.<sup>155</sup> This does not mean that there needs to be a constant barrage of tests that students are taking and the faculty member is then grading. There are far more ways to gauge student learning that are more productive than constant, formal testing.

I discovered that one way to include formative assessments that are meaningful for students in different modalities was to make them less traditional—not necessarily carbon copies of the summative assessments that were traditionally done (such as a midterm in addition to a final)—to increase the use of skills exercises to measure students’ progress and be able to give feedback on the real use of the material learned. The importance of teaching skills has been well documented in legal education; but where they have been introduced, they traditionally have been separated from “doctrinal” courses.<sup>156</sup> However, it is clear that this separation is not effectively meeting the goals of producing competent skilled lawyers, and an integrated approach better meets these outcome needs.<sup>157</sup> Additionally, the use of skill

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<sup>152</sup> *Critical Thinking and Other Higher-Order Thinking Skills*, UNIV. CONN. CTR. FOR EXCELLENCE IN TEACHING AND LEARNING, <https://cetl.uconn.edu/resources/design-your-course/teaching-and-learning-techniques/critical-thinking-and-other-higher-order-thinking-skills/>.

<sup>153</sup> Joshua Krook, *Law Schools: Alternative Assessments & Teaching Methods for a Liberal Arts Education*, NEW INTRIGUE (Apr. 11, 2019), <https://newintrigue.com/2019/04/11/law-schools-alternative-assessments-teaching-methods-for-a-liberal-arts-education/>.

<sup>154</sup> Soled, *supra* note 1.

<sup>155</sup> Larson, *supra* note 149.

<sup>156</sup> Alice M. Noble-Allgire, *Desegregating the Law School Curriculum: How to Integrate More of the Skills and Values Identified by the MacCrate Report Into a Doctrinal Course*, 3 NEV. L. J. 32, 34 (2002).

<sup>157</sup> *Id.* at 60.

assessments can combat the “cynical” attitude that many upper-level law students may bring back with them to the classroom after having had the opportunity to work in a legal setting, challenging the relevance of their classroom experiences.<sup>158</sup> Formative assessments can engage students and help them transfer their learning.

One approach to assessments has been dubbed the “five C’s”—connect, construct, commit, confirm (or correct), and create.<sup>159</sup> In my view, these five C’s are both correct and clear. The concept that students must connect to information was evident in every lesson I learned throughout the past year.<sup>160</sup> The second C—the importance of students’ constructing their own understanding of information—has also become clear in my year of teaching.<sup>161</sup> There is simply no substitute for this work by students, and it meets the goal of helping students develop intrinsic motivation. As discussed, students must commit to the material to gain the deepest understanding of it, and assessments hold students accountable to that commitment.<sup>162</sup> Additionally, assessments allow for that feedback to ensure students are on track—the confirmation or correction—and in ways that are easily completed by the faculty and easily digestible by students.<sup>163</sup> Last, that key competency of critical thinking can be developed where students have that opportunity to create from their knowledge—a goal we have for all future members of the profession.<sup>164</sup>

A few key points regarding formative assessments became clear through this past year of teaching in different modalities. In short, I found that assessments—quick, informal, low- or medium-stakes assessments took on increased importance in teaching in different modalities. Like my other communication touchpoints, they were productive two-way streets that helped students to stay engaged with the class material. They couldn’t shove their progress to the bottom of the pile and decide to worry about it right before finals. These assessments gave me the feedback I needed to know students were engaged and making progress, particularly those with whom I had less direct means of interaction throughout the term.

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<sup>158</sup> Jones Merritt, *supra* note 3.

<sup>159</sup> Larson, *supra* note 149.

<sup>160</sup> *Id.* at 28–30.

<sup>161</sup> *Id.* at 30–31.

<sup>162</sup> *Id.* at 31.

<sup>163</sup> *Id.* at 32.

<sup>164</sup> *Id.*

Formative assessments can be done regardless of student modality. They can be done during class time, or as out-of-class preparation or review work. And regardless of modality, they can be done online for ease. From a faculty perspective, online assessments can be quicker and more revealing of the actual state of student learning than those conducted by more traditional methods.<sup>165</sup> Students can more easily be assessed by short, informal means, providing both student and faculty easy, frequent feedback. For example, it is simple to pre-load bar-style multiple-choice questions, whether on the LMS or in a casebook add-on platform, which are automatically graded, and include pre-written explanations of questions and their answers. And online formative assessments can more easily meet student accommodation needs regarding time and format.

In addition to more formal assessments, I found myself using other techniques to get informal formative feedback from my students. I used these informal techniques more frequently with students online than in person to try to develop more of a relationship with students with whom I had more limited ways to connect. In the future, I would consider using more of these across courses in all modalities, as I do not believe there can be too much community to enhance student learning. One technique I used across all modalities was the “dipstick,” which entails posing a general question about the previous class lesson, asking for their level of comfort or competency in the material; students could answer verbally, or online with a “thumbs-up” or other emoji.<sup>166</sup> Another technique I used across classes was a “virtual exit ticket,”<sup>167</sup> which I administered in the form of an anonymous poll after certain classes, asking for their self-assessment on what had been most interesting in the class and most difficult, and something they wanted me to know about their learning progress.

The use of assessments played out differently, however, among the classes in different modalities. Students entirely online seemed to adapt more readily to the online assessments. Students attending in person sometimes gave me feedback that they did not expect any online assessments—that they perceived the return to the classroom would also mean a return to only in-person assessments. In addition, students entirely online seemed initially

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<sup>165</sup> Soled, *supra* note 1.

<sup>166</sup> Nora Fleming, *7 Ways to Do Formative Assessments in Your Virtual Classroom*, EDUTOPIA (Oct. 1, 2020), <https://www.edutopia.org/article/7-ways-do-formative-assessments-your-virtual-classroom>.

<sup>167</sup> *Id.*

more open to more different kinds of assessments, administered in different ways, where a return to the classroom for some students seemingly implied for them a return to more traditional ways of doing business in the classroom, including, for some, a return to a singular summative assessment. Upfront, clear communication about the incorporation of these assessments, their purpose and the benefits to all students is an important component of their administration for all classes in the future.

The lessons to be learned about assessments are vast—but the key lesson learned from this past year is that the major shift in assessments—made for whatever reason—cannot be retracted and must continue to go forward to maximize all goals of student learning.

### III. Taking The Lessons Forward

My first question was whether in this lesson in teaching I achieved my own goals—upon reflection, how close to these goals did I get, and did I learn enough to improve my teaching in the future? First was the goal to have a more engaging classroom. All of the lessons that I learned were born of, and related to, the desire to have students more engaged. I do believe that I improved engagement, by learning from experiences and applying those lessons throughout the year. I also believe my reflection on these points paves the ways for further engagement in the future.

Second, related to engagement, I wanted to work to ensure students became invested in their learning so that they developed an intrinsic motivation for success. Upon reflection, this goal may be the most important, and yet I have the furthest to go. The lessons learned—from flexibility to accessibility—have improved and smoothed the path to encourage students to develop this motivation, but truly helping students to develop the professional identity to become self-directed, intrinsically motivated learners is a discipline unto itself that will require more than this exercise produced.<sup>168</sup>

A third issue I considered with my reflections was the “transfer of learning” problem.<sup>169</sup> Did I learn lessons to help students make connections in their learning, and learn to look for them further in their education? I believe many of the lessons I learned furthered

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<sup>168</sup> Larry O. Natt Gantt, II & Benjamin V. Madison, III, *Self-Directedness and Professional Formation: Connecting Two Critical Concepts in Legal Education*, 14 UNIV. ST. THOMAS L. J. 498 (2018).

<sup>169</sup> Kowalski, *supra* note 25.

this goal the most. My communications outside of class, the purposeful, methodical introduction of the material in context of larger learning, came from other needs—to build community and keep students engaged—but actually produced students able to see these connections.

My last goal was to consider how I could build community among law students in these difficult times. As with engagement, all the lessons I learned affected the sense of community, and I learned a true appreciation for how the sense of community can influence the learning environment overall. I will always work toward continually building that community for students.

As my “year of magical teaching” came to a close, I found myself grateful for the opportunity to learn so much about how best to meet students’ needs, and I look forward to continuing that journey.

The second goal is broader—are there further questions for all faculty to consider as they seek to continue to improve their teaching? It is clear that there are many goals for legal education, and they are frequently debated. One long-standing goal is clearly the preparation of skilled lawyers in practice.<sup>170</sup> However, other goals can include the advancement of justice, service to communities, and professionalism.<sup>171</sup> How best to achieve all goals of legal education has been a particular challenge that has gotten more attention since the pandemic forced faculty globally to make changes to their teaching. What many in the legal academy are now considering is how to best leverage those changes moving forward and what faculty can do to maximize them all.

Self-reflection on both the classroom and out-of-classroom experience is the key to understanding what will allow all faculty to best meet their goals for student learning. Faculty must have the courage and dedication to take a clear-eyed look at their teaching and its effectiveness for their students.

In further seeking to improve, faculty can begin this daunting task by asking three direct questions:

1. Am I effectively connecting with students, regardless of their modality of attendance?
2. Am I effectively communicating with students of all kinds and from all situations?

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<sup>170</sup> John R. Peden, *Goals for Legal Education*, 24 J. LEGAL EDUC. 379 (1972).

<sup>171</sup> *Mission and Values*, SHEPARD BROAD COLL. L. (2023), <https://www.law.nova.edu/about/mission.html>.



3. Do I have in place feedback mechanisms—both for me and for them—to measure these connections and communications?<sup>172</sup>

If the answer to any of these questions is no, faculty must then begin to evaluate those methods of connection, communication, and feedback to utilize new techniques to improve them. In addition to many written resources that are available, many conferences are focusing on faculty development in teaching. Law schools should ensure they are directing faculty support in teaching not only to the junior faculty, but to all faculty in all levels of experience. Only by helping faculty close the loop to meet their own objectives in teaching can law schools truly support their students in their learning fully.

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<sup>172</sup> NAT'L ACAD. PRESS, *supra* note 70.