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(Seven Principles for Good Practice in Legal Education): Principle 5: Good Practice Emphasizes Time on Task

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Principle 5: Good Practice Emphasizes Time on Task

R. Lawrence Dessem

Time plus energy equals learning. Efficient time-management skills are critical for students and professors alike. Allocating realistic amounts of time means effective learning for students and effective teaching for faculty. How an institution defines time expectations for students, faculty, administrators, and other professional staff can establish the basis for high performance for all.¹

The fifth principle for good practice in undergraduate education is almost a truism: good practice emphasizes time on task. In their original statement of the seven principles, Arthur W. Chickering and Zelda F. Gamson expressed this as a mathematical formula: "Time plus energy equals learning."² Time on task is a principle that applies to all persons within, and all components of, an institution. Any consideration of the principle within the context of legal education therefore should consider student time on task (learning), faculty time on task (teaching), institutional time on task (devoted to teaching and learning), and time on task within legal education (focusing law schools on teaching and learning).

Student Time on Task

A superficial consideration of this principle may cause one to conclude that time on task is an essential element of American legal education and that law schools do a good job of requiring their students to spend time on task. Our students typically have heavy course-hour requirements, and we expect—particularly in the first year—a tremendous amount of work outside class in preparation for each class hour.

The American Bar Association not only requires a minimum number of class hours for graduation; ABA Standard 304(b) requires that those hours extend "over not fewer than six academic semesters." In addition, Standard 304(a) provides that the academic year must consist of "not fewer than 130 days on which classes are regularly scheduled in the law school, extending into

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1. Arthur W. Chickering & Zelda F. Gamson, *Seven Principles for Good Practice in Undergraduate Education*, AAHE Bull., Mar. 1987, at 3, 5.
2. *Id.* at 5.

not fewer than eight calendar months.” Thus the standards are concerned not only with the total amount of time that law students spend in classes; by requiring that classes extend over set periods of time, they implicitly recognize that legal material often takes time for students to assimilate.

While our students spend a great amount of time on their studies, are there areas in which we in legal education are not maximizing student learning opportunities because of a failure to insure time-on-task behavior? Yes there are. Indeed, there are several major ways in which we might encourage more effective student time on task and, thus, a better learning environment within our law schools.

From their very first day in law school, there are ways in which we can help students to use their time more efficiently. Many come to law school from prior educational environments in which staying on task was encouraged by quizzes, projects, examinations, and papers that were required throughout the semester. Now they find themselves in many courses with a single examination at the end of the semester. They may not learn whether their study and preparation time has been sufficient, and sufficiently efficient, until the semester has ended and midcourse corrections are no longer possible.

Law schools and individual teachers have adopted numerous strategies to encourage students to use their time most effectively. Some schools offer courses in time management, often in first-year orientation or academic support programs. Some teachers follow the principle of prompt feedback and include in their courses quizzes, midterm examinations, writing assignments, and other exercises to help students determine how they are doing in the course and whether they are using their preparation time efficiently. If students will be expected to apply legal doctrine to concrete fact patterns on the final examination, they should devote time to this task during the semester rather than merely memorize legal doctrine.

There are many ways in which faculty can facilitate efficient class preparation and plan writing exercises to make the best use of student time. Some have employed mastery learning concepts, structuring their classes so that all students can successfully pass an examination demonstrating mastery of the subject in question.³ Teachers also should ask their students just how much time they spend on out-of-class preparation and assignments. If teachers underestimate the time necessary to complete assignments, or fail to coordinate significant assignments with other faculty, students may be unable to devote the time necessary to complete particular assignments successfully.

Because of the great amount of student work—and learning—that occurs outside the classroom, teachers might consider themselves as managers of student time and assign out-of-class reading, papers, and projects with this thought in mind. This may mean that faculty take care not to overload students during the first year of law school and, conversely, to structure their upper-level courses so that second- and third-year students spend sufficient

3. Jay M. Feinman & Marc Feldman, *Achieving Excellence: Mastery Learning in Legal Education*, 35 *J. Legal Educ.* 528, 528-34 (1985).

time on task. By the third year of law school, most students have figured out how to satisfy minimal expectations in large lecture classes. If the third year of law school looks just like the first and does not call upon additional learning or lawyering skills, some students will try to get by with only a minimal effort.

This tendency is accentuated by nonacademic pressures upon virtually all law students. Many of today's students have non-law school commitments or for other reasons may be unable to maintain a standard course load and graduate in three years. Law schools increasingly may need to accommodate some students to insure that they can meet their family commitments, their diverse learning needs can be satisfied, and they can focus their time most effectively on the task of learning.

Employers are another major competitor for student time. In light of escalating law school tuitions, how can schools best enforce the twenty-hour weekly limitation on outside work mandated by ABA Standard 304(f)? Interpretation 304-7 provides:

A law school shall demonstrate that it has adopted and enforces policies insuring that individual students satisfy the requirements of this Standard, including the implementation of policies relating to class scheduling, attendance, limitation on employment, and time devoted to job interviewing. The law school also shall take steps to control absenteeism by students involved in placement interviewing.

While various procedures may be employed to insure that students don't "break the rules" concerning full-time student status, a significantly more effective approach would be to build law schools around the seven principles and engage students so that they want to maximize their time on task within law school. If students see the time they spend on their legal educations as an investment in their long-term professional success, they will be more willing to devote time to their courses. Unfortunately, the perception persists among at least some students that, in addition to being paid for their efforts, they can learn "real" law better from legal employers than from law school faculty.

This raises a basic question about just how we define the task to which we want our students to devote their time. How broad should the definition be? Student-faculty contact is one of the seven principles, but the standard classroom setting may not be the best setting for nurturing the student-teacher relationship. For this reason, the "task" for both students and faculty should include clinical practice, writing courses, and workshops, as well as cocurricular activities such as moot court in which there is a fair degree of student-faculty interaction.

We also cannot hope to influence our students' time commitments to any major degree without a consideration of reward structures. One of the primary reward structures for all students is the grading system. Both rewards within the law school (such as selection for law review) and rewards within the legal profession (such as job opportunities) flow from law school grades.

Unfortunately, the perceived and quite real importance of grades may cause students to narrowly define their law school "task" as success on examinations. This may, in turn, cause students to fail to take advantage of many

other opportunities for professional development that law school offers. While most undergraduate learning results from out-of-class experiences,⁴ both colleges and law schools have failed to take full advantage of cocurricular activities in structuring the learning environment.

If law students are single-mindedly focused on their grades, they may pass up career services panels on areas of legal practice; outside speakers; presentations on debt, time, or stress management; and cocurricular activities such as law review, moot court, and pro bono programs. We might heighten student attention to such programs by including some of them within graded courses—for example, by inviting guest speakers into class or by requiring students in a particular course to attend a particular program. Or we might require that students attend a certain number of such programs over the course of the academic year. Ideally we should create an environment in which students throughout the law school regularly attend such events just because “it’s the thing to do.”

Time management and time-management skills are crucial for success as a student, as a law teacher, and as a practicing lawyer. Students and faculty alike must be realistic in the allocation of their time to insure effective learning and teaching. The very first Model Rule of Professional Conduct, Rule 1.1, provides: “A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.” Attorneys, too, are expected to spend appropriate time on task. We should expect no less from our students and from ourselves.

Faculty Time on Task

The epigraph above is worth repeating: “How an institution defines time expectations for students, faculty, administrators, and other professional staff can establish the basis for high performance for all.” Insuring that individual teachers themselves commit sufficient time to the institutional task at hand is crucial to the total teaching and learning environment.

Law school teachers also should never forget that they represent a window on the legal profession for students and that they are powerful role models for their students. The simple matter of starting and ending class on time can send important messages about how professors and the profession view and use time.

Corresponding efforts may be required to ensure that students are timely in their own class attendance. Teachers might appropriately talk with their students about the importance of timeliness within the profession. To tie their own insistence on timeliness to the profession, some teachers require a written “motion for extension of time” from students who are tardy or miss class. Some encourage prompt student attendance by the way they start each class: they summarize the prior class or take questions about that material,

4. George D. Kuh et al., *Involving Colleges* 5–16 (San Francisco, 1991).

they give the next day's assignment, or they suggest possible final exam questions that might be drawn from recent course material.

ABA Standard 404(a)(1) specifically requires law schools to establish policies to address faculty teaching responsibilities, "including carrying a fair share of the law school's course offerings, preparing for classes, being available for student consultation, and creating an atmosphere in which students and faculty may voice opinions and exchange ideas." The AALS Statement of Good Practices by Law Professors also admonishes faculty to commit themselves to teaching excellence, to make efficient use of student time, and to insure appropriate time-on-task behavior in their classes:

Law professors should aspire to excellence in teaching and to mastery of the doctrines and theories of their subjects. They should prepare conscientiously for class and employ teaching methods appropriate for the subject matters and objectives of their courses. The objectives and requirements of their courses, including applicable attendance and grading rules, should be clearly stated. Classes should be met as scheduled or, when this is impracticable, classes should be rescheduled at a time reasonably convenient for students, or alternative means of instruction should be provided.

In addition, faculty have a responsibility to insure the optimal use of student time during a course. Unfortunately, student course evaluations may be of little immediate help if teachers receive them only after the semester is over. Although questions of student confidentiality must be addressed, teachers might consider asking their students for a midterm evaluation, soliciting student views about use of time and other aspects of their courses. Faculty advisers and administrators also may be helpful in identifying students who are having problems more generally in applying themselves to their legal studies.

Faculty should consider the impact of the academic calendar on their school's learning environment. As Keith Geiger, former president of the National Education Association, has said of elementary and secondary education: "For many decades, the clock has controlled learning. Time has been the constant, learning the variable. If learning is to improve, that dictum must be reversed."⁵ Law school classes, semesters, vacations, and reading periods typically are scheduled for the convenience of faculty and administrators without, in many cases, any serious consideration of the optimal timing for student assimilation of material in particular courses or any major effort to otherwise structure the best learning environment.

Major practical problems are posed by the need to develop a class schedule that will maximize student choice in course selection, accommodate faculty needs, and comply with scheduling constraints imposed by the number and availability of classrooms. But it may be possible to adopt more flexible scheduling options to enhance student learning in individual courses. For instance, a three-credit-hour course might be scheduled to meet four hours per week. The teacher then could schedule individual classes within these

5. *Rethinking School Time: New, Better, and Different . . . as Well as More*, Wash. Post, June 12, 1994, at C3.

four hours to best suit the material being addressed each week. The course might meet for four hours per week early in the semester to frontload basic information, might suspend meetings while students are working on out-of-class papers or projects, and might include longer classes on days when outside speakers will address the class.

Even within the constraints of a typical law school schedule, faculty have great discretion as to course pacing and the use of time within the semester. To make most effective use of time, they must think of their courses as semester-long endeavors.

Will the semester be a series of separate sketches, as in a course in which ten different guest lecturers address ten disparate topics; or will it be like a framed canvas whose surface has been filled, inch by inch, with meaning and relevance to the whole? The richness of the final composition will depend largely on the professor's willingness to perceive the semester as a teaching unit and develop the course to exploit its unity.⁶

Most law professors are committed to good teaching, but they also must satisfy institutional expectations about research and service, and they sometimes face difficult choices as to how much of their time and creative energy they should devote to their students. While individual teachers must resolve these tensions within the context of their particular institutions, all faculty should be alert for areas of overlap in teaching, scholarship, and service. For instance, there may be significant opportunities for students to work with faculty on scholarly or service projects. Faculty also should consider writing about their teaching experiments and innovations, thereby gaining a publication for themselves and sharing their teaching successes with others.

Here, also, questions arise as to the "task" to which we expect faculty to devote themselves. As we know from the seven principles, good teaching goes well beyond what transpires during the standard class period, and law faculty must do more than simply help students master course content. Faculty should be encouraged, and rewarded, for participating in cocurricular activities such as moot court and law review, as well as for counseling individual students. The AALS Good Practices statement reminds us: "Law professors should be reasonably available to counsel students about academic matters, career choices, and professional interests." As the first of the seven principles recognizes: "Frequent student-faculty contact in and out of classes is the most important factor in student motivation and involvement."⁷

At many schools, particularly in urban areas, faculty as well as students may be attracted to employment opportunities outside the law school. Schools should have serious policies concerning outside consultation by faculty, and faculty must police one another in this respect. If we expect students to devote their full attention to the task of learning, we must devote ourselves to the task of facilitating and nurturing the student learning that we expect.

6. Laura L. Nash, *The Rhythms of the Semester*, in *The Art and Craft of Teaching*, ed. Margaret Morganroth Gullette, 70, 70 (Cambridge, Mass., 1984).

7. Chickering & Gamson, *supra* note 1, at 4.

Institutional Time on Task

While students and faculty are primarily responsible for insuring appropriate time on task, they teach and learn within the environment that is the modern law school. If any of the seven principles are to be fully implemented, the law school as an institution must support that effort.

The institutional responsibility on law schools to insure effective teaching is clear. ABA Standard 401 (b) provides: "A law school shall take reasonable steps to ensure the teaching effectiveness of its faculty." Law schools typically satisfy this basic responsibility by creating procedures for peer teaching review (especially during the tenure and promotion process), establishing faculty development committees, and supporting faculty attendance at teaching conferences sponsored by organizations such as the Association of American Law Schools, the Legal Writing Institute, the Society of American Law Teachers, and the Institute for Law School Teaching.

But there is much more that can be done institutionally to develop, nurture, and reward outstanding teaching within the law school. We know that effective learning requires prompt feedback, but at many law schools there is little ongoing feedback on the teaching effectiveness of individual faculty. All too often, serious consideration of teaching occurs only within the context of the tenure and promotion process, which operates as a one-time yes-or-no hurdle to be surmounted rather than as a process for the discussion and improvement of teaching.

During the promotion and tenure process, law schools employ outside reviewers to evaluate faculty scholarship. Why not similarly employ outside reviewers to evaluate teaching? While each law faculty must itself define the most appropriate teaching for its institution, couldn't outside experts help in this process? Outside reviewers might be people recognized as excellent teachers at other law schools. Another possibility would be to consult faculty within schools of education or other experts in teaching theory and practice within the law school's own university. Such reviews might be helpful in moving the dialog from a yes-or-no summative judgment on teaching effectiveness to a more formative process focusing on ways in which the candidate's teaching could be improved over time.

We also should consider the extent to which a law school's teaching responsibilities are met by adjunct faculty. What training, feedback, supervision, and rewards do we give these people who, at many law schools, handle increasing amounts of the student classroom contact hours? Adjunct faculty, too, should be expected to devote sufficient and significant time to the task of teaching our students.

Most new law teachers are shocked at the amount of time they must spend on their initial courses. Recognizing this, many schools give new faculty a reduced teaching load in their first semester. Newer faculty also typically are light-loaded with committee assignments. But do law schools give faculty lighter loads later in their careers to develop new courses or teaching methodologies? Are faculty eligible for summer stipends only to write scholarly books and articles, or can someone receive such a stipend to support the publication

of electronic or print teaching materials? As it works to improve its teaching effectiveness, a faculty may be greatly helped by external teaching expertise. Some law schools have retained educational consultants to work with the faculty; the Franklin Pierce Law Center has established a distinguished visiting professorship of teaching effectiveness.⁸

Not only should law schools focus on ways in which individual students and teachers can become more focused on appropriate tasks; the faculty should also consider the institutional structure in which teaching and learning occur. In particular, faculty should consider the impact of their school's curriculum on their efforts to make the most efficient use of student and faculty time.

In all too many law schools, the curriculum has developed haphazardly, with no comprehensive plan for how a particular course relates to other courses or to the school's pedagogical mission. Faculty teach their individual courses without any consideration of what is being taught in other courses. Students may learn and relearn the basics of certain doctrines in several classes, while equally important material is not addressed in any course because individual teachers believe the material is best addressed "elsewhere" (i.e., anywhere but in their particular courses).

Problems posed by the failure to review our course offerings periodically are compounded by the fact that so much of the modern law school curriculum is elective. While prerequisites may be required for certain advanced courses, teachers often cannot be sure that students in a particular course have had a common knowledge or experience base. Portions of the course may be repetitive for some students, while others will need to work hard to grasp the same concepts.

Many law schools have furthered more efficient use of student time by careful curriculum planning. At Harvard, for instance, teachers of first-year classes instituted "bridge sessions" in which students and faculty come together to talk about concepts (such as intent) that are significant in more than one first-year course. They also coordinate course coverage, so that different classes take up related concepts at about the same time, and teachers in one course can refer to the discussion of the same topic in another first-year course. At other schools faculty have team-taught courses that otherwise would be quite distinct, such as Torts and Contracts, Torts and Civil Procedure, or Evidence and Trial Practice. When courses are combined or coordinated in this way, course coverage can proceed in a more creative fashion and students can better appreciate the relationship between different areas of the law. At the very least, teachers should talk with one another and coordinate out-of-class assignments to minimize conflicting demands on students' time.

Some law schools have created curricula with many more required courses, so that teachers in upper-division courses can be assured of a common knowledge base among their students. Mercer University's Woodruff Curriculum was developed on such a premise, requiring students to progress from

8. For an account of the teaching effectiveness program at FPLC, see Mitchell M. Simon et al., *Herding Cats: Improving Law School Teaching*, 49 *J. Legal Educ.* 256 (1999).
9. Section of Legal Education and Admissions to the Bar, American Bar Association, *Report of the Task Force on Law Schools and the Profession: Narrowing the Gap*, *Legal Education and Professional Development—An Educational Continuum* 3 (Chicago, 1992).

basic courses through courses requiring increasingly sophisticated knowledge and skills. For instance, students are required to take four separate and sequenced courses in legal writing and analysis.

A related development has been the creation of concentrations in specific areas of the law such as advocacy, business law, intellectual property, and legal writing. Because these concentrations presuppose a certain progressive structure to the student's legal education, teachers and students in advanced offerings can move forward much more rapidly to encounter new material, work on new skills, and address problems from different perspectives. Such concentrations may differ from traditional distribution requirements, which do not necessarily result in progressive growth because students may simply choose introductory or survey courses to satisfy the distribution requirements.

While these curricular developments somewhat limit student choice, they are based on an institutional view of time on task. If the time of students and teachers is to be used most efficiently, we must take such an institutional view of law school teaching and learning. While faculty may bemoan institutional constraints on improving the teaching and learning environment within their law schools, there is much they can do to improve the institutional environment. To paraphrase Pogo, "We have met the institution, and it is us."

Time on Task Within Legal Education

Finally, we need to consider the amount of time and attention that is devoted to teaching and learning within legal education. Powerful constituencies have mobilized in recent years to demand increased emphasis on teaching within American higher education. Student consumers have questioned the quality of teaching that they receive for their tuition dollars, while state legislatures and private donors have demanded greater accountability. Those within legal education who desire to refocus law schools on teaching and learning might consider building alliances with groups and individuals who may be particularly interested in good law teaching. These potential allies include law school deans, alumni, and donors, as well as accrediting and membership organizations such as the ABA and the AALS.

Law school deans can be vocal proponents of quality teaching, because they realize its importance to a law school's mission. Deans hear from prospective students who are interested in the quality of teaching within a school, as well as from alumni and members of the bench and bar who have similar questions and concerns about institutional resources devoted to teaching. Deans also hear from students about perceived deficiencies in teaching, and they feel student pride and satisfaction with exceptional teachers and teaching. Having such a perspective, many deans have worked to insure quality teaching both within their own law schools and in legal education more generally.

One reason for this is that the legal profession has demanded more from legal education in recent years. As the MacCrate Report recognized, "Legal educators and practicing lawyers should stop viewing themselves as separated by a 'gap' and recognize that they are engaged in a common enterprise—the education and professional development of the members of a great profes-

sion.⁹⁹ Since this report was issued in 1992, law schools across the country have worked to improve the teaching and learning experience, particularly with respect to legal practice skills. Additional work needs to be done to insure that the organized bar accepts its own responsibility for educating future generations of lawyers. Particularly in the area of skills training, there is great potential for effective partnerships between the law schools and the profession.

If the requirements of accrediting bodies and membership organizations are the sticks that compel us, there are also some carrots that encourage good law teaching. While there is no national Best Law School Teaching Award, there are national awards for outstanding teaching in certain areas. The Emil Gumpert Award of the American College of Trial Lawyers provides a \$50,000 prize to recognize outstanding trial practice programs. The ABA's Gambrell Professionalism Award has been given to several law schools to recognize their teaching of professionalism, and the Keck Foundation has made significant grants to law schools to support professionalism programs. A law school's decision to seek such an award can lead to a critical self-examination of its current educational program and can challenge individual faculty to expand and improve their teaching efforts.

Although federal funding for legal education has been curtailed in recent years, funds still may be available in areas such as clinical education. Some funds also may be available from state legislatures. The Indiana legislature has funded a program modeled on the summer institutes sponsored by the Council on Legal Education Opportunity; the aim is to expand access to legal education for minorities and for the disadvantaged. A law school should actively compete for state funds that are appropriated to its university to support teaching enhancement and improvement, multidisciplinary teaching, and collaborative teacher-student efforts.

Private donors may be quite interested in programs to enhance law school teaching. While donors have traditionally supported teaching through such gifts as endowed chairs, in recent years private funds have been successfully raised for other teaching initiatives. Included within the recent development campaign of the University of Virginia Law School is a Principles and Practice Program, in which practicing lawyers team-teach upper-level courses with full-time faculty. Students learn from both the practitioner and the professor, and the members of the teaching team learn from each other. The Virginia campaign has sought a donor to endow the program, as well as donors to support faculty-practitioner teams in individual Principles-and-Practice courses.

The successful pursuit of rewards and awards for outstanding teaching is important if we want to focus legal education on the centrality of teaching. All too frequently, we value only what we can measure, and it is difficult to quantify teaching and learning environments. One of the reasons that the law

school rankings of *U.S. News and World Report* are so controversial is that they include no consideration of teaching quality. While higher education has become increasingly preoccupied with educational "outputs" in recent years, there are few measurable outputs within legal education. *U.S. News* follows the ABA's lead in focusing on just two output measures: a school's bar passage rate and the job placement success of the school's graduates.

We must, as a profession, develop alternative models that give teaching and learning a more central place in the valuation of law schools. We cannot expect students, teachers, and law schools to commit time and energy to the improvement of teaching if teaching does not count for much within legal education. The Institute for Law School Teaching has raised our consciousness to the centrality of teaching to the law school mission; its teaching conferences and those sponsored by other organizations such as the AALS have carried this message within the profession. Since its inception, the *Journal of Legal Education* has published many useful articles on teaching techniques and suggestions. But we still need additional research on law school teaching and, even more important, a renewed commitment to the law school teaching and learning environment.