2013

From Podcasts to Treasure Hunts— Using Technology to Promote Student Engagement

Marcia L. McCormick
Saint Louis University School of Law, mmccor20@slu.edu

Follow this and additional works at: https://scholarship.law.slu.edu/faculty

Part of the Legal Education Commons

Recommended Citation

FROM PODCASTS TO TREASURE HUNTS—
USING TECHNOLOGY TO PROMOTE STUDENT ENGAGEMENT

MARCIA L. McCORMICK*

INTRODUCTION

I began law school nearly twenty-five years ago. In that quarter of a century, it seems to me as if legal education has been in a state of chronic existential angst. Every few years, it seems, we look inward and discover that we are not doing what we hoped that we would be doing. For example, in 1992, the American Bar Association issued a report on the state of legal education, the MacCrate Report, which among other things, emphasized the importance of practice-oriented instruction as part of the legal curriculum.[1] That report identified ten fundamental skills that law students should have and four values lawyers should internalize.[2] The report was not overly critical of legal education, but it implied that we could do better, especially when it came to teaching students how to communicate effectively and how to connect what they learned in class to the practice of law. As a result of that report, some schools developed much more disciplined and rigorous programs of study in

1. AM. BAR ASS'N SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, STATEMENT OF FUNDAMENTAL LAWYERING SKILLS AND PROFESSIONAL VALUES: REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION 1 (1992).

2. *Id.* at v (identifying the ten fundamental skills as: problem solving, legal analysis and reasoning, legal research, factual investigation, communication, counseling, negotiation, litigation and alternative dispute resolution procedures, organization and management of legal work, and recognizing and resolving ethical dilemmas; further identifying the four values as: provision of competent representation, striving to promote justice, fairness, and morality, striving to improve the profession, and professional self-development).

legal analysis, research, and writing, and expanded clinical offerings.[3] Those programs have been incorporated in many schools now.[4]

In the early 2000s, two separate groups studied legal education and both issued fairly critical reports. The Clinical Legal Education Association sponsored a committee to issue a "Statement on Best Practices."[5] The Carnegie Foundation studied the effectiveness of legal education and also issued its report in 2007.[6] The Carnegie Report found that the first year of law school was very effective at teaching students how to "think like lawyers,"[7] but it called for several reforms.[8] Lawyers need to be trained as ethical problem solvers, which is best accomplished by integrating doctrine, skills, and professional identity development.[9] Yet law schools tend to separate these into separate courses and rely too much on the case method of learning and the Socratic method of teaching.

That there should be gaps should not surprise anyone. Law professors are not formally trained to teach or to design courses.[10] Most law professors also come from a relatively small group of schools, where instruction in the Socratic method is particularly dominant.[11] They tend to be the people who performed the best by getting the highest grades, but may not necessarily have understood the building blocks of that performance.[12] Law professors are not trained in education, and many may have decided to pattern their teaching methods after their own law school experiences.[13] It has been relatively recent that, on a large scale, we have started to examine how to train lawyers, who may not naturally be good at teaching themselves, the skills necessary to teach.

This focus on legal education forms the backdrop for this Essay, which was presented as part of the Saint Louis University School of Law and the William C. Wefel Center for Employment Law's symposium on Teaching Employment and Labor Law. The changes called for by both the MacCrate and Carnegie Reports may require broad cooperation among faculty and significant

---

3. WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 173–74 (2007) [hereinafter CARNEGIE REPORT].

4. *Id.* at 174.

5. ROY STUCKEY, BEST PRACTICES FOR LEGAL EDUCATION viii (2007).

6. CARNEGIE REPORT, *supra* note 3.

7. *Id.* at 75–78.

8. STUCKEY, *supra* note 5, at viii.

9. *Id.* at 19.

10. *Id.* at 106.

11. Brian Leiter, *The "Socratic Method": The Scandal of American Legal Education*, LEITER REPORTS (Oct. 20, 2003, 12:15 PM), leiterreports.typepad.com/blog/2003/10/the_socratic_me.html.

12. CARNEGIE REPORT, *supra* note 3, at 90.

13. Leiter, *supra* note 11.

curricular reform. There are smaller measures that individual teachers can use, and this Essay will summarize two that I use in my doctrinal classes.

I. GOALS AND OUTCOMES: WHAT I TRY TO ACCOMPLISH AND WHY

This is going to be a story about teaching, but it is also a story about luck. Although I did not realize it at the time, I was really lucky to have gone to a state law school, and I was lucky that I did not really understand what I was supposed to do there. My grades were not always stellar and I had little sense of what my professors wanted from me. Some subjects were a real struggle because the rules were memorizable, but I did not always know how they were supposed to get used. On the other hand, when I saw the big picture—what the law in that area was trying to accomplish—I could see how the rules fit and how they could be used to help avoid or solve client problems.

These things made me lucky for two reasons. First, I have a lot in common with my students. Most of the people I went to law school with were like most of the students I have now: smart and interesting, but with a diversity of backgrounds—some from elite backgrounds or who have elite undergraduate degrees, but many and more from middle-class or working class places. We worried about and needed exposure to the same kinds of things my students do now.

Second, my experience made me want to figure out what I could have done differently to change my learning experience. I have kind of a hacker personality in the colloquial non-anonymous-wikileaks sense. I like to figure out how things work and how they can work better. Once I started practice, my experience there and in law school gave me chances to think about what things prepared me well and what different approaches might accomplish.

So, when I started teaching, my goal was to reverse engineer from practice to where I had been as a student in order to see the different educational solutions to that puzzle. And, I was again lucky. First, I began teaching as a Visiting Assistant Professor at the Chicago-Kent College of Law, which has a well-developed program to help people develop as teachers and scholars before they become tenure track applicants. I received great mentoring by wonderful teachers. Second, I began teaching legal writing, analysis, and research as well as a doctrinal class.

Legal writing, analysis, and research is a particularly challenging subject, because it is the class that takes students that are brand new to the law and begins their holistic training into how to think and communicate like lawyers. Students often come into law school expecting that they are going to be memorizing a bunch of rules, and once they know the rules, will be able to go out and practice law. Being a lawyer is not like that. Instead, a lot of what lawyers do is to listen to their clients, brainstorm solutions to problems, and

apply logic to solve problems. Rules are important, obviously, but rules are not always clear, and even when they are, they are simply a starting point.

One reason that rules are not always clear is because they come from multiple sources at once. Much of what lawyers do in practice is to synthesize rules from multiple sources: multiple cases, cases and statutes, multiple statutes, regulations, and combinations of all of them. What we do in class, mostly, is to help students learn how to do that synthesis. We have students read cases and have them try to pull out generally applicable principles to apply to future situations. They resolve conflicts and refine those principles by reading more cases, statutes, and regulations. They read about how those principles are applied and developed in a variety of situations to help them learn how to predict how the law will be applied in new contexts. And, they debate why the rules are the way they are.

Yet what we do in class is not what we will test students on and is only the first step of what they have to do in practice. We test students on how well they can recognize that particular facts raise particular legal issues. That means they have to know what facts matter and why, triggering recognition that a particular area of law might apply to conduct in that area. We also test them on their ability to remember the rules that we have all synthesized as a group, but more importantly on how well they apply those synthesized rules to new factual situations.

Moreover, what we do in class is just the first step of what they must do in practice. In practice they will have to synthesize rules on their own, but they will have to know where to look for potential rules or pieces of rules. They will have to be able to help clients figure out not only whether they *can* do something, but whether they *should* do it. They will also have to navigate their own responsibilities to the public, to their clients, and to others within a web of relationships.

When I was in law school, it took me a long time to figure out that a law school exam was not going to be like what we did in class every day. It took me a long time to figure out how what we did in class was preparing me to be a lawyer. In fact, I did not really understand it until I had been in practice for awhile. Only after I had been practicing for a while did I realize that most of what I was doing was constructing a story from a set of facts, recognizing issues those facts raised, synthesizing rules from sources of law that were implicated by those facts, and making arguments about what should happen for my client based on those rules and those facts. Accordingly, I discovered that I was much more successful at doing these things if I understood both the big picture and had to wade, myself, through the tiny the details of a particular area of law. Those were things I did not feel like I had done very often when I was in law school. So when I started teaching, I wanted to figure out ways to

provide them for my students. I wanted to figure out ways that my students could provide these things for themselves.

Legal writing is a great field to start teaching in not only because it is a crash course in lawyering, but also because, as a field, it is much more steeped in educational theory than any of the doctrinal fields I have encountered. It is theory that is deployed every day in the way that the teacher gives feedback to students trying to read, synthesize, analyze, and communicate like lawyers. This is what I took from my experiences:

1. Writing is thinking, and thinking requires writing—it is a way of manipulating ideas—but the real learning is in trying and failing, seeing why you failed, and then trying again.

2. It is harder to make sense of all of the tiny data points that each case or statute provides unless you have the big picture too.

3. You need to dig into those tiny data points too for the big picture to make sense.

You will notice that I am not talking about all of the skills that a lawyer must learn, but I am talking about developing doctrinal knowledge plus the core analytical skills that lawyers must master along with some perspective on how that knowledge and those skills can be used in the world.

Two of the ways that I bolster what we do in class to enhance that knowledge, analytical skill, and perspective are by providing (1) podcast summaries of our material and (2) treasure hunts and quizzes. The podcast summaries help students with the big picture, while the treasure hunts and quizzes help them dig into the details.

II. THE BIG PICTURE: AUDIO PODCAST SUMMARIES

To help students see the big picture in a subject, I use written summaries and audio podcasts. I try to distill, for each sort of "unit" that we do, what I think they have to know in terms of big picture background. The school I began my teaching career at, Chicago-Kent College of Law, is home to CALI, the Computer Assisted Learning Initiative. CALI's mission involves harnessing technology to improve legal education.[14] While I was at Chicago-Kent, I learned a lot about the goals of CALI and its initiatives.

CALI is probably best known for its library of lessons. CALI lessons are interactive, web-based tutorials.[15] They are designed to give students small bits of information, which the students immediately apply by answering a question where they must use that information. The students then get immediate

---

14. Austin Groothuis, *About CALI*, CALI (July 15, 2011, 3:59 PM), http://www.cali.org/content/about-cali.

15. *Id.*

feedback on whether they selected the right answer or wrote an acceptable short answer. That feedback includes an explanation of why the student was correct, or if the student was incorrect, what the right answer was and why. Forcing students to apply the information and then giving them feedback helps them to internalize the doctrine, but it also allows them to better understand the context in which the kind of law they are studying will arise. The real learning is in trying and getting feedback and trying again, all in context.

In 2006, based on the rise in cellphone technology, CALI began a new initiative called the Classcaster project.[16] I thought it sounded like a great way to supplement students' in-class experiences, and so I volunteered. CALI provided volunteers for the Classcaster project with audio recorders and a blog platform to post audio recordings of whatever we wanted to supplement our classes. We had to decide how the audio recordings would connect to the material in our classes, what form they should take, what their purpose was, etc. CALI gave us some ideas to start. One possibility was that we could audio record each class and store that class on the web for students to access later. I thought that might be a useful archive, and I have recorded classes that way on occasion to accommodate students who have been unable to attend classes for extended periods for some good reason. For example, some of my students have disabilities that limit their ability to come to class at times, others give birth or have been put on bed rest mid-semester, and others have had to leave town for extended periods to attend to family emergencies. At the time that the project started, the technology for video capture was not very good, and so audio recordings were a better option for this kind of need.

I was comfortable recording classes occasionally, but I did not think that recording classes was the best use of the technology I could engage in. Simply recording class would not necessarily help students internalize the concepts we were working with in class or see the ideas in new ways. Another alternative that CALI suggested was to provide short audio lessons or short summaries of the material that had been covered in a particular unit. I decided that because it is easy to get lost in the daily details of what we do in each class and it is difficult to see the big picture when you are focused on those details, audio summaries would be the most helpful supplements for my classes.

I began with my criminal law class. My criminal law class is a little bit unusual compared to other criminal law classes and other classes in the first year curriculum. My students do not read cases. Criminal law in this country is governed primarily by state law, and it is a statutory subject. So reading the sources of criminal law and learning the models the states follow seems to me

---

16. *See* Austin Groothuis, *Law Profs: Record Your Classes with Us*, CALI (Oct. 12, 2010, 11:28 AM), http://www.cali.org/blog/2010/10/12/law-profs-record-your-classes-us; *see also* CALI CLASSCASTER, http://classcaster.net/ (last viewed Aug. 27, 2013).

to be the best approach for the majority of students. In addition, most of my students are not going to go on to practice criminal law. But, all of them are going to go on to analyze statutes in order to help their clients comply with them, to make arguments to courts and other lawyers about rights under them, or some variation of those two things. So I see the class as primarily an opportunity to learn about statutory interpretation in the first year, where we also learn important things about criminal law doctrines as well.

As a result of this philosophy, my students read stories about real events that have happened, usually events that were high profile at the time and had a lot of news coverage. They also read the statutes from the jurisdiction the story came from that were in effect at the time. They might read a short paragraph from a case that interprets one provision of one of those statutes or explains a common law rule, and they read a treatise-like overview of the doctrine.[17] The work we do in class is to figure out how the statutes we have read should be applied to the story that we have read. We first figure out what the prosecution is going to have to demonstrate if it wants to prove criminal liability under the statutes that we have been given. Then we look to see what the defense's best arguments might be under those same statutes or under other important principles of criminal law that we study. The students are arranged in teams and assigned to act as the prosecutor or the defense for each case study.

This method of approaching the doctrine of criminal law can lead to students feeling somewhat adrift, especially when they think that they are supposed to be memorizing "The Criminal Law." It can be very difficult for them to construct the overarching principles that tie the things we do in class to each other and to the larger body of the subject of criminal law. Thus, this was a perfect place for an audio summary to provide that overarching structure. Accordingly, for each doctrine we cover, each major principle, I create a summary of what the students need to understand at a most basic level about that doctrine.

In order to begin, and for each new class I added, the first step was to sit down and figure out what constituted a unit for purposes of summarizing. It was a process similar to what we engage in when we construct a syllabus: figuring out what topics to cover, how it fits together, and what each of the pieces are. And for each piece, I had to ask the basic questions that we should always ask—but which law professors, because we do not have any educational training, do not always realize we need to ask—and those are:

- What is my goal for students with this material?
- What do I want students to take away from it?

---

17. The textbook I use is structured this way. PAUL ROBINSON, CRIMINAL LAW: CASE STUDIES AND CONTROVERSIES (3d ed. 2012).

- What, at a minimum, should a student be able to do after we have covered this topic?
- What skills are they learning?
- What knowledge are they gaining?
- How will they use this in practice?
- How will I test whether they understand or can exercise the skill?

Forcing myself to ask those questions made it easier to structure each class to try to achieve those outcomes. Even more importantly for me, constructing the summaries forced me to synthesize a large body of material, digest it, and communicate it in a form so basic that first-year students would understand it. It allowed me to better see for myself what the big picture was and how each piece related to that big picture. As you might imagine, the process itself made me a better teacher and made each class better for the students.

So for each unit I made sure to connect the material in that unit, the material that had come before, and the material that would come after. I also made sure that if there were any tests that the students needed to master—or internalize by memorizing, being able to recognize when to apply, and applying—those were summarized and stated as clearly as possible. In addition, if there were any other skills I wanted them to master from the material, I made sure to discuss what that material was. For example, if I wanted students to recognize common fact patterns that give rise to particular issues that they would see in practice, I would describe those fact patterns in those terms. This also allowed me to connect the doctrine to theory, and theory and doctrine to practice. Those connections are what experts can do in their fields, and helping students see how those connections are made can help them learn how to do the same thing themselves as they are learning to become experts.

The next step was to decide how to create the summaries. I could have just started speaking extemporaneously, recording that, or started with a basic outline of topics. I discovered almost immediately, though, that I am terrible at extemporaneous speaking and not precise enough to be sure I am communicating clearly if I just use an outline. And so, in order to make these podcast summaries basic and complete, I found that I needed to type what I should say. Additionally, I needed to practice reading the script before I recorded the summary in order to test that it would be complete, have an appropriate length, and make sense. The beauty of an audio podcast like the ones I do is that students can listen to them while doing other things. My voice can be on in the background while they do something that may not take a lot of concentration. So they can listen while they walk the dog, while they exercise, while they are commuting, or any other situation in which they are not going to be doing a lot of deep thinking. These summaries are not designed to provide

new learning that would require students to concentrate hard on either. The summaries are designed only to reinforce what they do when they read, take notes, and participate in class.

I also recognized that audio delivery is not ideal for all students. Not all students learn very well by listening. Many people who come to law school, although certainly not all of them, learn best by reading or at least feel most comfortable learning by reading. Therefore, because the summary material itself is useful, and not the fact that it is being spoken, I decided to give the students access to the written version, the scripts, for the podcasts. Providing the scripts was an easy, additional way to reinforce what we were doing. So from the start, I have provided my students with both the written and audio versions of the podcast summaries.

Once I had decided to write the summaries and what kinds of information to include, I had to decide how to structure that material. In order to decide how to frame the material, I relied on the large body of literature on effective communication, both oral and written.[18] My own experience as an appellate lawyer and what I learned from teaching research and writing helped enormously, too. I learned techniques for spoken communication to build in for better listener comprehension. For example, listeners benefit from lists and short outlines.[19] Those help to frame the discussion that follows. So when I have a rule that I want the students to master, I will tell them that that rule has three parts, or however many parts it has, and I will list those parts, using the numbers. To elaborate, using a three part rule as an example, I then discuss part one referring back to it by a shorthand name—a key term or phrase from that part so that it is easily recognized—and discuss that part in more detail in a paragraph. The next paragraph will discuss part two and explain more about it referring explicitly to its number and to the language I used to identify and define it. Next will come a paragraph on part three, using the same techniques. These kinds of road maps and signposts are important in writing, but they are even more important in oral communications. I wrote the scripts keeping in mind that many students were only going to hear the audio version, and so those scripts are written in a way that does the same thing visually that my voice will do in the audio. Thus, the summaries themselves function a little bit like an outline, but they are in a narrative form, and so they communicate slightly different material and in a slightly different way than commercial outlines, at least, for example.

The next choice was to decide how to record the podcasts. CALI gave the first volunteers audio recorders with built-in USB drives and lapel

---

18. *See, e.g.*, DAVID C. FREDERICK, THE ART OF ORAL ADVOCACY (2003); JOSEPH M. WILLIAMS & GREGORY G. COLOMB, STYLE: LESSONS IN CLARITY AND GRACE (10th ed. 2010).

19. ALAN L. DWORSKY, THE LITTLE BOOK ON ORAL ARGUMENT 58, 61 (1991).

microphones. I used that initially, and it worked well both for recording classes and for recording the summaries. I used free software to edit the recordings and to format them so that they could be listened to on mobile devices or computers. After a few years, I switched recording methods for the summaries and now record them directly onto my computer with that software. That software is called "Audacity," and it has all of the functions I have ever needed and many more that I do not use. It is very easy to use. The kinds of editing I do involve cutting and pasting bits of audio, removing background noise, slowing the tempo of my speech—I tend to speak rather fast, naturally—and lowering the pitch of my voice, so that it does not sound like an episode of *The Simpson's* where Lisa Simpson goes to law school. The format that is most flexible is the mp3 format. In fact, because I use the mp3 format, I can make the podcasts available through iTunes to students who are interested in subscribing to them. Finally, I have also found it useful to invest in an external microphone. I have two: a headset microphone and a USB microphone. The headset is nice because it has other uses; I use it for my computer's text to speech program, which allows me to dictate directly into documents, something an integrated microphone and even a stand-alone USB microphone are not as good at. Having an external microphone, whether a headset or a stand-alone USB microphone makes the audio recording quality a little bit higher. They screen out background noise better. And, headsets and other external microphones can be found relatively inexpensively.

The length of my summaries varies significantly. Some topics can be condensed to the point at which the recording is ten minutes or slightly under. Some topics are much more complicated, and the recordings are closer to half an hour long. I try to keep the summaries around the twenty-minute mark. That length of time, it seems to me, is most reasonable for a person's attention span. I have also discovered that one single-spaced page translates to between three and five minutes of speaking, which helps me figure out about how long the podcast will be from the length of what I am in the process of writing. If I cannot cover something in about twenty to thirty minutes, maximum, I re-think the subject that I am trying to cover. Sometimes, I will do a broad overview of a topic that is very complicated and then do separate summaries for the components of that broader topic so that I can be sure that I am covering the material both at the depth, and at the breadth that I would like.

The rewards to me from the experience of doing audio summaries for that first class, along with significant positive feedback from my students, made me decide to do audio summaries for all of my classes where it was feasible. As a result, I have developed a body of summary podcasts for nearly every doctrinal subject I have taught since 2006: criminal law, employment law, civil rights, property, employment discrimination, and federal courts. Every year when I teach one of those subjects, I go back to the prior year's audio podcasts to see

whether there have been any new developments, or whether I have learned something that makes me think I need to rephrase the way that I have approached the material. I do tend to revise the podcasts nearly every year, or every other year, as a result. This continues to help me feel like I have some level of mastery over the material. The more I do it, the less time it takes, although it certainly does add an additional time commitment to, what is for all of us, a pretty busy schedule.

Not all classes are suitable for audio podcasts, or at least not suitable for the kind of podcast summaries that I do. For example, I was not able to do summary podcasts for a short summer course I taught that was six weeks long. There just was not enough time to synthesize the material into the recordings during that six-week period. Moreover, there was not enough time for the students to listen to the material, either. We met for class every day, four days a week, and the schedule was too condensed. In addition, I have not used podcast summaries in any of my seminars. My seminars tend to be explorations of topics that are somewhat interdisciplinary. They are much more discussion focused and less analytical than a traditional doctrinal class. And, because seminars involve student papers, rather than exams, I don't feel that the students need the same kind of big picture support.

Now that I have discussed the role of summary audio podcasts to help students focus on the big picture in a doctrinal class, let me turn to one way I get them to dig down into the details and really focus on the complexities of text and multiple sources of law. After that, I will discuss a little more how I deliver this content to the students.

III. DOWN IN THE DETAILS: QUIZZES AND "TREASURE HUNTS"

Law professors are rather notorious for bad uses of technology. There is a lot of technology we can use to make us better teachers and to make parts of our job easier. The easy uses of technology might include things like recording audio or video versions of class so that students can observe when they cannot be present. Students can also sometimes participate remotely in real time. That, however, is just the beginning. We know that students benefit greatly from individualized feedback, but we do not always have the time to provide much feedback one-on-one. We teach a large number of students, and it may not even be possible to spend much individual time with each without even considering our other responsibilities. By setting up lessons that students can access themselves, and access repeatedly, we are essentially duplicating the opportunities for feedback; the opportunity for that kind of one-on-one interaction that, while may not be quite as good as frequent individual attention, is significantly better than simply the traditional in-class, large-class

model that most classes and law school are based on. This is the premise behind the CALI lessons described above.[20]

There are also some topics that do not lend themselves to traditional in-class methods of learning, like discussion or Socratic dialogue. Subjects that are governed in part by statutes, but which are not wholly statutory subjects often have these topics. A number of my classes involve areas of law that involve complicated regulatory structures. I will use employment discrimination as an example. Employment discrimination is prohibited by a number of statutes at the federal level that, while not overly dense, are not particularly accessible for the average person.[21] And yet, the Employment Discrimination course is taught primarily through cases. Unusually for statutory subjects, the Supreme Court does not always use a close textual analysis to decide cases. Title VII, the main statute, is worded very broadly, with terms that are not defined in great detail. For example, Title VII does not define what discrimination means.[22] So many cases flesh out what discrimination means, how it can be proven, and what it looks like on the ground. Despite the broad wording, there are intricacies in the statute that students must learn to navigate. Additionally, federal employment discrimination law is enforced by a number of administrative agencies: not only the Equal Employment Opportunity Commission (EEOC) but also the Office of Federal Contracts Compliance and others.[23] These agencies have developed regulations to interpret the statute and to define agency procedures.

There is very little worse as a law student than having to read statutes and regulations to try to figure out what they mean when you are first being introduced to a topic. The language is boring and the subjects are often dry. In addition, a real challenge of statutes and regulations is that when you first read

---

20. Groothuis, *supra* note 14.

21. *E.g.*, Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e–e-17 (2006) (prohibiting discrimination on the basis of race, color, national origin, religion, and sex in employment by employers, employment agencies, and labor unions). The main enforcement provision is particularly dense. *See id.* § 2000e-5.

22. *See id.* § 2000e-2(a) ("It shall be an unlawful employment practice for an employer (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin."). The definitions in 42 U.S.C. § 2000e define "employer," "employee," and give partial definitions of "religion" and "because of sex," but they do not define any of the other terms. *Id.* § 2000e.

23. *See id.* § 2000e-5 (listing enforcement powers of the EEOC); *id.* § 2000e-6 (powers of the Attorney General); *About OFCCP*, U.S. DEP'T OF LABOR, http://www.dol.gov/ofccp/about of.html (last visited July 30, 2013).

them, you think that they make sense in the abstract. However, when you have to try to answer a question about what the statute allows or prohibits, you discover that you may not be able to. Statutes and regulations do not actually make sense until you have to apply them to many situations. Statutory language can never be so perfectly clear that we understand how the statute will apply in every situation, and statutes and regulations often refer to other provisions, requiring a lot of cross referencing before the whole picture truly appears. Regardless, the first step in learning how to interpret statutes is to get students to actually read the statutes and think about what the words mean. And, unless they read the statutes in some context that requires them to relate that statutory language to a realistic situation, they are not going to understand how statutory interpretation works.

To get my students reading the statutes, and thinking about how they apply to different situations, I use a particular kind of quiz that I like to call "treasure hunts," because what sounds like more fun than finding treasure even if that the treasure is only knowledge? But, yay, knowledge! A treasure hunt requires students to find particular pieces of different provisions. The first step is for me to comb the statute and find provisions that are pretty clear and unambiguous. These can be central to the statute or provisions that are not used very often. For example, in my introductory quiz, I ask a question about whom and what Title VII covers, as you can see in the picture of the answer with feedback, below.

Title VII Treasure Hunt

Note: Your first answer to this question is shown below.

Question 1.

Who is prohibited from discriminating in Title VII against whom?
- ☐ Educational institutions for discrimination against students
- ☐ Private clubs for discrimination in membership decisions
- ➡ ☑ A business with 20 employees for discrimination against those employees
- ☐ A business with 9 employees for discrimination against those employees
- ☐ A business for discrimination against customers
- ➡ ☑ Labor unions for discrimination against those they represent
- ➡ ☑ Employment agencies for discrimination against people who want to use them to get jobs
- ☐ A hospital for discriminating against patients

Your answer is correct.

Explanation:

See 42 U.S.C. §§ 2000e, 2000e-2

An example of a more obscure provision I ask about is Title VII's provision that explicitly allows preferential treatment to be given to Native Americans.[24]

Quizzes can help students understand the relationship between statutes and regulations as well. They can also be used to test technical understandings that cannot be easily discussed in class, like the time limitations for filing a charge under Title VII, the agency processes connected with that, and the process for filing an action in court. Getting students to understand the interplay between fair employment practices agencies and the EEOC also works well here. So you can give students a hypothetical about a person who wants to file a charge and who experienced something a certain period of time ago, or on a certain date, and ask them when they need to file that charge. You can ask them where they need to file the charge. You can ask them what boxes to check off on the charge form depending on the level of detail you give in the hypothetical for the EEOC charge, or ask other questions about how to fill it out. All of these very practical things are very difficult to cover in class.

Quizzes can also be used sometimes to help students understand what it is that they are synthesizing in class. You can let them practice the application of the rules that have been synthesized through hypotheticals that test the limits of the rules. I have even used quizzes to substitute for class in the past when we have had snow days.

I structure the quizzes in different ways that depend on what I want students to learn from taking them. I sometimes use questions that ask students to select all that apply from a list, traditional multiple choice questions, true or false questions, and short answer questions. And, I build in feedback. The student knows immediately after taking the quiz what their answers were, what the right answers were, and why those answers were right. I build the explanation and feedback right in.

---

24. 42 U.S.C. § 2000e-2(i) (2006).

Clearly, one benefit of the kinds of quizzes I provide is that they are asynchronous; that is, I create the lesson at one point in time, and the students take the lesson at another point in time. The quizzes are also remote, and they can be accessed through any computer that can access the internet. This creates a lot of flexibility for students. Additionally, these quizzes essentially duplicate me. They act as if I am asking each student the questions individually. Finally, these quizzes provide opportunities for immediate feedback, again, duplicating me in that function.

IV. DELIVERY DEVICES

I have described two of the ways that I supplement in-class work with material to help students begin to master the subjects that I teach. The last thing to share is to explain how I bring it all together and how I deliver that content to students. I use two separate, but linked, online platforms in a complementary way: The West Education Network (TWEN) and a Wordpress blog, titled McBlogmick.[25]

Like most people who use TWEN, I make a separate website or "page" for each class. Access to each TWEN page is limited to whomever I choose. I have chosen to allow only Saint Louis University's law students to access my pages most of the time, but I could make my pages more widely available if I chose to. I use TWEN as an archive, the superstructure to manage the class materials, a communication tool, and a learning platform. There are other platforms that could be used for the same things, but TWEN has some nice, user friendly features for law students. TWEN easily stores and manages documents like the syllabus, handouts, and supplemental materials that will help them learn the doctrine and practice skills that we are teaching. It also has software that lets me design written assignments to distribute to students and lets students upload their answers. And, it has the software to construct the quizzes I described in the prior section, plus other kinds of assessments to provide individualized feedback, and a chance for students practice what they are learning. Finally, I also use TWEN to collect links to external sources that might be useful for students, like the EEOC's website and most importantly for the Wordpress blog that I post the audio podcasts on. When I first started using TWEN, the platform did not provide good support for audio or video content. At the time CALI began its podcasting experiment, the best platform for providing access to those kinds of resources was the blog platform.

Blogs have progressed to continue to provide the best platform for those kinds of resources. So I continue to use my blog, created through CALI, to post

---

25. Marcia L. McCormick, *About*, MCBLOGMICK (Sept. 8, 2010), http://mcblogmick.class caster.net/about/.

audio podcasts for my students. I have chosen to make the blog fully public, but I did not have to. Additionally, I use the blog for more than just providing audio or video content for my students. I like the blog to support my teaching for a number of reasons. One is that it is a centralized place for me to collect all of the materials that I think are useful for students, no matter what subjects they are taking from me. One of the things I have discovered recently is that students do not necessarily learn in junior high or high school, or even college, how to effectively study or what good learning behaviors they should adopt. So when I come across good tips on how to engage in active reading, how to get organized or manage a complicated schedule, how to prepare for an exam, or other things like that, I put them on the blog. It is also a good place for me to post information about recent cases or items in the news that might relate to one or more of my classes and that I think my students will find interesting. I can tag the posts by subject matter to let students pull up information they are interested in relatively easily. It is really a good place for my teacher personality to have an online home.

The Wordpress platform for the blog is also very useful for education for a number of reasons. One, it is very user-friendly. It is easy to post content whether it is text, audio, video, or graphic. Wordpress also allows content that has been posted to be turned into print material very easily. So some professors are using it as a way to deliver content not just online but in print as well. Books have even been generated from Wordpress blogs.

CONCLUSION

It is a difficult time for law schools. The legal market is changing and the costs of legal education are coming under substantial scrutiny. At the same time, law schools are under increasing pressure to provide practical experience for students, something that requires significantly more resources than the doctrinally heavy curriculum model that currently dominates legal education. The podcasts and quizzes I have described here work very well to support teaching doctrine and analysis, but they are small steps towards any change. They could be used to integrate more practical skills and professionalism training into doctrinal classes, though. Tools like these might help us develop new ways to provide the training our students need.