

2024

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Recommended Citation

Randall P. Ryder, *“With Great Power Comes Great Responsibility”: Improving Your Feedback and Hallmarks of Effective Feedback*, 68 St. Louis U. L.J. (2024).

Available at: <https://scholarship.law.slu.edu/lj/vol68/iss3/13>

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**“WITH GREAT POWER COMES GREAT RESPONSIBILITY”¹:
IMPROVING YOUR FEEDBACK AND HALLMARKS OF
EFFECTIVE FEEDBACK**

RANDALL P. RYDER*

ABSTRACT

Effective feedback can change a law student’s trajectory in law school and beyond. The feedback-centric nature of experiential learning courses allows law students to both develop their skills and personal lawyering style. However, many experiential instructors are from a different generation, with different expectations and communication styles than today’s law students. This article highlights hallmarks of effective feedback for the modern law school classroom. As the field of law continues to evolve, law schools will need to as well.

This article discusses four key hallmarks: (1) provide feedback in multiple formats, (2) help each student develop their personal style, (3) explain the why, and (4) highlight both the “good” and areas of opportunity. The goal of showcasing these hallmarks is to fuel instructor introspection and further discussion. By taking the time to reflect and reformulate their feedback style and substance, instructors can ensure they are maximizing their positive impact on a law student’s development.

1. STAN LEE & STEVE DITKO, AMAZING FANTASY NO. 15: “SPIDER-MAN,” 13 (1962). A renowned comic book aficionado, the author was once retained by Marvel Comics as an expert witness in a federal copyright infringement lawsuit.

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INTRODUCTION

Experiential education courses are a catalyst for law students. First-year legal writing can unlock an interest in the power of the pen or keyboard. A clinical course in criminal law may ignite an interest in public defense work. Moot court can help a student overcome a fear of public speaking and fuel interest in litigation. The experience(s) themselves are meaningful. With the addition of thoughtful and effective feedback, experiential courses have a career-defining impact on a student. Because of the critical nature of the feedback, experiential education instructors play a pivotal role in a law student's development.

The purpose of this article is to highlight four hallmarks of effective feedback: (1) provide feedback in multiple formats, (2) help each student develop their personal style, (3) explain the why, and (4) highlight both the "good" and areas of opportunity. Hopefully, these four hallmarks act as a hors d'oeuvre and create an appetite to learn more about effective feedback. And, of course, these hallmarks should be used in conjunction with the comprehensive training, written examples, and thoughtful oversight law schools provide to instructors, particularly adjunct instructors.²

I. THE "NEW" LAW SCHOOL - KNOW YOUR AUDIENCE

As a starting point, it is helpful to understand how law school classrooms have evolved over the last twenty years. From student diversity to communication preferences and receptiveness to feedback, instructors need to understand the modern law student in order to maximize the effectiveness of their feedback.

A. Know Your Audience - Today's Law Students Are More Diverse

The incoming class of law students in 2022 was the "most racially and ethnically diverse" student body in history.³ Even compared to recent incoming classes, the current student body is much more diverse than twenty or even ten years ago.⁴ Twenty years ago, a classroom might have consisted of men who were second or third-generation law students.

Today, your classroom likely has more women than men, a significant number of first-generation law students, and individuals with much more diverse

2. At the University of Minnesota Law School, adjunct instructors have access to significant resources and materials to assist in their teaching. This includes a yearly orientation, examples of effective written feedback, regular review of written and oral feedback, and regular check-in meetings with program directors.

3. Susan L. Krinsky, *Incoming Class of 2022: A Major Advance in Diversity, More Work to Do*, LSAC: LAW: FULLY (Dec. 20, 2022), <https://www.lsac.org/blog/incoming-class-2022-major-advance-diversity-more-work-to-do> [<https://perma.cc/M8MM-PCHZ>].

4. *Id.*

life experiences. In 1971, men composed 91% of law students.⁵ By 2010, men barely made up the majority of the incoming class.⁶ For the incoming class of 2022, women made up more than 55% of the student body.⁷

This increase in law student diversity also means more first-generation students than ever.⁸ Racial and ethnic diversity has also notably increased in the past five years, rising from 33.3% in 2018 to 36.6% for the incoming class of 2022.⁹ At the University of Minnesota Law School, the increase in racial and ethnic diversity is even more notable. The percentage of students from underrepresented communities has risen from 15.6% in 2018 to 26% in 2023.¹⁰

Students self-identifying as LGBTQ+ are also increasing. At the University of Minnesota Law School, that percentage rose from 13% in fall 2018 to 30% in fall 2023.¹¹ Although there is no publicly available information for a historical comparison, the University of Minnesota Law School is not the only school to see an increase in students identifying as LGBTQ+; approximately 14% of the incoming 2022 class identified as LGBTQ+ and 0.6% identified as gender diverse.¹²

5. *Legal Education*, AM. BAR ASS'N, <https://www.abalegalprofile.com/legaled.html> [<https://perma.cc/ZLV8-S4GU>].

6. *Id.*

7. Krinsky, *supra* note 3.

8. For the fall 2023 incoming class, 14% of students at the University of Minnesota Law School are first generation students. *Class of 2025 Sets Records in Diversity, Academic Strength*, UNIV. MINN. L. SCH. (Aug. 29, 2023), <https://law.umn.edu/news/2022-08-29-class-2025-sets-records-diversity-academic-strength> [<https://perma.cc/TWS9-FM78>]. See also Elissa A. Hale, *Guest Post: The Importance of Supporting First-Generation Law Students*, L. SCH. SUR. STUDENT ENGAGEMENT (Nov. 9, 2022), <https://lsse.indiana.edu/blog/guest-post-the-importance-of-supporting-first-generation-law-students/> [<https://perma.cc/M9S2-L5WW>] (noting that students from underrepresented communities are more likely to be first-generation students).

9. Krinsky, *supra* note 3.

10. In 2018, the University of Minnesota Law School reported a total enrollment of 590 students, with a total minority population of 92 students. See AM. BAR. ASS'N, ABA REQUIRED DISCLOSURES (2018 ed.). In 2022, the University of Minnesota Law School reported a total enrollment of 669 students, with a total minority population of 169 students. AM. BAR. ASS'N, ABA REQUIRED DISCLOSURES (2022 ed.). See also *Meet Minnesota Law's JD Class of 2026 – Breaking Records for Diversity & Academic Excellence*, UNIV. MINN. L. SCH., <https://law.umn.edu/news/2023-08-29-meet-minnesota-laws-jd-class-2026-breaking-records-diversity-academic-excellence> [<https://perma.cc/M3BL-UXFJ>].

11. The Fall 2018 data was provided to the author by the University of Minnesota Law School. Fall 2023 data is available on the law school website. *Meet Minnesota Law's JD Class of 2026 - Breaking Records for Diversity & Academic Excellence*, *supra* note 10. Those statistics generally correlate with data provided to the National LGBTQ+ Bar Association and Foundation's Law School Campus Climate Survey. See *LGBTQ+ Bar's Law School Campus Climate Survey-2022*, THE LGBTQ+ BAR, <https://lgbtqbar.org/climate-survey/climate-survey-2022> [<https://perma.cc/84VT-8DUP>], for a discussion on how the Law School tracks statistics based on the incoming class, whereas the climate survey is based on the entire student body.

12. Krinsky, *supra* note 3.

Lastly, in 2019, 12% of all enrolled graduate students reported having a disability.¹³ In 2017, 39% of students experienced clinically significant mental health problems.¹⁴ Although no direct comparison is available, those percentages are likely comparatively higher than when most instructors were in law school. The bottom line is today's classroom is more diverse and students have a wider variety of learning styles. Instructors must evolve their feedback accordingly.

B. Today's Law Students Learn Differently

Back in my day, we did not walk four miles uphill in the snow to get to school.¹⁵ We did, however, have classes where computers were banned or discouraged. Most professors did not use PowerPoints. And many professors did not record, or allow recordings, of lectures.

Many of your students will be Millennials or Generation Z.¹⁶ As of the date of this article, most instructors are likely from Generation X or early Millennials. That generational gap inherently presents differences in learning preferences. Today's students expect that instructors will teach in a manner that reflects a variety of learning styles. In other words, students expect more than a talking head. There is no shortage of studies that establish the impact of YouTube, social media, etc. on the current student:¹⁷ attention spans are shorter;¹⁸ students are accustomed to watching as opposed to listening (aka visual learning);¹⁹ and students want a concrete understanding of why, not just what.²⁰

13. Olenka Aguilar & Sarah Ketchen Lipson, *A Public Health Approach to Understanding the Mental Health Needs of College Students with Disabilities: Results From a National Survey*, 34 J. POSTSECONDARY EDUC. & DISABILITY 273, 274 (2021).

14. *Id.* at 273 (citing DANIEL EISENBERG & SARAH KETCHEN LIPSON, *THE HEALTHY MINDS STUDY* (2016–2017 ed.)).

15. The author has been unable to verify the veracity of this frequently told “real-life” anecdote.

16. On the plus side, both generations are very savvy with pop culture and respond favorably when you tell a silent classroom “Bueller? Bueller?”

17. Karen McDonald Henning & Julia Belian, *If You Give a Mouse a Cookie: Increasing Assessments and Individualized Feedback in Law School Classes*, 95 U. DET. MERCY L. REV. 35, 44–45 (2017) (deconstructing the myth that all millennials are good multitaskers, as the evidence shows otherwise).

18. *Id.* at 45.

19. Corey Seemiller & Jason Clayton, *Developing the Strengths of Generation Z College Students*, 20 J. COLL. & CHARACTER 268, 269 (2019).

20. Corey Seemiller & Meghan Grace, *Generation Z: Educating and Engaging the Next Generation of Students*, 22 ABOUT CAMPUS 21, 23 (2017) (“Generation Z students also want to know that the concepts they are learning have broader applicability to more than just a practice example.”); see also James A. Therrell & Staci K. Dunneback, *Millennial Perspectives and Priorities*, 15 J. SCHOLARSHIP TEACHING & LEARNING 49, 59 (2015) (discussing the results of a survey of millennial learners and noting that “76% of students said they benefitted when real-world connections were made in class.”).

These findings translate to the modern classroom in a variety of ways. Students expect today's law school professors to deliver materials and feedback in a way that suits their learning. For experiential learning courses, this is a critical consideration. In courses like legal writing, where feedback is traditionally provided in writing, many students also value oral feedback in the form of a meeting or conversation. Auditory learners may not digest written feedback as effectively as oral feedback. Or perhaps oral feedback helps a student understand the hierarchy of comments or the most important areas of opportunity.

Another example: feedback on live simulations (client interactions, oral arguments, deposition, etc.) is typically provided orally. Oral comments and critique are valuable because they provide immediate feedback to students.²¹ There is also a significant risk that the feedback may not fully resonate because of both the instructor and the student. The instructor is reacting in the moment and may not have had time to prioritize the feedback. Or, as discussed below, the instructor may not have time to reflect and identify larger areas of strength or opportunity. As a result, oral feedback can be disorganized or disjointed and limit the tangible ways a student can improve. On the student side, the student may not fully absorb feedback for two reasons. The student may be understandably nervous and unable to process the feedback, or perhaps the student is a visual learner and only digests a portion of the oral feedback.

Instructors also need to be mindful that a student may be receiving constructive feedback for the first time.²² In the 'old' days, feedback was rarely tempered and sometimes even intended to 'haze' law students.²³ That style of feedback is not conducive to learning.²⁴ And law schools are beginning to pivot away from that feedback style.²⁵ As discussed below, an effective way to

21. Paul Kehrer et al., *Does Immediate Feedback While Doing Homework Improve Learning?*, 26 INT'L FLA. ARTIFICIAL RSCH. SOC'Y CONF. 542, 543–44 (2013) (evaluating a study in which students performed better on a subsequent task when receiving immediate feedback, compared to peers that received delayed feedback).

22. McDonald Henning & Belian, *supra* note 17, at 43.

23. Paula J. Manning, *Understanding the Impact of Inadequate Feedback: A Means to Reduce Law Student Psychological Distress, Increase Motivation, and Improve Learning Outcomes*, 43 CUMB. L. REV. 225, 246–47 (2013) (explaining why drawing a giant "X" with the word "no" next to a portion of written work is both unlikely to result in learning and can also be perceived as disrespectful to a student).

24. Karen Erger, *Deconstructing Less-Than-Constructive Criticism*, 105 ILL. B.J. 46, 46–47 (2017) (discussing a variety of ways that individuals will react negatively to feedback, including unfair feedback and feedback that seems directed at an individual's personal identity).

25. At the University of Minnesota Law School, we have dedicated significant time and resources to helping our heroic adjuncts provide thoughtful, thorough, and appropriate feedback. The core component of orientation each year is effective feedback and how to improve feedback. We also provide written examples and regularly review and audit adjunct feedback.

increase receptiveness is to educate students on accepting constructive feedback.²⁶

C. *The NextGen Bar Exam Will Increase Student Expectations in Experiential Courses and Feedback*

In many states, the current 1Ls (class of 2026) will be the first graduating class to take the NextGen Bar Exam. Although only the broad contours are currently known, the NextGen Bar Exam will unequivocally test more lawyering skills than previous bar exams.²⁷

In a recently released sample integrated question, a bar exam taker is provided with a summary of a client meeting regarding a landlord-tenant issue, a summary of the lease, and an excerpt of the relevant law.²⁸ The exam taker is then asked a series of questions, ranging from how to research elements of the law, evaluating the potential legal claim, advising the client on potential options, and considering various options for potential resolution.²⁹

Based on that sample prompt, the majority of applicable skills will be developed in experiential courses.³⁰ With that in mind, future law students will increasingly focus on developing those skills through experiential learning to prepare them both for the bar exam and practice.

II. KNOW THYSELF - BE MINDFUL OF YOUR OWN STRENGTHS, OPPORTUNITIES, AND BIASES

Whether this is your first or twentieth year of teaching, this year's class will be different than last year's class. In other words: rely on your previous

26. McDonald Henning & Belian, *supra* note 17, at 47 (discussing the importance of helping millennials break away from a fixed mindset and developing a growth mindset, and thereby making them more receptive to feedback).

27. *NextGen Bar Exam Sample Questions*, NEXTGEN BAR EXAM, <https://nextgenbarexam.ncbex.org/nextgen-sample-questions> [<https://perma.cc/L6AR-4UGG>] (noting that as of the date of submission of this article, the National Conference of Bar Examiners ("NCBE") had only released one sample integrated question, with plans to release additional questions in 2023 and 2024). It is also noteworthy that the "integrated questions" will compose approximately one-third of the bar exam. *Id.*

28. *Id.*

29. *Id.*

30. One of the hallmarks of the University of Minnesota's experiential education portfolio is Law in Practice (LiP), which was recently recognized as a national innovation leader in practical skills training. See Suzy Frisch, *Law in Practice Program Recognized as an Innovation Leader in Practical Skills Training*, MINN. L. MAG., Spring 2023, at 1-4. Law in Practice is a three-credit experiential course required for all 1L students designed to expose them to the dynamics of legal practice and develop their lawyering skills. Students act as lawyers handling simulated case files. Students conduct the following simulations (with trained clients, real mediators, and actual judges in the local legal community): two client interviews, deposition, chambers conference with a sitting judge, mediation, and a negotiation.

experience, but do not expect to achieve the same results with the same effort. Staying mentally limber and adopting a growth mindset as a teacher will do wonders for you and your classroom.³¹

The first step is to acknowledge your strengths and areas of opportunity. Perhaps you excel at oral feedback but provide curt written feedback. Or maybe you focus on the key aspects of legal writing but forget to add the "why." Being mindful of your areas of opportunity makes it much easier to improve on them.

Second, be mindful of your own biases.³² Acknowledging you have bias is one step closer to thoughtfully addressing it.³³ As opposed to shaking your head and saying, "well, that's just the way lawyers/law firms/judges are." Just because something is standard or accepted in practice does not mean it should be acceptable in law school. There is immense value in explaining to students the differences between law school classrooms and practice. That does not mean the "old school" ways of providing feedback should be used.³⁴

Your professional experiences can result in heightened expectations for student performance and work product. All of us were law students at one point. Most of us were not working legal professionals as law students. Most importantly: we did not actually know everything (despite our best intentions). Perhaps you forgot to stand for a judge at the outset of a hearing or callously dismissed a question during an oral argument exercise.³⁵ When we made mistakes in law school, most were corrected professionally and helpfully. Pay it forward and maintain that same attitude.

Third, prioritize goals for improving your feedback. You are more likely to achieve tangible results with tangible goals. Aim for one or two changes and understand that either change may lead to success or a return to the drawing board.³⁶

For example, two years ago, I wanted to improve my feedback on oral arguments. I always provided detailed feedback afterward with specific examples of what was laudable and what needed improvement. What I failed to do was provide overarching guidance on particular skills to focus on before the

31. Megan Bess, *Grit, Growth Mindset, and the Path to Successful Lawyering*, 89 UMKC L. REV. 493, 507 (2021).

32. Anne D. Gordon, *Better Than Our Biases: Using Psychological Research to Inform Our Approach to Inclusive, Effective Feedback*, 27 CLINICAL L. REV. 195, 209-16 (2021) (discussing how lawyers, judges, and teachers all have implicit biases).

33. David Hoffman & Helen Winter, *Follow the Science: Proven Strategies for Reducing Unconscious Bias*, 28 HARV. NEGOT. L. REV. 1, 44 (2022).

34. Manning, *supra* note 23, at 250-51 (discussing how simply writing "why" or "explain why" is "ineffective instruction" as it fails to provide a rationale for the suggested change).

35. The author, in fact, did both.

36. Heather M. Field, *A Tax Professor's Guide to Formative Assessment*, 22 FLA. TAX REV. 363, 391 (2019) (discussing how improving on formative assessments is an "iterative" process).

next argument. Or put another way, lots of trees, but little discussion of the forest.

I decided to provide written feedback focused on “big picture” areas of strength and opportunity. My theory was that the process of reviewing my notes would provide an opportunity to identify key themes in the student’s performance. For many years, I dismissed written feedback as redundant and time-consuming. I was wrong. It took approximately ten minutes per student to review my notes and compose a concise email. Each email highlighted two specific aspects of their argument that they excelled at and one to two things to improve on.

The students appreciated the written feedback. More importantly, that group of students’ growth curve was steeper than previous years. The feedback helped students prioritize how and where to improve. It was also a friendly reminder of their past and upcoming argument (and likely stimulated self-reflection). The emails also allowed students to continue the “conversation” and ask clarifying questions.

That’s an easy example, but there are countless others. Perhaps you can revise your feedback and make it more constructive instead of laudatory. Or make a concerted effort to fully express the rationale or justification for a suggested revision. Today’s student places immense value on the why—so provide it to them and give an example from your practice.³⁷

III. HELP YOUR STUDENTS UNDERSTAND HOW TO RECEIVE FEEDBACK

For many students, feedback in an experiential education course may be the first time they will receive negative feedback.³⁸ And although there are clear lines between an individual’s personality/demeanor and their skills, those lines may not always feel clear to a student. Between those two factors, priming your students on how to receive feedback will make them more receptive to feedback.

First, explain your overall goal: helping students develop their personal lawyering style—accomplished with thorough and thoughtful feedback in a safe and inclusive environment.³⁹ Feedback will include both areas of strength and areas of opportunity.⁴⁰ To a seasoned instructor, this may seem obvious. For a student unaccustomed to feedback, this sets important expectations.

37. Tracy Turner, *Core Values in the Classroom: Preparing Students for the Emotional Challenges of Lawyering*, 25 PERSP.: TEACHING LEGAL RSCH. & WRITING 107, 107-13 (discussing how to incorporate core professional values into the classroom).

38. Sammy M. Mansour, *Fostering Receptiveness to Feedback*, 2019 MICH. B.J. 48, 48; Bess, *supra* note 31, at 516.

39. Renee Nicole Allen & Alicia R. Jackson, *Contemporary Teaching Strategies: Effectively Engaging Millennials Across the Curriculum*, 95 U. DET. MERCY L. REV. 1, 20-23 (2017) (discussing how to create a student-centered classroom).

40. Bess, *supra* note 31, at 531-32 (noting the importance of including guidance on skill development and feedback in course learning objectives).

Second, explain your feedback process. Create an understanding at the outset that you view feedback as an ongoing conversation throughout the semester or year. Contrast that with the binary process of (1) submit assignment, (2) receive feedback. The most productive feedback involves conversations between assignments—when students are working to incorporate feedback.⁴¹ The more students engage, the more they realize that feedback is an ongoing conversation, which will result in additional improvement and skill development. You should also explain if and how you will provide feedback in multiple formats (oral, written, etc). If you are willing to record feedback (audio and/or video), inform students how they can “opt-in” to that option.

Third, give students agency to engage with you and your feedback. This can be framed in terms of developing the professional skill of incorporating feedback.⁴² Throughout their legal career, an individual will need to incorporate feedback from various sources. Learning how to clarify feedback and communicate concerns about the method or substance is a valuable professional skill.

If students are confused about feedback, encourage them to reach out. Emphasize the importance of timely action—you want to correct any confusion as soon as possible. Timeliness is critical in experiential learning, where students typically receive feedback throughout the semester as they build skills. If a student waits until after the assignment is submitted (or the end of the year), the impact is minimized and may only be relevant for the following year.

Fourth, most experiential learning courses provide feedback from multiple sources—instructors, student instructors, and perhaps attorneys and judges. Different sources mean different advice. One instructor may suggest only bringing one page of notes to the podium at oral argument and nothing more. Another instructor may suggest a four-page outline, case chart, and perhaps even the brief. There’s no “right” answer, other than whichever method works best for that particular student.

Experiential learning courses are designed to help students develop their personal lawyering style. When students receive feedback from a variety of instructors (professors, attorneys, judges, etc.), it showcases the diversity in lawyering styles.⁴³ This puts students in the driver’s seat—they need to consider multiple perspectives and affirmatively choose which perspective/style works best for them.⁴⁴ As a result, students are not only developing their skills, but they are also developing metacognition skills that are critical to their success as an

41. *Id.* at 534–35.

42. *Id.* at 531–32.

43. Of course, make it clear that if a student is confused about conflicting feedback, they should bring it to your attention for clarification.

44. Allen & Jackson, *supra* note 39, at 14–16.

attorney. It also allows students to decide what feedback (and style) works best for them.

IV. FOUR HALLMARKS OF EFFECTIVE FEEDBACK

There are a multitude of ways to provide effective feedback. Just like lawyering, different approaches can be equally effective. This article is not intended to examine all of the methods to provide effective feedback. Rather, this article highlights four hallmarks of effective feedback: (1) provide feedback in multiple formats; (2) provide individualized feedback that allows each student to develop their own lawyering style; (3) explain the why; and (4) constructive feedback should address both the “good” and areas of opportunity.

A. Provide Feedback in Multiple Formats

There is one important “procedural” component of feedback—feedback in multiple formats. Experiential courses tend to provide feedback in a modality that mirrors the exercise—written assignments receive written feedback, etc. Using two methods can be significantly more impactful than one. Think of the two methods of feedback as complementary rather than redundant. One feedback modality can be comprehensive, whereas the other can provide a summary.⁴⁵

In oral exercises/simulations, consider adopting a practice of providing comprehensive oral feedback followed by written feedback focusing on the most important points. For written assignments, provide comprehensive written feedback and an opportunity for oral feedback highlighting key areas of strength and opportunity—typically a brief meeting to discuss the assignment.⁴⁶

Oral feedback can be delivered nearly contemporaneously which theoretically makes it more impactful.⁴⁷ However, students may not be in an ideal state of mind to receive feedback immediately after a simulation. A student may still be stressed from the experience. They may be focused on their self-assessment of what went right (or wrong). In other words, students have not had an opportunity to decompress or “mentally disconnect” from the simulation.⁴⁸ One solution is to record your feedback. A recording allows a student to not only review their performance; they then can also review your feedback.⁴⁹ This is

45. The previous discussion of forest (summary) vs. trees (comprehensive) is an easy way to visualize the two modalities.

46. Field, *supra* note 36, at 436 (noting that providing individualized written feedback may be even more effective if the professor meets with the student to discuss the feedback).

47. Kehrer et al., *supra* note 21, at 543–44; Terri LeClercq, *Principle 4: Good Practice Gives Prompt Feedback*, 49 J. LEGAL EDUC. 418, 421 (1999).

48. More than one law student has expressed to the author, after receiving oral feedback “could you say that again, I’m running on adrenaline. Which part? All of it.”

49. See Seemiller & Grace, *supra* note 20, at 22–23 (discussing that Generation Z prefers to watch and observe, including searching for “how-to” guidance on YouTube).

especially meaningful in simulations where feedback is connected to a line of questioning, answering a mock judge, or responding to a client's concerns/questions.

A downside to contemporaneous oral feedback is that an instructor has minimal time to contextualize and prioritize feedback. For example, an instructor may focus feedback on the most recent portion of the simulation which may or may not be an intended point of emphasis.⁵⁰ In other situations, instructors will naturally provide oral feedback chronologically. While that may be easy to follow, sequencing does not rank the most important areas of opportunity.

Written feedback, on the other hand, is more contemplative and organized. Conducting multiple reviews before providing feedback allows the reader to prioritize their feedback by highlighting exemplary components and also noting recurring areas of opportunity. Because it is more contemplative, written feedback can also provide a summation of the work, instead of unintentionally focusing on the last section.⁵¹

A pragmatic rule of thumb: focus on two to three laudatory aspects and one to two areas of opportunity. Consider this feedback on a client interview, where a client was recently fired from a job and a student had two goals: (1) build client rapport; and (2) obtain information relevant to evaluating the legal claims. Exemplary feedback could look like this:

- Excellent client interview today. At the beginning of the interview, you developed a strong rapport by using active listening ("I'm sure that was challenging for you"). You also did an excellent job of asking detailed follow-up questions to obtain information relevant to their legal claims ("Who sent that email, and when did you receive it?"). Based on your outline, you knew what topics you wanted to pursue, and you were very successful in asking about those topics.
- Moving forward, I encourage you to feel more comfortable deviating from your outline when needed. At one point, the client mentioned there was a second meeting where they discussed their termination. Because you were focused on the next topic on your outline (client goals), you pivoted to that. There was an opportunity to learn more about the reason for their termination.

50. Drew Fudenberg & David K. Levine, *Learning with Recency Bias*, PROC. OF THE NAT'L ACAD. OF SCI. 1, 1 (2013) (discussing recency bias and the tendency to "react more heavily to recent observations and experiences than they do to older ones").

51. *Id.*

B. Provide Individualized Feedback that Helps Each Student Develop Their Own Style Of Lawyering

The goal of experiential courses is not simply to help students develop practical skills; the goal is to help them maximize their individual strengths. Feedback should be tailored for each student, as opposed to simply directing each student to a predetermined (and likely outdated) notion that there is “one way” to lawyer.⁵²

An exciting corollary of increased diversity in the classroom is increased diversity in work product. Students have differing backgrounds, perspectives, and approaches to solving complex legal issues. From a grading and feedback perspective, this is both a positive and a challenge. The positive aspect is each student’s work product will be unique. Students with client-centric work experiences will focus more on the facts and the impact of the case on the client. In comparison, a student with a policy background may focus more on key policy arguments and overall impact. The key, as noted above, is to consider the variability a positive, as opposed to encouraging every student to have a “cookie cutter” approach to their analysis.

The variability also presents a challenge—feedback must be tailored to help each student maximize their own strengths and simultaneously improve on individual areas of opportunity.⁵³ In other words, accentuate and highlight the positive aspects of each student’s approach. Client-centric analysis can be very impactful. Persuasive policy arguments are similarly impactful. But one is not necessarily “better” than the other. Each instructor has their own preferred oral and written advocacy style, which is unlikely to be the student’s preferred style. This means that helping each student maximize their own talents is the ideal approach. This contrasts other courses, where feedback may be more evaluative. Feedback in experiential learning courses is typically more descriptive—focused on helping students understand how they can improve.⁵⁴

A key aspect of this approach is striving to understand why decisions were made instead of judging why they were not made. This approach facilitates more descriptive and constructive feedback. Assuming motive (or lack of motive) is a

52. Daniel Schwarcz & Dion Farganis, *The Impact of Individualized Feedback on Law Student Performance*, 67 J. LEGAL EDUC. 139, 142–43 (2017) (finding that 1L students that received individualized feedback prior to their exams had higher exam scores than peers that did not receive individualized feedback prior to their exams). That finding is highly applicable to providing thoughtful feedback in experiential learning to develop lawyering skills.

53. Field, *supra* note 36, at 391 (“[T]he key is to focus on improving student learning by making deliberate choices both about the learning objectives you want students to achieve and about the type and design of formative assessment that will best advance those goals.”).

54. Manning, *supra* note 23, at 353 (“Explaining exactly what made the point or paper “good” helps the student understand what makes the work competent and why it should be replicated.”).

fast track to creating a barrier to an effective student/teacher relationship.⁵⁵ Whereas extending an olive branch is a fast track to building a facilitative relationship.

For increasing numbers of students, law school may represent their first "real" exposure to the law/legal writing/legal advocacy.⁵⁶ CRAC/IRAC and legal formalities are ingrained in lawyers. Do not assume they are ingrained in every law student, or, more specifically, do not assume every law student fully understands the "best" version of CRAC/IRAC or all of the relevant formalisms. When you can put yourself in the student's mindset, you will provide individualized feedback that allows the student to improve their work product in their own style.

Lastly, make a concerted effort to prioritize feedback for each student based on their individual skillset. Although there are typically "key" elements of various legal skills, that does not mean your feedback must focus on those elements. For example, assume that a legal writing submission has great research and good analysis but lacks policy arguments and tends to stray from IRAC format. Even without additional details, you can imagine a variety of ways to rank or prioritize both areas of strength and areas of opportunity. Perhaps you would rank the "good analysis" and IRAC as top priorities for a revision.

But what if the "non-IRAC" style is effective? Or perhaps adding policy arguments would contradict the good analysis based on strong legal research? In other words, the unorthodox writing style might be a strength for this student, instead of an area of opportunity. And the research might be an area of opportunity (not fully reflected in their analysis) as opposed to an area of strength. Or perhaps the best feedback would be something else entirely, based on what you know about the student's background or skillset.

In order to help each student develop their own style, your feedback must be tailored to that student and their work product. And understand that may require cautiously deviating from the customary norms around those skills or work products.

C. *Explain the Why*

An essential aspect of descriptive feedback is that it provides both a roadmap for improvement and a justification for the suggested change. Without a clear understanding of the "why," it can be challenging for a student to replicate exemplary work or make helpful changes to improve their work or skill.⁵⁷ A

55. *Id.* at 352–53 (explaining why comments related to effort (or lack thereof) can result in the student ignoring that comment and other feedback).

56. *See supra* Section I for a further discussion.

57. Anthony Niedwiecki, *Prepared for Practice? Developing A Comprehensive Assessment Plan for A Law School Professional Skills Program*, 50 U.S.F.L. REV. 245, 271–72 (2016)

student can certainly make an educated guess about why something was good, but that takes time that could be spent revising or improving their work. And although there is value in helping students develop metacognition, that skill should evolve over time.⁵⁸

By their very nature, experiential courses are likely to be extremely helpful for Millennials and Generation Z.⁵⁹ The preference for real-world examples also extends to feedback. One of the most common complaints from law students is that feedback lacks an explanation or connection to the practice of law, such as commenting that a rebuttal was effective without explaining *why* it was effective. Another example: praising a student for forming a strong working relationship with their client during a client counseling session without detailing how the student formed a strong rapport.

The increase in first-generation law students is another reason to emphasize the “why.”⁶⁰ Instructors must set aside any and all preconceptions about what a student does or does not know about the law and legal system. Normative phrases, concepts, practices, etc. that seem second nature to you may be both new and unknown to a student. This presents an excellent opportunity—you get the first crack at helping a student understand both best practices and the best method for developing a skill.⁶¹ While this may represent a difference from your experience as a law student, embrace the change!

(explaining the difference between a cognitive skill—learning the IRAC structure and metacognition—determining when to modify the IRAC structure).

58. Anyone who went to law school more than fifteen years ago can remember being told by an instructor to simply “figure it out - that’s what you do in practice.” The author does not endorse that methodology. *See also* Bess, *supra* note 31, at 527–28 (discussing the importance of helping students incrementally develop a growth mindset).

59. *See* Seemiller & Grace, *supra* note 20, at 23 (“Generation Z students also want to know that the concepts they are learning have broader applicability to more than just a practice example.”).

60. *See supra* Section I for a further discussion.

61. As opposed to having to convince them that the way their lawyer-parent did things twenty years ago (undoubtedly passed down through years of war stories) is, in fact, not an ideal way to practice law today.

Consider these two examples:

Example One	Example Two
<p>“Aim for at least 50/50 rule/application. If you include a lengthy explanation/discussion of a case, your analysis should be just as long, if not longer.”</p>	<p>“Great decision to discuss the reasoning of this case at length! Applying that reasoning to the facts here leads to your desired outcome. You can improve the analysis by providing a thorough and rigorous application of that reasoning to the facts here. When you expand the analysis and apply that reasoning, the analysis is easy for the court to follow and ultimately agree with your reasoning.”</p>

In example one, the feedback is descriptive and provides a rationale for revising (the “50/50” rule). But it fails to provide a real-world example of why that revision matters. Without that additional explanation, a student may simply think that 50/50 is a known “rule” in the legal profession. Of course, there is no 50/50 rule. It’s an easy way to convey the importance of fully applying the law to the facts at hand. In example two, the explanation gives the student a definitive reason to expand their analysis—it will allow the court to follow their reasoning and agree with them.

Consider another set of examples: providing constructive feedback on a student’s ability to form a strong attorney-client rapport during a client counseling session.

Example One	Example Two
<p>“There was an opportunity to empathize more with your client; creating that bond will lead to a more facilitative flow of information.”</p>	<p>“Creating a strong rapport with your client will likely result in your client sharing more information about their goals and their case. For example, when the client mentioned they have not been able to find work since they were fired, you nodded and asked a question about what jobs they’ve applied for. There was an opportunity to more clearly empathize with the client with active listening and acknowledging their current hardship. Doing so would likely have resulted in the client clarifying that because they have been unable to find work, maximizing the return in any potential case is extremely important to them.”</p>

In example one, the feedback identifies an area of opportunity (empathy) and provides an apparent reason for why it matters (more information). The second example is more descriptive and more impactful. It explains how the student could have been more empathetic (active listening/acknowledgment). It also provides a more robust explanation for why that matters (clarifies and solidifies the client’s goals).

Providing the “why” can be time intensive. It certainly takes more time than simply writing “expand your analysis” or “be more empathetic.” But the effort is critical for two reasons.

First, in many ways, experiential courses are the best opportunity for students to learn about the actual practice of law. As law clerks or new associates, they may receive thoughtful feedback. They will also receive a fair amount of “that was good” or “that was not great—do more next time.” That’s not a criticism of practice, but simply an acknowledgment that providing thoughtful feedback takes time—time that does not always exist in practice.

As an experiential instructor, you will significantly impact a student's skill development.⁶² Perhaps your favorite instructor in law school was your legal writing instructor. Or maybe you had an excellent judge that taught trial practice. Whatever the course, there's a good chance that an experiential instructor profoundly impacted your growth as a law student.⁶³ This means you will play that role for your students—you are invested in your students and their growth and development. You also have the complete context—you know that your feedback may be more impactful than feedback they will receive as a new associate. Make the most of that opportunity by taking the time to provide thoughtful feedback that drives growth.

Second, focus on *quality* over *quantity*. Providing fewer comments with thoughtful explanations is preferable to more comments with thoughtless explanations. On the instructor's side, providing a thorough explanation acts as a self-assessment. If you cannot explain the reasoning behind the suggested change, or if you are not convinced by your own explanation, then perhaps the area of opportunity is not worth emphasizing. On the flip side, if you read the justification and nod in agreement, you have confirmed it is indeed an important element of practice.

On the student side, the benefits are similar. By providing thoughtful explanations of how to make a change and why it matters, you are putting students in an ideal position for growth. The student can focus their time on making the change, as opposed to wondering *how* to make a change. Rather than wonder why the change matters, the student understands the impact of the change. The impact is critical because it naturally provides an incentive for the student to incorporate the change.

And as discussed in the next section, feedback tailored to the most important components will help the student focus on those particular elements.

D. Highlight Both the Best Work & Areas of Opportunity

Law students also possess a strong drive to develop and improve their skills during law school. That means feedback should highlight both the good and areas of opportunity. Even the law student with a 4.33 GPA can improve on something.

Finding, highlighting, and deconstructing a student's best work is critical for two reasons. First, a student's best work, with thoughtful feedback, acts as a blueprint for the student moving forward. Put another way: you can tell them to "do more of that - that is great!" Identifying their best work allows students to easily compare their "blueprint" to other sections and revise according to their

62. Based on the author's experience of working with adjuncts, experiential instructors are not teaching for the lucrative pay.

63. The Research Assistant editing this journal article can attest that Professor Ryder had a great impact on her law school performance.

own work. This process can also help a student develop metacognition and self-assessment skills.⁶⁴ By comparing their best section to another section, the student has to identify what was good, why it was good, and then replicate that in their own work.

Second, showcasing a student's best work provides an anchor of self-affirmation. Even though a student has opportunities for improvement, they have also demonstrated tangible legal skills. In addition, instead of changing their approach to fit your approach, they are simply replicating their own work.⁶⁵ From a confidence standpoint that is an enormous shift. A student will realize they can, in fact, do this. And it is much easier for a student to replicate something they have already done, rather than create something completely new.⁶⁶

For best work, consider the series of Where's Waldo books.⁶⁷ Your job is to identify their best work (Waldo) in an oral argument, brief, simulated deposition, etc. For some work, that will be easy (one of the earlier Waldo books). For other students, you may have to carefully scrutinize, repeatedly, before identifying their best work (the last book in the Waldo series). But just like finding Waldo, you cannot stop until you complete the task at hand. From my experience, it is possible to find a positive blueprint in every piece of student work.

For areas of opportunity, focus on no more than two to three key elements.⁶⁸ Key elements will vary depending on the exercise. Feedback in legal writing will naturally prioritize legal analysis over citations. However, stylistic changes may be more important than substance for oral arguments. Organization may be critical for client-based simulations—perhaps discussing client goals at the end of a meeting rather than the first thirty seconds.

Focusing on two to three skills creates a manageable opportunity for a student to improve. Contrast two opposing sets of feedback. One set focuses on two to three larger critical skills. The feedback includes thoughtful explanations on how to improve and why the changes matter. The second set is an “everything

64. Jaime A. Lee, *From Socrates to Selfies: Legal Education and the Metacognitive Revolution*, 12 DREXEL L. REV. 227, 230 (2020) (noting that performance improves when individuals review past work for the purpose of improving future work).

65. *Id.* at 266 (discussing how this process helps students create a sense of ownership and autonomy).

66. *Id.* at 268 (noting that students that develop the skill and autonomy are more likely to experience increased success in law school and practice).

67. In the Where's Waldo series, readers have to visually search for a colorful character named Waldo, who is hidden in a variety of settings, many of which have similar color palettes to Waldo, which can make Waldo hard to find. The series also made it increasingly difficult to find Waldo in the later books. Ben Blatt, *Where's Waldo's Elusive Hero Didn't Just Get Sneakier. He Got Smaller.*, SLATE (Mar. 7, 2017), <https://slate.com/culture/2017/03/where-s-waldo-didn-t-just-get-harder-to-find-he-got-80-percent-smaller.html> [<https://perma.cc/GCZ2-3RG6>].

68. Emily Grant, *Giving Effective Feedback on Writing*, 88 J. KAN. B. ASS'N 22, 23 (2019) (discussing the importance of “triage” when it comes to feedback).

but the kitchen sink” approach. Anything and everything that needs improvement is highlighted. The comments are brief and do not explain how to improve or why the improvement matters.

Setting aside the lack of substance, receiving a laundry list of “to-do” items is daunting for a student. A laundry list can unintentionally signal that “everything” is wrong (regardless of whether that was the intended message). By focusing on a smaller number of elements, you make adaptation and improvement more manageable for the student. Nobody wants to complete a to-do list that contains twelve items. But two items? That is very manageable.

This circles back to the second hallmark—helping each student develop their own lawyering style. Identifying and prioritizing the top two to three areas of opportunity should be a contemplative process. But it is an important one. When you can clearly identify a student’s strengths, along with areas of improvement, it allows you to present a view of the forest to the student, as opposed to just the trees.

Let’s say you provide feedback on an oral argument. The student has excellent substantive arguments which could be re-ordered to increase their impact. In addition, responses to questions lacked a clear yes or no before the explanation, which undercut the effectiveness of the response.

Feedback on areas of opportunity could look like this:

<p>Outstanding substantive arguments—you present multiple ways for the court to rule in your favor. You can improve your argument with two changes to your responses to questions.</p>	
<p>First, consider leading with your best answer, as opposed to providing a list of reasons. When you lead with your best argument, it increases the likelihood the audience will agree with you at the outset. Then your argument essentially flows downhill—secondary arguments will seem more persuasive.</p> <p>Whereas if you lead with a “weaker” argument, the audience may not agree with you at the outset, and you are then “swimming upstream.”</p>	<p>Second, start each response with “yes” or “no,” followed by your best argument. Adding that “yes” or “no” will make your conclusion clear at the outset, instead of having to wait until the end of the answer. The reasoning is similar—the signpost gives the audience an opportunity to agree with you earlier in the argument.</p>

The idea is to highlight a recurring area of opportunity, encouraging the student to modify all of their work as opposed to a singular example, which a student may misperceive as a “one-off” that only requires one change. And just like the “blueprint” mentality, highlighting an area of opportunity will also help

a student develop self-assessment and metacognition skills. The student then has the opportunity to review the entirety of their work product and consider how to apply the feedback to all of their work.⁶⁹

CONCLUSION

“With great power comes great responsibility.”⁷⁰ Effective feedback requires thoughtful consideration of a student’s performance and skillset. It also requires communicating how a student can continue to develop their skills. That feedback plays a critical role in each student’s development—your feedback may be the most important feedback they receive in their career.

There is a high likelihood that you are already focused on one or more of these hallmarks of effective feedback. Whether you currently use one, two, three, or all four of the hallmarks discussed in this article, the most important takeaway is to continually improve your teaching through thoughtful and effective feedback. The impact is clear: effective feedback fuels both professional growth and development of lawyering skills.

Experiential courses have always been a critical aspect of law student development. Their importance will likely increase in the near future as law schools adapt to the NextGen bar exam. In addition, the current generation of students are highly interested in and highly engaged through experiential learning and the accompanying individualized feedback. That combination of factors means that experiential learning will likely become a more prominent component of law school education. Fortunately, experiential instructors are in an excellent position to educate the next generation of lawyers.

69. In discussing the sequence of metacognition, the latter steps “require the student to examine what intellectual and behavioral choices led her to produce imperfect work, and requires her to change those things about herself so that she can avoid those pitfalls in the future.” Lee, *supra* note 64, at 275.

70. LEE & DITKO, *supra* note 1.