

*Critiquing Students' Writing:
Providing Effective Feedback*

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I. Importance

- “Commenting on and grading law students’ writing is one of, if not the, most important task of a legal writing professor.”¹
- “[S]tudies of how expertise develops ... are unanimous in emphasizing the importance of feedback as the key means by which teachers and learners can improve performance.”²
- “The learning loop is complete only if what the teacher learns about the student’s performance is communicated to the student, so that the student knows how to improve.”³
- “[One student] noted, ‘It is the feedback you receive from the teachers, as opposed to just so much reading’ in ... doctrinal courses that made the [legal] writing course so important”⁴

II. Definition

“Appropriate feedback means **positive reinforcement for successful work and judicious criticism for mistakes**. ... [A] careful balance of praise, criticism, and sensitivity to student confidence levels [is] required to coach students to higher achievement in their writing.”⁵

III. Characteristics

A. Learning-Centered Feedback

“[Feedback must] be responsive; in other words, it ... leads to improvement. ... [It] must identify three things. First, students must be able to see how their work compares to the expected performance standard. Second, students must be shown the consequences of remaining at their current level of skill or knowledge. Finally, students must be shown how to improve, if improvement is needed.”⁶

¹ Anne Enquist, *Critiquing and Evaluating Law Students' Writing: Advice From Thirty-Five Experts*, 22 Seattle U. L. Rev. 1119, 1163 (1999).

² William M. Sullivan, Anne Colby, Judith Welch Wagner, Lloyd Bond, Lee S. Shulman, *Educating Lawyers: Preparation for the Profession of Law* 171 (2007).

³ Gregory S. Munro, *Outcomes Assessment for Law Schools* 151 (2000).

⁴ *Id.* at 104. See also *id.* at 106-07 (describing “the teaching of writing as a form of simulated practice” and noting the value of “legal writing experiences” in helping law graduates “transition into practice”).

⁵ B. Glesner Fines, *The Impact of Expectations on Teaching and Learning*, 38 Gonz. L. Rev. 89, 115 (2002-03).

⁶ Kristin B. Gerdy, *Teacher, Coach, Cheerleader, and Judge: Promoting Learning Through Learner-Centered Assessment*, 94 L. Lib. J. 59, 79-80 (2002).

B. Feedback That Students Understand and That Matches the Course Goals

“[L]ack of written, ‘detailed precision’ regarding our expectations for students will increase the hours we spend with individuals [helping them to understand our evaluative standards]. ... [B]oth simple fairness and common sense dictate that we should thoroughly describe, in writing, how students may best succeed in the course.”⁷

IV. Techniques

A. What Works and What Doesn’t

“Consider using these effective teaching strategies:

- a. limit the number of comments;
- b. give students positive feedback;
- c. develop teaching and critiquing priorities;
- d. write end comments;
- e. write margin and interlinear comments;
- f. tie the comments to the text, class, and writing conferences; and
- g. think through how to survive the critiquing/grading process.

Beware these potential pitfalls:

- a. marking everything;
- b. not considering the tone of comments; and
- c. using problematic assignments.

Avoid the following types of comments on students’ papers:

- a. sarcastic, angry, and overly negative comments;
- b. ambiguous comments or marks; and
- c. assumptions about the student’s effort.”⁸

B. What Students Like

1. A well-written end comment is ... crucial [An end comment begins] with an overview of the paper and then discusses the paper’s strengths and weaknesses

2. Students prefer comments that elaborate or give examples or both. Short, cryptic, coded, or label[ed] comments [are preferred less].

3. Students need positive feedback about their writing.

4. Instructors should monitor the number of comments they are writing on students’ papers. ... Excessive commenting may overwhelm the student and create an unnecessary barrier to learning and improvement.

5. Instructors need to pace themselves as they comment on a given paper. ... [I]nstructors should be aware of the number of comments they are making throughout a paper and take care not to run out of critiquing energy.

6. Students appreciate comments that discuss the rationale underlying the critiquer’s comments ... and use a specific instance in a student’s writing to teach a general principle about effective legal writing.

⁷ Craig T. Smith, *Teaching Students How to Learn in Your Course: The “Learning-Centered” Course Manual*, 12 Perspectives: Teaching Leg. Res. & Writing 1 (2004).

⁸ Enquist, *supra* n. 1, at 1163.

7. Comments phrased as questions can be effective, but they may also have some hidden dangers. Too many questions ... can create an antagonistic reaction”⁹

C. Checklists

“Published checklists can provide comprehensive guidance for [students] in creating and assessing [their] work. Legal writing teachers frequently use checklists or comment sheets, either standardized or custom tailored to the assignment. A danger of such lists, though, is that they may lead [students] to neglect the big picture in favor of spending an inordinate amount of time on a relatively unimportant decision, such as how to abbreviate the party’s name in a citation. [Students should not view any] guideline or checklist as setting up rules applicable to all situations, or formulas that must be slavishly followed whether or not the legal analysis for the case fits the formula.”¹⁰

D. Holistic Evaluation

“[H]olistic scoring [means to] evaluate an essay in terms of its overall impression. The impression is not a snap judgment; rather, it is derived from the readers’ thorough understanding of the criteria and their training in applying those criteria to papers. Considering all writing elements without focusing unduly on any single trait, [the instructor evaluates the paper] on the basis of how successfully various writing traits, such as development, focus, clarity, organization, diction, and mechanics, combine to work together within a piece.”¹¹

E. Separate, Collective Feedback to All the Student Writers

“[I]mportant information can be effectively conveyed through a classwide feedback memo that includes the common, recurring problems rather than individual memos for each student. Such a group feedback memo is useful not only for individuals who had particular problems but also for students who did not have the problems because it identifies areas where they were successful and helps them avoid the problems should they arise in the future.”¹²

⁹ Anne Enquist, *Critiquing Law Students’ Writing: What the Students Say is Effective*, 2 Leg. Writing 145, 188-89 (1996).

¹⁰ Terry Jean Seligmann, *Why Is a Legal Memorandum Like an Onion? – A Student’s Guide to Reviewing and Editing*, 56 Mercer L. Rev. 729, 730-31 (2005).

¹¹ Willa Wolcott, *Holistic Scoring*, 13 Perspectives: Teaching Leg. Res. & Writing 5 (2004).

¹² Gerdy, *supra* n. 3, at 79-80.

Bibliography

Daniel L. Barnett, *Triage in the Trenches of the Legal Writing Course: The Theory and Methodology of Analytical Critique*, 38 U. Toledo L. Rev. 651 (2007)

Mary Beth Beazley, *The Self-Graded Draft: Teaching Students to Revise Using Guided Self-Critique*, 3 Leg. Writing 175 (1997)

Kirsten K. Davis, *Designing and Using Peer Review in a First-Year Legal Research and Writing Course*, 9 Leg. Writing 1 (2003)

Anne Enquist, *Critiquing and Evaluating Law Students' Writing: Advice From Thirty-Five Experts*, 22 Seattle U. L. Rev. 1119 (1999)

Anne Enquist, *Critiquing Law Students' Writing: What the Students Say is Effective*, 2 Leg. Writing 145 (1996)

Judith D. Fischer, *How to Improve Student Ratings in Legal Writing Courses: Views From the Trenches*, 34 U. Balt. L. Rev. 199 (2004)

Jane Kent Gionfriddo, *The "Reasonable Zone of Right Answers": Analytical Feedback on Student Writing*, 40 Gonz. L. Rev. 427 (2004-05).

Jane Kent Gionfriddo, Daniel L. Barnett, & E. Joan Blum, *A Methodology for Mentoring Writing in Law Practice: Using Textual Clues to Provide Effective and Efficient Feedback*, 27 Quinnipiac L. Rev. 171 (2009)

Christina R. Heyde, Susan E. Provenzano, *E-Grading: The Pros and Cons of Paperless Legal Writing Papers*, 12 Perspectives: Teaching Leg. Res. & Writing 139 (2004)

B. Glesner Fines, *The Impact of Expectations on Teaching and Learning*, 38 Gonz. L. Rev. 89 (2002-03)

Kristin B. Gerdy, *Teacher, Coach, Cheerleader, and Judge: Promoting*

Learning Through Learner-Centered Assessment, 94 L. Lib. J. 59 (2002)

Mary Kate Kearney & Mary Beth Beazley, *Teaching Students How to "Think Like Lawyers": Integrating Socratic Method With the Writing Process*, 64 Temp. L. Rev. 885 (1991)

James B. Levy, *Legal Research and Writing Pedagogy – What Every New Teacher Needs to Know*, 8 Perspectives: Teaching Leg. Res. & Writing 103 (2000)

Gregory S. Munro, *Outcomes Assessment for Law Schools* 151 (2000)

Providing Effective Feedback [Various Authors and Essays], 22 Second Draft No. 1 (Fall 2007) (available online at <http://www.lwionline.org>).

Responding to Student Writing [Various Authors and Essays], 14 Second Draft No. 1 (Nov. 1999) (available online at <http://www.lwionline.org>).

Terry Jean Seligmann, *Why Is a Legal Memorandum Like an Onion? – A Student's Guide to Reviewing and Editing*, 56 Mercer L. Rev. 729 (2005)

Melissa J. Shafer, *Effective Assessment: Detailed Criteria, Check-Grading, and Student Samples*, 14 Second Draft 6 (1999).

Sophie M. Sparrow, *Describing the Ball: Improve Teaching by Using Rubrics – Explicit Grading Criteria*, 2004 Mich. St. L. Rev. 1

William M. Sullivan, Anne Colby, Judith Welch Wagner, Lloyd Bond, Lee S. Shulman, *Educating Lawyers: Preparation for the Profession of Law* (2007)

Susan M. Taylor, *Students as Revisionaries: Or, Revision, Revision, Revision*, 21 Touro L. Rev. 265 (2005)

[Various Authors:] *Teacher's Manuals*. A teacher's manual typically accompanies legal writing textbooks and provides some

advice about commenting on students' writing.

Willa Wolcott, *Holistic Scoring*, 13 Perspectives: Teaching Leg. Res. & Writing 5 (2004)

Emily Zimmerman, *Toto, I Don't Think We're in Practice Anymore: Making the Transition From Editing as a Practitioner to Giving Feedback as a Legal Writing Professor*, 12 Perspectives: Teaching Leg. Res. & Writing 112 (2004)

Emily Zimmerman, *The Proverbial Tree Falling in the Legal Writing Forest: Ensuring That Students Receive and Read Our Feedback on Their Final Assignments*, 11 Perspectives: Teaching Leg. Res. & Writing 112 (2002)