

## REMEDIATING IN TEAMS

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In his foreword to the first issue of *The Journal of the Legal Writing Institute*, Chris Rideout asked a series of broad questions that continue to engage legal writing professors: How do we teach legal writing when there is disparity in our students' writing proficiency? How and when do we offer remediation?<sup>1</sup> These broad questions invite narrower questions: Should we anticipate some students' deficiencies and offer targeted writing programs in the summer? Should the disparity in student proficiency limit a course's coverage or depth or should the disparity be addressed solely through individual conferences? What is most likely to make remediation efforts successful—writing centers? Teaching assistants? Smaller class size?

This essay slices off a few of these questions and focuses on one method of teaching and remediation encouraged by Professor Rideout himself in his 1994 article with Jill Ramsfield, *Legal Writing: A Revised View*. This method posits that we teach all students best when we create classrooms that are laboratories of learning with communication flowing in both directions, when we encourage students to be actively engaged in their own learning and in the learning of their peers, and when we embrace our role “as guide, as facilitator, as coach, as editor.”<sup>2</sup> In short, when we step down as the “sage on the stage” and thoughtfully, carefully encourage collaborative learning, we can better reach every student.

A quick search of the *Journal of Legal Writing* archives demonstrates the attention our discipline has given to creating collaborative classrooms: Thirty articles published in twenty-five years of *The Journal* mention collaborative learning, including excellent “how to” pieces like a 2003 article from Elizabeth Inglehart, Kathleen Narko, and Cliff Zimmerman on the integration of collaborative and cooperative learning into Northwestern's writing

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<sup>1</sup> See J. Christopher Rideout, *Research and Writing about Legal Writing: A Foreword from the Editor*, 1 LEG. WRITING viii (1991).

<sup>2</sup> J. Christopher Rideout & Jill J. Ramsfield, *Legal Writing: A Revised View*, 69 WASH. L. REV. 35, 67 (1994).

curriculum;<sup>3</sup> a 2004 article from Pamela Lysaght & Danielle Istl on using technology to create collaborative learning experiences in the classroom;<sup>4</sup> and a 2011 article by Bonny L. Tavares & Rebecca Scilio on using collaborative learning to give evening students the most effective use of valuable classroom time.<sup>5</sup>

I write to recommend a specific form of collaborative learning,<sup>6</sup> team-based learning (TBL), and testify to its power to benefit all students, including those who are excelling, those who need remediation, and those who are struggling through in the middle. I am third in my endorsement of TBL in legal writing courses (or fourth, depending how you count) behind Sophie Sparrow and Margaret Sova McCabe, who published *Team-Based Learning in Law* with *The Journal* in 2012,<sup>7</sup> and Mel Weresh, who published *Uncommon Results: The Power of Team-Based Learning in the Legal Writing Classroom* with *The Journal* in 2014.

First, a quick primer on TBL: In a TBL classroom, students are placed in permanent (or semester-long) teams of four to seven students. The semester's curriculum is divided into units. At the beginning of each unit, students are tested individually and then as a team on their readiness to learn concepts in that unit. At the end of each unit, students are assessed individually and then as a team on their ability to apply the concepts in that unit to a significant problem. These bookended assessments are the highlights of TBL, but students work in their teams almost every class period; they create and compare research strategies, they critique their own work and samples, and they draft responses to prompts.

TBL is an established, proven teaching technique in other disciplines, but why can it work so well in legal writing

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<sup>3</sup> Elizabeth L. Inglehart, Kathleen Dillon Narko, & Clifford S. Zimmerman, *From Cooperative Learning to Collaborative Writing in the Legal Writing Classroom*, 9 LEG. WRITING 185, 186–87 (2003)

<sup>4</sup> Pamela Lysaght & Danielle Istl, *Integrating Technology: Teaching Students to Communicate in Another Medium*, 10 LEG. WRITING 163, 173 (2004)

<sup>5</sup> Bonny L. Tavares & Rebecca L. Scilio, *Teaching After Dark: Part-Time Evening Students and the First-Year Legal Research & Writing Classroom*, 17 LEG. WRITING 65, 69 (2011).

<sup>6</sup> TBL is actually a type of cooperative learning, which is a type of collaborative learning. Kenneth A. Bruffee, *Sharing Our Toys: Cooperative Learning versus Collaborative Learning*, CHANGE, Jan.-Feb. 1995, at 12.

<sup>7</sup> Sophie M. Sparrow, Margaret Sova McCabe, *Team-Based Learning in Law*, 18 LEG. WRITING 153, 154 (2012).

courses? First, as the academy is increasingly appreciating, when students write critically, they forge new connections and ideas about the law and how it can be applied. When students write more, they have more opportunities to make choices, to question those choices, to generate and refine understanding, and to actively problem solve in the law. Students should therefore be writing, critiquing others' writing, and writing collaboratively as often as possible. TBL provides a structure for this kind of practice in every class session, with exercises that require individual students to write critically and then to review and rewrite with a team.

Second, TBL works well in legal writing courses because legal writing instruction is placed at the nexus of students' transition to a new discourse. It is therefore a critical place to socialize students to this discourse in an intentional way. Students learn best about a new community and how to create their own identity within it when they are carefully coached and when they work together with other learners. As Professors Rideout and Ramsfield note, "The classroom itself must foster dialogue, for if writing is a social activity, then social interaction in the classroom is an important component of students' entry into legal discourse."<sup>8</sup> A TBL classroom is social; students are teaching, listening, arguing, creating, celebrating, groaning. TBL not only turns the classroom into "a site for inquiry into the law and its rhetoric, a site for investigation,"<sup>9</sup> it facilitates instruction and assessment on legal professional identity. At the end of the semester, students are held accountable to their teammates for their participation in the team and contribution to the team's product.

And third, TBL works well in legal writing courses because it allows a professor to teach students with disparate skills, which addresses one of Professor Rideout's broad questions. My proof of this is best given with a story about a single team of students in my first-year writing course. These six students were randomly placed in their team at the beginning of the semester, and their incoming proficiencies ran the gamut from advanced to remedial. Each student's development in my class was typical of what I've seen in TBL classrooms: First, the students progressed at the same rate or

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<sup>8</sup> Rideout, *supra* note 2, at 67; *see id.* at 71 ("Virtually everyone who has commented on writing as a social practice recommends extensive use of collaborative learning in the writing classroom to reinforce the practice of writing more as a generative social activity than a private, individual activity.").

<sup>9</sup> *Id.* at 68.

more quickly than I would have anticipated given their incoming skills. None of the students' learning appeared to lag or stall because of their work with the team. Second, their final assessments showed a spread of proficiencies; their work as a team did not bunch their scores. Of the six students, two ended the year near the top of their class, two were in the top third, and two were near the bottom. Third, even given their varied proficiencies, by my observations and as reported by the peer reviews, each of the students regularly contributed to team problem solving.

The most surprising aspect of the development of these team members was manifested in a single member of the team, Jane (a real student, but not her real name). It was apparent very early that Jane came to law school needing remediation in critical reading, thinking, and writing. But Jane is a hard worker, and she actively participated with her team. Consequently I believe, through the first semester Jane performed at a level above what I had predicted was possible for her, and I could see her confidence growing. Jane was remediating within her team.

At the beginning of the second semester, however, I had students complete a written trial brief without any team support at all—no talking about the problem, no sharing research, no critiques of drafts. Jane's brief was a failing effort, which disappointed us both. I was concerned then that Jane's team had not remediated her, but instead had masked her continuing deficiencies and given her a false sense of her own competencies.

When I met with Jane, she explained she had panicked during the writing process and had failed to seek help, even though she knew she hadn't understood the assignment. This may have been evidence of an inaccurate estimation of her own abilities, or simply of her stubbornness to figure it out without help from me. Her explanation of what had gone wrong was frankly typical of students in her position. Our discussion shifted, however, when we started to talk about her research and writing processes. I was surprised by the strategies she was able to marshal as we talked about how she could improve her writing. She understood research options, writing choices she had made, and organizational techniques she could try. In short, she could identify problems writers have to solve and demonstrated a broad exposure to the solutions available to them. Her rewrite of that brief, completed on her own, was much improved. She demonstrated that she could unpick choices she had made and make different choices. I can't say TBL altered Jane's position relative to her classmates, but her regular interaction

with other beginning, learning legal problem solvers expanded and enriched her understanding of what makes effective writing and how to achieve it.

Professor Rideout's broad questions on how we teach to a spectrum of students and how we remediate certainly have as many answers as there are students, but there is something unique about a TBL classroom. I still hold individual conferences, I still refer students to a writing specialist, and I still prefer teaching to a smaller group of students (although for students, TBL makes a large class feel small), but creating a TBL classroom has been the most consequential change I've made to encourage each student's progression. In my experience, permanent teams with carefully structured assignments give students the practice writing and critiquing, the exposure to other student's ideas and work, and the freedom and accountability to both remediate and excel in teams.