

Foreword

Fourth Colonial Frontier Legal Writing Conference: Teaching the Academically Underprepared Law Student

*Jan M. Levine**

On December 6, 2014, more than 100 teachers from twenty-one states and the District of Columbia, including Duquesne University School of Law faculty members, law school professors from legal writing and academic support programs, and professors from undergraduate schools and colleges, gathered to hear twelve presentations from thirteen professors in a national conference titled “Teaching the Academically Underprepared Law Student.” I planned the conference with my colleagues from the legal writing program, Julia Glencer, Ann Schiavone, and Tara Willke, and our Director of Academic Excellence, Kirsha Trychta. The conference resulted from the financial support of our Dean, Ken Gormley; from the support of our Duquesne alumni, whose contributions have resulted in endowed funds enabling our writing program to put on such events; and three commercial sponsors: Bloomberg Law, Westlaw, and Carolina Academic Press. The editorial board and members of the *Duquesne Law Review* agreed to publish the proceedings of this conference and helped with the administration of the conference; nine of the presentations resulted in the articles in this volume of the *Duquesne Law Review*. The theme of this conference was inspired by the excellent article titled *Bringing a Knife to a Gunfight: The Academically Underprepared Law Student & Legal Education Reform*, which was written by two of the December 2014 presenters, Professors Ruth Vance and Susan Stuart.¹ The following remarks are adapted from my welcoming speech at the start of the conference.

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I’d like to start us off with a bit of an overview, and so I guess I should start at the beginning, at least my beginning. I was born in

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1. Susan Stuart & Ruth Vance, *Bringing a Knife to a Gunfight: The Academically Underprepared Law Student & Legal Education Reform*, 48 VAL. L. REV. 1 (2013).

1954, so I'm a Baby Boomer, one of the group of persons born between 1943 and 1960. I started teaching legal writing in 1980 as an adjunct professor, two years after I graduated from law school. I was teaching students who were about five to six years younger than I was; they were the tail end of the Baby Boom generation and were not very different from me in their schooling, outlook, perspective on the world, and use of technology (such that it was at the time). Since then, over almost thirty-five years, including full-time teaching for thirty years at four schools, I've taught Boomers, Gen-X students, Millennials, and our most recent students, who are showing some of the characteristics of the Net-Gens.

So I have seen, close-up, more changes in law students than most of you at this conference. Over those years I have had to adjust my expectations of my students, and modify my teaching methods, because of changes in our society, the advent and proliferation of computer-based technology, a transformed educational environment that focuses more on business than on learning, and a bleak economic outlook for all but the wealthiest one percent of America. What I now see in many of my students has scared me, and I believe it has scared many of you; that fear and concern probably accounts for the presence of more than 100 attendees at this conference today.

Most of us know that students now come to law school without having developed their critical thinking skills in college. Richard Arum and Josipa Roksa, in their books, *Academically Adrift: Limited Learning on College Campuses* and *Aspiring Adults Adrift: Tentative Transitions of College Graduates*, have shown that most college graduates do not show any progression in critical thinking skills, and writing and reasoning abilities, after four years of college. Arum and Roksa report that undergraduate education has become more of a social experience than an academic or intellectual experience, and that universities are largely responsible for catering to, and even accelerating, this change in perspective on college life.²

All of the legal research and writing teachers in this room know that most of our students come to us without knowing how to do research other than by skimming one or two screen's worth of Google search results. We know that many of our students struggle to read text closely and are unaccustomed to reading anything requiring deep thinking and reflection. Many new law students have

2. RICHARD ARUM & JOSIPA ROKSA, *ASPIRING ADULTS ADRIFT: TENTATIVE TRANSITIONS OF COLLEGE GRADUATES* (2014); RICHARD ARUM & JOSIPA ROKSA, *ACADEMICALLY ADRIFT: LIMITED LEARNING ON COLLEGE CAMPUSES* (2011).

not written anything before that was longer than five pages, rarely read books for pleasure, and are strangers to structured analysis. Many of our students are unused to focusing their attention on a complex task, and have never experienced sustained periods of studying. They have trouble reading and writing, to a degree we have never seen before.

As Nicholas Carr reports in his book, *The Shallows: What the Internet is Doing to Our Brains*, too many of our students have never had the ability to think and read deeply, as our brains adapt to the addictive stimulus of instant yet superficial results and quickly changing and beguiling text snippets, images, and videos on the screens of our computers and smart phones; and we, their teachers, are losing those abilities as we also use that technology.³ Carr notes:

[A]s the time we spend scanning Web pages crowds out the time we spend reading books, as the time we spend exchanging bite-sized messages crowds out the time we spend composing sentences and paragraphs, as the time we spend hopping across links crowds out the time we devote to quiet reflection and contemplation, the circuits that support those old intellectual functions and pursuits weaken and begin to break apart.⁴

We've all seen changes in how our students conduct research to answer legal problems; we've all seen the superficial results and lack of understanding from doing online research as compared to using print-based materials. Carr addresses that too, when he reports on "a comprehensive review of thirty-eight past experiments involving the reading of hypertext," which found that "the preponderance of evidence indicated that 'the increased demands of hypertext reading impaired reading performance,' particularly when compared to 'traditional linear presentation.'"⁵

We all know that many of our students have been strangers to failure. Many have high self-esteem. But all too often that self-esteem has not been based on significant efforts and true accomplishments. A large percentage of our students seem bound to their parents' support and are unwilling to grow up themselves.

Too many of our students believe that cheating is prevalent, normal, and expected; they are used to seeing their peers and our social

3. NICHOLAS CARR, *THE SHALLOWS: WHAT THE INTERNET IS DOING TO OUR BRAINS* (2010).

4. *Id.* at 120.

5. *Id.* at 129 (quoting Diana DeStefano & Jo-Anne LeFevre, *Cognitive Load in Hypertext Reading: A Review*, 23 *COMPUTERS IN HUM. BEHAV.* 1616 (May 2007)).

and political leaders lie and cheat, and get away with it. A growing number of our students have long been medicated for real or imagined disabilities and disorders, particularly attention deficit disorders and anxiety. Tragically, we have plenty of evidence that our students' excessive and regular consumption of alcohol while partying in college, and their illicit use of attention-enhancing drugs for last-minute exam preparation and taking, are behaviors that have not been left behind when they came to law school.

All of this makes it increasingly difficult for us to train lawyers in the fundamental analytical and writing skills necessary for members of the profession that is critical to a society based on the rule of law. These skills have never been more profoundly needed by our nation. Lawyers are expected to come from among our best and brightest; they have long been the source of our political leadership. We believe lawyers should be well-educated, thoughtful, articulate, and prepared; and we hope they are honest, reliable, and trustworthy.

The challenges presented by our incoming students' difficulties in learning those skills and demonstrating those characteristics have never been greater. These challenges come at a time when our law schools are reeling in the face of mounting student debt, declining enrollment, budget cuts, poor legal employment forecasts, and continuous attacks on higher education generally, and legal education in particular.

On a more positive note, however, when we are able to reach our current students, when they realize how short-changed they have been by their previous schooling, when they see that they are capable of doing far more work and far better work than they've ever been asked to do before, and when they learn how far we are willing to go to help them, they are perhaps the most appreciative group of students we have ever taught.

We are here today to talk about these issues and problems, to learn what we can do to better teach our students, and perhaps begin to see how we may be able to change the environment in which our law schools operate and we teach. There are no more optimistic, yet realistic, faculty members in law schools than you who are sitting here today. No one works harder at trying to make up for the educational neglect from which our students suffer, no one cares more about our students, and no one is more appreciated by those students for what we try to pour into them and how we try to mold them to become what they, and we, hope they can be.

I know we are going to have some wonderful presentations today from thirteen committed teachers who have been struggling to face

these challenges. We will hear some great ideas and gain more insights into our task. We will commiserate with each other and realize we are not alone in the challenges we face. My hope is that we will all take from this conference some new hope about the future of our students, the legal profession, and our calling as teachers.

Foreword

*Kirsha Trychta**

I transitioned into a full-time Academic Support position last year, after teaching as an adjunct in the Legal Research & Writing (LRW) program for several years. For me—as I imagine it is for many of the scholars who contributed to this edition of the *Duquesne Law Review*—legal writing and academic support are inextricably intertwined. Some of the articles focus on the personality characteristics and skills of this “new generation” of law students, while others offer solutions about how to best support the academically underprepared. All of the articles, however, celebrate the relationship between academic support and legal writing. The synergy between LRW and academic support is nothing new, however. Here is my story.

During my first semester of law school, I struggled—a lot. I was, at least initially, overconfident, yet underprepared¹ for the rigors of law school. My undergraduate degrees² in psychology and Latin American studies had not prepared me for the Socratic Method. I quickly found myself nervous to speak in class,³ worried that my confusion would become apparent to my classmates.⁴ To complicate matters further, I began to resent my other classmates whose parents were already leaders and lawyers, irrationally blaming them for my struggles.⁵ Needless to say, my first-semester grades were dismal.

I returned in January determined to do better, but not quite sure how. We did not have an academic support program at the time,

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1. See Ruth Vance & Susan Stuart, *Of Moby Dick & Tartar: The Academically Underprepared Law Student and the Curse of Overconfidence*, 53 DUQ. L. REV. 133 (2015).

2. See Rebecca Flanagan, *Do Med Schools Do it Better? Improving Law School Admissions by Adopting a Medical School Model*, 53 DUQ. L. REV. 75 (2015).

3. See Heidi Brown, *Empowering Law Students to Overcome Extreme Public Speaking Anxiety: Why “Just Be It” Works and “Just Do It” Doesn’t*, 53 DUQ. L. REV. 181 (2015).

4. See Catherine M. Christopher, *Eye of the Beholder: How Perception Management Can Counter Stereotype Threat Among Struggling Law Students*, 53 DUQ. L. REV. 163 (2015).

5. See Susan D. Landrum, *Drawing Inspiration from the Flipped Classroom Model: An Integrated Approach to Academic Support for the Academically Underprepared Law Student*, 53 DUQ. L. REV. 245 (2015).

and all of my classes had more than eighty students—well, all except for one: Legal Research & Writing. I decided to put all my eggs into that small LRW basket.

I fully immersed myself in the spring appellate brief. I read all the cases; I tried to figure out how they all fit together. I questioned everything. “Where were the gaps in the law?” “How can I win?” “What will make my argument stronger?” All the hard work paid off. I wrote a solid brief and received a lot of positive feedback from my LRW professor and my LRW classmates. I thought to myself “so that’s what law professors want.” It was my light bulb moment. I still remember standing on the third floor of this building, just outside the Courtroom. It came to me in an instant—if I analyzed the law on my exams like I did in my appellate brief, then there was a chance I could improve my other grades. I took my spring exams with a new plan and a sense of purpose. It worked. I earned the highest grade in LRW and improved all of my other grades. I never looked back.

As a person born in October 1980, I’m just a few months shy of qualifying for the Millennial moniker we’ve all heard so much about. But my own personal experience tells me that Millennial, Net-Gen, or whatever snappy new label the future holds, there is hope. We—as legal writing professors and academic support professionals—have the power to turn even the most academically underprepared students into lawyers, judges, scholars, and even professors.