Teaching to Different Learning Styles: Love Triangles, Role Playing & Videotapes

Allison Martin, Indiana University School of Law – Indianapolis

To reach students' varied perceptual strengths and to make students' legal writing experiences more realistic, a colleague[1] and I created an assignment in which the story of a legal problem came to life for our students. The legal problem was based upon a client's injuries during the taping of a Jerry Springer-type show.

On this particular show, the client and her husband were guests, and the client's best friend was an audience member. During the show, the client's best friend revealed her love affair with the client's husband and some of the client's secrets before throwing a chair at the client. The two issues raised were whether the television station owed a duty to protect the client from her best friend's attack and whether her best friend's conduct was extreme and outrageous. The video of this show

provided the factual basis for our students' office memorandum problem. By viewing the video, our students became members of the television audience, witnessing the story first-hand.

To create the videotape, we recruited upper-level students to play parts described in our script, and we enlisted our law school's technology guru to film the scene. We used our law school courtroom to create a set, which (barely) resembled the set of a Jerry Springer-type show.

Then, during class, we handed out the closed universe assignment and played the videotape three times. The first time was intended to introduce the video; the second was to allow them to take notes; the third was to allow them to confirm their notes and to fill in gaps. The video file was then loaded onto our law school website, which allowed repeated viewing while students worked on their assignments.

The assignment successfully played to all of our students' varied perceptual strengths. These strengths are described as auditory, visual, tactual and kinesthetic perceptions.[2] The videotape was helpful for those students with high auditory strengths because they were able to learn the facts by listening and for those students with high visual strengths because they were able to learn the facts while watching. Indeed, their witnessing a chair thrown at their

client was worth a thousand words. The exercise was also helpful for tactual learners, because the video allowed them to take notes and to manipulate it by, for example, rewinding or replaying. Finally, the kinesthetic learners were helped because they actually participated as members of the television audience while the story unfolded before their eyes.

In addition to creating an exercise that reached different perceptual strengths, our assignment had other benefits. Practicing lawyers rarely receive an assigning memo that conveniently summarizes the facts of a case. Although our assignment included a few supplementary documents, the students had to gather the majority of the facts based on their own perceptions—in this instance, from the video. Thus, the assignment more realistically mirrored the practice of law and provided the students with experience in this type of fact gathering.

I also believe that the students wrote the fact sections of the office memoranda more vividly. Unlike fact sections in other office memoranda, in which the facts are often lifted from an assigning memo, the students had to describe in their own, sometimes colorful, words how they perceived the scene. I used this opportunity to reinforce the idea that their written

Letter from the Editors

One of the biggest challenges to legal writing professors everywhere is trying to make our teaching effective for all our students, whose backgrounds, personalities and learning styles are varied and complex. From lecturing to handouts to group exercises and PowerPoint presentations, we all seek to present information in enough forms to reach every type of learner. Happily, from the overwhelming number of submissions that we received for this volume, there are many new and innovative ways of teaching that we can learn about for reaching more students. While we would have loved to have included all of them, we have tried to collect a good sampling of ideas to teach to students with all learning styles, including those who may have learning challenges or disabilities. Perhaps the best lessons that we learned and hope to pass on to you are these: do not be afraid to move beyond traditional law teaching methods, and do not hesitate to mix or combine techniques – even within a single class period!

In the next volume, we hope to share ideas about techniques for teaching statutory interpretation and analysis. Please go to www.lwionline.org for details regarding submission formats and deadlines.

We wish everyone a successful spring semester!

Kathy Vinson
Stephanie Hartung
Samantha Moppett
Julie Baker

SUFFOLK UNIVERSITY
LAW SCHOOL

The President's Column

Susan Hanley Duncan, Louis D. Brandeis School of Law at the University of Louisville

Dear Fellow LWI Members:

The Legal Writing Institute continues to remain very busy. I wanted to use this column to let you know about some of the many items the Board will consider at its Board meeting in New York this January.

Committee Reports

As many of you know, I appointed a Board member to be the liaison for each of our LWI committees. The liaisons serve as a resource for the committee chairs and help the president keep track of the committees' progress on their charges. We will be reviewing reports from each committee to make sure we are achieving the many goals I listed in your fall 2007 newsletter.

Website

The Board has asked Mimi Samuel to investigate the possibility of professionally redesigning the website. This may include redesigning the LWI logo and color scheme. In addition, we will discuss whether we need to replace our server because tape backup for this server no long functions. Finally, we will discuss the desirability of hiring someone to manage the website for us.

Budget

LWI has been blessed to be in excellent financial health. To make sure we stay this way, I convened a budget committee to present to the Board a proposed yearly budgeting process. I also asked this committee to explore different ways to invest our reserves.

Future Conference Sites

As you will see in Dan Barnett's exciting announcement, the 2010 conference will be held at Marco Island. This will be the first year we are not associated with a law school. At the January Board meeting we will be discussing our conference options for 2012.

We will post the minutes of this Board meeting on our website. Please be sure to read those when you return from New York. Also, if you have anything you would like the Board to consider contact me and I will put it on the agenda for the 2008 summer Board retreat.

LWI Board Elections

It is not too early to consider running for the LWI Board. Ruth Anne Robbins will send out a call for nominations shortly. I hope many of you will consider nominating yourself. The Board always needs new people and new ideas. I have found my years on the Board very rewarding and exciting. Please do not hesitate to contact me if you have any questions about the elections or what it is like to be a director.

2008 LWI Conference

Finally, I hope you are all planning on attending the 2008 Legal Writing Conference at the Indianapolis University School of Law on July14-17, 2008. The site committee (chaired by Debbie McGregor) as well as the program committee (chaired by Ruth Anne Robbins and Melissa Weresh) have been hard at work planning a spectacular conference. Be sure to attend and experience some of the new conference features including Poster Presentations and Popcorn sessions. I can't wait to see you there.

Thanks to all of you for your support and hard work. We should all take great pride in the many accomplishments of the LWI.

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Teaching to Different Learning Styles: Love Triangles, Role Playing & Videotapes

words often need to paint a picture—or create a video—for the reader. And, as the professor, I was elated to read less repetitious fact sections.

Because this assignment involved the students as witnesses to the story of a case, they were engaged from the outset. It reached students with varied perceptual strengths while also providing an opportunity for them to experience a more realistic approach to gathering and writing facts. Because of its

success, I will continue to work on creating similar assignments.

1 I want to thank Professor Joel Schumm for his creative contributions to the assignment. I also want to thank him and Professor Deborah McGregor for their helpful comments about this article.

2 Robin A. Boyle & Rita Dunn, Teaching Law Students Through Individual Learning Styles, 62 Alb. L. Rev. 213, 224 (1998).

Learning Citations: Just in Time and Through a Variety of Different Learning Styles

Brooke J. Bowman, Stetson University College of Law

Most of our students are part of the millennial generation—the "just-in time" learners.[1] And our students have a variety of different learning styles—verbal, visual, oral, aural, tactile, or kinesthetic.[2] How should a Research and Writing (R&W) professor teach a citation exercise to thirty-seven millenials in a second-semester R&W course?[3]

The goal was to design an exercise that not only reached a variety of different learning styles, but also made an impression on the just-in-time learners. We had done citation exercises within the context of persuasive writing on several occasions previously, starting with a review of the general components of citations, frequency of citations, and basic citations for cases and statutes. The exercise was done a week before the closed-universe, memorandum of law assignment was due. Because the assignment was a closed-universe assignment, I decided to give the students a "freebie"—a full and short citation for one of the cases in the universe.

I distributed eight copies of the ALWD Manual, one to each of the eight rows of students (typically, there were four students per row), and handed out an example of a full and short citation for one of the cases. I admitted that I had drafted the citations and that they were "pretty good."[4] The full citation was:

Randy Saylor, Sr., suing individually, and Debbie Saylor, suing individually and as next friend of Randy Saylor, Jr., an infant vs. Board of Education of Harlan County, Kentucky, 118 F 3rd 507 (6th Circuit 1996)

I asked the students to work individually or in groups; but the task was the same—find and correct the errors in the citation.

Here is what I observed. Those students who preferred to work individually did so. The verbal learners were reading Rule 12. The oral learners were talking through the errors they found with their neighbors and asking questions. The aural learners were listening to the discussions around them. The visual learners were looking at the citations that were posted on the overhead projector and making notes of the errors, and the tactile and kinesthetic learners were learning by doing the exercise.

> *The verbal learners were reading Rule 12. The oral learners were talking through the errors they found with their neighbors and asking questions. The aural learners were listening to the discussions around them.*

After fifteen minutes, I asked each group to identify one error. By not telling the groups to select a spokesperson, both the students who worked in groups and those who worked individually were eager to point out the errors they found. And because there were more than eight errors in the full citation, it became a team effort to identify all the errors that were not pointed out originally.

Knowing that the students would be citing more cases than just the Saylor case in their assignments, I then distributed a handout containing not only the correct citation but an explanation of how the citation could be built. Here is what the citation looked like:

Saylor[1] v.[2] Bd. of Educ. of Harlan Co.,[3] 118[4] F.3d[5] 507,[6] XXX[7] ([8]6th Cir. 1997[9]).[10]

In each footnote, the error was identified and the proper ALWD rules were provided. I walked through the first couple of footnotes, explaining the error and the appropriate ALWD rule (lecturing for the benefit of the aural learners). The visual learners had a visual aid, and all the students had a correct citation to use in the memos or as a model for other case citations.

I summarized the exercise and transitioned into a discussion of oral arguments by analogizing citation errors to spots on a tie or missing hem. Citation errors distract the reader from the presentation of the written information; spots on a tie or missing hem distract from the oral presentation of the same information, which hopefully left the students with an image of why citations are important.

1 "Millennials are 'just in time' learners. They're surrounded by information, much of which can be instantly accessed. They want to learn things when they have a compelling need for [the information] or, at least, understand why information is relevant before committing to learning it." Stephanie B. Goldberg, *Beyond the Socratic Method*, 36 Student Law. 19, 22 (Oct. 2007) (available at http://www.abanet.org/lsd/student lawyer/oct07/goldberg.shtml).

2 *See generally* M.H. Sam Jacobson, *A Primer on Learning Styles: Reaching Every Student*, 25 Seattle U. L. Rev. 139 (2001).

3 At Stetson University College of Law, the students learn predictive writing in R&W I course and persuasive writing in R&W II.

4 In all honesty, the citations contained every possible error a first-year student could make, plus some additional errors.

From the Desk of the
Legal Writing Specialist
Back to Basics: Retro Visual Exercises That Promote Active Learning
Lurene Contento, John Marshall Law School

Students love visuals. This has been true in the past, but it is especially true in this digital age. And with each technological advance, students expect ever more sophisticated visuals. PowerPoint presentations with animation, movie clips, and podcasts are becoming the new, standard fare. But we should not forget that retro, too, can be cool—and effective. Even simple visuals can aid learning, as long as students are actively involved in the process. With that in mind, here is a low tech (all you need is an overhead) and easy-to-create (you merely type text on a page) retro visual exercise that will engage even the most tech-savvy student.

Rule Scramble

Students who are writing their first memo often do not understand how to tailor rules to an issue. They may write a "law paragraph" that includes every rule ever written on the topic. Or they may give you a "rule jumble," throwing rules at you with no sense of order. "Rule Scramble" is a simple, interactive exercise that helps students learn how to separate the irrelevant from the relevant and organize rules into a clear, coherent narrative.

To create the visual, just pick a topic and write down as many rules about that topic as you would like your students to consider. Write each rule on a separate line, but put them in a completely random order. Use rules from one case or from several. Use stated rules, implied rules, synthesized rules, or all of the above. Generally, the more rules the better, as students will have more to unscramble. In a workshop for beginning students, I use rules for false imprisonment because most students are familiar with the tort

and find it easy to understand. My first visual may look something like this:

a. If defendant's conduct was motivated by malice, plaintiff may be entitled to punitive damages.

b. Use of a physical barrier is sufficient restraint for the tort of false imprisonment.

c. A person has not been falsely imprisoned unless she knows of the confinement at the time it happened.

d. Future threats alone do not constitute confinement.

e. A defendant commits false imprisonment if he intentionally causes a person to be restrained or confined to a bounded area.

f. Plaintiff need not prove actual damages to sustain a prima facie case of false imprisonment.

g. Exerting moral pressure alone does not constitute confinement.

h. If a person voluntarily consents to the confinement, there is no false imprisonment.

i. An employer can be liable for false imprisonment when an agent causes an unwarranted arrest of a third person.

Next, give the students a short fact pattern and a narrow sub-issue. In the false imprisonment exercise, I tell the students that their client is a cashier at a grocery store who was called into her boss's office to talk about recent thefts, that the boss told her that her job would be in jeopardy if she did not cooperate, and that the boss kept her in the office for an hour before he allowed her to leave. Next, we narrow the sub-issue to whether the client has been restrained or confined. Then, together, we

unscramble the rule. I pepper the students with questions: What goes first? Why? What's next? Why? What's left over? Do you need it? Does it add anything? Is it relevant to this issue?

As the students answer, I keep track on the overhead, crossing out the rules that do not belong and numbering the ones that do. I then put up a second overhead, created earlier, that reflects (or should reflect!) the students' responses. For example:

e. A defendant commits false imprisonment if he intentionally causes another to be restrained or confined to a bounded area.

b. Use of a physical barrier is sufficient restraint for the tort of false imprisonment.

g. Exerting moral pressure alone does not constitute confinement.

d. Future threats alone do not constitute confinement.

h. The confinement must be against the person's will.

"Rule Scramble" is a simple, interactive exercise that helps students learn how to separate the irrelevant from the relevant and organize rules into a clear, coherent narrative.

The Blind Leading the Blind: What if They're Not all Visual or Tactile Learners?

Robin A. Boyle, St. John's University School of Law
James B. Levy, Nova Southeastern University School of Law

As legal writing professors, we exalt analysis over intuition and are trained to follow the facts rather than engage in guess-work. We train our students to do the same. Yet when it comes to the pedagogy of legal analysis, we sometimes disregard our training by relying on observations and anecdotal evidence. Specifically, we may be assuming that the vast majority of our students are visual and/or tactile learners because they have grown up using computers, and we see students using computers all the time. Implicit in our assumption is that learning styles are determined by environmental factors alone or that students' awareness of their strengths lead them to capitalize on their personal learning-styles. Could we be doing more harm than good by relying on techniques and technology in the classroom that, in reality, may be incompatible with the way most of them learn?

The term "learning style" refers to the way in which an individual begins to concentrate on, process, internalize, and remember new and difficult academic information or skills.[1] According to the Dunn and Dunn Learning-styles Model originated by Drs. Rita and Kenneth Dunn, there are twenty-one elements that affect learning. These elements are divided among five categories or factors: environmental, emotional, sociological, physiological, and psychological.[2] With respect to the physiological factor, there are five perceptual modalities that include tactile, kinesthetic, auditory, visual, and auditory/verbal—a fairly new classification that describes those persons who learn concepts by articulating them aloud.

After having assessed the learning styles of law students for over a decade, these assessments show a diverse mix of preferences represented in the typical law school classroom. Less than 30 % of law students have strong auditory strengths, 20% demonstrate a preference for tactual learning, 15% are kinesthetic learners, whereas only 10% are visual learners.[3] Research suggests that today's students reflect a different allocation of learning styles than the faculty who teach them—who are less tactual in their learning-styles preferences than their students.[4] However, our tendency to assume that the majority of Generation X and Y students are visual and tactile learners, or that the allocation of learning styles within these groups is less diverse than the people who teach, them is plainly incorrect.

> *However, our tendency to assume that the majority of Generation X and Y students are visual and tactile learners, or that the allocation of learning styles within these groups is less diverse than the people who teach, them is plainly incorrect.*

For some students, the use of classroom computers may indeed be helpful—but perhaps for reasons other than the ones we assume. The 20% who are tactual learners may find laptops helpful, not as visual tools, but instead as an opportunity to use their hands to learn by typing. PowerPoint presentations, on the other hand, might only be reaching the relatively small number of students who are visual learners and, as a result, may be leaving others cold.

Researchers are only beginning to understand the neurological and psychological roots of learning styles and the extent to which they are determined by environmental factors versus brain functions, or a combination of both.[5] At present, research suggests that learning styles can change over a lifetime, but that any such change occurs slowly.[6] Students' learning styles undergo transition in their early years of education, and continue changing through their adulthood.[7] "Nevertheless, individuals change uniquely and, although many change patterns exist, some people hardly change at all and others experience rapid and multiple changes."[8] The pervasiveness of the use of computers by our students does not mean that society is producing more students who are homogenous in their learning styles.

No single teaching method is suitable for all law students and, ideally, law professors must continue to use a variety of teaching techniques to reach the diversity of learning styles of all students. Because our students have grown up with computers does not mean that computers are compatible with their natural learning styles. We should not make automatic associations, lest we become the blind leading the blind.

Research Diagnostics: An Interactive Assessment Tool

Samantha A. Moppett, Suffolk University Law School

Teaching to the diverse learning styles of students is one of the hallmarks of a great professor. Students are more likely to retain the information and achieve a higher level of thinking if professors incorporate a variety of teaching methods that respect the various ways that students absorb information into their curriculum.[1] While this is not a new revelation, I must confess that when I began teaching, the research instruction that I provided to my students did not respect all learning styles.[2] Rather, it consisted of assigned readings in the text followed by a lecture and classroom discussion. Based upon the information that they had read and that we had covered in class, the students were then sent to the library to complete a research assignment for a grade.

Although the instruction was tailored to verbal learners—those who absorb information through reading material, aural learners—those who absorb information by listening to lectures, visual learners—those who absorb information through pictures or diagrams,[3] and oral learners—those who absorb information by discussing ideas, I was ignoring tactile and kinesthetic learners—those who absorb information by doing.[4] Accordingly, in an effort to acknowledge and validate the learning styles of all my students, I incorporated Research Diagnostics into the legal research instruction that I provide to my students before they conduct research in the library for a grade.[5]

The Diagnostics

Throughout the year, the students are required to complete five Research Diagnostics that correspond to the five major sources that we discuss—Reporters, Digests, Statutes, Citators, and Secondary Sources. Each diagnostic consists of ten multiple choice and true/false questions that are based upon the reading in the text.[6] For each diagnostic, there is an accompanying PDF file that they must reference to answer some of the questions. These PDFs are "sample pages" that are similar to the sample pages in the text. By asking students to identify items on the sample pages, the students are forced to review the sample pages in the book.[7] For example, the PDF file for the Digests Diagnostic includes sample pages from a Descriptive Word Index and the Digest, and students are asked to identify topics, key numbers, and headnote blurbs.

In the past, I have administered the diagnostics in various ways. Currently, the Research Diagnostics are posted on-line on Blackboard. The students have approximately one week to complete the diagnostic and they must complete it prior to the class when we discuss that source. The diagnostics are open book, but the students are required to complete the diagnostic individually.[8] Upon completing the diagnostic, the students immediately receive their results.[9]

The Research Diagnostics force the students to interact with the material in the text to answer the questions.

The Results

Overall, I have found the Research Diagnostics to be a success. First, they respect the diverse learning styles of my students.[10] Although the Research Diagnostics were designed to specifically accommodate the tactile or kinesthetic learners, the diagnostics are beneficial to all of my students. Many students learn better if their dominant method of absorbing information is complemented with tactile or kinesthetic learning.[11] In fact, fewer than thirty percent of the students taught through traditional lecture and discussion absorb the information, and the students only retain ten to twenty percent of that material.[12] Since incorporating the Research Diagnostics, I have noticed that my students have a better understanding of the research process. The Research Diagnostics force the students to complete the required reading before class. Accordingly, they ask insightful questions during class and competently answer the questions that I pose, rather than sitting silently while I regurgitate the information in the text.

Second, the Research Diagnostics encourage active learning.[13] Active learning enhances learning and takes place when students do more than listen.[14] The Research Diagnostics force the students to interact with the material in the text to answer the questions.

Third, the Research Diagnostics provide the students with prompt feedback, allowing them to evaluate whether they understand the research process that they read about in the text.[15] It has been widely recognized that "students need frequent opportunities to perform and receive suggestions for improvement" because "[k]nowing what you know and don't know focuses learning."[16] As soon as the students have completed the ten-question diagnostic, they are told how many questions they have answered correctly. In addition to this tally, the students are provided with each question, the correct answer, and their answer. This feedback provides the students with an

Research Diagnostics: An Interactive Assessment Tool

opportunity to "reflect on what they have learned" and "what they still need to know."[17]

Fourth, the Research Diagnostics not only provide an opportunity for the students to assess their understanding of a topic, they also allow me to evaluate where the students are confused.[18] This learner-centered assessment focuses on what the students have learned and allows me to enhance their learning in the classroom.[19] Specifically, before class, I review the students' results on-line, and then make sure that I focus the lecture and discussion on the areas where the students are struggling.

Finally, the Research Diagnostics acknowledge that "today's students may learn most effectively when they receive information through an electronic medium."[20] Administering the diagnostics on-line forces the students to "interact with the information."[21] In addition, the Research Diagnostic holds the students attention, ensuring that they retain the material in the text.[22]

One of the wonderful and intriguing things about teaching is the continual challenge to develop a curriculum that will help all of my students, regardless of learning style, to "get it." The Research Diagnostics have brought me one step closer to ensuring that my students reach their full potential.

1 *See* M.H. Sam Jacobsen, *A Primer on Learning Styles: Reaching Every Student*, 25 Seattle U. L. Rev. 139, 142-143 (2001).

2 Many things determine a student's learning style. *See generally* Jacobsen, *supra* n. 1. Here, I am focusing on how law students absorb information. *See generally* M.H. Sam Jacobson, *How Law Students Absorb Information: Determining Modality in Learning Style*, 8 Leg. Writing 175 (2002).

3 The diagrams in the text and the PowerPoint slides used in class acknowledged visual learners.

4 *See* Jacobsen, *supra* n. 1, at 151-157.

5 I have also incorporated Library Research Labs into the curriculum to acknowledge tactile and kinesthetic learners. For a description of the Library Research Labs see Samantha A. Moppett & Rick Buckingham, *Library Research Labs: A Hands-On Approach to Taking the First Step with Your Students to Reflect Good Practice in Legal Education*, 14 Perspectives: Teaching Legal Res. & Writing 73 (2006). The optional Library Research Labs "give students the opportunity to tackle their first legal research exercises as part of a small group with the ready assistance of a reference librarian and an LPS professor." *Id*. at 75.

6 Currently, the students' research text is Amy Sloan, *Basic Legal Research: Tools and Strategies* (3d ed. 2006).

7 The use of sample pages recognizes those students who absorb information visually.

8 The Research Diagnostics are a graded check assignment.

9 One of the biggest benefits to administering the Research Diagnostics through Blackboard is that Blackboard grades them immediately. Therefore, I am not adding any additional grading burden.

10 Respecting diverse talents and ways of learning is one of the Seven Principles of Good Practice in Legal Education ("Seven Principles"). *See generally* Gerald F. Hess, *Seven Principles of Good Practice in Legal Education: History and Overview*, 49 J. Legal Educ. 367 (1999). These principles are based upon the Seven Principles of Good Practice in Undergraduate Education. See Arthur W. Chickering & Zelda F. Gamson, *Seven Principles for Good Practice in Undergraduate Education*, AAHE Bull., Mar. 1987, at 3. The Seven Principles of Good Practice in Legal Education were developed to enhance student learning, improve law school teaching, and increase the satisfaction of faculty and students. Hess, 49 J. Legal Educ. at 367-368. For a discussion of principle seven, respecting diverse talents and ways of learning, see Paula Lustbader, *Principle 7: Good Practice Respects Diverse Talents and Ways of Learning*, 49 J. Legal Educ. 448 (1999).

11 *See* Jacobsen, *supra* n. 1, at 155.

12 *See* Robin A. Boyle & Lynne Dolle, *Providing Structure to Law Students— Introducing the Programmed Learning Sequence as an Instructional Tool*, 8 Leg. Writing 59, 63 (2002).

13 This is the fourth Principle of Good Practice in Legal Education. *See supra* n. 10 and accompanying text; *see generally* Gerald F. Hess, *Principle 3: Good Practice Encourages Active Learning*, 49 J. Legal Educ. 401 (1999).

14 *See* Hess, *supra* n. 13, at 401-402.

15 This is also one of the Seven Principles. *See supra* n. 10 and accompanying text. For a discussion of this principle, see Terri LeClercq, *Principle 4: Good Practice Gives Prompt Feedback*, 49 J. Legal Educ. 418 (1999).

16 *See* LeClercq, *supra* n. 15, at 418 (quoting W. Chickering & Zelda F. Gamson, Seven Principles for Good Practice in Undergraduate Education, AAHE Bull., Mar. 1987, at 3, 5).

17 *See* LeClercq, *supra* n. 16, at 418.

18 *See* Kristen B. Gerdy, *Teacher, Coach, Cheerleader, and Judge: Promoting Learning Through Learner-Centered Assessment*, 94 Law. Libr. J. 59, 69 (2002).

19 *See id*. at 68.

20 Marie Stefanini Newman, *Not the Evil TWEN: How Online Course Management Software Supports Non-Linear Learning in Law School*, 5 J. High Tech. L. 183, 183 (2005).

21 See Tracy L. McGaugh, *General X in Law School: The Dying of the Light or the Dawn of a New Day?*, 9 J. Leg. Writing 119, 136 (2003).

22 *See id*.

The Next Step
The Rock and Roll of Legal Writing

Ruth M. Hargrove, California Western School of Law

Legal writing teachers know that legal writers cannot educate or persuade their reader if they bore the reader to tears. "Seize the reader by the lapels!" I routinely exhort my students. "Get the Judge at hello!" I bellow. How, then, do we seize our students' imaginations while teaching them active voice, subject-verb sentence structure, and the benefits of strong nouns and verbs? How do we educate and persuade our students while "seizing them by the lapels" and "getting them at hello"?

How, then, do we seize our students' imaginations while teaching them active voice, subject-verb sentence structure, and the benefits of strong nouns and verbs?

To reach students with different learning styles, I sometimes teach these fundamentals with Rock and Roll music. This way, students simultaneously hear, see, and engage with the material. I provide the students with excerpts from the written lyrics to a song, and they listen to it as they mark the lyrics with the different structural elements.[1]

To teach students the benefits of strong nouns and verbs, I play Bruce Springsteen and Van Morrison. Both illustrate the exception to the "eschew adjectives" rule. They use a technique I call double (or sometimes triple) noun-ing: they replace standard adjectives with nouns, with powerful results.

For example, in *Born to Run*, Bruce paints vivid images because he doubles or even triples up on his nouns[2]:

Bruce evokes his despair when he mourns a "**runaway American dream**;" knowing he can't capture it, he dulls the pain of its loss by tearing through the decayed Jersey streets on his "suicide machine."

Bruce pairs his short but vivid nouns: **day**, **night**, **town**, **bones**, **back**, and **tramps**, with equally short, vivid verbs: *sweat, ride, rips, born,* and *run*.

Their sum is that Ode to working class frustration:

"In the day we *sweat* it out in the **streets** of a
runaway American dream
At night we *ride* through **mansions** of **glory** in
suicide machines
…
Baby, this **town rips the bones** from your **back**
It's a **death trap**, it's a **suicide rap**
We gotta get out while we're young
`Cause **tramps** like us, baby we were *born* to
run…"

To demonstrate that passive voice steals meaning from the most evocative image, I sometimes have the students rewrite "active Bruce" to "passive Bruce."

Their results:

"The mansions of glory were ridden through by us," and "Baby, the bones were ripped from your back by this town," illustrate the point.

Like *Born to Run*, Springsteen's *Thunder Road* shows the power of small, carefully chosen words, especially when the sentence starts with its subject and a verb follows. As they listen to the lyrics, students read and mark them, both seeing and hearing that small words can eloquently convey meaning out of all proportion to their diminutive size:

"The <u>screen door</u> *slams*
Mary's <u>dress</u> *waves*
Like a <u>vision</u> she *dances* across the <u>porch</u>
As the <u>radio</u> *plays*
…
You can *hide* 'neath your <u>covers</u>
And *study* your <u>pain</u>
Make <u>crosses</u> from your <u>lovers</u>
Throw <u>roses</u> in the <u>rain</u>
Waste your <u>summer</u> *praying* in vain
For a <u>savior</u> to *rise* from these <u>streets</u>
…
Hey what else can we do now
Except *roll down* the <u>window</u>
And let the <u>wind</u> *blow back* your <u>hair</u>
Well the <u>night's</u> *busting* open
These two <u>lanes</u> *will take* us <u>anywhere</u>…"[3]

Perhaps even more than Bruce, Van Morrison may be the undisputed master of the short, powerful verb and noun combination. His imagery in Into the Mystic is so vivid that the listener can smell the salt in the ocean air. But his best image of all time may be when Van croons that he wants to rock my (double-nouned) gypsy soul; I'd follow him anywhere.

"…We were *born* before the **wind**
Also younger than the **sun**
Ere the bonnie **boat** was *won* as we *sailed* into the
mystic
Hark, now *hear* the **sailors** *cry*
Smell the **sea** and *feel* the **sky**
Let your **soul** and **spirit** *fly* into the **mystic**
And when that **fog horn** *blows*, I will *be coming*
home
And when the **fog horn** *blows*, I *want* to *hear* it
I don't have to *fear* it
And I want to **rock** your **gypsy soul**…"

Using Student Learning Preferences to Compare and Contrast Objective Memo Writing with Essay Exam Writing

Jeff Minneti & Catherine Cameron, Stetson University College of Law

We have recognized that our students have diverse learning preferences and that our teaching is most effective when we provide students with opportunities to learn information tactilely,[1] verbal kinesthetically,[2] and through visual pictures.[3] The tactile learners need an opportunity to actively engage with the material as opposed to passively listening to the material.[4] Verbal kinesthetic learners learn best when they have an opportunity to speak with one another about the material so they can form and test their understanding of the material as they speak.[5] By talking through the information, the learner interacts with it in a meaningful, memorable way. The visual picture learners learn through the creation and study of visual pictures that graphically organize and display information.[6]

In light of these learning tendencies and in an effort bridge a gap in the students' curriculum between legal writing and exam writing, we designed a class that we found to be successful when incorporated into the legal writing curriculum towards the end of the semester.[7]
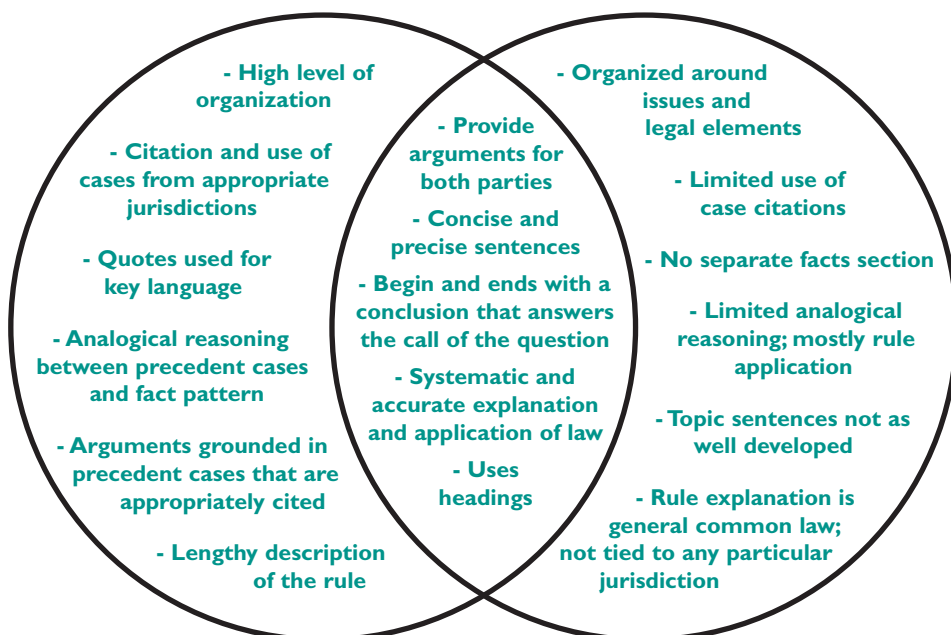
The class has three stages. First, we give the students a single fact pattern and two writing samples–one of a memo that addresses the fact pattern and one of an exam response based on the same fact pattern. We give the students a chance to read through these samples and then ask them to identify the memo sample, identify the exam sample, and then compare and contrast the writing samples. The first stage appeals to the tactile learners because the students can hold the physical documents, read, identify, and compare the memo and exam responses side by side and then write about the comparison. The students do not listen to a presentation about which document is the memo and which is the exam response or about the similarities and differences between the two; they figure it out for themselves.

Second, we break the students into groups of three or four and ask them to talk with one another about their conclusions regarding the documents, focusing on the documents' similarities and differences and the reasons for those similarities and differences.

> *The process of speaking, listening, and responding engages the students in a way that reading the material or listening to the material does not.*

This activity gives the verbal kinesthetic learners an opportunity to formulate and test their understanding of the material. The process of speaking, listening, and responding engages the students in a way that reading the material or listening to the material does not. We break the students into small groups to give more students an opportunity to speak and to provide a setting where more students would feel safe sharing their understanding of the material.

Lastly, we reconvene the class and ask the students to help us generate a Venn diagram on the blackboard. The diagram consists of two overlapping circles, one representing the memo characteristics and the other representing the exam response characteristics. Where the circles overlap represents characteristics the documents have in common. We then ask the students to tell us what similarities and differences they have noticed in the two documents while talking with their small groups to fill in the appropriate circle of the Venn diagram. The process of representing the concepts in graphic form appeals to the visual picture learners. We recognize that those learners will only understand the similarities and differences between the writing products when

Left circle:
- High level of organization
- Citation and use of cases from appropriate jurisdictions
- Quotes used for key language
- Analogical reasoning between precedent cases and fact pattern
- Arguments grounded in precedent cases that are appropriately cited
- Lengthy description of the rule

Overlap:
- Provide arguments for both parties
- Concise and precise sentences
- Begin and ends with a conclusion that answers the call of the question
- Systematic and accurate explanation and application of law
- Uses headings

Right circle:
- Organized around issues and legal elements
- Limited use of case citations
- No separate facts section
- Limited analogical reasoning; mostly rule application
- Topic sentences not as well developed
- Rule explanation is general common law; not tied to any particular jurisdiction

Learning by Doing and Doing After Learning: Creating a Legal Writing Course in Which Extroverted and Introverted Learners Thrive

Danielle M. Shelton, Drake University School of Law

Although students come to law school with different degrees of extroversion and introversion, most law school classrooms tend to best suit those students who are extroverted. In contrast, the learning experience outside of the classroom tends to best suit those students who are introverted.

I try to bring to my legal writing course a teaching style that recognizes and values the different learning styles of extroverts and introverts, both inside and outside the classroom. The contrasting learning styles of introverts and extroverts have been well-studied.[1] As a result, we know that these learning styles are not a matter of being shy versus outgoing; rather the difference lies in where a person focuses her energy while learning and thus the process by which she learns. Extroverts focus on their external environment and thus "learn by experiencing."[2] They think as they speak, learn as they go. Their engagement with their external environment is what helps their thoughts and ideas to become clearly formed.

In contrast, introverts learn best by focusing their attention on their internal world, i.e., the ideas swirling in their heads. They need time to reflect so that these ideas become formed into concepts and theories that make sense. They share their understanding of material, but not until their thoughts have been polished and well-formed through their internal dialogue. And while both introverts and extroverts can learn the "skills" of one another—that is, extroverts certainly can learn to work alone and introverts can learn to speak up—their basic learning styles are not malleable.

So, how do I try to engage both the extroverted and introverted learning styles? First, in the classroom, I generally do not call on people unless they volunteer. Introverts will not be terribly helpful in moving along the class discussion if put on the spot, and extroverts will raise their hands on their own. Their learning style is such that they need to speak up to process the material. Even so, I want to ensure that introverts contribute to the class in a meaningful way. Thus, I offer chances for students to break into small groups, sort through an exercise together, and then report back to the class. This gives more introverted students time to do the mental work and assimilation that they need to do to focus on the big picture.

In addition, I try to encourage participation from introverted students by broadly defining "class participation." I label it "course participation" to signal that not all participation happens in the classroom. Students can post to the on-line "discussion" page for our course. Sometimes their posts relate to a particular assignment I have given them specifically to post responses on; other times, their posts relate generally to questions about the class materials, cases, assignments, etc. The discussion board allows introverted students to contribute after they have internally processed the material.

Still, outside of the classroom, the equilibrium shifts such that adjustments must be made to accommodate students with an extroverted learning style. The long hours spent studying alone, written examinations, and writing research memoranda all are best suited for an introverted learning style. To counter this isolated learning, I work to ensure that my course provides opportunities outside of class for extroverted students to "learn by experiencing." I do this in several ways. First, I give students many "skills assignments" that are not graded and on which they can work together. Second, I hold conferences across a two-week period, which enables extroverted learners to sign up for conferences early in the writing process when they can talk through their ideas before they begin writing. While not perfect, these adjustments help the more extroverted students engage with others in the writing process.

My legal writing course works best when I recognize and value students' innate learning styles: I give introverted students time to think and reflect in class, and I give extroverted students chances to externally process and actively learn outside of class.

1 *See generally* Gordon D. Lawrence, *People Types and Tiger Stripes: A Practical Guide to Learning Styles* (Ctr. for Applications of Psychol. Type 1982).

2 Veronica R. Randall, *The Myers-Briggs Type Indicator, First Year Law Students and Performance*, 26 Cumb. L. Rev. 63, 80 (1995). I am indebted to Professor Randall for her research and scholarship that supports the importance of viewing the personality characteristics of introversion and extroversion as learning style variables to be accounted for in the law school environment.

> *And while both introverts and extroverts can learn the "skills" of one another—that is, extroverts certainly can learn to work alone and introverts can learn to speak up—their basic learning styles are not malleable.*

Quick Tip: Tips on Teaching Grammar
Providing Feedback on Grammar and Punctuation Errors

Hether C. Macfarlane, Pacific McGeorge School of Law

Ask any legal writing teacher a question about his or her students' grammatical and punctuation skills, and you're likely to get wearied comments about comma splices, problems with distinguishing between "it's" and "its," and plural pronouns used to represent singular nouns, particularly the ever-present "they" referring to a court. My feedback options for these problems were always limited and were never pedagogically satisfying. I could correct every mechanical error, thereby editing the paper for the student. Or, I could correct one example of each error on the paper and add a comment at the end that the student should find similar errors and make the appropriate corrections, trusting that the student would follow up.

> *Now when I find an error in a student's paper, I circle the error in green pen (my other comments are in pencil), write the section or sub-section number above the error, and check the appropriate box on the chart.*

I've tried both of these approaches over the many years, but I've never been happy with either of them. The first method showed I knew the rules, but it didn't give the students any incentive to learn them. The second method provided more incentive, but it left the students without sufficient guidance. And neither method allowed me to gauge its effectiveness because we grade all papers anonymously. Two years ago, I came up with a method that I believe encourages students to learn

the rules they don't already know and also allows me to follow their progress.

That year we adopted Anne Enquist and Laurel Currie Oates's *Just Writing*[1] as a required text. Looking through it, I noted that the chapters on grammar and on punctuation were each divided into numbered and named sections. Using those section numbers and titles, I created a one-page chart that I now attach at the back of every student paper handed in for a grade. The chart has two columns: the left column lists every section and sub-section number from the *Just Writing* chapter on grammar, and the right column lists every section and sub-section number from the chapter on punctuation. For the sections, I also include the topic of the section. To the left of each section number I put a box that I got from the symbols menu of my word processing program. Now when I find an error in a student's paper, I circle the error in green pen (my other comments are in pencil), write the section or sub-section number above the error, and check the appropriate box on the chart.

I tell the students it is up to them to look at *Just Writing* to figure out what their error was and how to correct it. When I see a grammatical error that many students make, I discuss that error in class. However, for the rest of the errors, I leave it up to the individual students to learn the rule and apply it. I keep a copy of each sheet and make a master sheet before the final assignment of the year that shows every error each student has made during the year. I have the Registrar send each student a copy of his or her master sheet through our campus mail system, and I then tell the students that I will mark more harshly for repeat errors in the final memo than for "new" errors.

This method seems to be more successful, at least judged from the students' final papers. Last year I managed to read twenty final papers

without finding a single plural pronoun that referred to a singular noun. In addition, aside from the approximately thirty minutes it takes to fill out the master sheet in March, this method has not added significant time to my grading. Next year, I will adapt the system by telling the students that I expect every paper not to repeat the errors of the ones before it. I hope that way I'll read fewer incorrect plural pronouns during the year and the students will have more opportunities to practice correct writing mechanics.

1 Anne Enquist, Lauren Curry Oates, Just Writing: Grammar, Punctuation, and Style for the Legal Writer (Aspen 2005).

Welcoming the Student on the Autistic Spectrum into the Legal Writing Classroom

Teresa Kissane Brostoff, University of Pittsburgh School of Law

As the increasing incidence of autistic spectrum conditions makes its way into the United States consciousness, educators turn their thoughts to the process of teaching these differently-abled students. While much research has been done on techniques for teaching preschool, elementary, and secondary school students, information and research on teaching college and graduate students is lacking. However, students on the autistic spectrum, primarily with Asperger's Syndrome, are entering graduate schools and law schools at an increasing rate. Students with Asperger's Syndrome have above-normal or normal intelligence, but may experience an inability to glean social expectations from the social contexts, a lack of empathy, an inability to form social relationships with peers, and a need for rules for their behavior. They may also understand communications quite literally and have a tendency to have singular interests. These characteristics present challenges to the student entering law school and for those teaching him or her. While teaching students with Asperger's Syndrome over the past few years, I have tried to develop techniques to become a better teacher to those students.

Learn about the condition. Understanding the particular characteristics that affect learning and social interactions in Asperger's Syndrome students is important. The legal writing professor can gain knowledge by reading general information about the condition, consulting the university or law school's disabilities office, and attending educational programs on higher education and autistic spectrum conditions. Reading about and attending programs on autistic spectrum conditions in higher education gave me a better understanding of the students' perspectives on the classroom and on interacting in society. The challenge was to bring this theoretical knowledge into the classroom in a way that advanced learning for the student with Asperger's Syndrome, and for all the students. These techniques are among those that seemed to help.

Including students on the autistic spectrum in the law school community provides an opportunity for students and professors to experience new ways of seeing the world, themselves, and the law in its many applications.

Explain all expectations in great detail, both verbally and in writing, and never expect vocal inflection or facial expression to carry your meaning. Students with autistic spectrum conditions need specific and frequent explanations of classroom expectations, including conduct during full-class discussions and small-group exercises, requirements for written assignments, directions regarding how to arrange meetings with the professor, and the process for receiving individualized feedback from the professor or the teaching assistants. Expect to frequently reinforce this information as coping with the law school classroom will be a new experience and the student with an autistic spectrum condition, as many other students, may take some time to adjust to it. While giving extremely detailed explanations may seem cumbersome, all students benefit from knowing explicit expectations for the course and the classroom. In addition, providing verbal and written directions serves auditory and visual learners.

Be available, but set appropriate limits on student-professor interactions. Because peer interactions are quite difficult for students on the autistic spectrum, they may feel more comfortable interacting with the professor. These sometimes frequent meetings can help the professor establish a rapport with the student and provide an opportunity for individualized instruction. However, some limit-setting on when the professor is available and how the student should approach the professor may be necessary. Additionally, while a lack of eye contact is common for these individuals, it should not be a barrier to good communication with the student. Do not take it personally if the student does not look at you while conversing; but as the student begins to feel comfortable, he or she may provide some occasional eye contact.

Carefully arrange peer or teaching assistant contact. When forming small class groups that include a student with an autistic spectrum condition, carefully choose other students who will be helpful when interacting with those who experience the world differently. The students selected may also need to take in stride very direct comments. Instructing teaching assistants to give kind, unambiguous and consistent feedback on writing assignments helps the student to succeed and to have fellow students with whom to interact.

Keep an open mind. Including students on the autistic spectrum in the law school community provides an opportunity for students and professors to experience new ways of seeing the world, themselves, and the law in its many applications. Assisting these students in understanding law school and its complex social schemes facilitates their potential for success. In turn, these students enrich the academic environment and the legal society into which they will enter.

Using Technology to Teach to Different Learning Styles

Kristen E. Murray, George Washington University Law School

I have always tried to be mindful of different learning styles in my interactions with students both in and out of the classroom. In class, I have adopted a "say, show, do" method of classroom presentation to accommodate auditory, visual, and kinesthetic learners, respectively. Recently, I have tried to broaden my range of teaching methods by using technology in my legal writing courses, and have discovered ways in which technology can facilitate learning across a range of different learning styles.[1]

As millennial and even neomillenial learners arrive in law school classrooms, teachers need to consider incorporating technology into their teaching both inside and outside the classroom.[2] These relatively simple examples demonstrate how we can bridge the gap between traditional classroom teaching and the technology-focused world in which we now reside.[3]

Use PowerPoint slides to present information in different formats simultaneously. A common misconception about PowerPoint presentations is that the content of the entire presentation should be contained on the slides. I use PowerPoint in most of my classroom presentations, but I do not always use them to cover every topic and point I need to make. PowerPoint can be particularly useful for providing substantive information in multiple formats. For example, when discussing the structure of a multiple-issue memo, I use a slide that contains both the language from our textbook and an accompanying diagram, and I read the slide aloud when I present it to the class. Even when I do not teach from a full PowerPoint presentation, I incorporate this slide in almost every class and present it the same way each time; this presentation allows students to hear, see, and show the material,

and thus accommodates different types of learners.

Circulate teaching notes or class outlines by e-mail before class meetings. Some learners across all learning styles can benefit from the distribution of information prior to a class session. Circulation of lecture notes, or even just the major points of discussion, allows some learners to begin to process the information, while others may use the notes as a foundation for in-class note-taking. For example, when I plan to teach from a thorough PowerPoint

> *In class, I have adopted a "say, show, do" method of classroom presentation to accommodate auditory, visual, and kinesthetic learners, respectively.*

presentation, I provide a "skeletal" version to the students in advance; the only content I include in this version is the headings on each slide. Students can then take notes in that document when I show the full presentation in class, or wait until after class when I circulate the full version. Again, here students can read, listen, and engage with the materials, according to their learning preferences.

Use document sharing programs to create collaborative writing assignments. Teachers can also use technology to accommodate students' varied learning styles as students work on collaborative writing assignments. Programs such as GoogleDocs allow a class of students and their

teacher to be co-authors of the same document.[4] Teachers can write instructions in a document and ask students to access it during class, as the basis for an in-class writing assignment. When I have done this, I have asked all the students to access the document, and I read the instructions aloud (students can follow along with the written version). I then usually pair them with another student to discuss the assignment, and work within the shared document to post their written work product. The availability of this information on the Internet allows students to read and review their own work and that of their classmates after class in a way that meets their own learning style.

Stimulate class discussion by using e-mail or a threaded discussion forum. Students across all learning styles sometimes need time away from the classroom material to digest and process the information presented. Technology can facilitate class discussion that goes beyond the four walls of the classroom. For example, a teacher may send the class a follow-up e-mail to stimulate discussion once class is over. Similarly, such a discussion may take place on a message board or threaded discussion forum.[5] I require that students post their questions about major writing assignments in a discussion forum on our course web page, so that others may benefit from the information; other teachers I know have required that students post a message to the class about research strategies or other topics, as a way of stimulating class interaction. Students can then read, think, see what others have written, and write their own responses, finding a place for their own learning styles in these interactions.

Using the VARK: A Writing Department's Commitment to "Turning the Light Bulbs On"

Christine E. Rollins, Saint Louis University, School of Law

As the new Director of the Legal Research and Writing Program, one would think I would be busy enough hiring and mentoring new writing faculty, doubling the capacity of our Appellate Advocacy Program, and working on various faculty committees. Somewhere during the summer, however, several members of our department decided this would be the year we were going to make a department-wide commitment to adapt our classroom teaching styles to more fully engage our students through their personal learning style preferences.

St. Louis University School of Law purchased the VARK software package from www.vark-learn.com. This package allowed each of our incoming students to take a brief, thirteen question quiz. The software lets the students know their preferred method of learning, based upon the answers chosen. The results given are: visual, audio, reader/writer, kinesthetic, or multimodal. We required each member of the incoming class to log-on and take the quiz. Over eighty-five percent, which is almost 300 students, completed this task in a three-day period.

The information gathered has allowed writing faculty to tailor how they deliver the material they are teaching. Many of us have started identifying exercises or methods of teaching which will impact different learning styles. We choose to present materials in more than one way to assure that more students get the concepts in their own "language." For example, self-editing exercises for visual learners utilize various highlighter colors to show the students the flow of the assignment on a large scale and small scale basis. Cutting up "good student samples," i.e. manual manipulation of the samples, seems to allow kinesthetic learners to feel how an analysis should be put together and flow.

For the first time this fall, we also offered a VARK/CREAC workshop. It was strategically scheduled during the semester after each faculty member had introduced the format, but before the students' first assignment was due. This allowed students who were struggling to understand the formula, to come to a twenty-minute presentation taught by one of the faculty who where masters at

> *The information gathered has allowed writing faculty to tailor how they deliver the material they are teaching. Many of us have started identifying exercises or methods of teaching which will impact different learning styles.*

presenting the information in one specific way: visual, audio, reader/writer or kinesthetic. For example, auditory learners were presented with a way to hear how fact-to-fact comparison paragraphs should flow: precedential fact—compared to current fact—and then tell me why a court would care…precedential fact—compared to the current fact—and then tell me why a court would care…

In addition, the Department has collaborated with Academic Support faculty. While the

Academic Support faculty have for years talked to students about learning styles and spent hours presenting materials in various ways, this year they know their audience has taken the quiz and received feedback on learning preferences. Workshops are planned which are tailored to the various learning styles. For example, the workshop on creating outlines has suggestions for each learning style to create an outline that would be more helpful to the way they take in, organize, and reproduce material.

There are many tools available to assist students and faculty to assess their learning style preferences.[1] We would recommend using one to learn about yourself and your audience. Once students and faculty are armed with this information, each can make choices to "turn the light bulbs on."

[1] Another such test is the Index of Learn Styles. To access see http://www4.ncsu.edu/unity/lockers/users/f/felder/public/ILSpage.html.
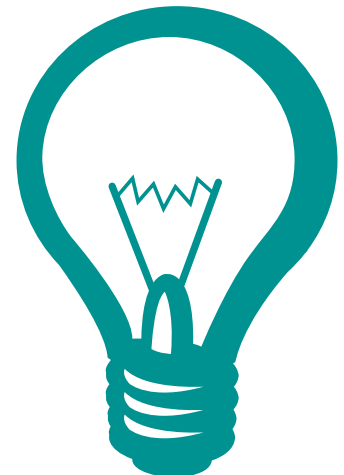
Teaching to Different Learning Styles: The Kinesthetic Learner

Nancy Soonpaa, Texas Tech University School of Law

When we consider sensory-based learning styles, we often focus on auditory and visual learners, but are stymied by how to reach kinesthetic learners—those who learn best by physically interacting with information or by using their bodies as an integral part of their learning process. Here are three ways that I incorporate exercises with a kinesthetic component, as well auditory and visual components, into the legal writing classroom.

The law as jigsaw puzzle

A fun technique for teaching argumentative headings that emphasizes organization and relationships is to have students put the pieces together—literally. First, I draft several sets of argumentative headings for both sides of an issue on appeal. I draft bad headings as well as good, and sometimes I even vary the font to teach font conventions. I also number the headings (1, 2, 3, 4) in the margin. I print out one set for each small group of students, then slice up the pages horizontally.

Each group gets a complete—but jumbled up—set of headings and is instructed to select from the choices, put them together into a complete set of headings (for an issue or for the entire brief), and be prepared to defend the choices made. After ten minutes or so, each group either sends a reporter up front to assemble the headings on the document camera or calls out its numbers to me, and I quickly assemble their selections. The reporter and group then explain their choices to the class.

In explaining and discussing choices, the entire class becomes involved in analyzing whether a set of headings works and also discovers the possibility of several effective ways to combine headings, organize issues, etc. By helping to create this range of options, they have a pattern of success to build on when they draft their own headings, as well as a model for using manipulatable items in their learning.

A similar approach can be used to teach effective paragraphing by offering a selection of topic and thesis sentences, concluding sentences, and substantive content, then letting the students construct and critique paragraphs of their own making.

While legal analysis is a mental task, its expression has a physical component that requires practice.

The power of symbolic movement and positions in the classroom

At key times in the semester, I have the students change positions in the classroom. At the start of the persuasive writing sequence, I have the students separate according to which party they represent—appellants on one side of the room, appellees on the other—to physically demonstrate the separate and distinct perspectives from which they will be creating and presenting arguments. In contrast, during the first semester I intermingle the students and de-emphasize which party each represents to emphasize the cooperative learning community of the first semester legal writing classroom.

Playing a role and practicing the skill

Whenever we discuss a skill that has a physical component, whether checking a pocket part in a book or offering an introduction at oral argument, I demonstrate the physical aspect of the skill, have the students do it, or both. I extend the concept of muscle memory to "mental muscle memory": the more they do a skill, even a cognitive one—not just think about it or read about it—the more it becomes second nature. Even confidently walking up to the podium and setting out notes is a skill that 1-Ls can find intimidating.

I also suggest that they talk out their oral arguments—not just read their briefs, the cases, their arguments, but actually orally say the words. Students often do not engage in an extended, organized, eloquent conversation about the issues they have been writing about for weeks (writing conferences are often not organized or eloquent!). So we practice speaking the introduction, not just reviewing its content; answering the questions, not just talking about the types of questions that judges ask; and incorporating authority into argument, not just mentioning the importance of doing so. While legal analysis is a mental task, its expression has a physical component that requires practice.

Law students are so frequently focused on reading their casebooks and typing endlessly at their laptops that they do not physically do much else in their legal studies. By incorporating more physical activities to meet the kinesthetic learners' needs and to just plain vary the routine for the others, the legal writing classroom becomes a more dynamic setting in which students actively interact with information in order to master new skills.

No 1L Left Behind: Tailoring IRAC Instruction to Various Learning Styles

Rebecca L. Scharf, William S. Boyd School of Law/UNLV

Like many of us, I have agonized over what makes certain first-year law students grasp the organizational paradigm (IRAC, CREAC, FORAC, etc.) very quickly, while others resist it long into their first semester (and sometimes their first year) of law school. In an effort to reach every student, I decided to deliberately teach the paradigm to *each* learning style, rather than merely create exercises that use a variety of teaching methodologies.

At the beginning of the first semester, I talk to my students about learning styles,[1] explaining that most of us are a mix of different learning styles, with one or two predominating.[2] For students in the first few weeks of law school, to hear that you will be paying attention to their individual learning styles while they are feeling patently invisible in their other classes is a watershed moment in itself.

Once I have discussed learning styles, I introduce the concept of the paradigm in class by briefly lecturing on it (targeting *aural* learners), and writing the parts of the paradigm on the board in chart form (the chart targets *visual* learners while the motion of a professor writing targets *kinesthetic* learners). As an alternative to writing on the board, I use PowerPoint, but incorporate features such as fading or blinking text in the PowerPoint presentation (targeting *kinesthetic* learners), in addition to multi-colored charts (again targeting *visual* learners). I next ask them to read text that describes the paradigm (targeting *verbal* learners).

In the next class, I administer a brief learning styles "test" to determine each student's primary and secondary learning styles.[3] I categorize the results and share the results with the students individually.

Once I have categorized the results, I give each student a hard copy and an electronic copy of a document where the parts of the paradigm have been rearranged randomly. I then divide the students into groups based on their identified primary or secondary learning styles. I pair students who have demonstrated "aural" and "oral" learning styles together and ask them to rearrange the parts of the document so the paradigm is in the proper order. I instruct the students who are "oral" learners (that is, learn by talking through problems) to explain their choices to the "aural" learner (those who learn best by listening), with the "aural" listener asking follow-up questions.

> *In an effort to reach every student, I decided to deliberately teach the paradigm to each learning style, rather than merely create exercises that use a variety of teaching methodologies.*

Simultaneously, I pair visual learners together and ask them, either on paper or on the computer, to physically move the text from the document into a grid I have labeled with the parts of the paradigm. I give the kinesthetic and tactile learners a series of highlighters and a color code and ask them to label the parts of the paradigm. In the alternative, I ask them to highlight each component of the paradigm using the "highlight" function on their computer. Lastly, I ask the remaining verbal learners to either label the parts of the paradigm on paper or on their computer.

After they have all sent me their answers, I hand out to all of the students a sample of each labeled document (a hand-annotated document, a "highlighted" version courtesy of my color printer, and a completed "grid"), geared toward the various learning styles. We then have a discussion where the students ask questions about the parts of the paradigm, referring to whichever version of the sample document they are most comfortable with.

Although students still ask difficult but appropriate questions about the distinctions between the parts of the paradigm, by the end of this class, they retain what they have learned about the paradigm because they were not only active learners, but were actively learning in a way that allowed them to best process and retain the information.

1 There are many definitions of "learning style." The aspect of learning style that I discuss here refers to how students absorb and process information. For more discussion on types of learning styles and how to apply them in the law school classroom setting, see M.H. Sam Jacobson, *How Law Students Absorb Information: Determining Modality in Learning Style*, 8 Leg. Writing 175 (2002).

2 I go through the different categories of learners: "verbal" learners, who learn best through reading or writing written text; "visual" learners who learn best through using visual tools, such as charts, graphs, and pictures; "oral" learners who learn best through talking through problems; ìauralî learners who learn best through listening, to lectures, audiotapes, etc.; "tactile" learners who learn best through touching; and "kinesthetic" learners who learn best when there is movement in the classroom—when they or the teacher are moving around.

3 For an example of such a test, and instructions on how to analyze the results, see Jacobson, *supra* n. 1 at 182—198.

Using Technology to Teach to Different Learning Styles

Look for teaching resources that already accommodate different learning styles. Many existing technology-based resources—especially internet resources—have built-in features that will appeal to different learning styles. The Oyez Project, a "multimedia archive devoted to the Supreme Court of the United States and its work," is one such example.[6] The web site presents recent Supreme Court oral arguments in an interactive format that includes the audio recording and written transcript of the argument, accompanied by a photo of the current speaker.[7] Thus, this format appeals to several different learning styles, as students have the option of reading, listening, and seeing as they engage with the material.

1. See Kristen E. Murray, *My E-Semester: New Uses for Technology in the Legal Research and Writing Classroom*, 15 Perspectives: Teaching Legal Res. & Writing 194 (2007).

2. *See, e.g.* Chris Dede, *Planning for Neomillenial Learning Styles*, Educause Q., Nov. 1, 2005 at 7.

3. I have the benefit of teaching in a "smart classroom," but most of these techniques can be used in a lower-tech classroom as well.

4. See GoogleDocs, http://docs.google.com/ (accessed Nov. 12, 2007).

5. Such forums for discussion are usually available through course web page programs such as LexisNexis's Web Courses (http://www.lexisnexis.com/lawschool/webcourses/about_wc.asp) or Westlaw's TWEN (http://lawschool.westlaw.com/twen).

6. Oyez, http://www.oyez.org, (accessed Nov. 12, 2007).

7. See Morse v. Frederick – Oral Argument, http://www.oyez.org/cases/2000-2009/2006/2006_06_278/argument/ (accessed Nov. 12, 2007).

The Next Step
The Rock and Roll of Legal Writing

While judges may not admit that they want their souls rocked, my years in trial practice taught me that they are grateful to hear and read clear, eloquent prose. Few teach this lesson better than Bruce Springsteen and Van Morrison.

1. For example, if the purpose of the drill is to teach "subject, verb" sentence structure, the students will mark those components in the lyric, using a yellow highlighter to identify the subjects, and a blue highlighter for the verbs. If the drill seeks to illustrate that powerful writing eschews adjectives in favor of meaningful nouns, the students must use one color to highlight all the nouns in the text.

2. In the following passages, the nouns are bolded and underlined; the verbs are bolded and italicized.

3. "Born to Run" and "Thunder Road" by Bruce Springsteen. Copyright © 1975 (renewed) Bruce Springsteen (ASCAP). Reprinted by permission. International copyright secured. All rights reserved.

The Blind Leading the Blind:
What if They're Not all Visual or Tactile Learners?

1. Rita Dunn & Kenneth Dunn, *Teaching Secondary Students Through Their Individual Learning Styles* 2 (Allyn and Bacon 1993).

2. *Id.* at 3; Rita Dunn, *The Dunn and Dunn Learning-Style Model and Its Theoretical Cornerstone in Synthesis of the Dunn and Dunn Learning-Style Model Research: Who, What, When, Where, and So What?* 1-6 (St. John's Univ. 2007).

3. Robin A. Boyle & Rita Dunn, *Teaching Law Students Through Individual Learning Styles*, 62 Alb. L. Rev. 213, at app. 2 (1998); Robin A. Boyle, *Bringing Learning-Style Instructional Strategies to Law Schools: You Be the Judge!* in *Practical Approaches to Using Learning Styles Application in Higher Education* 158, 160 tbl. 17.4 (Rita Dunn and Shirley A. Griggs eds., Bergin & Garvey 2000); Robin A. Boyle & Lynne Dolle, *Providing Structure to Law Students – Introducing the Programmed Learning Sequence as an Instructional Tool*, 8 Legal Writing Inst. 59, at app. A (2002); Robin A. Boyle, Karen Russo, and Rose Frances Lefkowitz, *Presenting a New Instructional Tool for Teaching Law-Related Courses: A Contract Activity Package for Motivated and Independent Learners*, 38 (1) Gonz. L. Rev. 1, at app. A (2003); Robin A. Boyle, *Employing Active-Learning Techniques and Metacognition in Law School: Shifting Energy from Professor to Student*, 81 U. Det. Mercy L. Rev. 1, at app. A (2003).

4. Robin A. Boyle & Joanne Ingham, *Generation X in Law School: How These Law Students are Different from Those Who Teach Them*, 56 J. Legal Educ. 281 (2006); Renee Leigh Cambiano, *Learning Preferences of the Age Cohorts: Generation X, Baby Boomers, and the Silent Generation* 70 (Ed. D. Dissertation, Univ. of Arkansas 1999) (finding that Generation X students preferred to use manipulatives to learn new information).

5. Rita Dunn, Armin Thies, Andrea Honigsfeld, *Synthesis of the Dunn & Dunn Learning-Style Model Research: Analysis From a Neuropsychological Perspective* 25-33 (St. John's Univ. 2001).

6. *See id.* at 7 ("Learning styles change as people grow older").

7. *Id.*

8. *Id.*

Legal Writing Specialist
Back to Basics: Retro Visual Exercises That Promote Active Learning

A third visual shows the list written in narrative form:

A defendant commits false imprisonment if he intentionally causes another to be restrained or confined to a bounded area. Use of a physical barrier is sufficient restraint for the tort of false imprisonment. *However, neither* moral pressure alone *nor* future threats alone are sufficient to constitute confinement. Further, the confinement must be against the person's will

The italicized transition words help students see that rules can be written fluidly to tell the story of the law for that issue. I also highlight the key terms so students see that the focus of the rule is restraint/confinement—not intent, damages, or anything else.

Rule Scramble Extensions

You can extend this exercise in a number of ways. To further emphasize that rule organization changes depending on the issue, change the facts or the issue and have students create a new, tailored rule. To increase the activity level, have a student mark the text for you, or try "Rule Scramble in a Bag." Break students into small groups and give each group a folder containing rules that have been cut up on separate slips of paper. Then, ask the students to assemble the tailored rule—physically. Have groups share their versions to illustrate that rule order can vary and still make sense.

More Retro Visual Exercises

Retro visuals work equally as well when teaching other legal writing basics. For example, in "Rule Breakdown," I put complex rules up on an overhead, and I notate as the students quickly break each rule into its component parts.

The visual helps students see that these component parts will drive the organization of a memo based on that rule. Or in "Illustration Dissection," I project on the overhead a page-long, overly-detailed precedent case illustration. I strike out text as the students determine which information is unnecessary. Pared to its essentials, the illustration becomes a one-line parenthetical. The students see that too much detail can distract a reader, and that illustrations can be (and when desirable, should be) honed to a razor-thin line.

As students engage in these retro visual exercises, they not only see how to do a task, they also DO it. The students' interaction and sense of accomplishment make low tech visuals effective—even in today's high tech world. So, if you are more Mayberry than Matrix, do not despair. Try a few of these retro exercises with your students. Who knows, even your tech-savviest students may say, "Golly gee, Aunt Bee, those visuals were really swell!"

Using Student Learning Preferences to Compare and Contrast Objective Memo Writing with Essay Exam Writing

seen in graphic form. Additionally, the discussion that generates the Venn diagram also appeals to the verbal kinesthetic learners because it gives them another opportunity to verbally formalize their understanding of the material.

We have presented the class a number of times and found that the students learn a lot from it and enjoy the process. We credit this success to the presentation of content in a number of forms that appeal to several different learning styles.

1 *See* Susan Rundle, Andrea Honigsfeld, with Rita Dunn, *An Educator's Guide to the Learning Individual* 23 (Performance Concepts Intl. Ltd. 2002-2005) (defining tactile learning preference).

2 *See id*. at 25 (defining verbal kinesthetic learning preference).

3 *See id*. at 19 (defining visual picture learning preference).

4 *Id*. at 23.

5 *Id*. at 25.

6 *Id*. at 19.

7 We presented a mock class using this approach at the Southeast Regional Legal Writing Conference in September 2007 in Ft. Lauderdale.

NEWS

Publications and Promotions

Dan Barnett (Boston College) received the 2007 Boston College Teaching with New Technology Award. His article, *Form Ever Follows Function: Using Technology to Improve Feedback on Student Writing in Law School*, will be published in the Spring 2008 issue of the Valparaiso University Law Review. The article explains that advances in electronic commenting tools coupled with the technological savvy of our students may soon require us to use electronic feedback. The article compares different tools and provides step-by-step guidance for using them, and can be downloaded at: http://ssrn.com/abstract=1017345.

Scott Fruehwald (Hofstra) wrote an article, *The Supreme Court's Confusing State Sovereign Immunity Jurisprudence*, which will appear in the Drake Law Review in 2008.

Jane Kent Gionfriddo (Boston College) had her article, *Thinking Like a Lawyer: The Heuristics of Case Synthesis*, accepted as the lead article in Volume 40 of the Texas Tech Law Review. This article addresses the theory behind, and a methodology for, synthesizing cases in a sophisticated manner. It then illustrates this methodology using a group of hypothetical cases. This article can be accessed at: http://ssrn.com/abstract=1012220.

Laurie C. Kadoch (Vermont) begins her new position as Director of the Legal Skills and Values Program and Associate Professor of Law at Florida International Law School in January 2008. She previously taught for 11 years at Vermont Law School.

Michael D. Murray (Illinois) released the 2007 Pocket Parts updating his volumes on Civil Rules Practice and Jurisdiction, Venue, and Limitations for West's Missouri Practice Series in June 2007. In September 2007, he released six updated and revised booklets for the treatise, *The Deskbook of Art Law* (Oxford Univ. Press), coauthored with Leonard DuBoff and Christy King. He has also received offers from Vandeplas

Publishing to publish his new works on international and comparative law entitled, International Art Law and International and Comparative Freedom of Expression. In December 2007, he will deliver the manuscript for *The Law (in Plain English®) for Health Care Professionals* (Sourcebooks/ Sphinx), coauthored with Leonard DuBoff. Finally, he will publish the second edition of the books in the *Legal Research and Writing* series with Foundation Press (coauthored with Christy DeSanctis), and the second edition of the casebook, *Art Law: Cases and Materials* with William S. Hein (coauthored with Sherri Burr and Leonard DuBoff).

Julie A. Oseid (St. Thomas) has won the Warren E. Burger Writing Competition, sponsored by the American Inns of Court, for her article entitled *When Big Brother is Watching [Out For] You: Mentoring Lawyers, Choosing a Mentor, and Sharing Ten Virtues from My Mentor*. She will receive a cash prize of $5,000 and her article will be published in the South Carolina Law Review. The Warren E. Burger Prize was presented at the American Inns of Court Annual Celebration of Excellence at the United States Supreme Court on October 20, 2007. She has also co-authored two articles: *A Decision Tree Takes Root in the Land of 10,000 Lakes: Minnesota's Approach to Judicial Federalism*, 70 Alb. L. Rev. 865 (2007) (coauthored with Minnesota Supreme Court Justice Paul H. Anderson); and *Navigating the Law Review Article Selection Process: An Empirical Study of Those With All the Power – Student Editors*, 59 S.C. L. Rev. ___ (2007) (co-authored with Prof. Leah Christensen).

Robert A. Sachs (California Western) published an article in the American Journal of Trial Advocacy on accident demonstrations at videotaped discovery depositions in May 2007. He also has a chapter forthcoming in a book entitled *Product Liability Defenses: A State-by-State Compendium*. In February, he will speak on the subject of videotaped depositions to about 1000 attorneys at a products liability seminar.

Program News

The faculty in the Legal Reasoning, Research, and Writing (LRR&W) program at **Boston College Law School**—Dan Barnett, Joan Blum, Mary Ann Chirba-Martin, Jane Gionfriddo, Elisabeth Keller, and Judith Tracy—are pleased to announce that the program has been reconfigured as a directorless program. After leading the program for more than twenty-three years, Jane Gionfriddo stepped down as Director on June 1, 2007, but remains a valued member of the LRR&W faculty.

At **Southern Illinois University (Carbondale)**, the positions of the contract-term legal writing professors are now part of a new collective bargaining unit, known as the SIUC Non-tenure Track Faculty Association. Thus their terms of employment are covered by a three-year agreement between the union and the university. Professor Melissa Marlow served on the union's contract negotiating team.

Stetson University College of Law faculty recently presented a number of sessions at the Southeast Regional Legal Writing Conference: **Rebecca Trammell** presented *Integrating Research into Research and Writing Programs*; **Kirsten Davis** presented *Classical Style: Encouraging Students to Take Style Seriously*; **Catherine Cameron and Jeff Minneti** presented *Bridging the Gap: Designing a Class that Helps Students Transition from Legal Writing Assignments to Writing for Final Exams*; **Brooke Bowman** presented *Revising: Creating a Checklist that Can Be Used Beyond the LRW Class*; **Kate Bohl** presented *Generations X & Y Take Legal Writing: Practical Strategies for Class Management*; and **Linda Anderson** presented *What Do You See?: Understanding Your Audience*.

The Center for Excellence in Advocacy, in collaboration with the Legal Analysis, Research, and Writing Program of **Washburn University School of Law**, announces the upcoming Writing to Win Symposium on Plain Language Jury Instructions. The symposium will begin with an opening reception at Bradbury Thompson Alumni Center on Sunday evening, April 6, 2008, with presentations and CLE events planned for Monday, April 7, and Tuesday, April 8. Keynote speaker for the event will be Justice Carol Corrigan, California Supreme Court. Justice Corrigan chaired the California Judicial Council Task Force on Jury Instructions from 1997 to 2005. She was among three California justices who were honored last January by the Legal Writing Institute and the Association of Legal Writing Directors for California's Plain-Language Jury Instructions. Members of the planning committee for the symposium include Lyn Goering, Director of Washburn's Legal Analysis, Research, and Writing Program, Michael Kaye, Director of Washburn's Center for Excellence in Advocacy, and Judge Stephen Hill, Kansas Court of Appeals, who chairs the Judicial Council PIK-Civil and PIK-Criminal Advisory Committees.

We are very pleased to announce the formation of **APPEAL (Academics Promoting the Pedagogy Of Effective Advocacy In Law)**, an organization dedicated to promoting the exchange of ideas, information, and resources about the teaching of legal writing and effective advocacy among academics in the United States and academics in Africa. The organization grew out of the Conference on the Pedagogy on Legal Writing for Academics in Africa, which was held in Nairobi, Kenya in March 2007. The conference was attended by approximately 20 academics from the U.S. and approximately 30 academics from seven different African countries. A similar conference is tentatively scheduled for May or June 2009 in South Africa. If you are interested in joining APPEAL, you can find a registration form here: http://legalwritingconference.googlepages.com/appeal. For more information, please contact Mimi Samuel at msamuel@seattleu.edu.

Next issue: Fall 2008
Theme: Techniques for Teaching Statutory Interpretation and Analysis
Deadline for Submissions: June 2, 2008

CALENDAR

2008 LWI Conference

The 13th Biennial LWI Conference is taking place **Monday, July 14–Thursday, July 17, 2008**, at Indiana University School of Law—Indianapolis. The conference begins with an art opening at the Indianapolis Artsgarden and will feature poster presentations. Please come, have a glass of wine, and stroll through the scholar-art of your colleagues. The next morning's opening session will take place at the conference hotel's ballroom—at the Hyatt in Indianapolis. Our plenary panel of speakers, all talking about their humor tricks and why they work, will be Mary Beth Beazley, Sheila Simon, and Hollee Temple. The 2008 LWI Conference will also feature "popcorn" sessions back at the Hyatt on Tuesday evening. These sessions are more open in format, encouraging audience dialogue and participation. They will be a great end to the New Member dinners earlier that evening. Wednesday evening a gala event is scheduled to take place at the Eiteljorg Museum of Native Americans and Western Art. Conference registration will begin in January or February. Everything is online this year in order to help keep the world a greener place.

2010 LWI Conference

The 2010 LWI Conference will be held at the Marco Island Marriott Beach Resort on **June 27-30, 2010**. The Board of Directors has selected the Marco Island Marriott Beach Resort for the site of the 2010 Biennial Conference and appointed the Conference Site Committee to begin planning the conference. The Resort is located on three miles of pristine Southwest Florida beaches. With over 225,000 square feet of indoor and outdoor function space, a full-service event planning staff, several renowned restaurants, championship golf, a world-class spa, and a wide range of activities and amenities, the Resort seemed like an ideal setting for the first LWI Conference to be held at a non-campus site. For more information about the Resort, please visit the resort's website: www.marcoislandmarriott.com. The Conference Site Committee includes Dan Barnett (Boston College), Chair, Libby White (Villanova), Debby McGregor (Indiana—Indianapolis) and Susan Kosse (Louisville).

Regional Conferences

The **Rocky Mountain Legal Writing Conference** will be held in **Salt Lake City, March 21-22.** To register, view or book accommodations, please visit the conference website "in progress," http://www.law.utah.edu/special/rocky-mountain-lwc/. For more information about proposals requirements and how to submit one: http://www.law.utah.edu/special/rocky-mountain-lwc/proposals/.

St. John's University School of Law is pleased to announce that it will host a Legal Research and Writing Conference on Friday, **December 5, 2008** at the University's Manhattan campus, near the World Financial Center. The conference will explore how legal research and writing as taught in law school can best prepare new lawyers for practice in the workplace. We plan to offer perspectives from judges, law firms, other legal employers, and, of course, legal writing professors. Topics will include developments in the workplace affecting the skills expected of, and the training available to, beginning lawyers. There will be much food for thought and ample opportunity for holiday shopping!

CALENDAR

The Second Draft: Bulletin of the Legal Writing Institute
Legal Writing Institute
Walter F. George School of Law
Mercer University
1021 Georgia Avenue
Macon, GA 31207-1000

2008 LWI Conference

Indiana University
School of Law
Indianapolis, IN

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