

THE UNIFIED LEGAL SKILLS PROGRAM: HOW ONE LAW SCHOOL ADAPTED TO MEET THE NEEDS OF STUDENTS ONLINE, AND HOW THOSE ADAPTATIONS MAY INFORM POST-PANDEMIC TEACHING

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I. CALIFORNIA WESTERN SCHOOL OF LAW (CWSL) ADAPTS ITS
LEGAL SKILLS PROGRAM TO FACE THE PANDEMIC

A. *CWSL's Legal Skills Program Prior to the Pandemic*

Prior to the pandemic, CWSL's Legal Skills Program covered two trimesters in the first-year curriculum, Legal Skills I and II. Legal Skills I focused on legal research and objective/predictive memo writing. Legal Skills II focused on continuing to develop the students' research skills, while learning persuasive writing, how to draft an appellate brief, and appellate oral advocacy.

The courses, each worth three credits, usually met twice weekly with a professor typically having around twenty to twenty-three students per section. Although our program has a director, professors were free to use their own textbooks and assignments in Legal Skills I. In Legal Skills II, all professors used the same appellate record for both the appellate briefs and school-wide oral advocacy competition.

B. *CWSL Faces the Pandemic in March 2020*

When CWSL was forced to switch to online learning in March 2020, we had just completed our oral advocacy competition in person. We finished the last few Legal Skills II classes, and our writing conferences, on Zoom. Our summer trimester, where we teach Legal Skills II to a smaller portion of our student body, was taught in the traditional format, albeit on Zoom. We also held our first oral advocacy competition on Zoom for Legal Skills II in the summer of 2020. Those of us who taught Legal Skills II during the summer worked hard to follow best practices for online learning by attending online conferences and voraciously reading everything we could find to make the learning experience the best we could for our students. As one example, we attended the William & Mary Conference for Excellence in Teaching Legal Research and Writing in June 2020 to learn from our colleagues in the academy about best practices for online teaching.¹ CWSL's Legal Skills program earned high praise in student evaluations for adapting so quickly given the difficult circumstances.

1. See *William & Mary Conference for Excellence in Teaching Legal Research & Writing Online*, WILLIAM & MARY L. SCH.: ACADS., http://law.wm.edu/academics/intellectuallife/conferencesandlectures/excellence_online_teaching/index.php (last visited May 12, 2021).

C. *CWSL Adapts its Legal Skills Program for Academic Year 2020–2021: The “Why” Behind the Unified Program*

During the summer of 2020, we met as a Legal Skills team to discuss how to approach the regular school term. Specifically, we faced a larger-than-anticipated first-year class and contemplated how to remedy the sense of disconnection we expected would be felt by both students and us as teachers with online teaching and the ongoing pandemic. We asked ourselves, “what if one of our colleagues become sick? How would we cover that professor’s classes? How can we create a sense of connection in a remote world?”

We also saw the challenges we faced as an opportunity to learn from one another and also mentor our new faculty members. We saw an opportunity to be efficient and pool our resources where one colleague could teach the entire first-year class on a subject of particular interest to that professor, such as rule synthesis, introductory legal research, or mastering *The Bluebook*.² This would also enable the students to learn from one professor on certain subjects, which would give them a sense of consistency and unification between Legal Skills sections.

D. *CWSL Creates the Unified Legal Skills Program: The “How” Behind the Program*

To address these challenges and make the most of these opportunities, we decided to adopt what we came to call our Unified Program for Legal Skills. Under this approach, our class sections would meet on the same day and times. Every Friday, the first group of sections would meet from 8 to 11 a.m. and the second group of sections would meet from 1 to 4 p.m. Some classes throughout the trimester would be unified where all students would meet using a “unified class” Zoom ID, and one or two of us would teach for all or part of class time. If only part of class time was taught in a unified fashion, then after a break, we would resume class with each of us meeting with our individual sections using individual Zoom section IDs. Some weeks, we would meet with our students only in individual sections. Before the start of the trimester last fall, we met many times as a team to plan our unified syllabus and to map out in advance what topics would be taught by one or two of us to the unified class, or whether a particular week’s subject would be taught by each of us individually. The

2. THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION 1 (Columbia L. Rev. Ass’n et al. eds., 21st ed. 2020).

unified sections insured important content would be delivered in the same way to all our students. Smaller section meetings allowed for more group work using breakout rooms.

We also decided to use asynchronous content for only a small portion of the course, on subjects such as citations and online legal research. For example, in the first trimester, we used Lexis Learn Modules for a basic introduction to legal research before addressing research in a synchronous class. One of us also created an asynchronous lecture on how to craft citations using *The Bluebook*.³ The students were required to watch this lecture in advance of the synchronous class, where the students put their skills to work with in-class citation exercises.

To achieve uniformity, our main textbook has been the same for all students, and all assignments and grading rubrics have been the same. Our syllabi have also been the same for all critical aspects of the course, such as due dates, readings, assignments, and class policies. We have shared the same Canvas® learning management system for all students, where the students could find all readings and assignments.⁴ Each of us also has an individual “Page” on Canvas®, where additional materials can be posted for different sections, such as supplemental readings. Some of us have also had our students use the Canvas® calendar to sign up for office hour meetings with us and our teaching assistants, who are called “Honors Instructors” at CWSL.

We have also held Legal Skills Workshops each week for one hour; these have generally been staffed by at least one of us and one of our Honors Instructors. In the first trimester, we held these Workshops twice each week; in the second trimester, we have shifted to holding them only once each week. These Workshops have been optional opportunities for students to ask questions in an informal setting, write in break-out rooms, or work on citations. Some Workshops have been open forum, while other Workshops have focused on specific topics related to the assignments the students were working on during the given week. Over time, we came to find students appreciated when we shared an agenda before each Workshop so that students could know what to expect and decide whether to attend.

Finally, we have held weekly team meetings on Zoom on Monday afternoons to plan for the weeks ahead. We have rotated which of us would set the agenda for E-weekly-meeting’s and lead the discussion. We have

3. *Id.*

4. Over the summer of 2020, our school, after considering various options, adopted Canvas® as the learning management system for all courses at CWSL.

also been in constant communication through email throughout the week as we have prepared for Friday's classes.

II. THE BENEFITS OF OUR UNIFIED APPROACH

We have been pleased to find our Unified Program has brought a number of benefits, both for us as teachers and for our students. Here, we look at several of those benefits.

A. *Benefits of a Unified Approach for Us as Teachers*

The chief benefit to us so far as teachers has been the many ways in which our weekly team meetings, the need for uniformity in our teaching, and the opportunities to teach together, have allowed us to learn from and encourage each other during an especially challenging academic year.⁵ In order for our unified approach to work, we have had to work very closely together, both in the virtual classroom and outside it. This has fostered a spirit of camaraderie and unity that would be welcome under even normal circumstances, but especially so during such a difficult year.⁶ Throughout this strange and challenging time, it has been a real blessing to have had the virtual shoulders of our colleagues to lean on. The opportunity to learn from and mentor each other has been especially helpful to the newest member of our team because, among other things, he can discuss with the rest of the team the ways we have traditionally taught certain subjects, why we make certain pedagogical choices, and what difficulties we have seen students have with certain concepts or subjects.⁷ He has also had the opportunity to watch each of us teach our students in ways that might not have been as possible or comfortable in a traditional classroom setting or less unified program.⁸ An

5. See Michael I. Meyerson, *Law School Culture and the Lost Art of Collaboration: Why Don't Law Professors Play Well with Others?*, 93 NEB. L. REV. 547, 583–84 (2015); Jennifer Sheppard, *Transitioning to a Collaborative Legal Writing Program: Management Principles to Apply When "Take Me to Your Leader" Is No Longer Applicable*, 24 LEGAL WRITING 159, 177 (2020); Gerald F. Hess, *Improving Teaching and Learning in Law School: Faculty Development Research, Principles, and Programs*, 12 WIDENER L. REV. 443, 443 (2006).

6. See Meyerson, *supra* note 5, at 575 (“[The] benefit from collaboration is social and psychological.”).

7. See *id.* at 577.

8. In some ways, teaching together in our unified classes has served as a blend of what Professor Hess refers to as “[r]eciprocal peer classroom observations” and “team teaching.” Hess, *supra* note 5, at 458. We have experienced the “significant benefits” in “intellectual stimulation, a closer connection to the college community, and development of teaching skills” that Professor Hess attributes to team teaching. *Id.* at 460.

added benefit of the close bonds we have formed as a team this year is that students have had frequent opportunities to see us model for them the importance of effective teamwork and collaboration in the law.⁹ A number of our students have commented on how much they enjoy our banter as we teach together, whether in our unified classes or our weekly Workshops.¹⁰

Another benefit of the Unified Program for us as teachers has been the efficiencies we could find through teamwork.¹¹ As noted above, when we originally conceived the Unified Program, we had hoped to achieve significant savings in time and energy for all of us by identifying topics that one of us could teach—whether synchronously or asynchronously—and relieving the others of that burden. We had also planned to shift more of our teaching to asynchronous lectures and other content so that we could more effectively flip our classes when we were with our students in the virtual classroom.¹² We have not ultimately done this as much as we had first planned because, as discussed below, our students generally seem to prefer synchronous over asynchronous teaching and we found in our experience that preparing asynchronous content could be prohibitively time-consuming. Despite these adjustments in our approach, we have been able to find ways of using our Unified Program to save ourselves time and energy through collaboration and delegation. For instance, as noted above, rather than having each of us introduce our students to rules for citations, we decided to have one of us do so in a unified, asynchronous lecture. We then worked individually with our respective students or together in the Workshops on

9. See Meyerson, *supra* note 5, at 555 (“[L]aw students learn more than just law from their professors. They also learn what it means to be a lawyer. In terms of their psychological and intellectual development, ‘[p]robably the greatest role models for students are faculty members themselves.’”) (quoting Kristin B. Gerdy, *Clients, Empathy, and Compassion: Introducing First-Year Students to the “Heart” of Lawyering*, 87 NEB. L. REV. 1, 58 (2009)) (alteration in original) (footnote omitted); Jennifer Rosa, *Flipped Learning: Promoting Collaboration, Cooperation, and Civility*, 96 MICH. B.J., at 56, 56 (Oct. 2017); Hess, *supra* note 5, at 446 (“Interpersonal relationships between teacher and students are critical to learning and teaching. Learning is enhanced if students sense that their teachers care about them. Many effective faculty members work closely with students in and out of the classroom and serve as mentors for students.”) (footnote omitted).

10. See Sheppard, *supra* note 5, at 208 (noting the benefits that “[h]umor, fun, and play” can bring to work) (alteration in original) (internal quotation marks omitted).

11. See Meyerson, *supra* note 5, at 556–61, 575 (discussing the benefits of collaboration in legal practice and other fields); Sheppard, *supra* note 5, at 186, 190–91, 195 (discussing the benefits of teamwork).

12. In this we were guided, at least in part, by experiments at CWSL by our colleague, Laura M. Padilla, even before the pandemic with using asynchronous content to flip classes. See Laura M. Padilla, *Whoosh — Declining Law School Applications and Entering Credentials: Responding with Pivot Pedagogy*, 39 U. LA VERNE L. REV. 1, 20 (2017); Rosa, *supra* note 9, at 56–57.

proper citations throughout the trimester. We have also been able to save ourselves time and trouble by delegating or collaborating on more mundane but vital tasks, such as preparing different sections of our syllabi, creating assignments, and designing our shared course on our learning management system.

In conceiving our Unified Program, we had also been very much aware that the pandemic might make it necessary for us to fill in for each other should something happen to us or our loved ones. Our hope was that having our Unified Program would allow us to help each other and our students more seamlessly because the students would already be familiar with each of us, would have classes at the same times, and would be working on the same assignments and with the same deadlines. We have been fortunate that we have not yet had to really put this to the test. It has been an enormous relief to all of us, however, to know that meaningful coverage and support would be there if they should be needed. Knowing we could cover for each other relatively seamlessly made a challenging and uncertain trimester last fall that much less challenging for all of us and is making the Spring Trimester that much easier.

As just one example of the advantages of our collaborative approach in practice, we have found the best way to teach our unified classes together on Zoom is to have one of us at a time be responsible as lead teacher and have the rest of us assist in other ways. For instance, while one of us leads a discussion or lecture, the rest of us can monitor the virtual classroom and respond to questions asked by students in the chat window on Zoom. We can also let the lead teacher know if there are any questions from students that would be helpful for the lead teacher to address for the benefit of the whole class.¹³ As anyone who has tried it will likely agree, it can be very hard to teach a large class on Zoom—especially if using slides—while also reading the virtual room and keeping an eye out for and responding to questions students might ask in the chat window.

13. We have found some students especially prefer to use the chat window to participate during our classes on Zoom. This participation comes in a variety of forms and for a variety of reasons. Some students seem to have preferred to use the chat window to participate because they were attending class from surroundings that did not allow them to speak as freely as others. Others seem to prefer it because it was quicker for them or would allow us to answer questions without interrupting the flow of a lecture or discussion. Others seem to prefer participating in this way because speaking—even or especially in the virtual classroom—can be a nerve-wracking experience. Students sometimes send us private messages while others may pose questions to the entire class. While allowing students to use the chat window could be challenging—especially with larger classes—we found it was a helpful way to allow students to engage and participate.

A fourth benefit of the Unified Program has been that each of us has had opportunities to teach the entire first-year class. With the traditional approach, each of us would teach only a small portion of the first-year students and would get to know the other first-year students only to the extent we might meet them haphazardly. Because getting to know students is one of the chief joys of teaching, the opportunity to get to know so many of them has been a real boon to us as teachers. It has also helped us all to feel we are more a part of the campus community, which has helped alleviate the feelings of isolation that come with teaching online during a pandemic. It has also helped students get to know each of us and seek us as mentors based on shared interests and affinities.¹⁴ Had they not met us through our Unified Program, we suspect students might not have felt as comfortable seeking us as mentors, whether because they were not aware of our shared interests or the reluctance students understandably would have approaching unfamiliar teachers.¹⁵ This has benefitted the students (who would have lost us as mentors), as well as us (who would have lost the rewards that mentoring students brings).¹⁶

As explored more below, the need for us to have a dedicated day of teaching each week has not been without downsides for us and our students. One advantage, however, has been that it forces us to be thoughtful in deciding how to use that time most effectively. Because teaching two three-hour classes every Friday, week after week, would be grueling, we have looked for ways to make things easier for all of us (including our students). Weaving in asynchronous content where we can—with a proportionate reduction in synchronous teaching that week—has been one way we have done so effectively. Although we have used asynchronous content sparingly, we have found it effective for certain content. Even then, we have tried to

14. See Leslie P. Culver, *White Doors, Black Footsteps: Leveraging “White Privilege” to Benefit Law Students of Color*, 21 J. GENDER, RACE & JUST. 37, 44 (2017) (discussing the benefits of mentoring and ways to foster mentoring relationships with students); Katerina P. Lewinbuk, *Kindling the Fire: The Call for Incorporating Mandatory Mentoring Programs for Junior Lawyers and Law Students Nationwide*, 63 ST. LOUIS U. L.J. 211, 218–21; Amy R. Stein, *The Need for Peer Mentoring Programs Linked to the Legal Writing Class: An Analysis and Proposed Model*, 27 PERSPS.: TEACHING LEGAL RSCH. & WRITING 32, 33 (2019).

15. See Culver, *supra* note 14, at 43–44 (discussing reluctance of some students to seek mentors).

16. See Lewinbuk, *supra* note 14, at 219. One further advantage is that students who switched professors from Fall Trimester to Spring Trimester for any reason generally would already have met their new professor and would already have some familiarity with his or her expectations. Those students would also be working from the same foundations as the other students in their new class, because all students had had the same assignments in the earlier trimester.

keep the asynchronous content relatively short and engaging. Another—and surprisingly popular—method has been using break-out rooms and group work in our synchronous classes.¹⁷ This has made sure our classes do not turn into three-hour lectures, keeps the students engaged, and allows the students to get to know each other and practice working in teams. We could—and would—have done each of these things even if our classes had been split into shorter and more frequent sessions each week, but the Unified Program has given us even more reason to do so as often and as effectively as possible.

B. *Benefits of a Unified Approach for Our Students*

We naturally cannot speak as confidently about the benefits of the Unified Approach for our students, but the feedback from our students so far suggests those benefits have been considerable.

Beyond the benefits touched on above, we have been pleased to learn how much the students have enjoyed the weekly Workshops and the opportunities they give students to learn from and collaborate with their classmates across sections. (Although our unified class sessions in theory have provided similar opportunities, our students do not seem to have appreciated them quite as much. It is not clear why this may be, but it seems likely that the more informal tone of the Workshops may help.) Our students also seem to have appreciated the sense of community and camaraderie as a first-year class that fostered across sections.¹⁸ As noted above, our Unified Program also has given our students opportunities to meet and learn from all of us, as well as from more of our second and third-year teaching assistants, which has further increased their opportunities to find mentors in the faculty and student body. The value of these things for students learning online during a pandemic cannot be overstated.¹⁹

We also believe our students have benefitted from our collaboration in our efforts to find the best ways to teach in the virtual classroom. Our need to reconcile our, at times, different approaches for the sake of unity has forced us to think more carefully about why we teach certain things the ways we do and whether those approaches would make sense in a virtual

17. See Rosa, *supra* note 9, at 56–57 (discussing use of in-class exercises to teach students in legal writing course).

18. See Meyerson, *supra* note 5, at 578 (discussing benefits to law students of collaborative learning).

19. See *id.* at 579.

classroom.²⁰ Even when we have decided that different approaches to teaching something makes the most sense, we believe our efforts to explain these inconsistencies—whether real or apparent—to our students should serve them well when they try to reconcile similar inconsistencies in other classes or in their practice as attorneys.²¹

We also have reason to believe that at least some of our students have appreciated having our classes with them in one long session at the end of each week. At least some of our students have shared with some of us that having a day dedicated each week to our course allowed them to organize their studies more effectively for each week because they could concentrate more on their other four classes at certain times in the week. These students also seem to have looked forward to having their classes with us at the end of each week. After all, who doesn't look forward to a three-hour class on legal writing, research, and analysis at the end of a long and challenging week of law school?

III. PROBLEMS, DISADVANTAGES, AND PITFALLS

While the Unified Program we adopted this year has been of tremendous benefit to us as educators and to our students as learners, our approach has not been without its challenges. Here, we explore those challenges, both from our perspective as educators as well as from the perspective of our students as learners.

A. *From a Teaching Perspective*

The first challenge we encountered as we embarked on our experiment in unity was that, while the impetus behind unifying our course was the need to save time to better engage with our students, the approach we adopted was, in fact, very time-consuming. The approach required that we meet weekly and that we coordinate closely in developing class materials, lesson plans, shared assignments, grade rubrics, and plans for Legal Skills Workshops. Our weekly meetings often extend beyond 60–90 minutes, though we have worked hard through agenda-setting and mutual respect to rein that in. The time we spend every week emailing each other, and reading the emails written by our colleagues, easily consumes several more hours per week. Is it worth it? Yes. Does it take time? Yes.

20. See Sheppard, *supra* note 5, at 200–01, 232–33 (discussing the possible benefits of consensus decision-making).

21. *Id.* at 199, 200.

Furthermore, the mere fact that we redesigned a course was itself very time-consuming. We knew we would need to do this no matter how we handled this year's course; because we were all transitioning to online teaching for the first time (two of us taught the second trimester of the course in Summer 2020, but it was everyone's first time through Legal Skills I online), there was no way to avoid some degree of course redesign. We were all committed to the idea that our online course would not simply be the same course we had always taught. Nevertheless, despite the inevitability of some degree of time-consuming redesign, the broader redesign required to align our assignments and lesson plans was itself a very time and labor-intensive process.

Our approach has also demanded a high degree of trust, respect, and good faith. Teamwork is not always a major part of the day-to-day work of many law school professors,²² so unifying our program tested skills that not all of us had much opportunity to use in the years since we had left law practice. To some extent, we all had to relearn the skills of professional collaboration—respect for each other's time, creating space for the quieter or newer members of the group, creating agendas, sticking to a plan—even as we were explicitly teaching those skills to our own students.²³

The need for trust, respect, and good faith extends, of course, into the classroom. We have been required to trust that our colleagues will convey expectations to our students in a manner that we can support and reinforce. It requires absolute consistency; we all know the pitfalls of presenting inconsistent information to our students, and this risk is only magnified when those students encounter multiple instructors.

We had initially planned to sidestep some of these problems by focusing our unified class sessions on those skills that can only be taught in one universal way, like Bluebooking. We had also planned to use Legal Skills Workshops to address questions that were general in nature and otherwise to create more a study hall environment. What we quickly learned was that it is impossible to avoid engaging in substantive discussions with students from other sections in these environments. For all we might intend to avoid that substantive discussion, a class or a Workshop becomes worthless when the professor refuses to answer basic questions to which he or she very obviously knows the answer. For these sessions to be meaningful for our students, it became necessary that we address substantive issues. This discussion of substance requires that we all be aware of what

22. See Meyerson, *supra* note 5, at 575.

23. See Sheppard, *supra* note 5, at 211 (exploring the potential pitfalls of sharing responsibility and leadership in director-less legal writing programs).

everyone else is doing, that we support the approach each other instructor is taking, and that we reinforce what the other teaches.²⁴

This requirement, in turn, drives a need to sacrifice individual approaches. By way of example: the first major assignment we gave our students in Fall 2020 was a memo problem concerning arson of an inhabited structure. Of the four professors teaching the course, three of us thought the elements under the applicable statute were (expressed very simply): (1) willful and malicious, (2) burning, (3) inhabited, and (4) structure. The fourth member of our team saw the breakdown as a three-element test: (1) willful and malicious, (2) burning of a structure, and (3) inhabited. If we had all been teaching our own students separately, this disagreement would not have been significant. But because we were working jointly, it was important that, even if we did not all agree on the same framework, we at least be aware that our colleague's teaching other sections might be guiding their students toward a different framework. This discussion consumed many hours both over email and during team meetings, as we attempted to persuade one another that one approach or the other was better supported by the case law, or that one approach was pedagogically superior, as we taught our students a new skill.

Our approach has forced us to face challenges in fostering an inclusive classroom as we teach to a diverse group of students.²⁵ When a professor teaches her own small sections alone, she has both control over, and responsibility for, the pedagogical choices she makes. When a professor delegates responsibility to a co-teacher, she cedes control to someone whose pedagogical approaches might be different—but she retains responsibility for the consequences of the co-teacher's choices. We faced this issue recently in teaching a unified class, as we worked to reconcile different opinions on the use of judicial opinions that contain language that is hurtful, offensive, and potentially alienating to students in our class.²⁶

We also learned that our approach leaves us with challenges in classroom management. When we hold unified classes that bring together half the first-year class in a single Zoom session, we increase the odds that someone in that session will behave in a manner that is disruptive. However,

24. See Hess, *supra* note 5, at 443 (explaining the benefits of collaborative teaching and the improvements to pedagogy that flow from being observed by co-teachers).

25. See Sean Darling-Hammond & Kristen Holmquist, *Creating Wise Classrooms to Empower Diverse Students: Lessons in Pedagogy from Transformative Law Professors*, 33 CHICANA/O-LATINA/O L. REV. 1, 70 (2015).

26. This class involved a discussion of the Civil Rights-era cases of *Shuttlesworth v. Birmingham*, 394 U.S. 147 (1969) and *Walker v. City of Birmingham*, 388 U.S. 307 (1967).

the professor teaching the session might not be the disruptive student's small section professor and consequently might lack the rapport necessary to manage the classroom as effectively as she otherwise might. Our ability to manage the classroom was similarly impacted by the fact that we have different expectations for classroom behavior: different approaches to the use of the chat function on Zoom, different levels of familiarity with our students, and different types of rapport with our classes. Bringing four or five sections together for a single Zoom class raises challenges in that what one student considers disruptive, another might consider an appropriate expression of positive rapport with his or her small section professor.

Our program required an uncommonly high degree of trust and collaboration. We would not recommend that any group of colleagues undertake this effort unless that group is confident that all members of the group are capable of dealing with one another with trust, good faith, good humor, and collegiality.

B. *From a Learning Perspective*

In trying something wholly new, we lacked the years of wisdom and experience that typically inform our courses. To correct this, we have worked hard to survey our students about their experiences. We reviewed their course evaluations and shared common themes and complaints. We asked our students to complete reflections on the first trimester and to submit reflections on their performance on the final memo. We opened our first classes of the new trimester up to a discussion of the program.

We gleaned two important takeaways: first, the Unified Program at times left students concerned about perceived inconsistencies in messages and expectations, and second, some students felt that our attempts to provide generous amounts of extra support ended up amounting to more obligation and more demands on their time.

The need to present clear and consistent messaging was something about which we were always conscious. We continue to work to do better and to exercise sensitivity with respect to this common student perception.

We also learned that while students expressed resounding approval of, and appreciation for, the Legal Skills Workshop and our collective availability, many also came to believe that they were essentially required to attend all these sessions for fear of missing something that would be useful and important, especially given that we grade on a curve. We struggled with this throughout the trimester: Do we make the session so general as to not be worth students' time just to assuage the fears of students who cannot attend and worry about what they will miss? How do we find the balance between making something useful enough to be worth students' time without making

it so useful that we are essentially holding another class session? Ultimately, we did our best to use Workshop time to reinforce things that were already taught in class. Nevertheless, we could never totally escape the idea that there was real teaching happening in all these sessions, and that the students who succeeded in the course were those who regularly attended.

To mitigate this, we decided to drop the Legal Skills Workshop from two weekly sessions down to one, and to record that one session for students who are not available to attend. We also redoubled our commitment to using the time not to teach new skills, but instead to reinforce those already taught in class.

Another downside to our approach, from the student perspective, is that asynchronous learning is not always ideal.²⁷ Consequently, we were not able to shift much of the course to asynchronous modes of delivery. We did not intend to make the course asynchronous or to shift much to asynchronous delivery, but we ultimately found that most of what we did present as asynchronous content needed to be repeated and retaught in class anyway, obviating the time savings this mode of delivery was designed to achieve.

Finally: a three-hour class is a very long class. Our approach essentially required a move to a single, three-hour weekly class because unifying our classes meant that we needed to hold those classes on the one day when all our students would be available to have class at the same time. This was only possible on Fridays. To do this, however, we could not hold classes as we normally would—in two 90-minute blocks—and instead we had to schedule our classes as long, three-hour weekly meetings. Meeting for three hours at a time requires a high degree of stamina on the part of the teacher. More importantly, however, this requires a high degree of stamina on the part of the student. We find that it can be a challenge for all our students to remain engaged and focused for a three-hour block of class every week.²⁸

27. See Victoria Sutton, *Asynchronous, E-Learning in Legal Education: A Comparative Study with the Traditional Classroom*, 70 SYRACUSE L. REV. 143, 145 (2020) (noting that the correct inquiry is not whether asynchronous law courses are superior or inferior to traditional law courses, but instead how such courses compare to traditional law courses).

28. See L. Fosslien & M.W. Duffy, *How to Combat Zoom Fatigue*, HARVARD BUS. REV. (Apr. 29, 2020) (exploring the ways in which videoconferencing technology drains participants' energy because it requires participants to "focus more intently" in order to participate in conversations).

IV. LESSONS TO CARRY WITH US

Collectively, on both sides of the classroom, we eagerly awaited the end of the Covid-19 crisis and looked forward to 2021 and the promise of a return to *normalcy*. Within the first few weeks of the new year, however, it became apparent that *normalcy* would not be returning soon.²⁹ Instead of celebrating the end of the pandemic, we focused on celebrating our resilience and the positive lessons learned while teaching in a time of crisis. This section is informed by the feedback we received from students regarding those aspects of the program that they found most useful. It highlights some of our most treasured takeaways and aspects of the program that we believe will continue to serve us and our students well, beyond the pandemic and into that brighter future that beckons.

A. *An Emphasis on Emotional Intelligence and Empathy.*

It is infinitely harder to learn when survival itself is at stake and when the shadow of death looms large.³⁰ We began the academic year by asking our students to submit an essay in which they outlined their fears and concerns as they embarked on their path as lawyers-in-training. This year's class articulated many of the same concerns that are reflected in Peter F. Lake's article *When Fear Knocks: Myths and Realities of Law School*,³¹ the required reading for the assignment. Common anxieties related to the *imposter syndrome*, cut-throat classmates, and the difficulties associated with shedding poor study habits all made an appearance in our students' essays. But new fears emerged and took pride of place in many of the responses generated by the assignment. Students articulated concerns regarding their ability to connect with each other and with us in the virtual classroom; the

29. See Manny Fernandez et al., 'Our New York Moment': Southern California Reels as Virus Surges, N.Y. TIMES, Jan. 10, 2021, at A1 (anticipating that 1 in 10 residents of Los Angeles County had tested positive for the virus and observing that "[b]y nearly every major metric, the spread of the virus is profoundly more dire in Southern California").

30. See Brittany Steane, Comment, *Removing Traumatic Barriers to Learning: The Need for Effective Trauma-Informed Approach to Learning Legislation in Pennsylvania*, 92 TEMP. L. REV. 299, 303 (2019) (noting the multiplicity of ways in which trauma can impact classroom learning); COALITION TO SUPPORT GRIEVING STUDENTS, <http://www.grievingstudents.org> (last visited May 12, 2021) (website offering multiple resources, including Covid-19 specific ones, to assist students who are coping with illness and loss).

31. Peter F. Lake, *When Fear Knocks: The Myths and Realities of Law School*, 29 STET. L. REV. 1015, 1016 (2000).

impact that economic imbalances might have on their education; the uncertainty they experienced when contemplating the possibility that they or their loved ones might fall ill. Although these fears were not reflected in the reading that inspired the writing assignment, we had anticipated them. The resulting essays reminded us, however, that law students enter the academy already burdened with many emotional weights: in a span of less than twelve months, most of our students will have battled the LSAT, undergone the draining experience of applying to many law schools, and awaited responses that feel like heavy judgments on their own self-worth.³² They will have struggled with offers from competing schools and the weight of making a decision that might well impact their entire professional and personal future. At the same time, they will also have been preparing mentally to leave home, family, and friends to start their lives all over in a new setting.

One lesson learned is that we must be more mindful to ask students to reflect not only on the fears and concerns they have as they embark on their legal education, but also the fears and concerns they have with respect to the emotional ordeals they have already endured to get to this point in their lives. The insights our students can offer regarding their personal development up to this point can provide us with the opportunity to help guide them into their future.³³ Asking students to draft a personal reflection along these lines does more than provide them with an opportunity to reconnect with writing, it forces them to self-reflect and cultivate their own emotional intelligence while also providing us with new opportunities to engage emotionally with our students' point of view and to expand our ability to empathize with them.

Again and again, students reminded us of the high value they place on our willingness to share with them our own challenges. A shared struggle helps to create solidarity, which in turn promotes accountability and group

32. See Katelyn Albrecht et al., *Wellness as Practice, Not Product: A Collaborative Approach to Fostering a Healthier, Happier Law School Community*, 59 Santa Clara L. Rev. 369, 371 (2019) (surveying pre-pandemic statistical evidence indicating that approximately ten percent of law students experience depression prior to matriculation, “twenty-seven percent after one semester, thirty-four percent after two semesters, and forty percent after three years”). It is therefore even more remarkable to consider the decline in mental well-being that many students experience after they enroll. *See id.*

33. See Gerald F. Hess, *Listening to Our Students: Obstructing and Enhancing Learning in Law School*, 31 U. SAN FRANCISCO L. REV. 941, 941 (1997) (describing “two branches of higher education literature that illustrate the importance of teachers listening to their students”).

cooperation.³⁴ For this reason, we intend to explore and create additional opportunities that will provide students with opportunities to share their struggles while framing their education as a broader struggle that we share with them. This will allow us to cultivate their emotional intelligence and to model for them the kind of empathy that will serve them well as they progress in the legal profession.³⁵ Examples include carving out time in the classroom for personal sharing (e.g., eliciting responses at the beginning of class regarding a positive event or a particular challenge that marked the week in progress) and structuring weekly office hours in a way that empowers students and professors to connect on a personal level. Some examples include creating a fixed slot of time for informal “coffee breaks” in which professors both facilitate and participate in conversations on personal topics, share music playlists with and among students, and highlight connections between legal issues, judicial opinions, and “hot topics” in the legal profession with personal experiences or anecdotes from our past as practitioners and our present as members of a community whose borders extend beyond the classroom and the school-house gate.

In fact, although 2020 threw plenty of lemons our way, one of the most refreshing pitchers of lemonade that it provided was the realization that virtual office hours were viewed as a vital ingredient in our students’ ability to succeed during these trying times. So much so that, as a department, we are unanimously committed to providing students with at least some space in which we can continue to meet virtually, even post-pandemic. Some of the advantages that we identified are: the ability to accommodate far more people than could be physically present if we met with students in our physical offices; the ability to share documents on the screen without requiring that students expend limited financial resources to print hard-copies; the more intimate connection that comes from being able to review a document together with none of the awkwardness that can sometimes arise when teacher and student are in close physical proximity. In addition, virtual office hours expand the potential for fostering empathy that comes when students are invited into what is actually one’s home.³⁶ Finally, a virtual

34. See Garrick B. Pursley, *Thinking Diversity, Rethinking Race: Toward a Transformative Concept of Diversity in Higher Education*, 82 TEX. L. REV. 153, 187 (2003) (quoting Deborah Waire Post for the proposition that, “[t]he existence of a shared struggle generates a normative construct, an imperative that makes rejection of membership in the group unethical and immoral.”).

35. See Gerdy, *supra* note 9, at 2 (quoting former ABA President Karen J. Mathis as saying “caring is as much a part of the legal profession as intelligence”) (brackets omitted).

36. See MICHAEL HUNTER SCHWARTZ ET AL., WHAT THE BEST LAW TEACHERS DO 52 (2013). On the importance of modeling and fostering empathy in legal education. *Id.*

office allows a professor to make herself available to students without needing to involve security so that a student can access a physical office when the office building has been closed for the evening or the weekend. This allows students and faculty to manage their time more efficiently by not requiring them to commute to school simply to attend office hours. As one student explained: “I neither had to fight traffic nor stalk parking spaces to receive feedback.”

B. *Visibility and Vulnerability*

Students repeatedly remarked on what they perceived as a silver-lining of the pandemic: the fact that our live lectures are recorded and made available to students for home-viewing. This policy was adopted in recognition of the fact that not all students have equal access to strong internet connections and often face stiff competition for bandwidth from other members of a household who are working or learning from home (or both).³⁷ In fact, a common fear expressed in our students’ initial essays (and one that certainly was not reflected in Peter Lake’s article) was related to the impact that dropped connections might have on their learning and their ability to comply with mandatory attendance policies. In other words, the policy was adopted to provide students with a contingency plan.

Many students, however, viewed the recorded lectures as a rich resource that complemented their on-line learning. As one student put it:

[R]ecordings . . . proved invaluable for my progression as a first-year law student. I initially worried that I would miss, or mis-hear, a detail in [a] lecture because the online format can be distracting. Even in Zoom’s “Speaker View” mode, a row of small tiles showing students preoccupied with their dogs or phones caused my eyes to drift more than once. There were also often unavoidable internet connection, microphone, or camera issues with Zoom. Fortunately, most of my professors opted to record and post their class sessions on Panopto. The ability to listen to all or a portion of a lecture, and even tutoring sessions, on my own time gave me a better grasp of the content. My former professional colleagues frequently reminded me they did not

37. See Editorial, *Locked Out of the Virtual Classroom*, N.Y. TIMES, Mar. 28, 2020, A22 (“[C]losing the digital divide — and bringing all Americans into the information age — will require a momentous effort on the scale of the federal project that brought electricity to darkened regions of the country during the New Deal. And it will be similarly worth the effort.”).

benefit from the same luxury during their in-person legal education.

Another student noted another positive, but unintended, consequence of making recordings of the live lectures available: she could observe herself and her in-class contributions. As she put it:

I . . . used the recordings to self-assess my presentation while “on call.” This allowed me to correct my physical quirks and voice projection; who knew I low-blinked only one eye while thinking through a response?! Watching recordings of my performance also helped me gauge how succinctly and accurately I answered the professor’s questions.

It should be noted that this student subsequently placed well in the first trial competition open to our 1Ls. Clearly, the time spent self-assessing paid off in terms of her ability to also project confidence and professionalism!

In pre-pandemic times, many of us would have felt extremely uncomfortable being recorded,³⁸ and, in fact, several of us included language in our syllabi that prohibited any recording whatsoever. We also shared concerns that recording the live classroom experience would create an incentive for students to disengage. Our students have, however, persuaded us that there are many advantages to allowing lessons to be recorded. Knowing we are being recorded can create an incentive for us to remain at the top of our game and it is, to some degree, flattering that students would even want to review our lessons repeatedly. Any remaining concerns that we have can, to a great degree, be eliminated to the extent that we have developed a positive relationship with our colleagues in the Educational Technology department. Throughout the trimester, we have sometimes forgotten to hit the pause button on the recording; this has resulted sometimes in our inadvertently recording informal or confidential exchanges with students and colleagues. However, the lectures are not live-streamed; they can and have been edited whenever necessary. To the extent that we retain the ability to shape the final cut, we have little to lose in providing students with a resource that many have characterized as invaluable.

In closing, one of the biggest take-aways from this experience of teaching in a time of crisis and one that we all want to carry forward is the commitment to listen closely to our students. It serves little purpose to teach

38. See Alexis Anderson, *Classroom Taping Under Legal Scrutiny — A Road Map for a Law School Policy*, 66 J. LEGAL EDUC. 372, 389 (2017) (listing various concerns that professors have raised with respect to the recording of classes).

persuasive writing and advocacy if we forget that, in great part, our success depends on the ability to understand our audience and tailor our strategy correspondingly. So, for this reason, we want to leave the last word to a representative student. One who during this difficult year, and like too many others, lost loved ones to the pandemic.³⁹ She continues to rise to the challenge that every day poses, but inspired us with her unbounded optimism when she wrote, “I will not become the best writer or attorney I can be if I am not challenged. However, I am grateful for the challenges. If things are not challenging, you are not going to learn to be better.” May we all, like our students, keep learning.

39. Sarah Mervosh et al., *Record U.S. Deaths Create a Wave of Devastation*, N.Y. TIMES, Dec. 11, 2020, at A1 (marking a new daily death record and noting that in one day more Americans had died of Covid-19 “than were killed in the Sept. 11 terror attacks or the attack on Pearl Harbor”); see also Shawn Hubler & Anemona Hartocollis, *How Colleges Became the New Covid Hot Spots*, N.Y. TIMES, Sep. 12, 2020, at A1 (“Colleges and universities have, as a category, become hot spots for virus transmission, much as hospitals, nursing homes and meatpacking plants were earlier in the year.”).