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2023

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DIDN'T I COVER THAT IN CLASS? LOW-STAKES TECHNIQUE OF QUIZZING TO THE RESCUE

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We all have had those moments when students' papers do not reflect an important lesson covered in class. For instance, if teaching persuasive writing, you have likely instructed your students to use a full sentence for their point headings in their briefs, only to find phrases where sentences should have been used. Consequently, you find yourself making the same written comments on papers or verbal comments in conferences with students, beginning with, "As I had instructed in class..." In his groundbreaking book, *Experiential Learning*,[1] researcher and theorist David Kolb introduced the concept of "deep learning," which can remedy this problem. To help students master fundamental skills, professors can incorporate in their classes deep learning methods, allowing time for professors to focus on more nuanced substantive material. Consider incorporating one time-efficient, yet impactful, deep learning method by providing a short quiz at the start or end of class. Quizzes can be designed as low stakes, meaning they do not affect a student's grade in the course, or if they count at all, their impact is insignificant.[2] These exercises can "strengthen[] . . . memory and deepen[] . . . learning."[3] While the quizzes may take up a few minutes in each class, in the long-run, they will save you time from making the same

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[*] Robin Boyle-Laisure, Professor of Legal Writing, Senior Vincentian Research Fellow, St. John's University School of Law. This essay was inspired by my workshop presentation at the Association of Legal Writing Directors Biennial Conference, "Working on Our Core: Wellbeing, Equity, and Inclusion"; joining me in the workshop presentation were Christine Coughlin and Sandy Patrick. The virtual conference was hosted by University of Michigan, June 16-18, 2021.
[1] DAVID A. KOLB, EXPERIENTIAL LEARNING: EXPERIENCE AS THE SOURCE OF LEARNING AND DEVELOPMENT (1984).
[2] *See* Beth A. Brennan, *Explicit Instruction in Legal Education: Boon or Spoon?*, 52 U. MEM. L. REV. 1, 51-52 (2021) (describing low-stakes retrieval of information).
[3] *Id.* at 51.

repeated comments on multiple papers or student conferences. Your patience will remain intact.

Neuroscience experts embrace the concept of deep learning because it engages the "whole learner" to achieve student success.[4] Neuroscience, and its intersection with teaching, starts with the premise that one's neurological system, including the complexity of the brain, should be stimulated to achieve connectivity between "learning and development."[5] Integral to this theory is that the brain is plastic, meaning "[o]ur brains are complex webs of neural connections that change based on where we focus our attention."[6] Our brains can adapt, forming new pathways, by changing our teaching methods and curriculum.[7] This molding of the brain, creating new ways to stimulate the brain, is referred to as "neuroplasticity."[8]

Related to the brain's ability to achieve deep learning, due to its neuroplasticity capabilities, is the methodology of low-stakes quizzing techniques.[9] College professor James M. Lang provides strategies for quizzing techniques in his book, *Small Teaching*.[10] The premise of quizzing is to encourage students to retrieve information, frequently and in spaced-timing sequences, creating neurological pathways that will help students retain course material.[11] Also foundational to the concept of quizzing as a retrieval tool is the work by writer Peter C. Brown and cognitive psychologists Henry L. Roediger III and Mark A. McDaniel, in *Make It Stick: The Science of Successful Learning*.[12]

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[4] Marilee J. Bresciani Ludvik, *Introduction: Rethinking How We Design, Deliver, and Evaluate Higher Education*, in THE NEUROSCIENCE OF LEARNING AND DEVELOPMENT: ENHANCING CREATIVITY, COMPASSION, CRITICAL THINKING, AND PEACE IN HIGHER EDUCATION 3 (2016).

[5] *See id.* at 13 (explaining how "the neurological system [is] interwoven throughout one's entire body").

[6] *Id.*

[7] *See id.* at 13-14.

[8] *See id.* at 16.

[9] JAMES M. LANG, SMALL TEACHING: EVERYDAY LESSONS FROM THE SCIENCE OF LEARNING 35-40 (2016).

[10] *See id.*

[11] *See id.* at 20-40.

[12] *See* PETER C. BROWN, HENRY L. ROEDIGER III, & MARK A. MCDANIEL, MAKE IT STICK: THE SCIENCE OF SUCCESSFUL LEARNING (2014) (reporting on experiments measuring the effectiveness of the retrieval effect, in which

The theory supporting retrieval effect is that the more often a learner uses memory to recall information, the better that learner retains information.[13] Quizzing will improve the "retrieval effect,"[14] which is a process that tests learning and occurs when a learner is required to recall something without cues to test learning. Practicing retrieval of information improves access to that information, which can improve academic performance.[15] Retention is enhanced when quizzing occurs over spaced time periods.[16] The quizzes should be brief,[17] carving out of class time approximately a few minutes. To aid students' absorption of course concepts and retention of the material, Lang recommends quizzes at the start or end of class, or both.[18]

Additionally, this teaching method will help students feel that they have mastered a discrete skill or concept, which leads to students' increased self-confidence and interest in learning more material. Some researchers suggest that if students feel that they did well on the quiz, however achievement is measured, that there is a dopamine effect.[19] The brain is capable of sending dopamine neurotransmitters when a person selects correct, as opposed to wrong, answers.[20]

A quiz is one tool in the toolbelt of active engagement during class. The Millennial Generation and their younger counterparts, the Generation Z students,[21] would likely appreciate this revised teaching

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three opportunities were given to students to practice retrieval in the form of regular quizzes, spaced out over different timing sequences); *see also* Jennifer M. Cooper, *Smarter Law Learning: Using Cognitive Science to Maximize Law Learning*, 44 CAP. U. L. REV. 551, 562 (2016) (describing retrieval as a valuable tool that extends beyond simply re-reading).

[13] *See* LANG, *supra* note 9, at 28 (explaining that "the retrieval effect works").

[14] *See id.* at 21-22; Adam N. Eckart, *Deal Me In: Leveraging Pedagogy to Integrate Transactional Skills into the First Year Legal Research and Writing Curriculum*, 21 U.C. DAVIS BUS. L.J. 125, 146-47 (2020) (suggesting "small teaching" techniques to encourage the retrieval effect).

[15] *See* LANG, *supra* note 9, at 13–28.

[16] *See id.* at 22-23.

[17] *See id.* at 39.

[18] *See id.* at 29-36.

[19] *See, e.g.*, Steven I. Friedland, *Fire and Ice: Reframing Emotion and Cognition in the Law*, 54 WAKE FOREST L. REV. 1001, 1019 (2019).

[20] *Id.*

[21] The Millennial Generation, also called "Generation Y," was born between 1981 to 1996; Generation Z, also called "Gen Zers," was born after 1996.

method, taking something traditional and converting it into a contemporary style.[22] In designing the quiz, three aspects of it should be considered: 1) the form of delivery (verbal or in writing), 2) the form of students' answers, and 3) the content.

1.   Considerations for Quiz Delivery

When designing the quiz question, consider how you would like to deliver it. Would this be a verbal question asked to the class? If verbal, this could lend itself to asking a question on the fly, with little preparation by the professor, such as "list three things that you took away from class last week." Or, would the verbal question be given forethought with a specific skill in mind, such as "the reading for today's class included material on rule synthesis; without looking at the textbook, explain that concept in your own words."

Consider whether the quiz would be more effective if delivered in writing. Would it be more helpful to provide an accompanying visual aid on a PowerPoint slide or a handout? A slide or handout could include a graphic to stimulate retrieval. If material is on screen, students tend to gaze up frequently as they ponder the question – looking at the slide, looking down at their work, looking again at the slide. If you plan to have a follow-up quiz at the end of class, students could return more easily to the question distributed on a handout. If you wish for students to leave class with a hardcopy in hand, then a handout is advantageous.

Additionally, polling systems are available for quizzes, which have become preferable over the physically held clicker systems. For reasons of convenience and being more cost-effective, professors

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Stella M. Ross & Ashley D. Rouse, The Politics of Millennials: Political Beliefs and Policy Preferences of America's Most Diverse Generation (University of Michigan Press 2018). *See generally* Laura P. Graham, *Generation Z Goes to Law School: Teaching and Reaching Law Students in the Post-Millennial Generation*, 41 U. Ark. Little Rock L. Rev. 29, 61 (2018) (explaining how Gen Zers lack critical reading skills).

[22] Renee Nicole Allen & Alicia R. Jackson, *Contemporary Teaching Strategies: Effectively Engaging Millennials Across the Curriculum*, 95 U. Det. Mercy L. Rev. 1, 26 (2017) (suggesting in a Contracts class, that the law teacher starts class with a quiz, followed by a short lecture on a contracts topic, like consideration, accompanied by "an image-filled Prezi" or PowerPoint).

prefer online polling platforms,[23] as opposed to clickers, which are handheld devices that can be distributed to students for classroom use. Both the clickers and the online polls allow students to select multiple-choice answers.[24] Currently, popular online polling websites are Kahoot,[25] Poll Everywhere,[26] and Pear Deck.[27] (These platforms may require internet access in the classroom.) Some learning management systems, like Canvas or Thomson Reuters' TWEN, have polling functions and are easily accessible to students. These polling techniques can be helpful for all students, but particularly so for students who may be introverted, struggle with imposter syndrome, or find it "intimidating to actively participate in a class that relies heavily on . . . teaching techniques requiring them to process information out loud."[28]

2. Considerations for Students' Responses

In designing a quiz, give thought to an ideal format for students to provide their answers, if you are not using an online polling function. Nowadays, students in our legal writing classes frequently use their laptops. Would students be responding to a quiz by creating a document using their laptops or replying to a quiz that you post to the class on a learning management system, like Canvas or TWEN (Thomson Reuters)? Would the students' responses be expected on a hardcopy that you distribute?

If you are using a PowerPoint slide to show the quiz question, this would provide an opportunity for you to type an answer as a group response. Students find the process of live question and answer engaging. For example, after showing a quiz question on an overhead

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[23] *See* Matthew Lyon & Seletha R. Butler, *Technology in the Classroom: Clickers, Videos, and Other Media*, 15 TRANSACTIONS: TENN. J. BUS. L. 617, 617-19 (2014) (Special Report).

[24] *Id.* at 617-18.

[25] Kahoot! | Learning games | Make learning awesome!, https://www.Kahoot.com.

[26] Poll Everywhere: Host interactive online meetings, https://www.polleverywhere.com.

[27] Pear Deck for Microsoft, https://www.peardeck.com/microsoft.

[28] Tiffany Atkins, *Amplifying Diverse Voices: Strategies for Promoting Inclusion in the Law School Classroom*, 31(2) SECOND DRAFT: THE LEGAL WRITING INST. 10, 13 (2018).

screen, let students ponder the question a bit. Then solicit responses by calling on students. As they communicate their answers, start typing the responses on the slide. However, since the pandemic, many classrooms are being recorded. If your class is being recorded, consider whether you wish to have this answer preserved in the recording.

Consider whether there is a model answer. If there is a model answer, you could ask one or two students to volunteer their answers, and then follow with your model response. A model answer would necessitate preparing one in advance of class.

Not all questions, however, can or should be evaluated using a single model answer.[29] If providing an open-ended question with no one preferred answer, then consider not calling on students or providing a model answer. For instance, a question like this one can be asked, permitting time for students to write responses quietly: "The chapter reading provided several models for a Question Presented. Which one do you prefer and why?"[30]

Another form of response is to offer more than one multiple-choice answer, and then ask for the class to demonstrate a response. For instance, use a traditional technique of asking for a show of hands: "Who voted for Answer A? Answer B?" In asking for a showing of hands, students often assess whether they are in the majority by looking around the room. Alternatively, the online polling functions provide multiple choice constructs. The online poll results can be viewed on screen with the frequency of responses visible on a graph. These approaches could be useful to help reinforce the more popular, and perhaps more correct, answer.

And lastly, weigh the value in collecting the responses. Some professors require that the quiz answers be turned in.[31] This process

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[29] Elizabeth M. Bloom, *Creating Desirable Difficulties: Strategies for Reshaping Teaching and Learning in the Law School Classroom*, 95 U. Det. Mercy L. Rev. 115, 131 ("Taking a test, even without feedback, is more effective long-term than rereading material.").

[30] This question was adapted from Robin Boyle-Laisure, Christine Coughlin & Sandy Patrick, Becoming a Legal Writer: A Workbook with Explanations to Develop Objective Legal Analysis and Writing Skills 189-90 (2019).

[31] *See, e.g.*, Brennan, *supra* note 2, at 53 n. 239 (advocating that professors collect quiz responses in order to check students' understanding of the material for purposes of correcting any misunderstandings).

allows the professor to assess the progress of the class as a whole. If collecting answers and, if time permits, provide written individualized feedback to the students. Students appreciate individualized feedback, but if time does not permit this customized approach, then a generic model answer would be valuable to the students as well.

3. Considerations for Quiz Content

It is important to plan for the timing of the quiz or quizzes. There could be one quiz at the end of class, or one at both ends of class, beginning and end. If the latter, allow for students' quiz answers from the start of class to rest until the end of the lesson, when you can ask students to return to their initial answers and improve upon them. You could prompt the students with this: "Now that we've worked with rules more in this class, is there anything you would like to add to your definition or example provided at the start of class?"

Another approach is to end class by asking a fresh question about the material covered in that class. One could ask a question this way: "We've explored in this class several structures for constructing a thesis paragraph for your memorandum assignment. Preliminarily, which structure are you considering for your memo?" Or like this: "In today's class, we covered thesis sentences. In your own words, what should a thesis sentence achieve?"

Vocabulary in any course is essential. Perhaps the content for one of your quizzes in a semester is reviewing key words or phrases. For instance, in Contracts—the distinction between substantive and procedural unconscionability. In Torts—the concept of an independent contractor.[32] In Legal Writing—the difference between primary and secondary authority.

Gauge your class on how often to quiz. In some classes covering several subtopics, it may be useful to quiz at the beginning and at the end of class. For other classes, students might appreciate a break from both quizzes. Vary the methods of quizzing so that students are exposed to new approaches yet ensure that information retrieval is being accomplished through some manner of a reiterative process.

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[32] *See* Rebecca Flanagan, *Better by Design: Implementing Meaningful Change for the Next Generation of Law Students*, 71 ME. L. REV. 103, 121-22 (2018) (suggesting a short-answer quiz on the basic vocabulary in Property to achieve students' retention of essential information for the course).

Also, you can encourage students to quiz themselves as a study tool.[33] The use of self-testing during study time helps students develop their metacognitive skills.[34] As an alternative, have students create their own quizzes after working within groups, to help crystallize important concepts and have them take charge of their own learning process.[35] Professor Anthony Niedwiecki suggests exploring technology that encourages students to monitor and regulate their own learning and, thereby, develop metacognition.[36] Related to technology, quizzing can be effectively incorporated into online courses.[37] These courses could be synchronous or asynchronous.

Ultimately, quizzing is being used not as a summative assessment tool, and not even as a formative assessment tool, but rather as a tool for learning.[38] The use of low-stakes quizzing should assist in achieving better retrieval of information and longer retention of

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[33] *See* Brenda D. Gibson, *If Only We Could . . . Make It Stick . . . Make it Stick: The Science of Successful Learning by Peter C. Brown, Henry L. Roediger III & Mark A. McDaniel*, 14 LEGAL COMM. & RHETORIC: JALWD 141, 142 (2017) (book review) ("testing . . . does not have to be initiated by another").

[34] Shaun Archer, James P. Eyster, James J. Kelly, Jr., Tonya Kowalski & Colleen F. Shanahan, *Reaching Backward and Stretching Forward: Teaching for Transfer in Law School Clinics*, 64 J. LEGAL EDUC. 258, 264 (2014).

[35] *See* Laura P. Graham, *"Safe Spaces" and "Brave Spaces": The Case for Creating Law School Classrooms That Are Both*, 76 U. MIAMI L. REV. 84, 159-61 (2021) (summarizing various techniques used by Professor Lucia Pawlowski including having students make up their own quiz).

[36] Anthony S. Niedwiecki, *Lawyers and Learning: A Metacognitive Approach to Legal Education*, 13 WIDENER L. REV. 33, 35, 63 (2006). *See generally* 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 (2003) (explaining the classroom techniques to develop students' metacognitive skills).

[37] *See* James McGrath & Andrew P. Morriss, *Online Legal Education & Access to Legal Education & The Legal System*, 70 SYRACUSE L. REV. 49, 64 ("An online class can be peppered with multiple low or no stakes testing to guide students in regular retrieval practice, another of the highly effective methods of learning for long term retention of material.").

[38] Bloom, *supra* note 29, at 130 ("Testing traditionally tends to be viewed solely as a mechanism to diagnose whether learning has been attained as opposed to one that assists the learning process.").

course material. As a result, you will be writing less frequently, "As I said in class…"!