

## ASSESSMENT

### **Electronic technology provides a new methodology for teaching and testing**

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52 *J Legal Educ* 1 & 2, 2002, pp 145–151

For sixteen years, like countless other teachers, the author has devoted considerable energy toward shaping electronic technology into an effective teaching tool. A year ago, as the bloom faded from the once unlimited promise of the Internet, it struck him that what we were doing was fundamentally wrongheaded. Most e-education takes the form of an instructional production, in which the producer (teacher, domain expert, programmer) generates a program that is intended to improve the lot of an audience (students, clients, the public). That strategy runs into immediate problems with developmental costs and cranky delivery platforms, not to mention the nasty fact that there are so many learning styles that even the most gripping program passes half of the audience by.

In the fall of 2001 the author experimented with the opposite approach in a Torts class. Rather than use electronic media to teach students, the technology was given to them and they were required to teach the author something about the subject matter and in the process teach him how well they understood it.

The author's usual practice had been to give a midterm examination in Torts, consisting of a combination of graded multiple-choice questions and a practice essay question. The singular feature of the multiple-choice questions was that they presented hard questions, that is questions with no clearly correct answer. The class was divided into four-student teams and each team was required to take a single question from a past midterm exam — a question that raised issues that forced them to ponder and debate the most compelling answer — and to follow it to its root, using an

interactive conversational approach that they implemented in a piece of software provided to them. The aim was to place them in the role of a teacher who is using an interactive dialogue with a student that leads the student to thoroughly understand the concepts and rules necessary to answer the question, and to answer it in a defensible manner.

Much of the educational value of the assignment came from the conversation between the members of the team as they developed their application. Of the potential difficulties that this assignment presented, the only one that proved significant was team dysfunction. Ten of the thirty-five teams suffered disagreements severe enough for them to bring the problem to the author's attention. In two of the cases the cause was a lack of effort by one of the team members. Those problems were easily solved. In the other eight teams the problem resulted from a difference between the members about the nature of the assignment and their strategies for addressing it. These differences presented a great opportunity for the members of the team to learn from each other and to reach a strategy that fused their approaches. With a bit of discussion, each of the teams did manage to see that point and to resolve their differences, generally with a result that was superior to what team harmony would have initially produced.

As the author graded examinations in the past, he had been haunted by a fundamental fact: for many students he was not seeing the best they can do. With objective questions, students are simply responding to questions that are presented, questions that unavoidably embody the way the teacher understands the subject. They do not give him a chance to see the student's conceptualisation of the material. With essay questions, the students are too often trying to imagine what the teacher would say in their situation, rather than revealing their own thinking. In domains where workers are expected

to do what they are told, this is probably an adequate form of testing. But in law or in any counselling situation, where they must take the initiative, it is not adequate, as we well know from the less than perfect correlation between class rank and excellence in the profession.

This assignment gave the students an open-ended opportunity to show what they could do. In the process they gave the author an x-ray vision of their own thinking, the kind of vision that rarely comes through on the guarded task of writing an essay question or a research paper. The projects reflect an exciting variety of strategies for getting people to see the reasons for things. All searched systematically for the edges: what distinguishes a compelling argument from a weak one? Of a set of possible rules, what makes one superior? When can a fact be inferred? Some took a carefully guided approach, letting the user make a choice between narrow alternatives, then testing it carefully step by step. Others offered the user a choice between big reasons, and then tested to see if the instant situation fitted into the big picture.

There had been some concern that, by replacing the midterm exam with this assignment, the students would be less well prepared for the final examination, which was of the same format as the previous midterms. As it turned out, that was most emphatically not the case.

Ever since the doomed 'teaching machines' of the 1960s, electronic media have fallen far short of the hope that they would improve the reach and quality of education and cut its cost. Most of those efforts have embodied a broadcast model in which one or a few educators, domain experts, or knowledge engineers produce something for students, employees, clients, customers, often with little or no opportunity for involvement or feedback. It may be that the real educational power of electronic media lies in the education that comes with creation rather than

consumption, when the students become the domain experts, the knowledge engineers and the teachers.

## CURRICULUM

### **Training for better decisions: designing a computer-mediated distance education subject for tribunal members**

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13 *Legal Educ Rev* 1, 2002, pp 21–44

The post-war expansion of government programs has seen the establishment of numerous tribunals to make decisions, or to hear appeals from government decisions, in areas as diverse as planning, migration and guardianship. At the same time, the need to regulate occupational groups has led to a proliferation of industry-specific disciplinary tribunals. All of these can be considered to be administrative tribunals, although no clear line separates them from 'court-substitute' tribunals which adjudicate disputes relating to private rights and liabilities.

While there are no general entry-level qualifications required for appointment to administrative tribunals, a great deal is asked of the members. In many tribunals, members combine the roles of investigator and adjudicator, and some are also expected to be skilled in alternative dispute resolution processes. Effectiveness as a tribunal adjudicator requires the ability to identify the issues, elicit information, evaluate evidence, interpret and apply legislation, precedents and policy, and to communicate reasons for decisions. Many of the required skills, values and knowledge will need to be learned or improved after appointment.

Despite widespread agreement that members of administrative tribunals should be trained for their role, no clear model for providing the training has emerged. University law schools can assist in the delivery of generic training for tribunal members. Some uni-

versities already have the required expertise and infrastructure for learner support, and have the economies of scale to provide cost-effective training.

This article reflects upon the experience of Monash University, Australia, in developing a new graduate law subject for members of administrative tribunals, called 'Decision Making for Tribunal Members'. The subject gives a broad introduction to the role of tribunal members, the framework of legal regulation in which they operate, and the legal and ethical requirements for administrative adjudication. The learning activities for the subject are designed to develop core skills of statutory interpretation, use of precedents, identification of issues, analysis of problems and writing reasons for decisions. The intended student group is people currently serving as tribunal adjudicators, including those who have legal qualifications.

One obstacle to the generic training identified is the diverse and specialised nature of tribunal practice. The problem was how to teach generic skills and knowledge in a way that would satisfy the learners' need to see the practical application to their own tribunal context. The proposed solution was to design learning activities that require students to formulate their own problem and then to solve it by applying their newly learned skills and knowledge, thereby promoting the transfer of skills from one problem to another. A further way of demonstrating the transferability of skills and knowledge is to enable students to share their answers. The provision of many examples helps students not just to apply their new learning but to distinguish situations where it is necessary from those where it is not.

The first step in developing the subject was to determine what the subject matter or curriculum was to be. Adult education theory holds that adults are motivated to learn when they experience gaps in their knowledge that

learning will satisfy. So analysis of the learners' needs is the starting point for developing a curriculum for tribunal members.

A variety of learning approaches was selected to serve different objectives or aspects of the subject, including keeping a professional journal, analysis of a case, reflective writing exercises, online investigation and reporting, asynchronous computer conferencing and problem-based learning.

Problem-based learning was the principal method for teaching the core skills of analytic reasoning, statutory interpretation, problem-solving and writing reasons for decision. In this approach the focus of student learning is on the problems they are likely to encounter in professional life, rather than on the assimilation of academic knowledge abstracted from context.

Opportunities for interaction with teachers and fellow students are highly desirable features of an integrated learning environment. With the course being offered by distance study mode, it was decided against including a compulsory face to face component, as this would impose substantial costs on interstate students. Instead interactive features were incorporated into the subject by use of the Internet.

Along with an emphasis on the professional knowledge base and competence in practice, contemporary approaches to professional education place value on prompting students to reflect on their professional role and experiences. Since professionals acquire much of their competence through practice, educational theorists have become interested in the reflective process by which professionals learn from experience. Fostering the cycle of action and reflection is seen as a means of enabling professionals to adapt to external change, to reappraise their values and to become lifelong learners. Activities were provided to prompt students to reflect upon their professional role and what they had learned from particular experiences in