

of the higher education marketplace, particularly in the area of professional and continuing education. With respect to the changing role of faculty, today the faculty's role in governance is being challenged and diminished at many colleges and universities. Rising competition and consumerism in higher education necessitate greater risk taking. But shared governance, with its emphasis on consensus building before new initiatives are launched, may discourage entrepreneurial activity and hinder a university's ability to take advantage of competitive opportunities as they arise.

As we move toward more of a corporate model in higher education, more and more people outside the traditional academy will want to know why professors need tenure, or the equivalent of life employment, in some cases with little or no post-tenure evaluation or accountability. Others will want to know whether some of the more esoteric research produced, and sometimes exclusively consumed, within the academy is absolutely necessary. And still others will wonder whether devoting six or nine credit hours per week for nine months of the year is really enough of a teaching load for the current levels of full-time faculty compensation. They also will speculate whether the use of technology in teaching can reduce the number of full-time faculty, just as it has reduced personnel in many sectors of the business world. These questions will have to be answered not only within the academy but also to critics and consumers in the world outside the walls of academia. Legal educators will have to answer these same questions as applied to law schools and address many of the same pressures that their parent universities face across the board.

### **Developing student self-reflection skills through interviewing and negotiation exercises in legal education SKILLS**

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Increasingly over the past decade or more, educators have recognised the importance of providing students with the ability to monitor their own progress, both during the time they are taking part in formal training and afterwards when it is hoped they will become life-long learners. In legal education in Australia, there is a growing literature on the teaching of skills, as part of wider research on methods to improve student learning. Also, law schools are increasingly focusing attention on students graduating with generic skills and attributes. In the US as well as in Australia, there has been significant emphasis on a particular model of experiential learning, especially of legal skills, which incorporates an element of reflection.

However, while experiential learning has become a more frequent feature of legal education, there has been little written on specific steps that should be taken in order to enable students to learn from their professional and personal experiences, and to develop self-reflection as an essential learning and professional skill.

The curricular structure developed at Flinders University Law School, Australia, introduces students to skills in the first year, then integrates skills teaching with substantive law topics, with more elaborate and demanding skills programs in later year topics. In the first year topic, *Lawyering: Procedures and Ethics*, exercises in listening, interviewing, drafting, negotiation and oral advocacy are conducted informally as part of regular tutorial groups. In the second year, students undertake a more elaborate exercise in oral advocacy or mooting as part of the *Contracts* topic. In the second or third year, students undertake a more elaborate exercise in legal interviewing. A drafting exercise is part of *Corporate Law* in the third year. In the final or penultimate year, students do a further exercise in legal negotiation in *Resolving Civil Disputes*.

The preparation phase includes several components aimed at introducing the specific skill of interviewing or negotiation and the metacognitive skills of reflection. First, students are assigned readings which include material about experiential skills learning generally, as well as specific information about the particular skills of interviewing or negotiation, including planning and evaluation. Next, there is a lecture which includes a video of a simulated interview or negotiation. Students then prepare a written plan for the activity, in the form of a brief outline.

All the interview and negotiation exercises are conducted as simulations at the law school, with the students acting in role as legal practitioners. The interview exercises involve other students playing the role of clients to be interviewed. Negotiations are conducted one on one, with a student acting as the legal representative for each party. The first year *Lawyering* students conduct their interviews and negotiations in the classroom as part of their tutorial classes. The negotiation exercise for the final year students in *Resolving Civil Disputes* are conducted in specially designed premises in the law school, which enable observation and video recording of the negotiation.

The reflective aspect of the exercise involves several components. After the interview or negotiation, each student provides short written responses to two sets of questions: 'Self-Assessment Guide' and

'Feedback from Partner'. In the negotiation exercise in Resolving Civil Disputes, students are videoed during their exercises and have a short meeting with an instructor/observer who provides some feedback. Students then write a report on the exercise which requires explicit self-reflection on their planning and their performance in the exercise. The reflective reports should evaluate their plans, the process and outcome of the interview or negotiation and consider any feedback from others as well as ideas from the assigned readings. Later year students review the video of their exercise as part of preparing the reflective report.

It had been expected that these structured self-reflective elements, especially when linked to written planning and reporting requirements as part of formal assessment, would make the goal of teaching students how to learn from their own experience more explicit, and create a direct link between the activity and the self-reflective learning objectives.

As part of developing and improving the program, surveys were conducted to learn more about the students' response to the focus on self-reflection. Two questionnaires were administered in Lawyering, one after the interviewing reflective report was submitted, and another after the negotiation report was submitted. In Resolving Disputes, one questionnaire was administered after the negotiation report.

Students were asked how helpful they found the video and writing a plan for their conduct of the actual interviewing or negotiation activity. Their responses indicated that they found preparing the written plan helpful, and somewhat more helpful for their performance of the task, in comparison to viewing a video. This positive response to the plan suggests that students' own experience confirms the link, discussed in the literature, between active planning, such as writing a plan, and skills learning.

Students were also asked specifically about the extent to which the video, writing a plan, and the readings helped them in the process of self-reflection. Their overall responses suggested that these elements were less helpful in self-reflection than in developing the specific skill itself. However, writing a plan was still seen as helpful for self-reflection by a very high proportion of students, especially first year students.

The students were asked about the helpfulness of various activities following the specific interview or negotiation task. The importance first year students put on feedback from their partner suggests that this could be emphasised more for the later year students. However, later year students may have been less attentive to giving and receiving feedback, as they knew an instructor/observer would comment.

The preference among first year students for feedback, even from peers, over self-reflective instruments, suggests that these students are still fairly dependent learners. The later year students appeared to find writing a self-reflective report more helpful than feedback from other sources, which would be consistent with the more independent learning style one would hope for in final year students, many of whom are already undertaking legal work.

The survey of students has identified some strengths in our current teaching strategies, underscored links between our approaches and the wider literature on reflective practice, and indicated some important areas where we can improve our approach to assisting students to develop the self-reflective skills necessary to become a life-long learner, especially one who exercises professional judgment in an unsupervised setting.

Strategies which students regard as especially effective in eliciting self-reflection include writing a report and, especially, requiring students to prepare and submit a plan for each exercise. First year students found peer feedback and preliminary readings especially valuable, while later year students found the video more valuable. The significance of a written plan and a written reflective report is shown by the large number of students at all levels who found these elements helpful.

In conclusion, although students, especially those in their first year, still desire direct instruction, guidance and evaluation from others, there was also good acceptance of self-reflection, even among the first year students. A significant proportion of students reported extending self-reflection to other activities. This suggests that once students grasp the concept and method of self-reflection, they are able to generalise it.

## SKILLS

### **An integrated approach to information literacy in legal education**

R Carroll & H Wallace

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One of the many essential skills of a lawyer is the ability to research the law. It has been recognised for some time that the skills required to research the law should be taught at law school. Greater emphasis in higher education on the importance of teaching generic skills has coincided with discussion of the need for skills education for lawyers generally. The increasing interest of universities in the development of the 'life long learner' has focused attention on methods of training students to be independent learners.