

Students enrolled in the Practice Court program are introduced to the realities of modern law practice and the responsibilities of lawyers to clients, courts and society. Practice Court goals include mastery of civil practice and procedure, as well as application of thinking and communication skills and substantive legal knowledge developed prior to the course in first and second year courses. The course trains students in preparing pleadings, arguing motions, conducting discovery, selecting juries, examining witnesses, and persuading juries. A common thread in the course descriptions is instruction in effectiveness in developing a research plan.

An advantage of the practice-oriented curriculum is that research instructors may develop courses with greater certainty that many of these skills have been taught in required courses. Moreover, instructors know when these skills are primarily taught. Many research skills are incorporated by reference to such required courses as Practice Court; Evidence; Legislation; Administrative Power and Procedure; and Professional Responsibility. Other courses throughout the curriculum and other student activities involving research are also relevant to developing skills collateral to the context of the research courses.

Incorporation of the subject matters of these courses provides a direct context by which students may understand the nature of a certain type of research so that it should follow that such references provide a direct link to skills actually used in practice. Research instructors should know what the law school seeks to accomplish through each stage of a law student's career and should identify the administration's views on development of practical skills, including when, why, and how students should develop these skills.

It is not uncommon for students to view research as a dreaded means to a desired end. Yet if law schools are to develop high levels of research skills among their students, the students must know how to apply these skills within the framework of legal analysis, research, and writing as a skills set. They must also be capable of applying these skills after the first-year course in other situations, such as clerkships, as well as practical skills courses in the upper-level curriculum. Failure to integrate first-year and upper-level research courses borders on nonsense, particularly if the upper-level instructor must provide extended coverage of basic skills that should have been taught in the first year program.

If practical skills are not a primary focus of a law school, then students may or may not be familiar with the various aspects of courses collaterally related to research, such as trial advocacy, legislation, or administrative law. Especially in a curriculum where practical skills courses receive little priority, instructors may improve students' capacities by focusing on areas of specialised research that associate with other courses in the upper-level curriculum, such as tax, employment, environmental law, bankruptcy, immigration law, intellectual property, securities law, health law, and international and foreign law.

The dialogue concerning legal research instruction should not end. As the availability of information continues to change, so too must the pedagogical values associated with legal research instruction. The demand extends far beyond the walls of the classroom.

## **Assuring quality in the casualisation of teaching, learning and assessment: towards best practice for the first year experience** **TEACHERS**

S Kift

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Increasingly, the task of mediating the complexity and diversity of the first year experience has fallen to casual academic staff who are themselves often embarking on their own first year experience of teaching or, at best, in the early stages of their own transition to the new role of tertiary educator. As the rate of casualisation in the tertiary sector grows exponentially in response to the endemic diminution in public funding, the imperative of assuring the quality of the casual teaching and learning environment has become critical. The response has been to resource management initiatives and teaching strategies that focus on innovative and effective ways to train, support and nurture this integral staff cohort in recognition of the pivotal role they play in delivering increasingly complex and resource intensive programs.

Tertiary education is one of the most casualised sectors in Australia. The recent and significant expansion in casual staff numbers is reflective of the trends noted in many American and United Kingdom universities. It is the greater mass of first year students who will be taught by casual academics in their small group classes. The teaching and learning experience of our students in their first year is a crucial one that can have lasting positive or negative effects, depending on the skill with which it is handled.

While the professional development of casual staff has received serious consideration in the United States in particular and, more recently, in the United Kingdom, the issue is still a relatively new one in the Australian context. There has been recent dynamic change in the way in which courses have been restructured and their learning objectives redefined to meet changing student and employer demands. Just as the modern first year student cohort is replete with diversity, so too the tertiary casual teacher pool has no definitive taxonomy. Casual teaching staff fall into many different categories and may include postgraduate students, research fellows, external people from the legal profession, part-time tutors and clinical tutors and people who are employed on a course-by-course basis.

The need for tutor training is greatest in the first year, when students are relatively vulnerable and where many first time tutors cut their teeth as casual teachers. As so often occurs in the first year experience, there is a misalignment of at-risk first year student with the inexperienced casual academic. Tutorials and practical classes in first year subjects are frequently staffed by inexperienced part-time teachers with little preparation for their role, often working within a structure of minimal support.

Students have expressed concern with the variation in the quality and attitudes of their tutors. The absolute imperative for teacher training in the new tertiary paradigm that embraces the value of graduate capability development has been reinforced by such feedback. Students also reported that more interaction in tutorials is preferred to the perceived passive learning that occurs in lectures. It is argued that tutors who, rather than lecturers, have the most contact with students, should be well qualified and exhibit excellent teaching skills.

The issues that tertiary casualisation throws up in the teaching and learning context are convoluted. How does the academic sector take on the training and support of such a diverse casual workforce, with all of its varying motivations and legitimate expectations, against the management reality of casualisation's use as a cheaper alternative for program delivery in a climate of reduced funding, larger student numbers and increasing complexity?

One issue arising in examining these matters is one of quality and requires matters of academic support by way of tutoring and marking guides, training in the teaching strategies needed to facilitate small group teaching and learning in all of its diversity and complexity, clarity of expectations and consultation time. Casual teaching staff need to be made aware of the new agenda teaching and learning imperatives adopted by many law faculties. These new imperatives of course delivery need to be made explicit to casual staff who are expected to implement them. Also, a call for a paradigm shift towards institutional assimilation and a sense of belonging has been made. This is the issue of creating an environment that values casual staff; an institutional approach that does not leave them feeling as isolated as the first year students many of them teach.

Some law faculties have adopted policies specifically addressing the issues faced by casual staff. The policies serve to clarify issues regarding expectations about availability to the faculty and to students; clarification of what marking is included in the hourly original and repeat rate; what expectations exist regarding answer guides to tutorial exercises; and the general approach to teaching materials. This guide should also include helpful hints and tips on academic administrative practice.

The most pressing issue for quality assurance of the casual teaching and learning environment is the training and staff development made available to casual staff, both at the induction stage and on an on-going basis. The extreme diversity of the student body and the pressure that responsibility for student assessment places on casuals present particular and quite early challenges.

These policies and programs have been very well received at the Queensland University of Technology (QUT), Australia. The last decade has witnessed a dramatic change in the intent and methods of university assessment. The response to calls for a broad-based education that focuses as much on the 'how to do' as the 'what they know' has seen the traditional assessment methods, with which casual academics would be most familiar, superseded. As universities are now teaching to a much broader range of student capabilities and to the acquisition of generic and discipline specific skills, so it is that current assessment practice seeks to develop more authentic assessment tasks that test for a mastery of content and skilled behaviour, directly linked to reformulated learning outcomes.

The provision of hard resources to casual staff is principally an aspect of teaching and learning support but also raises issues of management and policy that can either facilitate an inclusive culture for casuals and work as an indicator for them of how valued their contribution is, or militate against these things absolutely. At a different level of engagement, the parallels of the casual teaching experience to the first year student experience are worth noting: many casuals report feeling isolated. Often faculty expectations are not made clear and many casuals who start with high hopes and enormous goodwill end up feeling quickly overwhelmed. An inclusive culture that embraces the casual teacher will work to a faculty's advantage in many tangible ways.

Mostly, the QUT casual pool is drawn from the practising legal profession, importantly supplemented by a number of women practitioners who have primary childcare responsibilities. The professional

make-up of our casual pool is another important ingredient in the mix that motivates the desire to ensure that the experience of casual staff is a quality one. Ultimately, it is these people who speak back to the profession about the worth of our programs, who will be employing our students and who, if we treat them right, will act as our ambassadors in the professional marketplace.

There are many correlations between the experience of the casual academic staff member and that of the first year students for whom they often take initial teaching and learning responsibility. With targeted initiatives both parties may be assisted to fulfil their potential. The issues of quality assurance, teaching and learning training and support, and a shift to a culture of institutional assimilation and inclusivity, are priorities for the pedagogical and administrative management of this valued pool of teachers. For the sake of our students and to assure the quality of our institutions' teaching and learning practices, casualisation as a fact of the new tertiary agenda should be embraced and nurtured, rather than marginalised as a teaching backwater and lamented as an economic rationalisation. We need to put commitment, effort and resources into training, supporting and integrating this teaching cohort into the institutional mainstream.

### **The impact of expectations on teaching and learning**

B Glesner Fines

38 *Gonz L. Rev.*, 2002/03, pp 87–118

Law schools appear to be in the midst of a crisis of confidence in the abilities and motivations of their students. Many students are so bored that in first year they fail to learn black letter law at a satisfactory level, by second year, attendance declines precipitously and by graduation they have lost the passion for justice that motivated them to become lawyers.

Proposed solutions to these concerns focus on changing curriculum, teaching methods or materials. To improve learning, law faculties need to critically examine assumptions, including those relating to the basic principle of maintaining high expectations of student performance. High expectation teaching methodologies require a warm socio-emotional teaching climate as well as the imposition of raised expectations. This article suggests that faculty can improve legal education by critically examining their assumptions and attitudes. It identifies methods for raising expectations and addresses the concerns raised about doing so, particularly, credential bias, which assumes that past academic performance is a measure of future ability, and generational bias, which assumes law students are unmotivated and disengaged. It also addresses high-expectation teaching methodologies, in particular the socio-emotional climate of teaching, by increasing the warmth of teachers' interpersonal communications with students.

Performance expectations are either based on a student's ability alone, or upon a combination of assumptions about ability, amenability to instruction and motivation. Two variations of relationship between expectation and behaviour exist, each having both positive and negative forms. First is the self-fulfilling prophecy, in which initial expectations based on false assumptions, result in the expected outcome. Second is the self-sustaining expectations which occurs when expectations of future achievement are based on past performance, also resulting in the expected outcome.

Teacher expectations are correlated with student achievements. Assumptions of competence can increase achievement, whilst assumptions of deficiency can hamper learning. Student achievement has recently been shown to be crippled by low expectations of the gender and race groups to which students belong. The issue of how learning environments impact students historically disenfranchised from the legal system is in the early stages of research. Stereotypical threats can threaten performance regardless of ability. Once an assumption of ability is formed, it tends to become the basis against which all future learning is assessed.

The sustaining expectancy effect refers to situations in which teachers fail to see student potential and do not encourage students to fulfill their potential. The higher a student's grades, the greater the opportunities to improve those grades become, through writing or research assistant opportunities, advanced seminars and faculty interaction. Self-fulfilling or self-sustaining, positive or negative, expectations affect achievement.

Students who attribute their success to ability and effort are more susceptible to the expectation effect. Four behavioural conditions are identified as mediating the expectancy effect, namely the socio-economic climate created by the teacher, the difficulty and quantity of material taught, the instructional time spent with students and feedback.

Law schools can utilise the positive aspects of expectancy and minimise the risk of negative threats so as to implement more effective teaching behaviours. Recognising personal biases is a prerequisite to increasing expectations. Biases brought to teaching include the conclusion that lawyers prefer logical as opposed to emotional rationales for decision making, a learning style preference for