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## **CONTENT & OPINIONS**

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## FROM THE EDITOR

### A Practical Matter

*Tell Me and I Forget; Teach Me and I May Remember; Involve Me and I Learn—Benjamin Franklin*

As the broader marketplace changes at a dizzying rate, so does classroom learning and the skills that college students need to survive and succeed in life. Artificial Intelligence and the gig economy; telecommuting and sustainability; shifts from productivity-centered to performance-centered metrics—these are just a few of the benefits and challenges of what has been described as the modern “boundaryless world”. In such a mutable landscape, graduates and the businesses that hire them will need not only technical skills and knowledge, but also those intangible capacities that create the greatest value, and separate us from the machines: imagination, intellectual curiosity, emotional intelligence.

Business students of today therefore benefit from a classroom experience that fuels creative invention and reflects the real world. Gone are the days of hour-long monologue lectures, replaced with more active learning that promotes higher-order thinking and generates enthusiasm for the subject matter. Falling behind us are purely knowledge-based examinations that require hours of memorization, in favor of evaluations that focus on problem-solving and critical thinking. Innovations in our teaching are key to involving students in the educational process, ensuring that they will emerge as independent and strategic life-long learners.

In this issue of the *Journal of Business Law & Ethics Pedagogy*, the featured authors provide a number of creative teaching exercises that will effectively involve students in active learning.

In the first article, *Team-Based Learning in the Legal Writing Classroom*, author Carol Bast provides details about a legal studies collaborative program, where students form “law firms” and solve client problems. Professor Bast recounts how such team-based learning (TBL) encourages strategic thinking and creativity among participants; in its social learning aspects, TBL also teaches professional interpersonal and communication skills. Through decision-making and “collective and cooperative activity” students gain those benefits which will be of great value to them both in the workplace and day-to-day life.

Author Cristen W. Dutcher immerses us in the process of active learning in her article *Build-A-Business Goes to Grad School: Using Build-A-Business in an MBA Law Course*. By involving graduate-level learners in real-world applications of their knowledge and skill, Professor Dutcher notes the immense benefits to students as they solve problems and make strategic decisions. Covering multiple areas of law—Ethics, Agency, Employment, Contracts, Discrimination, Torts, Intellectual Property and Forms of Business Organization—*Grad School Build-A-Business* is a unique way to cover important content and simultaneously encourage teamwork and communication.

In the article *Nothing to Mock in Mock Trial: An Effective Teaching Tool in a Combined Undergraduate-Graduate Learning Environment for Employment Law* author Kent Miller combines undergraduate and graduate students in an applied knowledge project. Like the exercises of Professors Bast and Dutcher, Professor Miller’s employment law mock trial program focuses on team-based work within a real-world scenario—the latter preferably “ripped from the headlines.”

As experiential style projects like the exercises showcased here become more common, we as educators can easily visualize the immense benefits of such collaborative, social learning. Students are recognizing those advantages as well, and are making meaningful connections between business law content and real-life.

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Christine Ladwig  
EDITOR-IN-CHIEF

# Team-Based Learning in the Legal Writing Classroom

Carol M. Bast\*

## ABSTRACT

A collaborative learning environment with students organized into “law firms” is a type of classroom organization often referred to as team-based learning (TBL). The author is presently in the fifth semester of using law firms as the TBL vehicle in a Legal Writing class. This manuscript explores the history of TBL and then discusses why, following the fashion of TBL, dividing the class into law firms is a good way to realize such benefits in a class where a majority of the students intend to attend law school. The purpose of the manuscript is to contribute to the successful use of TBL in the Legal Writing class by sharing lessons learned from using the law firm organization of the class.

**KEYWORDS:** TEAM BASED LEARNING, LEGAL WRITING, COLLABORATIVE LEARNING LAW

## I. Introduction

The author is a professor in an undergraduate Legal Studies department<sup>2</sup> that offers many classes similar in subject matter to those encountered in law school, although on a more introductory level. The Department of Legal Studies is part of a large (over 70,000 students) public university in Florida.<sup>3</sup> Legal Studies classes are popular with those students intending to attend law school or to pursue a law-related career. Legal Writing is required for all Legal Studies majors.<sup>4</sup>

Employers value employees with a combination of technical skills and non-technical skills. Technical skills—also sometimes referred to as “hard” skills—are those measurable competencies such as knowledge of the subject matter and ability requisite for the position. Non-technical (“Soft”) skills include the mastery of interpersonal relations necessary to be a good team member. “Among the non-technical/soft skills consistently reported to be desired by employers, teamwork is consistently at the top of the list.”<sup>5</sup> Teamwork skills may determine an employee’s success in job performance. “Teamwork is a cross-cutting skill critical to employment success, not only in the U.S., but in other national and business educational contexts . . . .”<sup>6</sup> The importance of teamwork is widely recognized in the business world. “The positive impact of teamwork on students preparing for business careers and by employers across sectors is well-established . . . .”<sup>7</sup>

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<sup>2</sup> See <https://ccie.ucf.edu/legalstudies/>.

<sup>3</sup> See <https://www.ucf.edu/about-ucf/>.

<sup>4</sup> See <https://www.ucf.edu/catalog/> for the current catalog.

<sup>5</sup> Stephanie Schartel Dunn, Michelle Dawson & Beverly Block, *Teaching teamwork in the business school*, J. OF EDUC. FOR BUS., Nov. 2020, at 1, 1.

<sup>6</sup> Maureen Andrade, Ronald Mellado Miller & Morgan Ogden, *Teamwork for Business Majors – The Impact of Peer Evaluation*, 14 E-J. BUS. EDUC. & SCHOLARSHIP TEACHING 1, 3 (2020).

Employers' desire that a potential employee have teamwork skills extends to law-related employment. "A national 2016 study of legal employers found that nearly three in four respondents believed it was necessary that their new hires have the ability to work collaboratively as part of a team."<sup>8</sup> Teamwork skills are vital to clients as well as to law firms. One bridge that students must cross in their transition from the classroom to the professional world is to become comfortable with working within a collaborative environment, such as a firm, to solve client problems. "Law firm competency models and both individual and corporate clients evaluate a new lawyer's (1) good judgment, (2) client relationship skills, and (3) teamwork skills."<sup>9</sup> One of the factors in law firm hiring decisions are the potential employee's experiences developing interpersonal skills by working with a group.

Given the importance of teamwork skills to employers, it is important that students be trained to be proficient in working as an effective team member. "According to employers, one avenue colleges can utilize to prepare students for the goal of employment is to make sure students are adequately exposed to teamwork."<sup>10</sup>

A collaborative learning environment with students organized into "law firms" is a type of classroom organization setting up a learning environment often referred to as team-based learning (TBL). TBL is multi-dimensional in its benefits such as "application of higher level strategies, such as evaluation and analysis, critical thinking; greater productivity; higher creativity; transfer of learning [from a group to an individual situation]; better retention; higher involvement, engagement and motivation; more positive attitudes towards learning; and better abilities in peer- and self-reflection."<sup>11</sup> Involvement in teamwork in the classroom produces other benefits. "[B]eyond improving teamwork skills, teamwork instruction improves self-confidence . . . and strategic thinking . . ."<sup>12</sup>

Section II below explores the history of TBL and section III discusses why, following the fashion of TBL, dividing the class into firms is a good way to realize such benefits in a class where a majority of the students intend to attend law school. This is the fifth semester in which the author has used firms as the TBL vehicle in a Legal Writing class. Section IV describes how the basic TBL concepts were woven into Legal Writing. The section also explains delivery of the latter portion of the second semester and the entire third semester classes conducted remotely via Zoom because of quarantine restrictions. Section V offers a critique of the use of TBL in Legal Writing. Section VI offers a conclusion. Three appendixes containing tools the author utilized in the classroom are attached to the manuscript. Appendix A is a portion of the syllabus from the second semester of Legal Writing; Appendix B is the firm intake form; Appendix C is a roadmap for the office memo.

## II. History of Team-Based Learning

TBL is new in comparison to group learning, which has a long past.<sup>13</sup> Larry Michaelsen, a professor at the University of Oklahoma, developed the idea of TBL in the late 1970s.<sup>14</sup> One of two advantages that Michaelsen noted early on was that TBL was promoting student responsibility within the team for individual student learning and learning of the other team members. A second advantage Michaelsen stated was that Michaelsen personally enjoyed a class centered on TBL.<sup>15</sup> Yet another advantage was the connection between the skills that

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<sup>7</sup> *Id.* at 13.

<sup>8</sup> Lindsey P. Gustafson, *Reflections on Five Years of Team-Based Learning in First-Year Property*, 66 S.D. L. REV. 29, 30 (2021).

<sup>9</sup> Neil W. Hamilton, Verna E. Monson & Jerome M. Organ, *Empirical Evidence That Legal Education Can Foster Student Professionalism/professional Formation to Become an Effective Lawyer*, 10 U. ST. THOMAS L.J. 11, 13 (2012).

<sup>10</sup> Dunn et al., *supra* note 4, at 1.

<sup>11</sup> Mary Keyes & Kylie Burns, *Group Learning in Law*, 17 GRIFFITH L. REV. 357, 361 (2008) (footnotes omitted).

<sup>12</sup> Dunn et al., *supra* note 4, at 1.

<sup>13</sup> Susan W. Dana, *Implementing Team-Based Learning in an Introduction to Law Course*, 24 J. LEGAL STUD. EDUC. 59, 59 (2007).

<sup>14</sup> Larry K. Michaelsen, Arletta Bauman Knight & L. Dee Fink, *Preface* to LARRY K. MICHAELSEN ET AL., *TEAM-BASED LEARNING: A TRANSFORMATIVE USE OF SMALL GROUPS* vii (2002).

<sup>15</sup> *Id.* at viii.

the student learned in the classroom that would prove to be profitable to that same individual after transitioning to the business setting upon graduation. In other words, TBL promotes concepts that will be important to students in their careers after graduation.<sup>16</sup>

Although TBL is one form of group learning, TBL has special characteristics not commonly found in other group work. What distinguishes TBL from group work is that TBL is “a systematic, coherent approach to an entire course,” whereas, group work typically is one or more isolated, stand-alone episodes occurring at various points in the semester.<sup>17</sup> TBL has an “emphasis on permanent teams that proceed through sequenced phases of instruction.”<sup>18</sup> Thus, TBL is a comprehensive learning strategy that permeates the entire term<sup>19</sup> and is student-centered, rather than having the professor as center of the course. Some of the benefits of term-long TBL are that students “repeatedly engage[ ] in doing what lawyers do in practice: working together to solve significant problems” and “learn how to interact professionally with others, build upon their group members’ understanding of important doctrine, and learn from others’ skills in communicating, solving problems creatively, studying, managing time, and resolving conflict.”<sup>20</sup> In this way, “students . . . learn professional interpersonal skills essential to succeeding in a job.”<sup>21</sup>

The enthusiasm with TBL is far from universal. As with most new and radical endeavors, pre-planning and attention to organization are keys in making TBL successful;<sup>22</sup> professors encounter a learning curve in implementing TBL at the same time that students are encountering a learning curve in acquiring the course content and skills important to success in the course and success after graduation.

According to one advocate of the use of TBL, two distinguishing characteristics of teams are 1) “A high level of individual commitment to the welfare of the group;” and 2) “A high level of trust among the members of the group.”<sup>23</sup> The optimum number of students in a team is one of the first considerations in planning TBL. One author suggests that the optimum number is five to seven.<sup>24</sup>

For Michaelsen, the four principles essential to TBL are that:

1. groups must be properly formed and managed;
2. students must be made accountable for their individual and group work;
3. group assignments must promote both learning and team development; [and]
4. students must have frequent and timely performance feedback.<sup>25</sup>

The benefits of TBL are many as described in the following paragraphs. TBL “facilitates the acquisition and mastery of a large range of generic skills, including communication, leadership, decision-making, conflict resolution and time-management skills.”<sup>26</sup> In addition, firms help to establish friendships and social ties. “A TBL classroom is social; students are teaching, listening, arguing, creating, celebrating, groaning.”<sup>27</sup> A student may

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<sup>16</sup> *Id.*

<sup>17</sup> Dana, *supra* note 12, at 61.

<sup>18</sup> Melissa H. Weresh, *Assessment, Collaboration, and Empowerment: Team-Based Learning*, 68 J. LEGAL EDUC. 303, 304 (2019).

<sup>19</sup> Dana, *supra* note 12, at 67.

<sup>20</sup> Sophie M. Sparrow & Margaret Sova McCabe, *Team-based Learning in Law*, 18 J. LEGAL WRITING INST. 153, 154 (2012).

<sup>21</sup> *Id.* at 161.

<sup>22</sup> Michaelsen et al., *supra* note 13, at ix.

<sup>23</sup> L. Dee Fink, *Beyond Small Groups: Harnessing the Extraordinary Power of Learning Teams*, in LARRY K. MICHAELSEN ET AL., *TEAM-BASED LEARNING: A TRANSFORMATIVE USE OF SMALL GROUPS* 3, 11 (2002).

<sup>24</sup> *Id.* at 14.

<sup>25</sup> Larry K. Michaelsen, *Getting Started with Team-Based Learning*, in LARRY K. MICHAELSEN ET AL., *TEAM-BASED LEARNING: A TRANSFORMATIVE USE OF SMALL GROUPS* 27, 28 (2002).

<sup>26</sup> Keyes & Burns, *supra* note 10, at 362 (footnote omitted).

<sup>27</sup> Lindsey P. Gustafson, *Remediating in Teams*, 22 J. LEGAL WRITING INST. 56, 58 (2018).



be more willing to ask another student a question that the student may be reluctant to pose to the professor and some students enjoy the role of being a teacher.<sup>28</sup> TBL provides a variety of social advantages in that it “fosters positive relationships among individuals, better psychological health, greater maturity, better awareness of diversity and higher tolerance of difference, better ability to empathise with others, more social support and higher self-esteem.”<sup>29</sup>

Some find TBL benefits students of all skill levels. “I write to recommend . . . team-based learning . . . and testify to its power to benefit all students, including those who are excelling, those who need remediation, and those who are struggling through in the middle.”<sup>30</sup> An additional claim is that TBL benefits diverse students of diverse backgrounds. “Group learning is more responsive to the learning needs of students who are marginalized in intensely individualistic and competitive learning environments, including women and students from backgrounds and cultures which emphasise collective and cooperative activity.”<sup>31</sup> TBL encourages students to value approaching problem-solving from a variety of perspectives. “Working collaboratively exposes students to diversity, not just in the experiences of others (which is likely to lead to empathy and the development of friendships which might not otherwise arise), but also in different ways of approaching and resolving both academic and other problems.”<sup>32</sup>

TBL has been found effective in increasing content knowledge and critical thinking skills.<sup>33</sup> “Teamwork can engender a deep approach to learning due to the need for students to take responsibility for tasks and outcomes.”<sup>34</sup> Thus, a student may have a deeper understanding of the subject matter gained through team-based learning. TBL “creates motivation and helps develop professional competencies . . . as opposed to superficial learning . . .”<sup>35</sup> TBL can have multiple advantages, some not readily apparent at first blush. “Teamwork leads to increased subject understanding, critical thinking, and retention of knowledge . . . as well as better deliverables, more ideas, less work, and anxiety reduction . . .”<sup>36</sup>

Since its inception, TBL has been popular aside from the increased learning curve and has been implemented in classrooms across disciplines.<sup>37</sup> One of the disciplines in which TBL has proved to be popular is law.<sup>38</sup> The Institute for Law Teaching and Learning provides valuable resources for those teaching law.<sup>39</sup> The

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<sup>28</sup> Keyes & Burns, *supra* note 10 at 373. See also Melissa H. Weresh, *Uncommon Results: The Power of Team-based Learning in the Legal Writing Classroom*, 19 J. LEGAL WRITING INST. 49, 77 (2014).

<sup>29</sup> Keyes & Burns, *supra* note 10, at 362 (footnotes omitted).

<sup>30</sup> Gustafson, *supra* note 26, at 57.

<sup>31</sup> Keyes & Burns, *supra* note 10, at 360.

<sup>32</sup> *Id.* (footnote omitted).

<sup>33</sup> See Elizabeth Swanson et al., *The effect of team-based learning on content knowledge: A meta-analysis*, 20 ACTIVE LEARNING IN HIGHER EDUC. 39 (2019); Molly Espey, *Enhancing critical thinking using team-based learning*, 37 HIGHER EDUC. RES. & DEV. 15 (2018).

<sup>34</sup> Andrade et al., *supra* note 5, at 4.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> See Gustafson, *supra* note 7 (law); Dunn et al., *supra* note 4 (business); Andrade et al., *supra* note 5 (business); Judy Cohen & Catherine Robinson, *Enhancing teaching excellence through team-based learning*, 55 INNOVATIONS EDUC. & TEACHING INT’L 133 (2018) (accounting and business); Rosa M. Alvarez-Bell et al., *Identifying Keys to Success in Innovative Teaching: Student Engagement and Instructional Practices as Predictors of Student Learning in a Course Using a Team-Based Learning Approach*, 5 TEACHING & LEARNING INQUIRY 128 (2017), <http://dx.doi.org/10.20343/teachlearning.5.2.10chemistry>); Michela Betta, *Self and others in team-based learning: Acquiring teamwork skills for business*, 91 J. EDUC. BUS. 69 (2016) (business); Hamilton et al., *supra* note 8 (law). The Team-Based Learning Collaborative is an organization providing resources to instructors across the disciplines who wish to engage or who are already engaged in TBL. See TEAM-BASED LEARNING COLLABORATIVE, <http://www.teambasedlearning.org/> (last visited February 13, 2022).

<sup>38</sup> See Beth Hirschfelder Wilensky, *Assignments with Intrinsic Lessons on Professionalism (Or, Teaching Students to Act like Adults Without Sounding like a Parent)*, 65 J. LEGAL EDUC. 622 (2016); Sparrow & McCabe, *supra* note 18, at 153; Sophie M. Sparrow, *Can They Work Well on a Team? Assessing Students’ Collaborative Skills*, 38 WILLIAM MITCHELL L. REV. 1162 (2012); Keyes & Burns, *supra* note 10; Dana, *supra* note 12.

<sup>39</sup> See INST. FOR LAW TEACHING & LEARNING, *Team-Based Learning*, <http://lawteaching.org/resources/> (last visited February 13, 2022). The author, who wished to use TBL in the Legal Writing class, found the Institute and several articles helpful. See L. Danielle Tully, *Collaborative*

author was inspired to use TBL in the Legal Writing classroom in the spring of 2019 after reading two articles extolling its benefits.<sup>40</sup>

### III. Use of Firms as the Team-Based Learning Entity

Collaboration in the Legal Writing classroom encourages critical thinking and professional engagement, both skills that are highly sought after by employers. Employers are seeking employees who have critical thinking skills, who exhibit effective emotional intelligence skills, and who are ready to become actively involved in problem-solving. A student who is job ready, having developed critical thinking, problem-solving, and professional engagement skills, will be further along the bridge to being successful in the practice of law.

Although potential employees may value their teamwork skills, a recent study found a gap between their ability to work in teams and the employer's assessment of this skill. "More than half of recent college graduates (64%) surveyed believed they were prepared to work in teams whereas only 37% of employers in the study felt similarly . . ." <sup>41</sup> One way to narrow this disparity is to provide students with additional opportunities to practice their problem-solving skills within a group of individuals with varying viewpoints. In the study, employers "gave greater consideration to college graduates who had completed applied learning projects, believing that this improves professional preparation and long-term career success . . ." <sup>42</sup>

In a firm, it is important that the firm members exhibit the norms of professional behavior, something that a student may need to practice. A student may not realize that a failure to meet commitments and to treat others with respect may reflect poorly on the student. Important factors in fulfilling obligations are meeting deadlines, being prepared, listening, and contributing to discussions. In interacting with others, a student may have to deal effectively with difficult personalities; this is a skill that is vital to master early on because it is one that will have to be implemented in the professional world. Attorneys have long been criticized for lack of civility and respect for others.<sup>43</sup> To be successful in a firm setting, members must be able to communicate well and build relationships that draw on the various strengths of the firm members while engaging in creative problem-solving. Professional behavior is set against the backdrop of the stress of balancing a heavy workload and a personal life.

The professor might help students build these skills while the students are still in the classroom by having them work in "law firms" to perform a series of tasks that incrementally increase in complexity over time. Participating in a firm stimulates engagement and playing an active role enhances the learning process. "Some teams develop a friendly and professional interaction without becoming real friends, while other teams bond well and create an impressive cohesiveness."<sup>44</sup> Firms work well when all firm members participate. When cooperation happens, all firm members reap the benefits. The promises of TBL have been born out in the use of firms.

The professor must envision the firms and the tasks in such a way to encourage all members of the firm to participate equally. The firm must be carefully structured so as to avoid the free-rider problem where a student may sit back and permit the other firm members to complete a majority of the firm work. One manner of holding each member accountable is to have the firm members complete firm intake forms in which they are asked what the various firm members contributed and base a portion of each student's grade on the information provided on the firm intake forms. TBL using firms is a work in progress for the author also. As

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*Case Development for the First-Year Legal Writing Problem*, SECOND DRAFT, fall 2018, at 3, available at [https://www.lwionline.org/sites/default/files/2018-09/LWI\\_2018SecondDraft\\_Fall-VOL31No2\\_FINAL.pdf](https://www.lwionline.org/sites/default/files/2018-09/LWI_2018SecondDraft_Fall-VOL31No2_FINAL.pdf); Weresh, *supra* note 17.

<sup>40</sup> Weresh, *supra* note 27; Sparrow & McCabe, *supra* note 19.

<sup>41</sup> Andrade et al., *supra* note 5, at 2.

<sup>42</sup> *Id.*

<sup>43</sup> David A. Grenardo, *A Lesson in Civility*, 32 GEO. J. LEGAL ETHICS 135, 139 (2019); Justice Douglas S. Lang & Haleigh Jones, *Can Courts Require Civil Conduct?*, 6 ST. MARY'S J. LEGAL MAL. & ETHICS 222, 230-31 (2016); Cheryl B. Preston & Hilary Lawrence, *Incentivizing Lawyers to Play Nice: A National Survey of Civility Standards and Options for Enforcement*, 48 U. MICH. J.L. REFORM 701, 702 (2015); David A. Grenardo, *Making Civility Mandatory: Moving from Aspired to Required*, 11 CARDOZO PUB. L. POL'Y & ETHICS J. 239, 241 (2013); Judith D. Fischer, *Incivility in Lawyers' Writing: Judicial Handling of Rambo Run Amok*, 50 WASHBURN L.J. 365, 365 (2011).

<sup>44</sup> Dana, *supra* note 12, at 69.

later described below, the author's intervention and counseling of one firm the spring 2020 semester seemed to rectify the dissension among the firm members. However, the author failed to take similar action with a second firm.

Although confronting adversity is not pleasant, firm members may gain more from struggling and learning how to successfully manage friction among firm members than if they had experienced a stress-free experience. Having managed a difficult situation prepares firm members for dealing with similar interpersonal disagreements in the workplace. Member attempts to set firm activities on a better course rather than abandoning the effort is commendable. A successful TBL activity should result in student engagement such that firm members become immersed and treat the firm as its own persona. The firm then becomes a team rather than a group.

## **IV. Use of Team-Based Learning in the Legal Writing Classroom**

### ***A. Firm Formation***

In accordance with the first of Michaelson's four essential principles of TBL,<sup>45</sup> the author was mindful of the importance of strategically dividing the students into heterogeneous firms during the first week of the semester. The author accomplished this by evenly splitting students alphabetically by last name into five firms, each of five members. Generally, students like the idea of functioning as members of firms, as a majority of the students intend to attend law school. Added touches were picking one firm member as name partner and producing name cards with the students' names and firm names.

Random alphabetical selection seemed to work as well as other, more time-consuming methods of assigning students to firms. Others have selected random assignment in the interest of time constraints.<sup>46</sup> Another method of assignment could be for each student to identify one or more characteristics, such as leadership, research, time management, attention to detail, analysis and writing, as strengths and to distribute students among the firms according to their identified strengths.<sup>47</sup> The benefits of this method are that the students were randomly distributed, yet their input ultimately had an impact on the distribution. A downside is that some students may have an unrealistic perception of their strengths. Another option would be to collect more comprehensive questionnaires in which students detail their background and work history; however, this requires students to disclose a great deal of personal information.

Forming firms, just like in the real world, is problematic as is the interpersonal dynamic among firm members. Firms were not without their problems, much like the interaction of real-life firms. One author explained: "Empirically, the quality of the work has appeared to be a function primarily of the equal participation of all team members."<sup>48</sup> The author added that with student advance preparation and team free exchange of ideas, "the team's insights and creativity tended to be superior to the results of those teams that contained social loafers, lacked leadership, or that had one or more dominant members who made it difficult for the others to participate effectively."<sup>49</sup>

One author offers a "divorce" option for a team that fails to solve interpersonal problems on its own.<sup>50</sup> The team must meet twice prior to the professor attempting to mediate. If mediation is unsuccessful, a member wishing to leave the team may do so and may search for membership in another team. The student may find

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<sup>45</sup> See *supra* note 24 and accompanying text.

<sup>46</sup> Weresh, *supra* note 17, at 311; Anne E. Mullins, *Team-Based Learning: Innovative Pedagogy in Legal Writing*, 49 U.S.F. L. REV. 53, 54 (2015); Dana, *supra* note 12, at 68 (students grouped by major, lined up, and numbered one through six, with students separated by number into six teams).

<sup>47</sup> See Sparrow & McCabe, *supra* note 19, at 197.

<sup>48</sup> Dana, *supra* note 12, at 70.

<sup>49</sup> *Id.* at 70.

<sup>50</sup> *Id.* at 69.

another team as home or, failing to do so, would be “homeless,” with total loss of teamwork credit for the remaining portion of the term.<sup>51</sup>

This author has experienced similar firm dissension. Within the first week of classes one semester, one student approached the author with the request to switch firms. The author refused the request and the student remained with the original firm until partway through the semester. Interestingly enough, the student ended up dropping the class because of exceedingly poor writing skills and the remaining members of the firm functioned extremely well together. Of the four other firms, two had problems. One firm had a number of members who did not contribute much to firm work, and this caused dissension. A second firm had one member who thought highly of the member’s writing skills and who created a rocky atmosphere by insisting that the firm do things the member’s way. The remaining two firms were models of cooperation, with all members contributing to discussion and writing. Members of one of the two firms enjoyed each other’s company so much that they started to see each other socially.

Another semester, there were a few blips along the way and one firm got quite a rocky start. During the first week of class, one student requested to change firms, perhaps wanting to move to a firm to join friends and, in effect, to self-select a firm. The author did not grant the request, believing that a difficulty in changing firms more closely mimicked the real-life situation. As the semester progressed, the relationship among the members of this firm became more tenuous. The author met with the firm members to mediate the situation and to provide the opportunity for the firm members to voice their concerns. In addition, the author reminded the firm members that a total of fifteen percent of each member’s grade for the semester was dependent on the feedback of the firm members. The student referenced above who wanted to switch firms had also made less of a contribution to the firm than other students. The author gave her the benefit of the doubt and 80% on the first evaluation.

The situation had improved significantly by the time the firm members completed the second firm intake form, with the firm members working much more cooperatively. The situation seemed to have improved even more by the end of the semester. One of the reasons for the firm’s success was the ability to work well on assignments. One firm member provided the requisite emotional support for the firm. Another important factor was the perception that each member was contributing.

In a second law firm, comments on the first intake form showed that one student in the firm had been absent a number of times and had not contributed to firm discussion and written work. The author awarded the low-performing student a 50% on the first evaluation, but otherwise left the situation alone, hoping that the firm would work things out and the non-performing member would begin to contribute to the firm. The difference between this firm and the other was that there was only one non-participating member of this firm and the other firm members seemed to be working well together. On thinking back, perhaps the author should have met with this firm also. Unfortunately, the situation did not improve after the first evaluation as gauged by the written evaluations of several firm members.

An unanticipated benefit of using firms was that they provided support when the Legal Writing class transitioned to online instruction midway during the spring 2020 semester due to the Coronavirus pandemic. Student comments show that the online student interaction the second semester progressed well. Students had the advantage of having gotten to know other team members in a face-to-face setting prior to the class transitioning to being conducted remotely. One firm in particular used technology to its advantage and the students put their knowledge of online collaboration to good use. The most positive reaction came from members whose firms functioned seamlessly to complete the writing assignments. In contrast to the two firms with some problems, in one firm the members could not say enough good things about the other members. At the end of the semester, the firm accolades from members of this firm just kept coming.

## ***B. Conducting the TBL Class Remotely***

Unfortunately, the result of using TBL online during fall 2020 was not as positive as the outcomes from the first two semesters. As more fully described below, the author hypothesizes that this shift was due to a number of factors, including students struggling through various pandemic hardships and the class being required to be conducted remotely.

The pandemic had a direct impact on business, education, and social interaction, with education forced to transition to distance learning. In one study, “faculty . . . describe teaching during the COVID-19 pandemic as

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<sup>51</sup> *Id.*

one of the most challenging experiences of their professional careers.”<sup>52</sup> The pandemic brought a number of technological, mental, and physical challenges to both professors and students. This author’s institution mandated that all classes for the latter half of the spring 2020 semester and the fall 2020 semester, including Legal Writing, be conducted online.

The pandemic led to an abrupt change in teaching modality for professors from face-to-face to online, with many professors, including this author, having little previous experience with teaching virtually. “The COVID-19 pandemic led to a global transition from in-person to online instruction leaving many higher education faculty with little time or training for this responsibility.”<sup>53</sup> Ordinarily, a professor would have warning of a necessary change in teaching modality, with time to train for the transition. In contrast, “teaching during the pandemic required a quick pivot, in some cases within a matter of days, with little time for extensive faculty training in technology or online pedagogy.”<sup>54</sup>

This author was fairly lucky in not being scheduled to teach during the summer 2020 semester. The summer semester provided adequate time for this author to take a three-week class in the intricacies of online instruction. The author moved the Legal Writing materials onto the institution’s online platform and learned how to use Zoom in preparation for the fall 2020 semester.

Due to the pandemic, professors were faced with a number of hurdles in addition to the challenge of transitioning to the online modality. “[F]aculty noted challenges in making authentic connections with students, adapting to technological interruptions, assessment of student understanding of content, and managing work-life balance.”<sup>55</sup> Many professors were “worried that students would not be able to afford to complete their programs with parents facing unemployment due to the pandemic. Even students who were able to remain enrolled were frequently dealing with a lack of access to technology or poor internet connections.”<sup>56</sup> The additional stress placed on students could have the effect of students less able than usual to remember important course content. In one study, “[e]very participant reported being concerned about the effects of low student engagement and worried about students understanding and retaining the course materials.”<sup>57</sup>

Students also were faced with a number of challenges. One study assessing student reaction to online education during the pandemic focused on “the students’ household environment, such as convenience & suitability of attending lectures at home, saving times & efforts that usually available between actual classes, accessibility of the recorded lectures, the flexibility of the daily schedule around the Online lectures, and strengthen family relationships & safety during the Pandemic period.”<sup>58</sup> Another focus of the study was the availability of technology to support online delivery of online classes.<sup>59</sup> Many students encountered problems with maintaining reliable technology, difficulty with community effectively with other students in the class, isolation brought on by lack of personal contact, and new personal worries concerning physical and mental health of themselves and others, finances, and living conditions. “Students were understandably anxious to return to campus for in-person learning.”<sup>60</sup> Students missed lack of physical interaction with classmates and the professor. During the pandemic, “students had limited opportunities to connect with classmates thus missing opportunities for peer learning.”<sup>61</sup> In addition, “students were stressed about the pandemic’s

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<sup>52</sup> Laura Plummer, Beliz Belgen Kaygisiz, Cymara Pessoa Kuehner, Shweta Gore, Rebecca Mercurio, Naseem Chatiwala & Keshrie Naidoo, *Teaching Online during the COVID-19 Pandemic: A Phenomenological Study of Physical Therapist Faculty in Brazil, Cyprus, and The United States*, 11 EDUC. SCI. art. 130, at 13 (2021).

<sup>53</sup> *Id.* at 1.

<sup>54</sup> *Id.* at 2.

<sup>55</sup> *Id.* at 1.

<sup>56</sup> *Id.* at 8.

<sup>57</sup> *Id.* at 8-9.

<sup>58</sup> Nayef Ghasem & Mamdouh Ghannam, *Challenges, benefits & drawbacks of chemical engineering on-line teaching during Covid-19 pandemic*, 36 EDUC. FOR CHEM. ENG’RS 107, 108 (2021).

<sup>59</sup> *Id.*

<sup>60</sup> Plummer et al., *supra* note 51, at 8.

uncertainty and unknown timelines.”<sup>62</sup> Undoubtedly, these factors played a role in the performance of students in the Legal Writing class.

Viewing TBL apart from the pandemic-induced challenges, TBL conducted online may be slightly different than face-to-face TBL. “Disadvantages include coordination of activities when team members are apart while advantages suggest that the pressure to conform might be reduced in virtual teams . . . .”<sup>63</sup> Online communication difficulty is readily understandable, especially if team members are having difficulty coordinating differing schedules and understanding each other if they are unable to use video conferencing. The reduced pressure to conform in online TBL is explained in one study. “Face-to-face teams were concerned about creating harmony and demonstrating commitment through team meetings and collaboration.”<sup>64</sup>

The online TBL experience in the fall 2020 semester seemed to be much less positive than in other semesters. Although disappointing, this author believes that much of the decline is attributable to the challenges encountered by the professor and students during the pandemic combined with transferring from face-to-face to online classes. The lack of collaboration and cooperation exhibited by all but one of the five firms was probably due to the unsettling effect of all the pandemic factors weighing heavily on the students.

### C. TBL Class Organization into Units

The TBL class is divided into a number of units. Each unit begins with students acquiring basic knowledge of the unit subject matter, typically by completing outside reading, and being tested on this knowledge.<sup>65</sup> The author follows this pattern, with a quiz on the assigned reading, followed by class discussion. The next stage of a TBL unit are application exercises.<sup>66</sup> Michaelsen suggests that the application exercises be planned to follow four principles, which he references as the “4-S” principles:

- (1) assignments should always be designed around a problem that is *significant to students*,
- (2) all of the students in the class should be working on the *same* problem,
- (3) students should be required to make a *specific choice*, and
- (4) groups should *simultaneously* report their choices.<sup>67</sup>

Legal Writing was divided into the seven units listed below, with students required to produce documents in five of the seven units. The required documents are listed following each of the five units, with an asterisk indicating the documents requiring both a firm rough draft and an individually-submitted final document.

1. Introductory information;
2. Research first fact pattern; Fact pattern\*;
3. Evaluate research; Case brief of first case;\* Case brief of second case;\* Analysis of statutes\*;
4. Legal reasoning and midterm; Midterm;
5. Office memo; Issue and answer;\* Thesis;\* Conclusion;\* Office memo;
6. Research second fact pattern;
7. Memorandum of law; and Memorandum of law.

The author designed the Legal Writing class to incorporate two stages of application exercises, each of which corresponds to the four Michaelsen principles listed above. Because the majority of the students in the class intend to attend law school, the author decided to focus each of the two stages on a typical legal document.

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<sup>61</sup> *Id.* at 9.

<sup>62</sup> *Id.* at 8.

<sup>63</sup> Andrade et al., *supra* note 5, at 4.

<sup>64</sup> *Id.* at 5.

<sup>65</sup> INST. FOR LAW TEACHING & LEARNING, *supra* note 38.

<sup>66</sup> *Id.* See e.g. Weresh, *supra* note 27, at 69-73; Sparrow & McCabe, *supra* note 19, at 190-95; Michaelsen, *supra* note 24, at 44-45.

<sup>67</sup> Larry K. Michaelsen & Michael Sweet, *Team-Based Learning*, 128 NEW DIRECTIONS FOR TEACHING & LEARNING 41, 45-46 (Winter 2011).

This paragraph contains guidance for a reader who might like to use a similar TBL organization in Legal Writing as the basis for students writing an objective or persuasive document. The objective document could be a client opinion letter or an office memo. The persuasive document could be a memorandum of law or an appellate brief. When making up a fact pattern, the author has in mind several statutes and several cases. Choice of the statutes and cases may be dependent on the reader's familiarity with a particular area of law. The cases are ones in which the court interprets one of the statutes. A substantial similarity between the fact pattern and one of the cases would mean that the statute would apply to the fact pattern; however, a substantial similarity between the fact pattern and the other case would mean that the statute would not apply. Whether the other statutes apply can be derivative of whether the first statute applies to the fact pattern. The author constructs the fact pattern such that it is unclear which of the two cases applies to the fact pattern and an argument can easily be made in either direction.

The first stage in the author's course centers on the office memo. "Legal research is required when the client or the attorney is confronted with a legal problem and the answer to the problem is unclear."<sup>68</sup> The office memo is an in-house document that is objective in tone that is typically provided to the supervising attorney and may be provided to the client. "The main purposes of the office memo are to record the law found as a result of the research, to explain how the researcher analyzed the law and applied it to the facts, and to ultimately propose a solution to the problem."<sup>69</sup> In this stage, the students are assigned reading introducing them to the office memo, hear an audio fact pattern, research the fact pattern to locate relevant cases and statutes that are used to write an office memo, and write the office memo in parts.

The second stage centers on the memorandum of law, a litigation document. "In litigation, an attorney may be required by court rule, may be asked by the judge, or may feel the need to submit a written document called a "memorandum of law."<sup>70</sup> As a court document, the memorandum of law is persuasive in tone and is a public record. "The purposes of the memorandum of law are to explain the client's position in a lawsuit and to convince the judge to rule in the client's favor."<sup>71</sup> In this stage, the students again are assigned introductory reading material, hear an audio fact pattern,<sup>72</sup> research the fact pattern to locate relevant cases and statutes that are used to write the memorandum of law, and write the memorandum of law in parts.

Each firm researched the same fact pattern for the office memo and the same fact pattern for the memorandum of law, which corresponded with Michaelsen's second principle listed above. However, each firm was required to fashion the reasoning to favor the client the firm was representing in accordance with Michaelsen's third principle listed above. For the office memo, the author assigned three of the five firms to represent one of the parties in the case, while the other two firms represented the other party in the case. For example, a firm taking the Plaintiff's or the State's position in the office memo would represent the defendant in the memorandum of law, while a firm taking the defendant's position in the office memo would represent the Plaintiff or the State in the memorandum of law. The firms followed the fourth Michaelsen principle listed above by simultaneously submitting their documents.

#### ***D. Document "Roadmap"***

Each semester, the author provided guidance on the organization of the office memo and the memorandum of law by furnishing a "roadmap" for each document. A sample roadmap for the office memo is attached to this manuscript as Appendix C. The roadmap is a document template that provides guidance as to the substance that should be presented in the document and the ordering of the substance much like an outline. The roadmap contains rectangles, which represent one or more paragraphs, and textual information, with the text outside the rectangles representing information that should appear on the submitted document and the information

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<sup>68</sup> Carol M. Bast, INTRODUCTION TO LEGAL RESEARCH AND WRITING 283 (2021).

<sup>69</sup> *Id.*

<sup>70</sup> *Id.* at 313.

<sup>71</sup> *Id.*

<sup>72</sup> Each audio fact pattern was designed around privacy in communication, either face-to-face or telephonic. Privacy in communication was chosen because it coincides with the author's research interest. The fact patterns typically incorporate cutting-edge technology in criminal law cases, which should be problems significant to students.

inside the rectangles providing cues as to the substance of the completed document. Neither the text inside the rectangles nor the rectangles appear on the submitted document. One might think of the roadmaps as a frames for the office memo and the memorandum of law because they provide overall structure for the two documents. The written assignments are inserted into the frame in the arrangement suggested by the roadmap.

The initial drafts of the office memo and the memorandum of law are written in parts. The parts of the office memo are the facts, the reasoning, the issue and answer, the thesis, and the conclusion. Other writing assignments related to the office memo include two case briefs and a written analysis of the statutes. Each of the students writes a midterm exam as one of the intermediate parts leading to the office memo, with the midterm serving as a very rough draft of the reasoning portion of the office memo.

Revision is essential to good writing, but students are not apt to revise multiple times unless they are forced to do so. The documents marked with an asterisk in the author's list of course units are those requiring both a firm rough draft and an individual document submission. The author provided one set of global comments on the firm rough drafts. Each student must review the global comments, decide which comments applied to the draft submitted by that student's firm, and decide how to make the suggested revisions that applied to the preliminary draft prior to finalizing the written document and submitting it individually. The author corrects the individual submissions so that the student could revise the material again when incorporating it into the final document.

For the memorandum of law, class sessions focus on the various parts of the document, but students are not required to submit the various parts as assignments. The idea is for students to apply what they learned in writing the office memo and accept more individual responsibility for preparing the memorandum of law. The author answers any verbal questions on the document but refrains from pre-correcting the document prior to the student submitting it at the end of the semester. The author's choice of assigning the office memo first, followed by the memorandum of law, was deliberate in that many of the concepts from the office memo carry forward into the memorandum of law.

### ***E. Evaluations and Grading***

The final element of TBL is grading.<sup>73</sup> The Legal Writing syllabus includes a revised version of the sample syllabus language taken from the Institute for Law Teaching and Learning.<sup>74</sup> Peer evaluation is typically a part of TBL. "[E]ducators have recognized the need for both peer and self-evaluations to encourage reflection on both individual contributions and team processes . . . ."<sup>75</sup> One of the recognized methods of conducting peer evaluations is through "summative evaluation forms."<sup>76</sup> A student's participation in firm work comprises 15% of the student's grade, with a third of that percentage gauged at the time of the midterm and the other two thirds attributable to the time of submitting the office memo and the memorandum of law. The author uses the student summative written commentary on intake forms describing the contributions of each of the firm members to grade each firm member, as shown in Appendix B. The reader will note that the first question on the form has an unbracketed first portion, a bracketed second portion, and a bracketed third portion. The student uses the first portion when submitting the midterm, the second portion when submitting the office memo, and the third portion when submitting the memorandum of law.

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<sup>73</sup> See Weresh, *supra* note 27, at 72-74; Sparrow & McCabe, *supra* note 19, at 195-96; Michaelsen, *supra* note 24, at 38-39.

<sup>74</sup> The sample TBL syllabus language is accessible at INST. FOR LAW TEACHING & LEARNING, *supra* note 38 and is quoted at length in Weresh, *supra* note 27, at 54-56.

<sup>75</sup> Andrade et al., *supra* note 5, at 5.

<sup>76</sup> *Id.*



## V. Critique of the Use of TBL in Legal Writing

The benefits of TBL differ from those offered by other group work. One marked distinction is the student enthusiasm and satisfaction this author generally encountered with TBL, in contrast to student resistance often noted in other group work. Generally, TBL students are more engaged, with lively discussions and banter among firm members.<sup>77</sup> Attendance may be better than in non-TBL classes. Increased engagement and attendance may indicate increased learning.<sup>78</sup> Legal Writing TBL encourages students to practice problem-solving skills, which are essential in the workplace.<sup>79</sup> Student critical thinking improves through application of legal reasoning to a specific set of facts.<sup>80</sup> The author was sufficiently pleased with the results of the first semester to continue to use TBL in Legal Writing.

Formation of heterogeneous firms through random selection seemed to work well, avoiding problems created by allowing students to self-select. Self-selection might mean inclusion of students with a pre-existing friendship in a firm. Those students might form a subgroup that may be a barrier to free interaction among all firm members. This author encountered students who voiced a desire to self-select in two instances,<sup>81</sup> but successfully refused the requests.

The students seem to provide quite frank assessments on the intake forms, both on the course content and the effectiveness of firm member contribution. The TBL organization and the intake forms make the student accountable to fellow firm members. A benefit to the author was receiving instructive and generally positive feedback on the effectiveness of the writing assignments and the roadmap. Student evaluation of fellow firm members can be used to lessen the free rider problem, with the assessment of the various members of a firm compared to determine if the contribution was equal among all firm members. The contribution of a particular firm member can be gauged based on the assessment of two or more firm members coinciding.

Information on the importance of developing teamwork skills that may seem obvious to the professor may not be as obvious to students whose exposure to the professional workplace may be more limited. Students may need to be educated on TBL to appreciate it and its connection to legal practice.<sup>82</sup> One study concluded that use of teamwork in the classroom can be enhanced by including information on the importance of teamwork to the business world, how to be an effective team member, and how to provide feedback to other members of a team.<sup>83</sup> The professor should lead a discussion early in the course about the benefits of practicing teamwork skills prior to employment. "It is important as business educators to highlight and discuss the importance of teamwork and how team projects are utilized in the business world."<sup>84</sup>

Some specific instructions on how to be an effective team member are included in the sample syllabus language attached as Appendix A. This language is designed to help students understand the premises of TBL. These instructions include: "Listen to team members-be polite"; "Be receptive to and respectful of others' thoughts/input"; "Be patient with others' process and learning"; "Be prepared – put in a good faith effort"; "Be proactive in addressing problems"; and "Contribute to discussions." A student may be loath to give another team member feedback, but feedback is essential to improving communication skills and team performance. "Giving feedback can be uncomfortable for people in a variety of situations, but if students don't learn in business classes to improve their own teams by giving clear, constructive feedback, they are not learning teamwork skills."<sup>85</sup> The author can improve further use of teamwork in the classroom by keeping this advice in mind.

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<sup>77</sup> See Mullins, *supra* note 45, at 58.

<sup>78</sup> See Sparrow & McCabe, *supra* note 19, at 160, 162.

<sup>79</sup> See Dana, *supra* note 12 at 65.

<sup>80</sup> See *id.* at 63.

<sup>81</sup> See the text following the text accompanying note 50.

<sup>82</sup> See Mullins, *supra* note 45, at 58, 59.

<sup>83</sup> Dunn et al., *supra* note 4, at 5.

<sup>84</sup> *Id.*

Certain attributes seemed to be missing from the interaction of firm members during the fall 2020 semester. These include timeliness, collaboration, dependability, work quality, and communication. The professor could emphasize these five attributes in future semesters of Legal Writing by including them in the syllabus, discussing them in class, and including them on the firm intake forms. Each firm member would be asked to rate each of the members on the five attributes.

## **VI. Conclusion**

In the author's experience, the promises and advantages of TBL<sup>86</sup> have been largely fulfilled in the Legal Writing class by having the course content delivered through the cooperative activities of five firms. The author believes that the course organization complies with Michaelsen's four essential principles.<sup>87</sup> In addition, the author took care to incorporate Michaelsen's 4-S principles in the first stage office memo and the second stage memorandum of law.<sup>88</sup> In some firms, the normal interpersonal barriers seemed to fall, creating an atmosphere of trust.<sup>89</sup> The student reaction was generally largely positive. The firm collaborative environment in which the firm members are tasked with representing a "client" seems to provide the beginnings of a bridge between the traditional classroom and the professional world.

TBL Legal Writing was the most successful when supported by face-to-face interaction. In the spring 2020 semester of Legal Writing, the class was face-to-face until spring break and then continued online during the 2020 Coronavirus pandemic. The bonding early on in the semester seemed to help students feel that they had a built-in support group in the firm when the class went to online instruction. The fall 2020 semester of Legal Writing was conducted online, with class sessions offered remotely via Zoom. Both students and professors were affected by the forced change, although in different ways and to different degrees. The author prepared for the virtual class by participating in a three-week training session in the summer of 2020.

All in all, inclusion of TBL in the Legal Writing class has been very successful. While completing class assignments, firm members have the opportunity to practice critical thinking and professionalism while problem-solving. The firm members shoulder individual responsibility while supporting the activities of the firm. Thus, the firm members are acquiring course content and professionalism skills that will be important for them in their careers. They have the opportunity to practice professionalism in a low-risk atmosphere prior to professionalism becoming essential when they join the work force.

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<sup>85</sup> *Id.*

<sup>86</sup> See Michaelsen et al., *supra* notes 14 – 15 and accompanying text.

<sup>87</sup> See Michaelsen, *supra* note 24 and accompanying text.

<sup>88</sup> See Michaelsen & Sweet, *supra* note 66 and accompanying text.

<sup>89</sup> See Dana, *supra* note 12, at 67.

## **APPENDIX A: Team-Based Learning Syllabus Guide**

The following is a portion of the syllabus from the second semester of Legal Writing. The language borrows from the Sample TBL Syllabus Language of the Institute for Law Teaching and Learning accessible at <http://lawteaching.org/resources/> and Melissa H. Weresh, *Uncommon Results: The Power of Team-based Learning in the Legal Writing Classroom*, 19 J. LEGAL WRITING INST. 49, 54-56 (2014).

### **Students Working as Members of Firms**

This class is organized into law firms, which is appropriate given that a high percentage of the students in the class intend to go to law school. The firms mimic the professional environment and develop essential lawyering skills. In the practice of law, the attorney will work with others frequently to serve the law firm's clients effectively. In the law firm, the attorney will work with other attorneys, clients, consultants, court and agency staff, and assistants. Studies have shown that, across all disciplines, the ability to work well with others is as important to success as substantive expertise. Learning within a class firm develops the skills and values necessary to practice law, while also allowing the student to apply class materials and receive feedback on the student's analysis and writing.

In this course, you will be working in one of five law firms, with each law firm made up of five students; these law firms will last the entire semester. The members of each law firm should work together effectively and efficiently; each law firm member is responsible for achieving these goals. The professor will divide students into heterogeneous law firms during the first week of the semester.

Law firm learning has three major components: 1) individual out-of-class preparation, 2) in-class work in law firms discussing class material, researching, and preparing rough drafts of writing assignments, and 3) individual re-writing out-of-class. Each law firm must submit its rough draft to the professor via email by the end of the day to receive comments from the professor. The email should copy all of the law firm members so that the professor can easily send comments to all members of the law firm. Each law firm member is responsible for preparing the writing assignment based on the professor's lecture, the law firm rough draft, and the professor's comments on the rough draft.

Law firms will develop and refine team contribution guidelines, and assess how well each member of the team contributes at various points in the semester. The following are basic guidelines:

Listen to team members—be polite;

Be receptive to and respectful of others' thoughts/input;

Be patient with others' process and learning;

Be prepared—put in a good faith effort;

Be proactive in addressing problems;

Contribute to discussions.

What if a student has a problem with the law firm of which the student is a member? Try to work it out. The biggest reason that law firms do not function effectively is that law firm members avoid conflict. To promote conflict resolution, you will implement law firm contribution guidelines, and then check in with the law firm every few weeks to see if all of you are following the guidelines. A law firm can adopt additional guideline as needed. Be aware that most law firms take about 4-6 weeks to become truly effective. Be patient, keep the lines of communication open, and come talk to the professor if you have questions or concerns.

You may have addressed conflicts between colleagues effectively in your previous work, service, academic, and extracurricular experiences. Address the issue with your law firm as you would in a professional office. Consider how you would want to hear the message if your behavior was a challenge for members of your law firm. If the problem is not resolved using the law firm contribution guidelines, talk to the professor who can

suggest ways for you and the members of your law firm to work through the problem. In the rare case of alleged student misconduct, the professor will likely intervene.

How is law firm participation evaluated? Each law firm member must anonymously evaluate him- or herself and each of the other four law firm members as to professionalism by completing a law firm intake form. Your evaluation must be submitted to me by midnight of the due date. Each evaluation submission is equal to a quiz grade.

Each of the three evaluations represents 5% of your grade. Thus, law firm participation represents a total of 15% of your grade. Though each law firm member will evaluate him- or herself and the other law firm members, the professor will consistently monitor teams to observe professionalism. If there is evidence that a law firm member is using law firm points to lower a classmate's final grade without justification, the professor reserves the right to nullify the law firm points and award the professionalism grade. The professor awarding professionalism points is not a preferred option, as it indicates that the team was unable to work professionally.

## **APPENDIX B: Law Firm Intake Form**

The following is a law firm intake form required to be submitted with the midterm exam. In question 1 below, the material in the first set of brackets is the language for the intake form required to be submitted with the office memo and the second set of brackets is the language for the intake form required to be submitted with the memorandum of law.

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Name \_\_\_\_\_

Law Firm \_\_\_\_\_

### Law Firm Intake Information

This document is designed to provide Dr. Bast with information on the effectiveness of the use of law firms in preparing the rough drafts of various Legal Writing assignments. The document should be filled out individually without consulting with anyone else in your law firm or in the Legal Writing class. It behooves you not to disclose the questions to others in the class, as it would provide an advantage to those who know the questions in advance.

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1. What do the writing assignments (fact pattern, case briefs, and statutory analysis) contribute to the midterm examination? [What do the writing assignments (midterm examination, issue and answer, thesis, and conclusion) contribute to the office memo?] [What do the writing assignments (midterm examination, issue and answer, thesis, and conclusion) in-class sessions working on the roadmap for the memorandum of law contribute to the memorandum of law?]
  
2. Describe the contribution of each of the members of your law firm, including yourself, in preparing your writing assignments. An important portion of this description is whether each member's contribution was equal to the contribution of other members. Feel free to use the reverse side of this sheet to provide a full description.

**APPENDIX C: Road Map for Office Memo**

To:

From:

Re:

Date:

Facts:

Provide the case facts necessary to understand the legal analysis below.

Issue:

The issue should be a combination of facts and law, should be a single sentence, and should end with a question mark. The factual words should specifically relate to the case facts above.

Answer:

The answer should be a combination of facts and law and should be a single sentence. Please note that you are permitted to join two sentences that are related in subject matter with a semi-colon.

Reasoning:

Thesis paragraph

The thesis paragraph should be general in nature and should not contain any direct references to the case facts above. In drafting the thesis paragraph, it might be helpful to think in broad terms of the interests of the plaintiff or government versus the defendant.

Transitional language

Quote the relevant portion of the first statute. Explain the statute in plain English.

Transitional language

Give the facts and other relevant information from the two potentially precedent-setting cases. You must provide specific page references to material from the two cases by using short form citations.

Compare the two cases to the case facts that are the basis of the office memo. Summarize the significant similarities and differences among the three cases. State which of the two cases is more similar to the case facts above and why.

Reach a conclusion as to whether the statute applies to the case facts above.

Transitional language

Quote the potentially relevant portion of the second statute. Explain the statute in plain English.

Compare the case facts above to the text of the second statute. State whether the statute applies to the case facts above.

Quote the relevant portion of the third statute. Explain the statute in plain English. Compare the case facts above to the text of the third statute. State whether the statute applies to the case facts above.

Conclusion

State which of the potentially precedent-setting cases is controlling on the case facts above and summarize why. State whether each of the three statutes applies to the case facts above and summarize why.