

TEACHING AFTER DARK: PART-TIME EVENING STUDENTS AND THE FIRST-YEAR LEGAL RESEARCH & WRITING CLASSROOM

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I. INTRODUCTION

In its most recent report on legal education, the Carnegie Foundation noted that “[t]he vitality of legal education is manifest in the attention given to large questions about how legal education should adapt to changing conditions, improve performance, and respond to new potentials.”¹ Part-time J.D. programs play an important role in “the vitality of legal education” because these programs provide examples of legal education adapting to changing conditions in society.² Part-time legal education opens the door for those students who otherwise would be foreclosed from attaining a legal education—those who traditionally have been

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1. William M. Sullivan et al., *Educating Lawyers: Preparation for the Profession of Law* 34 (Josey-Bass 2007).

2. See *Part-Time Law Schools*, U.S. News & World Rpt. 78 (May 1, 2010) [hereinafter *USNWR 2010*] (“Part-time J.D. programs play a vital role in legal education.”).

underrepresented in the legal profession—and provides them with an access point to advance themselves and their families. Historically, evening programs provided opportunities for people to attend law school who were barred from full-time day programs because of their gender, race, ethnicity, religion, or economic status. Today, evening programs continue to provide sometimes the only path to a legal career for those students whose financial or familial responsibilities prevent them from enrolling in law school full time during the day. Our schools and our profession benefit from the life experiences and world-view these students bring that ultimately will help shape the laws that govern our nation. Recognizing this important role, *U.S. News & World Report* ranked part-time J.D. programs at accredited law schools for the first time in 2009.³

Moreover, as a result of the current economic downturn, we predict that enrollment in part-time programs will increase and more schools will become interested in offering part-time programs to meet the needs of students who must work to afford law school. The necessity for affordable, adaptable legal education requires us to embrace part-time evening J.D. programs. Therefore, it is up to law professors and law school administrators to ensure that part-time J.D. programs adapt, improve, and respond to the needs of our students.

3. *The Top Part-Time Law Schools*, 146 *U.S. News & World Rpt.* 73 (May 1, 2009) [hereinafter *USNWR 2009*]. In its first ranking of part-time programs, *U.S. News and World Report* included the eighty-seven accredited schools with part-time day or evening programs. *Id.* “The rankings [were] based solely on a fall 2008 peer assessment survey that asked academics at law schools to choose up to 15 ‘law schools with outstanding part-time J.D. programs.’” *Id.* Ranking was accomplished via “the number of votes [each school] received in descending order; those with a statistically insignificant number [were] listed as unranked.” *Id.* In 2010, *U.S. News & World Report* presented its second annual ranking of part-time J.D. programs, ranking eighty-four accredited law schools with part-time J.D. programs. *USNWR 2010*, *supra* n. 2, at 75. In this second ranking of part-time programs, *USNWR* touted the “improved” quality of the rankings because the rankings are “now based on four factors of academic quality.” *Id.* The schools were considered in the ranking process “based on a weighted average of” quality assessment, selectivity, part-time focus, and overall rank. *Id.* Factors used in the creation of the part-time focus index included: “the size of the part-time first-year sections; the size of part-time first-year small sections; and the number of positions filled by part-time students in seminars, simulation courses, faculty-supervised courses, field placements, law journals, interschool skills competitions, and independent study.” *Id.* Only the top fifty schools were included in the published rankings. *Id.*

Although part-time J.D. programs can take various forms, in this Article we will focus on the part-time evening J.D. program,⁴ and on the needs of the “traditional evening student” in a legal research and writing (“LRW”) class.⁵ As we define the term, a “traditional evening student” works full time (or is otherwise fully engaged in non-academic activities) during the day and attends law school at night. The traditional evening student does not have the luxury of studying Monday through Friday during daytime hours. He or she is limited to studying, and more importantly for this Article, to preparing LRW assignments on weekends and late at night. As a result, when creating or modifying the evening LRW program it is necessary to understand the unique needs of these students and the teaching challenges that may result from teaching students who typically struggle in ways that full-time students do not.⁶

Our experience with teaching both day and evening students reveals that some adjustments must be made to effectively teach LRW to evening students. Although day students have ample opportunity to follow-up with the professor if they are struggling with a concept, evening students have far less access to their professors outside of the classroom. Thus it is of paramount importance to teach evening students in a manner that gives them the most effective classroom experience, while providing avenues for students to reinforce what they have learned.

4. See *infra* sec. II(B) (discussing what constitutes a part-time evening J.D. program).

5. Legal research and writing classes go by various names—for example, Legal Methods or Lawyering Skills. Although we will refer to these programs as LRW programs, this Article is inclusive of any first-year legal research and writing class that serves to provide students with the basic skills in researching legal issues and drafting the documents meant to convey that research, such as memoranda, briefs, and client letters.

6. To be sure, not all evening students are “traditional evening students.” In evening division legal writing classes, we have always had “mixed” classes—evening classes that are populated by “traditional evening students” in addition to students who are not working full-time jobs or are otherwise engaged in a manner that precludes study during the day. This category of evening student has the ability to study and complete legal research and writing course work during the day. It could be argued that these “non-traditional evening students” have an advantage over the traditional evening students as a result because non-traditional evening students carry the lighter course load of traditional evening students without the study limitations. The focus of this Article, however, is not an analysis of the dichotomy between traditional and non-traditional evening students; rather, we are confining this essay to a discussion of what law schools and legal writing professors can do to provide the best learning environment for the traditional evening student.

In this Article, we will suggest some best practices for structuring an effective LRW program for evening students. We will also provide specific tips for successfully engaging evening students in the LRW classroom and for creating a more effective learning environment. Part II of this Article provides a brief overview of the history of part-time evening legal education and discusses the advantages and disadvantages of attending law school in a part-time evening program. In Part III, we discuss who the part-time evening student is. Finally, in Part IV, we will provide our suggestions for a more effective LRW learning environment for part-time evening students—both from the broader programmatic standpoint and from the more focused pedagogical classroom experience.

II. *PART-TIME EVENING LEGAL EDUCATION—WHERE WE HAVE BEEN AND WHERE WE ARE GOING*

A. The History of Part-Time Evening Legal Education

The legal profession in the United States initially grew from apprenticeships.⁷ “Formalized apprenticeships” and America’s independence from England led to the establishment of private law schools for legal education;⁸ however, private law schools were not able to confer a college degree, a power typically reserved for universities.⁹ While the professionalism and training of young attorneys went through a series of changes, a drive toward institutional learning took hold as a means for raising the standard of the profession in the mid- to late-nineteenth century.¹⁰ Universities incorporated many of these private institutions, first in programs that acted as an alternative to a college degree,

7. Robert Stevens, *Law School: Legal Education in America from the 1850s to the 1980s* 3 (U.N.C. Press 1983). The intent of apprenticeships, similar to modern clinicals, was to provide students with “close supervision . . . in real-life encounters”; however, this was rarely achieved. *Id.* at 24. Apprenticeships “[n]o doubt . . . varied considerably from an important educational experience to gross exploitation . . .” *Id.* at 3 (footnote omitted). Interestingly, Virginia did not require an apprenticeship period; it was the only state of the original thirteen that only required bar exam passage to practice law. *Id.* at 11 n. 6.

8. Private law schools, like Connecticut’s Litchfield Law School, “were generally outgrowths of the law offices of practitioners who had shown themselves to be particularly skilled, or popular, as teachers.” *Id.* at 3 (footnote omitted).

9. *Id.* at 5.

10. *Id.* at 24. Although not all leading legal professionals agreed with the creation of law schools to train attorneys, the “desire to raise standards” was appealing to the bar and helped fuel the change to formal legal education. *Id.* at 24–25.

then eventually as an undergraduate degree, and finally as a graduate degree.¹¹

While training still largely took place through apprenticeships, with clerks getting much of their training through long-hand copying, the introduction of stenographers reduced the need for clerks and shifted legal training away from the apprenticeship model to the classroom.¹² This shift opened up the legal profession to those engaged in other jobs—those who could not afford to quit their day jobs, but who wanted to attend law school.¹³ Part-time programs began in Washington, D.C., targeting government employees, first at George Washington University (formerly Columbian College) in 1865,¹⁴ and then quickly followed by Georgetown University¹⁵ and National University five years later.¹⁶ Part-time evening programs began a rapid period of growth and these programs quickly spread to numerous cities in the next two decades.¹⁷ While the programs in D.C. largely targeted white

11. *Id.* at 5, 36–37.

12. Alfred Zantzinger Reed, *Training for the Public Profession of the Law: Historical Development and Principal Contemporary Problems of Legal Education in the United States with Some Account of Conditions in England and Canada* 56 (Armo Press 1921).

13. *Id.* In larger cities, law schools accommodated the law clerks' work schedules (work in the morning, classes in the late afternoon). Thus, once the shift from apprenticeships to classroom education began, these schools were able to accommodate those students who could only afford a part-time education. *Id.* at 55–56. Additionally, the improvements in technology allowing better lighting at night allowed schools to hold classes at night, thereby attracting a new population of students. *Id.* at 56; see also Hannah R. Arterian, *The Hidden Curriculum*, 40 U. Toledo L. Rev. 279, 290 (2009) (noting some law schools began as evening schools while others “added ‘night divisions’ to their regular programs”).

14. Reed, *supra* n. 12, at 396–397; Stevens, *supra* n. 7, at 74; see also Amy P. Maloney, Student Author, *Flexible Academic Programs in Legal Education: Diversifying Our Law Schools by Creating Opportunities for Nontraditional Students*, 67 UMKC L. Rev. 165, 172 (1998) (“As far back as 1860, the programs were designed to enable full-time government employees to attend law school at night.” (Footnote omitted).).

15. Stevens, *supra* n. 7, at 74. Georgetown Law began as an evening program in 1870 “to facilitate the attendance of gentlemen who [were] engaged in the service of the Government.” Georgetown L., *Georgetown Law—Introduction to the JD Program*, <http://www.law.georgetown.edu/curriculum/jdprog.cfm#Evening> (accessed Apr. 15, 2011) (quoting Georgetown Law's first catalog).

16. Reed, *supra* n. 12, at 188, 397; Stevens, *supra* n. 7, at 74. National merged with George Washington University in 1954. Stevens, *supra* n. 7, at 85 n. 15.

17. *Id.* at 74–75. Other evening law schools started in the late-nineteenth century included Northwestern College of Law in Portland, Oregon, opening in 1884; Metropolis Law School (later merged with New York University) and Chicago College of Law (now Chicago-Kent College of Law) both added evening law programs in 1888; the University of Minnesota, which began its night program in 1892; and Baltimore University (later merged with University of Maryland) in 1889. *Id.* at 74; see also Reed, *supra* n. 12, at 397; Dorothy E. Finnegan, *Raising and Leveling the Bar: Standards, Access, and the YMCA*

men working in government, programs in other cities targeted other communities, particularly immigrant groups.¹⁸

Part-time evening programs “accomplished certain aspects of legal education that we continue to struggle with today.”¹⁹ Night schools attracted those who did not fit the traditional mold of a law student—minorities, women, working class individuals, and those with varied religious backgrounds.²⁰ For example, in 1906, the Suffolk School of Law (now Suffolk University Law School), located in Roxbury, Massachusetts, opened its doors as an evening school to provide a legal education to the working class and immigrants.²¹ American University Law School Washington College of Law in D.C. also began with the purpose of providing a legal education to those who typically were excluded from legal training—women.²² The James E. Beasley School of Law of Temple University in Philadelphia also began as an evening program at the behest of Henry S. Borneman, a lawyer who was affiliated with Temple University as a lecturer in Temple’s Business College.²³ Although it took some convincing on Borneman’s part, in 1895, the first evening law classes were held at Temple with forty-six students enrolled, each “paying tuition of \$12 a semester.”²⁴ The law school operated solely as an evening program until 1933, at which time the first three-year day division law program was established.²⁵

Evening Law Schools, 1890–1940, 55 J. Leg. Educ. 208, 213–214 (2005) (detailing the emergence of part-time evening law schools).

18. See Stevens, *supra* n. 7, at 74 (noting that immigrants recognized the importance of a legal education and practicing law).

19. Jon M. Garon, *Take Back the Night: Why an Association of Regional Law Schools Will Return Core Values to Legal Education and Provide an Alternative to Tiered Rankings*, 38 U. Toledo L. Rev. 517, 527 (2007).

20. *Id.* at 527–528; see also Stevens, *supra* n. 7, at 74–75.

21. Laura I. Appleman, *The Rise of the Modern American Law School: How Professionalization, German Scholarship, and Legal Reform Shaped Our System of Legal Education*, 39 New Eng. L. Rev. 251, 270 (2004–2005); Suffolk U., *History & Traditions*, <http://www.suffolk.edu/about/133.html> (accessed Apr. 15, 2011).

22. Appleman, *supra* n. 21, at 272–273. The school “was founded in 1896 by two women . . .” *Id.* at 272.

23. Temple U. Beasley Sch. of L., *TU Law History*, http://www.law.temple.edu/Pages/General/About_TULaw.aspx (Apr. 15, 2011); see also Cristine K. Schroeder, *Burning the Midnight Oil: If You Thought Law School Was Tough as a Full-Time Student, Think What It Would Be Like to Work All Day and Then Head to Class at Night*, 18 Pa. Law. 18, 18 (Jan./Feb. 1996) (noting Temple Law’s origins as a night school).

24. Temple L. Sch., *supra* n. 23.

25. *Id.* This was also the year that Temple’s law school, which at the time was called The Temple University School of Law, received “full accreditation from the Council on

Although programs at schools like Temple were affiliated with established colleges and universities, other programs, such as the Suffolk School of Law, were not. Schools such as Northeastern University School of Law, Detroit College of Law, Southern Methodist University School of Law, South Texas College of Law, Golden Gate University School of Law, University of Toledo School of Law, Capital University, and Salmon P. Chase School of Law, which is associated with Northern Kentucky University, all began as evening programs, unaffiliated with traditional universities.²⁶ The programs at these schools also were not stand-alone law schools—these programs began as part of the Young Men’s Christian Association (YMCA) in an effort to provide part-time evening education to diverse groups of students, with a focus on the “working poor and middle class.”²⁷ The first YMCA school opened in 1893 in Cincinnati, Ohio.²⁸

Early part-time programs, like those started by the YMCA, “operated with limited budgets and part-time faculties. Local practitioners and judges provided the instruction.”²⁹ YMCA schools and other evening division programs operated by “developing a faculty with strong practice experience, ties to the local profession, demonstrated commitment to legal service, and

Legal Education and the American Bar Association.” *Id.* In 1935, the law school was admitted to the American Association of Law Schools. *Id.*

26. Steven C. Bahls & David S. Jackson, *The Legacy of the YMCA Night Law Schools*, 26 *Cap. U. L. Rev.* 235, 236–237 (1997).

27. Appleman, *supra* n. 21, at 271–272. At the end of the nineteenth century, the YMCA began offering legal education programs for those who could only attend on a part-time basis. Bahls & Jackson, *supra* n. 26, at 235–236. These schools began in Ohio, but eventually could be found in several cities in the United States. *Id.* at 236. Members of the “financial elite” sponsored these schools in an effort to provide “non-traditional educational opportunities” for “many urban working-class people.” *Id.* at 235. But, while these programs were easily accessible to the masses—all that was required was graduation from high school and a YMCA membership—admittance to a YMCA law program did not guarantee a law degree. “[S]tudents were evaluated stringently” and graduation rates were low. *Id.* at 236. For example, in the Columbus YMCA law program, only twenty percent of the students graduated. *Id.* Although the YMCA programs ended around 1960 as a result of “the demands of the legal profession” and the American Bar Association, the legacy of these schools continues. *See id.* at 235–237. Because the curriculum at these schools was “eminently practical,” eschewing the theoretical method of teaching law established at Harvard, students in these classes were more similar to students in today’s clinical programs, and “[c]ourses often required students to assist the professor in the trial of an actual case.” *Id.* at 236; *see generally* Finnegan, *supra* n. 17 (providing an extensive discussion of the genesis of the YMCA law schools).

28. Appleman, *supra* n. 21, at 272; Bahls & Jackson, *supra* n. 26, at 236.

29. Bahls & Jackson, *supra* n. 26, at 236.

thoughtful writing highly relevant to the community.”³⁰ The lower costs of evening schools allowed those with “modest” means to attain something that had traditionally been reserved for the elite—a professional education and an entryway into the practice of law.³¹

Evening programs were designed largely to “abolish economic handicaps—intended to place the poor boy, so far as possible, on an equal footing with the rich.”³² Because the classes were held in the evening, students did not have to give up their jobs to obtain their education; however, the traditional elite class who originally comprised the legal profession was not happy with this development. “Not only did these night law schools threaten the status quo by educating non-traditional law students, but these schools educated students in such numbers that the very endeavor of professionalization—the licensing of small numbers of well-trained and select experts—seemed to be at risk.”³³ The face of the legal profession was changing and many sought to reverse this trend through tougher standards in both education and bar admission.³⁴

The number of law schools and students grew tremendously during the end of the nineteenth and beginning of the twentieth centuries, largely due to the growth of part-time evening programs;³⁵ however, consistency from program to program was lack-

30. Garon, *supra* n. 19, at 528.

31. *Id.* at 527–528.

32. Reed, *supra* n. 12, at 398.

33. Appleman, *supra* n. 21, at 273. For example, Suffolk “became the largest law school in the world” by 1928, when its enrollment reached almost 4,000 students. *Id.* at 270 (citing Richard L. Abel, *American Lawyers* 54 (Oxford U. Press 1989)); see also Michael L. Rustad & Thomas H. Koenig, *A Hard Day’s Night: Hierarchy, History & Happiness in Legal Education*, 58 *Syracuse L. Rev.* 261 (2008) (discussing in detail the genesis of the Suffolk program).

34. Jerold S. Auerbach, *Unequal Justice: Lawyers and Social Change in Modern America* 108–109 (Oxford U. Press 1976). “Immigration and urbanization” created a situation in which “a [v]eritable flood of lawyers with foreign names, concentrated in cities, who often entered the professional portals through night schools or even correspondence courses, threatened the image of the legal profession as an aristocratic enclave.” *Id.* at 106–107.

35. Between 1889 to 1916, the approximate number of law students overall rose from 4,486 to 22,203. Reed, *supra* n. 12, at 398. Students at “pure” night schools made up only 9 percent (403 students out of a total population of 4,486) of the student population in 1889–1890, but by 1915–1916, that increased to 25 percent (5,570 students out of a total population of 22,203). *Id.* Additionally, the number of “pure” night schools was also increasing. In 1889–1890, out of sixty-one total law schools, nine (or 15 percent) were “pure” night schools. *Id.* By 1920–1921, there were 142 total law schools, of which 41 (or 29 percent) were “pure” night schools. *Id.* Interestingly, during this time period those schools that

ing.³⁶ This created two distinct groups: full-time programs focused on raising the bar of legal education that typically had stricter requirements for admission, and part-time programs focused on democratizing the profession and frequently admitting those who could not meet the rigorous requirements for the full-time programs.³⁷ For example, to attend a YMCA school, all that was required was a high school degree and a YMCA membership.³⁸ Furthermore, at its founding as a part-time evening school, women who sought admittance to the Washington College of Law (now American University Washington College of Law) were required simply to pass an English exam if they had not graduated from high school or college.³⁹

Because the full-time and part-time programs served distinct aims and produced graduates with different expertise, states struggled to test new lawyers before admitting them to practice.⁴⁰ In a review of the legal profession written in 1921, Alfred Reed noted,

The actual situation is that neither the tests of the state nor those of the law schools serve to prevent incompetents from flooding the profession. Taking into consideration the effect of night law school advertising in artificially stimulating a demand for legal education, there can be little question but that, in spite of all recent efforts to raise bar examination standards, more incompetents are today admitted to the bar than when, under laxer formal requirements for admission and a far smaller development of good law schools than we now possess, the generality of actual applicants nevertheless

were identified as “pure” day schools included those in which the “complete course of study [was] scheduled for afternoon hours only—essentially a less accentuated form of part-time education.” *Id.*

36. Stevens, *supra* n. 7, at 75–76.

37. Reed, *supra* n. 12, at 56–57.

38. Bahls & Jackson, *supra* n. 26, at 236.

39. Appleman, *supra* n. 21, at 273; see Am. U. Wash. College of L., *History of WCL*, <http://www.wcl.american.edu/history/timeline.cfm> (accessed Aug. 15, 2010) (stating that on February 1, 1896, the “first Women’s Law Class” was held, and there were two women in the class). Eventually, however, the Washington College of Law merged with American University and became a traditional ABA-accredited school. Am. U. Wash. College of L., *supra* n. 39.

40. Reed, *supra* n. 12, at 57–59.

received a sound training in the office of an old-fashioned practitioner.⁴¹

Criticisms of part-time programs continued through the 1950s and 1960s, and some scholars questioned the viability of certain instruction in part-time programs due to concerns about the ability of part-time programs to teach students legal research and writing in addition to questions about whether these programs provided adequate seminars for students.⁴² These critics essentially argued that evening programs were not capable of preparing students under “modern conditions.”⁴³

Evening programs, however, were not without support. Some believed that “[t]he part-time law school’s place in legal education should be stressed” because part-time education could provide the same quality education as full-time legal education for those who could not afford to attend school full time.⁴⁴ Unfortunately, the American Bar Association (ABA) and the Association of American Law Schools (AALS) initially failed to see the benefits in part-time legal education. In an effort to create more uniform standards and provide “quality control[,] . . . the ABA pushed to eliminate the night school model of practitioner education.”⁴⁵ In

41. *Id.* at 59.

42. Albert J. Harno, *Legal Education in the U.S.: A Report Prepared for the Survey of the Legal Profession* 177–178 (Bancroft-Whitney Co. 1953) (quoting an inspector of law schools for the Survey).

43. *Id.* (quoting an inspector of law schools for the Survey).

44. *Id.* (quoting an inspector of law schools for the Survey). To provide quality education it was noted that professors in part-time programs “must be of the same caliber and as fully devoted to teaching as the full-time day-school teachers,” and the “same high standards” must be required of part-time students as for full-time students. *Id.* Additionally, an appropriate course load for part-time students was necessary. *Id.* Reed noted that it was “sound” policy to foster the creation of evening law schools because doing so “provide[d] a necessary corrective to . . . monopolistic tendencies.” Reed, *supra* n. 12, at 398. But, he tempered his enthusiasm and cautioned that those in favor of part-time evening education must correct the problems in part-time evening schools, noting that those schools “[a]s instruments for training competent servants for democracy . . . [were] far from having realized their latent possibilities.” *Id.* at 399.

45. Garon, *supra* n. 19, at 526. By this point, full-time legal education had fully moved away from its apprenticeship roots; rather, full-time programs had embraced the case method of instruction created by Christopher Columbus Langdell during his tenure at Harvard Law School. See Harno, *supra* n. 42, at 53–60. “Langdell introduced, and his early disciples perfected, a system of instruction which in the hands of an able and skillful teacher is unexcelled as an instrument of education.” *Id.* at 59. But, the case method was not without criticism, and as Harno noted, “Langdell also [was] responsible more than any other man for confining legal education in a strait mold which was for years to dissociate it from the living context of the world about it.” *Id.* One of the criticisms of legal education

part, this emphasis on quality control, however, was rooted in ethnic, religious, and racial prejudice.⁴⁶

Thus, during the 1960s, the modern accreditation system for law schools took hold, and this resulted in “the end to unregulated part-time legal education”⁴⁷ In most instances, these programs simply did not have the resources to meet the ABA requirements regarding full-time faculty, library resources, and educational opportunities for students, such as clinical education.⁴⁸ As a result, the YMCA programs, as well as other night-only law school programs, either disappeared or were forced to affiliate with established universities.⁴⁹

Of course, the disappearing evening-only law schools did not ultimately spell the death-knell for all part-time programs, even though as recently as 1957, the AALS proposed to exclude membership to law schools that included a part-time evening division.⁵⁰ Rather, law schools either kept the programs they had already established or merged with the unaffiliated evening-only schools, and new law schools added and continued to add part-time evening divisions. In 1972, the Kelso Report, in an attempt to compare part-time and full-time students, shed some positive light on part-time programs with a commentator’s analysis of the Report’s findings that “day and evening students were . . . essentially equivalent” and day and evening programs were “assumed” equivalent “due to the lack of data to the contrary.”⁵¹

during this time was that it no longer taught young lawyers how to practice law. *Id.* at 147. Thus, it was suggested that law schools include legal clinics as part of the curriculum to “inculca[te] practical skills,” *id.* at 176, in law students. *Id.* at 172–176.

46. Appleman, *supra* n. 21, at 273; *see also* Auerbach, *supra* n. 34, at 108 (“Educational reform was an effective vehicle for the exclusion of ethnic minority-group members whose access to the profession was eased by minimal educational requirements.”).

47. Garon, *supra* n. 19, at 526.

48. *Id.* at 526–527; *see also* Bahls & Jackson, *supra* n. 26, at 237 (discussing the demise of the YMCA law schools).

49. Finnegan, *supra* n. 17, at 210; *see generally* Appleman, *supra* n. 21, at 272.

50. David F. Chavkin, *Clinic under the Stars: Giving Part-Time Students Their Due*, 13 Clin. L. Rev. 719, 723 (2007).

51. *Id.* at 724 (quoting the 1912 *Handbook Association of American Law Schools*, which is cited in Michael P. Cox, *Part-Time Legal Education: The Kelso Report and More*, 27 J. Leg. Educ. 473, 500, 502–503 (1975)). As Professor Chavkin points out, the Kelso Report “never purported to represent a statistically valid empirical study of the part-time student universe.” *Id.* at 725 n. 24. Therefore, the Kelso Report was not considered a definitive statement on the benefits of part-time legal education.

B. Part-Time Evening Legal Education Today

Despite earlier efforts to eliminate part-time programs,⁵² such programs have taken hold and are here to stay. The staying power of part-time programs and the demand for more, will be fueled by the current economic crisis,⁵³ as well as the needs of those students who traditionally cannot take advantage of full-time programs. Law school tuition is “at an all-time high,” but a law school degree no longer guarantees (if it ever did) the ability to earn a salary that allows for repayment of law school debt.⁵⁴ Students who are passionate about the law and in pursuing legal careers, but who cannot or do not want to risk the potential for six-figure debt,⁵⁵ will turn to part-time legal education as the answer. Additionally, part-time programs appeal to those students who are pursuing alternate careers—those who are entering their second, third, or other iteration of their professional lives.⁵⁶ Finally, part-time programs can increase the diversity of our students—non-traditional students, women, and minorities—as well as those who are usually considered traditional, but due to circumstances are unable to attend full-time J.D. programs.⁵⁷ Ulti-

52. A study conducted by the American Association of Law Schools in 1972 even predicted a “decline in the number of evening programs . . .” for reasons such as a lack of resources. Charles D. Kelso, *The Plot to Do Away with Night Law Schools*, 1 *Student Law* 33, 34, 35 (Mar. 1973). At the time of the study, fifty-six law schools provided evening division programs for their students, up from forty-five in 1957. *Id.* at 33. This prediction obviously was incorrect.

53. See Maloney, *supra* n. 14, at 173, 173 n. 56 (citing the 1994 ABA National Conference on Part-Time Legal Education (Oct. 1994), and noting that “a change in academic policies” regarding part-time education was forthcoming in part due “to the escalating cost of legal education and students’ desire to control their current income”).

54. Jessica Rettig, *Taking the Long View of the Law*, 147 *U.S. News & World Rpt.* 72, 72 (May 1, 2010).

55. “The American Bar Association reports that from 2007 to 2008, average tuition rose 6 percent at private law schools, to \$34,298, and 9 percent at in-state public schools, to \$16,836. Add in living expenses and pricey books, and at least 80 percent of students now rely on student loans to fund their law education.” *Id.* This is not to say that part-time education is less expensive. “[T]he pricing differentials [between part- and full-time programs] have been eliminated through merger, library requirements, and standardization of faculty, clinics and other student opportunities.” Garon, *supra* n. 19, at 527. Although part-time students pay the same tuition costs, because they continue to have a source of income during law school it may allow them to take out fewer or smaller loans and finish law school with less debt than full-time students.

56. See Maloney, *supra* n. 14, at 173 (discussing how evening “programs attract older students who have made a decision to change their career[s]”); *USNWR 2009*, *supra* n. 3, at 72.

57. Garon, *supra* n. 19, at 527–528; Maloney, *supra* n. 14, at 166, 168–170. Maloney argues that “nontraditional students also include non-minority men with tremendous

mately, a wide range of students benefit from the flexibility these programs provide. Conversely, law schools and the profession benefit from the contributions of these students who, without available part-time education, would be unable to attend law school and ultimately, unable to add to the richness of our profession.

Today's part-time programs comprise a sizeable percentage of J.D. students. In 2008, approximately 16 percent of all J.D. candidates were part-time students.⁵⁸ In creating the original ranking for part-time programs, *U.S. News and World Report* "define[d] a part-time J.D. program as a law school that has a separate admissions process for part-time students and has at least 20 part-time students enrolled."⁵⁹ Currently, schools across the rankings spectrum offer part-time programs,⁶⁰ regardless of their status as "private" or "public" schools.⁶¹ Even with these strides, presently less than half of all accredited law schools—eighty-four in the 2010 ranking—provide part-time J.D. programs,⁶² consistent with the *U.S. News and World Report* definition.⁶³

family and financial obligations," such as single-parent fathers. Maloney, *supra* n. 14, at 168–169.

58. *USNWR 2010*, *supra* n. 2, at 78 (citing the American Bar Association); *see also USNWR 2009*, *supra* n. 3, at 73.

59. *USNWR 2009*, *supra* n. 3, at 73. A review of the most current statistics regarding J.D. enrollment reveals that there are 122,810 students enrolled in full-time programs and 22,517 students enrolled in part-time programs. L. Sch. Admis. Council (LSAC), *Official Guide to ABA-Approved Law Schools*, <http://officialguide.lzac.org/SearchResults/ShowAllSchools.aspx?schoolinfo=enrollment> (accessed Apr. 15, 2011).

60. Comparing the rankings of the schools ranked as the top ten part-time programs (because of ties this actually includes twelve schools) against the rankings of those schools on the overall Top 100 List reveals that six of these programs are at schools ranked in the top fifty schools overall. For example, Georgetown University, which is ranked as having the number one part-time program is ranked fourteenth on the Top 100 List and George Washington University, which ranked as having the number two part-time program is ranked twentieth on the Top 100 List. *Compare USNWR 2010*, *supra* n. 2, at 74–75, with *USNWR 2010*, *supra* n. 2, at 78.

61. LSAC, *Official Guide to ABA-Approved Law Schools*, <http://officialguide.lzac.org/SearchResults/ShowAllSchools.aspx?schoolinfo=enrollment> (accessed Aug. 6, 2010). "Private" schools are those that are "not operated by the state," whereas "public" schools are those "that receive money in which the state is located." LSAC, *Key to the ABA-Approved Law School Descriptive Text and ABA Pages* 1, https://officialguide.lzac.org/release/InformationalPDFs/Key_to_Law_School_Pages.pdf (accessed Apr. 15, 2011).

62. *U.S. News and World Report* does not differentiate between part-time evening programs and part-time day programs. *See USNWR 2009*, *supra* n. 3, at 73; *see generally USNWR 2010*, *supra* n. 2, at 78.

63. *USNWR 2010*, *supra* n. 2, at 78. Reviewing the LSAC Official Guide, it appears that there may be as many as 129 law schools that include part-time students. LSAC, *Official Guide to ABA-Approved Law Schools*, <http://officialguide.lzac.org/SearchResults/>

The structure of part-time programs is as varied as the structure of full-time programs. For example, part-time classes are usually offered Monday through Thursday evenings.⁶⁴ But, some schools have alternative scheduling. For example, at Widener-Delaware first-year classes are only scheduled on Monday, Wednesday, and Thursday evenings. Some schools also incorporate Saturday classes.⁶⁵ The number of credits and the courses required during the first year (and subsequent years) also vary from program to program. For example, at Widener, first-year evening division students take Legal Methods I, Civil Procedure, and Torts during the fall semester (total of 11 credits), and Legal Methods II, Contracts, and Property I during the spring semester (total of 10 credits).⁶⁶ Comparatively, at Temple, first-year evening division students take Legal Research & Writing I, Contracts, Torts, and Litigation Basics during the fall semester (total of 11 credits), and Legal Research & Writing II, Civil Procedure I, and Property during the spring semester (total of 9 credits).⁶⁷ Finally, some schools allow part-time evening students to transfer into the full-time program after the first year of study (and vice versa).⁶⁸

But, there are similarities among various part-time programs as well. Part-time J.D. programs usually require four years for degree completion as compared to three years for full-time programs.⁶⁹ This is attributable to course scheduling that accommodates the time constraints faced by part-time students. In our experience, evening classes are typically scheduled to last between 6:00 p.m. and 10:00 p.m., during which time students will have one or two classes scheduled per evening. Therefore, the

ShowAllSchools.aspx?schoolinfo=enrollment (accessed Aug. 6, 2010). It is not clear, however, that all of these schools have formal part-time programs or the numbers of students reported as attending on a part-time basis does not meet the twenty student threshold set by USNWR. See *id.*

64. USNWR 2009, *supra* n. 3, at 72.

65. See e.g. Georgetown L., *supra* n. 15; U. of Denver Sturm College of L., *Admissions—Day and Evening Class Schedules*, <http://law.du.edu/index.php/admissions/jd-admissions/day-and-evening-class-schedules> (accessed Apr. 15, 2011).

66. Widener U. Sch. of L., *Student Handbook Academic Year 2009–2010*, at 61 [hereinafter *Widener Student Handbook*] (on file with the Authors).

67. Temple U. Beasley Sch. of L., *Prospective Students, Part-Time Program Options*, http://www.law.temple.edu/servlet/RetrievePage?site=TempleLaw&page=WiseGuide_PartTime_Curriculum (accessed Apr. 15, 2011).

68. USNWR 2009, *supra* n. 3, at 72. Both Widener and Temple allow transfers between divisions. Temple U. Beasley Sch. of L., *supra* n. 67; see *Widener Student Handbook*, *supra* n. 66, at 29–30.

69. USNWR 2009, *supra* n. 3, at 72.

additional year is needed for part-time students to complete all graduation requirements, including course and credit requirements that are the same as their day division colleagues.⁷⁰ Ultimately, today's part-time evening division programs are "tailored for the working professional" with the expectation that part-time students will effectively balance family obligations, course work, and professional responsibilities.⁷¹

C. Advantages and Disadvantages of Part-Time Evening Legal Education

1. *Advantages*

The greatest advantage of part-time legal education is that it provides an avenue for students to attend law school who could not enroll in a day program for economic reasons or because of familial responsibilities. For many students, "the legal profession would not be a career option" without the availability of part-time legal education.⁷² Part-time programs give students the option of working to support themselves (and their families, in some cases) while earning their law degree. In fact, depending upon a student's full-time salary, he or she may be able to pay for school without incurring the burden of debt that typically accompanies a law degree.

Beyond the economic advantages, part-time programs provide a means for "diversifying the make-up of law school student bodies, as well as the legal profession."⁷³ Evening programs attract greater numbers of women, students of color, older students, and students from less affluent economic backgrounds.⁷⁴ An evening program may be attractive to these students because the lower tuition and later hours make a law degree possible for students with young children, students with established careers, and students with limited financial means who cannot set aside employment or familial responsibilities for three years. Moreover, some upper-level day division students will choose to take a few classes

70. Jane M. Goddard, Student Author, *Building the Cathedral: Sculpting a Part-Time Legal Education in a Double-Time World*, 8 Barry L. Rev. 117, 125 (2007).

71. *USNWR 2009*, *supra* n. 3, at 72.

72. Maloney, *supra* n. 14, at 165.

73. *Id.* at 166.

74. *See id.* at 166, 168–169.

at night, which allows them the opportunity to significantly interact with their evening division counterparts. Ultimately, the entire law school benefits from enrolling a diverse evening division student body because the presence of a variety of voices in the classroom “adds to the texture of all students’ experience.”⁷⁵

2. Disadvantages

The biggest drawback for evening students who work full-time and attend law school at night is “that students have less time than their full-time peers . . . to gain practical experience before graduation.”⁷⁶ Students who work full-time have difficulty taking a clinic or externship and may not have the opportunity to accept a summer clerkship or summer associate position.⁷⁷

It is also more difficult for part-time students to interact with their professors outside of class time. These students typically come to school directly from working a full-time job to attend three or four (or more) hours of class, finishing class around 10:00 p.m. Into this schedule, students must carve out study time in addition to balancing personal time and family responsibilities.⁷⁸ Thus, where professors have come to expect that students will actively engage them outside of the classroom to address questions about the material the students are struggling with, it is often extremely difficult, if not impossible, for evening students to enjoy the ability to do the same.

Grade point average is also a concern for these students. Part-time evening students may receive lower grades than their daytime counterparts because they experience demands and pres-

75. *Id.* at 166, 173. Part-time students “bring a lot with them into the classroom. Their interaction with the business world really benefits other students and gives everyone an understanding of the different problems they may have to deal with.” Schroeder, *supra* n. 23, at 19 (quoting Robyn L. Meadows, Associate Dean for Student Affairs, Widener University School of Law in Harrisburg).

76. *USNWR 2009*, *supra* n. 3, at 72.

77. However, evening students should be encouraged to find ways (hopefully with the cooperation of their employers) to include outside-the-classroom experiences in their legal education. Students with tactile and kinesthetic learning styles absorb information better if they can complement classroom instruction with outside-the-classroom activities, such as externships, internships, and clerkships. M.H. Sam Jacobson, *A Primer on Learning Styles: Reaching Every Student*, 25 *Seattle U. L. Rev.* 139, 155–156 (2001); *see also infra* sec. IV(B)(1)(b) (discussing ways in which to teach students with different learning styles).

78. *See* Goddard, *supra* n. 70, at 117–118 (discussing the student author’s weekly schedule).

sure not faced by other students.⁷⁹ Some of these demands and pressures include work hours that may extend into commuting or class time, business travel obligations, mentally and/or physically draining job duties, family (parent, spouse, child) care responsibilities, limited “alert” study time, and a higher burnout rate.

To compound these pressures, some evening students are convinced that the quality of education they receive at night is inferior to the education that day-division students are receiving.⁸⁰ This may actually be true at some schools. However, even where law schools strive to provide equally high-quality day and evening programs, the *belief* that the evening program is inferior can serve as an unnecessary distraction for students.

Another “serious handicap” for the part-time, evening law student is the lack of time to participate in extracurricular activities, such as law review, moot court, and the student bar association.⁸¹ Trying to determine how to fit one more activity into an already over-scheduled life may overwhelm many part-time evening students; therefore, rather than trying out for and participating in these extra-curricular activities, part-time evening students often decide to focus solely on coursework.⁸² Yet employers highly value these law school experiences, especially moot court and law review or journal membership.⁸³ Given the current economic climate the absence of these honor activities on the typical evening student’s resume is a serious disadvantage.⁸⁴

79. *Id.* at 129–130. Goddard notes that

GPA is only part of the picture for a part-time student who balances law school with other commitments requiring as much—if not more—time and emotional energy. Part-time students also cope with the reality of law school performance that does not meet their own expectations or self-concepts, and the awareness that time constraints may not allow them to dedicate the additional effort needed to improve.

Id. at 130 (footnotes omitted).

80. Evening division students may feel this way for many reasons, such as the greater percentage of adjuncts teaching in the evening as compared to the day division, less access to faculty before and after class, and fewer opportunities to participate in clinicals and extracurricular activities.

81. Chavkin, *supra* n. 50, at 725 n. 25.

82. See Goddard, *supra* n. 70, at 125 (discussing difficulties for part-time evening students in balancing work, studies, and co-curricular and extra-curricular activities).

83. Maloney, *supra* n. 14, at 169.

84. Both Professors Tavares and Scalo encourage their part-time evening students to try out for various honor activities, such as moot court, law review and journal, and competition teams, such as trial advocacy teams. Students are encouraged to determine how they can best include participation in these activities. For example, students may be able to negotiate with their employers for additional time to allow participation. Part-time evening students who decide to participate become exceptional members of their respective

III. WHO IS THE TRADITIONAL PART-TIME J.D. EVENING STUDENT?

Traditional, part-time evening students are committed individuals who want to study law. Unlike some of their day-division counterparts,⁸⁵ these students come to law school knowing what the next step in their lives is—pursuit of a legal career. Part-time evening students have made a well-considered choice to either change careers or to enhance their current careers—a choice that requires quite a bit of personal sacrifice. These students must balance the demands of law school with family obligations, often to spouses or partners and children, and work responsibilities.⁸⁶ Evening students “don’t fall into evening school. . . . If you’re working and you’re going to law school at night, you really want this.”⁸⁷

We have found that traditional evening students tend to be highly motivated people who work full-time during the day and attend school part-time at night.⁸⁸ They “often come to class exhausted after a full day of work,”⁸⁹ but manage to find the energy (to the amazement and envy of many others in the law school community) to complete their assignments and participate in

law reviews, journals, and competition teams bringing distinction to their law schools.

85. James B. Levy, *As a Last Resort, Ask the Students: What They Say Makes Someone an Effective Law Teacher*, 58 Me. L. Rev. 50, 63 nn. 69, 70 (2006) (discussing reasons for lack of law student interest and motivation and noting that part of the problem may occur when students who “do not know what else to do with their lives” choose to attend law school).

86. See Chavkin, *supra* n. 50, at 738 n. 67 (“In addition to full work lives, many of them have partners and children and are forced to constantly make choices that resonate differently than for students in . . . full-time day program[s].”); see also Maloney, *supra* n. 14, at 168 (noting that “[m]any [evening division students] must remain employed while in law school or have important family responsibilities”); Joyce D. Saltalamachia, *Podcasts, Powerpoint, and Pedagogy: Using Technology to Teach the Part-Time Student*, 53 N.Y. L. Sch. L. Rev. 893, 894 (2008–2009) (noting “part-time students are perpetually time deprived and law school is only one facet of their hectic lives”).

87. *USNWR 2009*, *supra* n. 3, at 72 (quoting William Michael Treanor, Dean, Fordham Law School).

88. As noted previously, see *supra* pt. I, this Article is concerned with the “traditional evening part-time student.” But, there are other students who also attend law school on a part-time basis. Professor Chavkin has noted that “many students are in between: they are more or less part-time. A teacher, a librarian, an accountant, or a clerk may be able to arrange his [or her] hours so that he [or she] can attend law school . . . even though he [or she] is working thirty or forty hours a week. Many others work fifteen or twenty hours a week.” Chavkin, *supra* n. 50, at 729 n. 40 (quoting Russell D. Niles, *The Extended Program for Employed Law Students*, 14 J. Leg. Educ. 361, 364–365 (1962)).

89. *Id.* at 721.

their classes.⁹⁰ But, “[e]vening education is not easy . . . ,”⁹¹ and Professor David F. Chavkin has suggested that a better term for evening division students would be “more than full-time students.”⁹²

In addition to their LSAT scores and grades, law schools consider professional experience during admissions decisions for these students.⁹³ Thus, evening programs attract students from a diverse variety of “educational and professional backgrounds, some of whom are pursuing law as a second, third, or even fourth career.”⁹⁴ And, evening division sections can be an “interesting, fun mix of students[;] . . . people with narratives, stories, real biographies.”⁹⁵ Moreover, part-time law programs add to the diversity of the law school’s student body because these programs still attract and benefit those who traditionally were unable to attend law school full-time—those who must continue to work, immigrants, mothers, and minorities.⁹⁶ This amalgam of “unique backgrounds and insights . . . add[s] immeasurably to the classroom and overall law school environment.”⁹⁷

Generally, part-time evening students are older than full-time division students.⁹⁸ This may account for the spirit of cooperation seen in part-time students, who tend to eschew competitiveness and approach law school as a shared experience.⁹⁹ We have found that these students are quite willing to engage in cooperative learning assignments and seem to embrace those assignments in a way that day division LRW students may ap-

90. See *USNWR 2009*, *supra* n. 3, at 70 (noting evening students “are such unbelievably high-energy people” (quoting Kevin Manz, a Fordham Law School student)).

91. *Id.* at 72 (quoting John Attanasio, Dean, Dedman School of Law at Southern Methodist University).

92. Chavkin, *supra* n. 50, at 738 n. 67.

93. *USNWR 2009*, *supra* n. 3, at 72.

94. *Id.*

95. *Id.* (quoting Andrew Cornblatt, Dean of Admissions, Georgetown University Law Center).

96. See Arterian, *supra* n. 13, at 292; Chavkin, *supra* n. 50, at 724 n. 16; Maloney, *supra* n. 14, at 168; see also generally *USNWR 2010*, *supra* n. 2, at 78 (“For many working adults, attending part time is the only way they can afford to go to law school and meet their other commitments.”).

97. Chavkin, *supra* n. 50, at 725 n. 25.

98. *USNWR 2009*, *supra* n. 3, at 72; Maloney, *supra* n. 14, at 168, 173.

99. See generally *USNWR 2009*, *supra* n. 3, at 72; Michelle Arnold, Student Author, *Student of Rock*, 60 *Temple Rev.* 33, 33 (Summer 2007) (“Most of all, I love the camaraderie of the evening program. . . . I know that there will be a great and diverse bunch of people [in class] who, like me, are tired but still smiling.”).

proach with skepticism. But, evening students are more concerned with getting to the point of an assignment more efficiently and quickly than their day division counterparts; they can become impatient if they feel like they are not receiving all of the information needed to solve a problem in an expedient manner.

Part-time evening students are a dynamic group of individuals who not only enhance our classrooms and our institutions, but who challenge us to be better teachers to meet their unique needs. The remainder of this Article will deal with the best ways to create a learning and teaching environment that benefits both students and LRW professors.

IV. *CREATING AN EFFECTIVE LEARNING ENVIRONMENT FOR PART-TIME EVENING STUDENTS*

A. Suggestions to Achieve Best Programmatic Practices

The suggestions we make in this section deal with those changes that are not within the full control of legal writing professors. These suggestions are not necessarily a “one-size” fits all. Based on our experiences, however, these suggested programmatic practices could be implemented in one form or another in all part-time evening division LRW programs.

1. *Class Size*

The number of students in each LRW class (and, by extension, the number that are assigned to any individual LRW professor) is a concern when dealing with part-time students. The needs of part-time evening students require that schools create smaller evening LRW sections because evening students have less time to interact with their professors outside of the classroom. Therefore, students’ access to their LRW professor before, during, and after class is crucial. The smaller the class size, the more individualized attention the professor can provide. This point is especially important in classes taught by adjuncts, who often struggle with the same time constraints as their students.¹⁰⁰

Depending on a school’s staffing model for LRW professors, the *Sourcebook on Legal Writing* recommends different numbers

100. See *infra* sec. IV(A)(2) (discussing concerns raised when adjuncts teach part-time LRW classes).

of students per class.¹⁰¹ For example, the *Sourcebook* recommends a maximum number of thirty to thirty-five students for full-time faculty who are tenured or on the tenure track.¹⁰² Comparatively, the *Sourcebook* recommends a maximum number of thirty to forty-five students for full-time faculty who have job security but who are not on tenure track.¹⁰³ Adjuncts, of course, should have a much lower student to faculty ratio given that adjuncts must balance their full-time jobs with their teaching responsibilities. Thus, the maximum number of students an adjunct should teach is fifteen, with a recommendation for fewer students per adjunct depending on the amount of turnaround time between critiquing papers and holding conferences.¹⁰⁴

Overall, “the type of instruction needed for quality legal writing courses requires a lower faculty-student ratio because of the processes involved. Training in legal writing does not conform well with “mass education.”¹⁰⁵ And, nowhere is this more apparent than in the evening LRW classroom where students need as much individualized attention as possible during the actual class. Without the opportunity for more individualized instruction in the part-time LRW class, these students are disadvantaged when compared to their full-time counterparts, students whose full-time “jobs” are their education.

101. Commun. Skills Comm., Sec. of Leg. Educ. & Admis. to B., *Sourcebook on Legal Writing Programs* 89, 95, 100, 103, 106–107, 112, 116 (Eric B. Easton ed., 2d ed., ABA 2006) [hereinafter *Sourcebook*].

102. *Id.* at 89. Thirty to thirty-five is an appropriate range of students that will allow the full-time tenured or tenure-track faculty member adequate time for her course responsibilities, in addition to continuing professional development and engaging in scholarship. *Id.* But, “[i]f the writing professor simultaneously teaches another course, writing or doctrinal, the maximum student/faculty ratio in the legal writing course should be reduced, especially in semesters when the legal writing workload is greatest.” *Id.*

103. *Id.* at 95. This recommendation is premised on the view that the professor is only teaching LRW and contains the caveat that “[s]maller numbers are better, permitting the professor to devote more time to each student, to produce scholarship, and to engage in service.” *Id.* The *Sourcebook* further warns that professors who teach more than forty-five students per semester are “effectively preclude[d] . . . from producing scholarship, teaching other courses, or engaging in service.” *Id.*

104. *Id.* at 112.

105. Maureen J. Arrigo, *Hierarchy Maintained: Status and Gender Issues in Legal Writing Programs*, 70 Temp. L. Rev. 117, 130 (1997); see also Marcia Gelpe, *Professional Training, Diversity in Legal Education, and Cost Control: Selection, Training and Peer Review for Adjunct Professors*, 25 Wm. Mitchell L. Rev. 193, 201 (1999) (discussing the benefits of adjuncts in teaching “practice skills” and noting that these classes “entail[] a great deal of work for the teacher, and is best done in small classes”).

Lower student-faculty ratios allow for increased “one-to-one” experiences between the students and the professor.¹⁰⁶ “Teaching writing has always worked best one-to-one,” allowing the professor to become a “personal resource for the student” as the student works on a particular assignment.¹⁰⁷ To take advantage of the one-to-one dynamic in part-time evening LRW courses, it is necessary to recognize that evening students are in a different situation from their full-time counterparts and therefore require more one-to-one time during class because part-time students will not get that time any other way. Smaller evening LRW classes provide the professor with more opportunities to address students’ specific concerns with assignments and also allow enough time for in-class exercises or other projects that will model for the students what they should be working on at home.¹⁰⁸ In other words, the smaller the evening LRW class, the more manageable it will be for both professor and student.¹⁰⁹ Therefore, full-time faculty

106. See J. Christopher Rideout & Jill J. Ramsfield, *Legal Writing: A Revised View*, 69 Wash. L. Rev. 35, 79–80 (1994). Chris Rideout and Jill Ramsfield also note that other “one-to-one experiences such as writing conferences, oral presentations, and oral arguments” should be incorporated into the LRW program to increase the amount of individualized instruction each student receives. *Id.* at 80.

107. *Id.* at 79.

108. See generally Gelpé, *supra* n. 105, at 201 (stating that lower student-to-faculty ratios allow professors “to require students to do written exercises, consult individually with the instructor, and engage in other skill-building activities that are difficult in standard law classes of 50–100 students”).

109. Professor Scalio has had first-hand experience with class size differentials during her career. Four of her seven years of experience have been spent teaching part-time evening division students. Each section was a different size—eight, sixteen, thirty, and seventeen. (These were the ending totals; in all years Professor Scalio lost between one and four students for various reasons.) The year that Professor Scalio had thirty evening students was the most challenging year of her career. At the time, Professor Scalio was a Visiting Assistant Professor at Temple and, therefore, carried the same teaching load (and the same approximate class size, between thirty and thirty-five) as all other full-time LRW faculty. With that many students, Professor Scalio felt that she simply did not have enough time to address their individual concerns as fully as possible. Even with two teaching assistants in the class, it was difficult to provide sustained, focused attention to each student (or group during collaborative exercises, which were the more frequent exercises used) when in-class exercises were being worked on. Another student or group of students was always seeking attention and guidance. And, during those classes where new concepts were being introduced (or even when the class was going over previous work), it was difficult to fully address everyone’s questions.

When that happens during a day division class, the professor can tell the students who need additional help to stop by during office hours or to meet after class or at another time during the week. With evening students, who were getting out of class late in the evening after having two classes, it was not so easy as the students were typically exhausted by the end of class and not willing to stay much later if the line for questions was especially long. Of course, some students were able to make it to office hours occasionally,

to student ratios in part-time student classes should come closer to the recommendation for adjunct faculty than the *Sourcebook* recommendations for full-time faculty.¹¹⁰

With adjuncts, class size should remain as small as possible.¹¹¹ As noted in the *Sourcebook*, fifteen students should be the maximum number of students adjuncts teach because not only must we consider the students' schedules, but the professors' as well.¹¹² Additionally, consideration must be given to the number

were able to schedule alternative times to meet, or were willing to stick around and chat after class. But, Professor Scalio found that with this large section of evening students the level of interaction outside of class with her students was less than with any other section—either the smaller evening sections or her full-size day sections. Scheduling conferences with thirty evening students was also much more difficult. Some students were able to meet during the week because they either were able to make work accommodations or they were not traditional part-time evening students. But, the majority of the class had to be scheduled on the weekends, which meant marathon conference sessions over the course of two weekends to make sure that all students had their conferences on a timely basis.

While this may actually seem easier than a traditional conference period because of the ability to stretch out the critiquing period, it was not, as Professor Scalio learned the hard way. Returning papers twenty-four hours in advance (at Temple this was regarded as an acceptable return schedule at the time Professor Scalio worked there) to students who do not have time to review your comments until the morning of the scheduled conference did not work. Without more time to review, the students either did not have the time, energy, or both to fully review and digest the comments. Ultimately, in Professor Scalio's view, this led to more students struggling for a longer period of time with the concepts being taught. Of course, this was Professor Scalio's experience and is not meant as a definitive statement on any other professor's experience teaching a larger part-time evening LRW class.

110. The goal in any LRW program should be to maintain class sizes that are "manageable" for the professors, which in turn allows the professors to "teach [the] course at a very high level." Ellie Margolis & Susan L. DeJarnatt, *Moving beyond Product to Process: Building a Better LRW Program*, 46 Santa Clara L. Rev. 93, 135 (2005).

111. The most recent ALWD/LWI Survey Report shows a trend in this direction. ALWD & Leg. Inst., *2010 Survey Results* 84, http://www.alwd.org/surveys/survey_results/2010_Survey_Results.pdf [hereinafter *2010 Survey Results*]. The *2010 Survey Results* "include [] data about the operation of legal research and writing programs, . . ." and information from "191 North American law schools (190 from the United States and 1 from Canada), representing approximately 96% of the law schools eligible to complete the survey." *Id.* at i. All 198 AALS Member law schools and AALS Non-Member Fee-Paying schools in addition to the University of Windsor in Ontario, Canada were solicited for information. *Id.* at iii. Specifically, of the 103 schools that responded regarding the number of students per section that adjuncts teach, both the average and the median were 17.00. *Id.* at 84. The minimum number of students per section was eight, and the maximum was forty-one. *Id.* Of the eighty-nine schools that responded to the question regarding the total number of students adjuncts teach, the average was 20.00 students per adjunct. *Id.* The minimum number of total students taught was eight, and the maximum number of total students taught was forty-eight (although any responses indicating that greater than 100 total students were taught by adjuncts were excluded from the survey data). *Id.* Unfortunately, the data collected does not provide insight into the average student to faculty ratio for part-time evening classes.

112. *See infra* sec. IV(A)(2) (discussing the concerns raised by including adjuncts as

of critiqued and graded assignments, the complexity of those assignments, and the turnaround time needed for each assignment when deciding class size for adjuncts. As with full-time LRW faculty teaching in the evening program, the interaction with faculty and the needs of the part-time student differ from the full-time student; the different class dynamic is not conducive to a larger class size, especially when adjuncts are teaching the part-time student LRW course.

2. *Staffing LRW Classes*

Much has been written about staffing LRW classes, generally;¹¹³ but as with the issue of class size, the needs of part-time evening students demand that we carefully consider whether our current staffing models adequately address our students' needs. A definitive study has yet to be conducted that identifies how many schools use an adjunct staffing model¹¹⁴ to teach part-time LRW classes; but, we know that adjuncts teach LRW.¹¹⁵ Therefore, we must consider whether we are staffing our classes with those professionals who are best suited to provide part-time even-

part of the staffing model for part-time evening LRW classes).

113. See e.g. *Sourcebook*, *supra* n. 101, at 81–127 (discussing different staffing models employed by law schools for LRW classes); *2010 Survey Results*, *supra* n. 111, at 5 (identifying “eight basic staffing models for first-year writing programs” and providing the self-reported data from those schools answering the survey questions); Jan M. Levine, *Leveling the Hill of Sisyphus: Becoming a Professor of Legal Writing*, 26 Fla. St. U. L. Rev. 1067, 1083–1094 (1999) (identifying and defining the types of appointments that are available to LRW professors).

114. Professor Scalo taught as an adjunct for Widener during the 2009–2010 academic year, and her first year of teaching was as an adjunct with Temple. In both instances she did not have other employment. Although not all adjuncts have other employment, this discussion refers to those “lawyers and judges with full-time occupations who also teach part-time in law schools in non-tenure track positions . . .” David M. Siegel, *The Ambivalent Role of Experiential Learning in American Legal Education and the Problem of Legal Culture*, 10 German L. J. 815, 816 (2009).

115. See *2010 Survey Results*, *supra* n. 111. According to the ALWD/LWI Survey, twenty schools use an adjunct teaching model for the first-year writing course. *Id.* at 5. Seventy-one schools utilize a “hybrid” model to staff LRW classes, and fifty-one of those schools include adjuncts as part of the mix of those professionals teaching LRW. *Id.* at 5–6. Breaking down these numbers further, fifteen programs use adjuncts “exclusively” to teach LRW, twenty-two schools use adjuncts to teach a substantial portion (75 percent) of their first-year LRW students, sixteen programs use adjuncts to teach a significant portion (50 percent) of their first-year LRW students, thirty-two schools use adjuncts to “somewhat” teach LRW (25 percent), and 101 schools either use adjuncts rarely (teaching less than 25 percent of the first-year students) or not at all. *Id.* at 82.

ing students with the same level of instruction that we employ with full-time students.

The major problem, as we see it, in relying on adjuncts to teach part-time evening students, is that we may aggravate the evening students' feelings of inferior treatment to their daytime counterparts when those full-time students are taught by full-time faculty. Part-time evening students may already feel marginalized in the law school community,¹¹⁶ and may be especially sensitive to any *perceived* differences in the quality of instruction they receive in comparison to their full-time counterparts.¹¹⁷ If part-time evening students are the only students in the law school community who receive research and writing instruction from adjunct professors, increased feelings of marginalization may occur. Moreover, given that “[f]ew law schools allow adjuncts to teach other first-year courses or to regularly teach required courses other than professional responsibility,”¹¹⁸ not only are we potentially marginalizing our students, but we may be marginalizing our own part-time programs by unintentionally indicating that LRW is not as important as their doctrinal courses.¹¹⁹

116. See *infra* n. 166 and accompanying text.

117. The perception that they are being taught by “part-time teachers who are perceived as less than professors . . .” may lead to students “not tak[ing] the subject seriously and . . . not devoting the necessary time and effort . . .” to their assignments. Ilhyung Lee, *The Rookie Season*, 39 Santa Clara L. Rev. 473, 496 (1999).

118. *Sourcebook*, *supra* n. 101, at 109–110 (citing ABA Stands. for Approval of L. Schs. and Interpretations 2005–2006, Stand. 403(a)). ABA Standard 403(a) requires that “full-time faculty shall teach the major portion of the law school’s curriculum, including substantially all of the first one-third of each student’s coursework.” ABA, *2010–2011 Standards and Rules of Procedure for Approval of Law Schools*, at Stand. 403(a), http://www.americanbar.org/content/dam/aba/migrated/legaled/standards/2010-2011_standards/2010-2011abastandards_pdf_files/chapter4.authcheckdam.pdf (2010). As one author has noted, this Standard in addition to the AALS Bylaws indicate a “preference[] for instruction by full-time law faculty . . .” Anthony J. Luppino, *Minding More Than Our Own Business: Educating Entrepreneurial Lawyers through Law School-Business School Collaborations*, 30 W. New Eng. L. Rev. 151, 170, 170 n. 63 (2007). The AALS Bylaws require that “each student shall have the opportunity to obtain substantially all of his or her instruction leading to the Juris Doctor degree from the school’s full-time faculty.” Assn. of Am. L. Schs., *Bylaws and Executive Committee Regulations Pertaining to the Requirements of Membership* § 6-4(d) (2010) (available at http://www.aals.org/about_handbook_requirements.php) [hereinafter AALS Bylaws]; see also Luppino, *supra* n. 118, at 170 n. 63. A “full-time faculty member” is defined as one “who devotes substantially the entire time to the responsibilities of teacher, scholar, and educator.” AALS Bylaws § 6.4(a). “A member school demonstrates compliance with Bylaw 6-4(d) if in each division of its program, the school’s full-time faculty offer at least two-thirds of the credit hours or student contact hours leading to the JD degree.” *Id.* at Executive Committee Regulations Pertaining to Bylaw 6-4, 6-4.1; see also Luppino, *supra* n. 118, at 170 n. 63.

119. See Arrigo, *supra* n. 105, at 137 (discussing historical LRW staffing models and

Other potential problems also may arise from the more limited first-year curriculum in part-time programs. For example, a memo problem may involve a criminal law issue and the students may not have taken that course yet. The professor needs to be aware of that fact and recognize that students may struggle with basics, such as understanding concepts in that particular area of law or generating the research terms needed to adequately complete the assignment. The professor must plan to fill the gap for the students. Full-time LRW professors are more likely to know about these curricular issues as well as any others that may impact the students' learning environment,¹²⁰ and have the time and resources, unlike adjunct professors, to meet any "learning gap" problems encountered by their evening students.¹²¹

The amount of time adjuncts have to prepare for class, critique assignments, and teach are also general concerns. Teaching LRW is time-consuming; in fact, "[t]eaching legal writing is one of the most labor-intensive jobs in the law school"¹²² LRW professors are charged with teaching, among other things, legal analysis and reasoning, written communication, legal research, and oral communication.¹²³ Doing so requires reviewing and cri-

noting that adjunct staffing can lead to students feeling "shortchanged" while sending the "message" that "[t]he writing program is not as important as other classes"). Our experience has shown that the way in which the program is structured may also play a significant role as to the students' perceptions regarding adjunct faculty. For example, at Widener-Delaware, adjuncts teach in both the day and the evening divisions as do the full-time faculty. Because this type of a program structure does not single out the part-time students as the only students who receive their LRW instruction from adjunct professors, it may help alleviate any feelings of unfairness for the part-time students or unimportance with respect to their LRW class.

120. See Gelpe, *supra* n. 105, at 211 (noting that adjuncts "are ordinarily not participants in the ongoing discussions of the academic program, policies, and teaching methodologies that occur among full-time faculty"); David A. Lander, *Are Adjuncts a Benefit or a Detriment?* 33 U. Dayton L. Rev. 285, 291-292 (2008) (noting adjuncts are typically not involved with other faculty or curricular decisions); Levine, *supra* n. 113, at 1090-1091 ("[A]djuncts are not part of the law school's life except for the brief hours spent teaching their students. Schools often give adjuncts few roles and little voice in the overall structure of the law school.").

121. "The full-time skills instructor . . . is more likely to have time to devote to the design, organization and management of skills courses, to be available to students outside of class, and to have access to the resources of the law school, including other skills instructors." ABA Sec. Leg. Educ. & Admis. to B., *Legal Education and Professional Development—An Educational Continuum, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap* 246 (ABA 1992) [hereinafter *MacCrate Report*].

122. Kathryn M. Stanchi & Jan M. Levine, *Gender and Legal Writing: Law Schools' Dirty Little Secrets*, 16 Berkeley Women's L.J. 3, 9 (2001).

123. All of these skills were assessed as either "essential" or "very important" by at

tiquing multiple assignments (and with some assignments, multiple iterations of the assignment) by providing detailed written critiques and engaging students in one-on-one or small group conferences,¹²⁴ in addition to meeting with students during office hours or other times to discuss their work.¹²⁵

In addition, there are also the general preparations that are necessary to teach the class once or twice a week; for example, reviewing assigned reading material and preparing notes and other materials that will be used in class.

Full-time faculty, of course, have the same concerns with completing the amount of work required to effectively teach LRW. The difference, of course, is that the full-time LRW professor does not have the competing interests of another employer. Ultimately, adjuncts likely do not have the same amount of time to complete the work needed to effectively teach the LRW class.¹²⁶ For part-time evening students this becomes problematic because these students do not have the flexibility in their schedules to deal with situations like cancelled classes that need to be re-

least ninety-two percent of those responding to a survey of the Arizona Bar in 2005. Roy Stuckey et al., *Best Practices for Legal Education: A Vision and a Road Map* 78 (Clin. Leg. Educ. Assn. 2007) [hereinafter *Best Practices*] (citing Gerry Hess & Stephen Gerst, Phoenix Intl. Sch. of L., *Arizona Bench and Bar Survey and Focus Group Results* (2005) (on file with Roy Stuckey)). It is not a large leap to assume that most practicing attorneys and judges in any part of the country would respond in a similar manner.

124. In many programs, LRW professors hold two sets of conferences with their students in the fall semester, and another conference or two during the spring semester. For example, at Temple during the fall semester after students turn in their first memo each student is scheduled for a twenty to thirty minute one-on-one conference with his or her professor. This first set of conferences is held after each paper has received extensive, written critique. Students then rewrite their first memos based on the written critique and the conference discussion (an additional issue is also added to increase the complexity of the second memo produced). Professors provide written feedback to this second memo so the students have those comments to use as a tool in drafting their final, graded assignments. Part of the students' assigned work for the final memo is to turn in a rough draft, which again is extensively critiqued and which triggers a second twenty to thirty minute one-on-conference with the LRW professor. For a more complete description of the Temple LRW program refer to Margolis & DeJarnatt, *supra* n. 110.

125. LRW classes are unlike "typical" doctrinal courses, where the professor may "review[] written work once or twice a semester for a mid-term or final exam." Stanchi & Levine, *supra* n. 122, at 21.

126. See Jan M. Levine, *Response: "You Can't Please Everyone, So You'd Better Please Yourself": Directing (or Teaching in) a First-Year Legal Writing Program*, 29 Val. U. L. Rev. 611, 624 (1995) ("Part-time teachers . . . simply do not have sufficient time available for detailed review of long student papers and for conducting lengthy individual conferences at the appropriate level of professionalism, particularly if the pattern is repeated several times during the semester.").

scheduled or delayed paper return due to their professor's scheduling issues.¹²⁷

Additionally, adjuncts need to be available to meet with their students outside of the classroom. Intentions aside, it is difficult to coordinate office hours, conferences, and other student meetings when the students *and* the professor work off-campus. In this way, adjuncts are much like their students, and the balance may sometimes tip in favor of the full-time job rather than law school responsibilities.¹²⁸ Thus, where it may be entirely appropriate to hire an adjunct to teach a specialized tax course, an employment law seminar, or even an upper-division writing class, all classes in which the intensity of the work level is much reduced from that of a first-year LRW class, it may not be in the students' best interests for adjuncts to teach LRW classes—especially if those adjuncts are not closely supervised by full-time LRW faculty.¹²⁹ Just like day-division students, evening students need and deserve teaching professionals in the classroom who are not distracted by the pressures of other full-time employment obligations.

Not everyone agrees that adjuncts are detrimental in the LRW classroom.¹³⁰ We would agree with the statement that there

127. Our experiences have shown that for LRW students there is no such thing as returning a critiqued assignment too early. This is particularly true for part-time evening students, who typically know and understand the deadlines set by their professors, and who expect that their professors will hold themselves to the same standards of promptness. *See infra* sec. IV(B)(3); *see generally* Debra Moss Curtis, *Everything I Wanted to Know about Teaching Law School I Learned from Being a Kindergarten Teacher: Ethics in the Law School Classroom*, 2006 BYU Educ. & L.J. 455, 489 (noting that generally professors need to return graded assignments in a timely fashion to avoid student distress).

128. *See Sourcebook, supra* n. 101, at 110 ("The major problem with adjunct-taught programs is that the adjunct owes his or her primary allegiance and devotion to another employer, so the writing course is a far lesser commitment in the adjunct's life."); Gelpe, *supra* n. 105, at 209 (noting adjuncts focus first on their clients rather than their students as a result of the "lawyer's obligation to the welfare of the client"); Lander, *supra* n. 122, at 291 (noting that "adjuncts generally are less available than full-time faculty members to students to address their questions about the course and other concerns the students may have").

129. *See* Levine, *supra* n. 113, at 1091 (stating that in "good adjunct-based legal writing programs," the directors invest in the program by providing guidance to the adjuncts and include formal training sessions both before and during each academic year); *see generally* MacCrate Report, *supra* n. 121, at 246. "In order to meet the challenge of making skills instruction broadly available, law schools should assign primary responsibility for instruction in professional skills and values to permanent full-time faculty who can devote the time and expertise to teaching, and developing new methods of teaching skills to law students." *Id.* at 245.

130. *See e.g. Sourcebook, supra* n. 101, at 108–109 (noting benefits of adjunct LRW

are many dedicated and talented adjuncts teaching LRW today who have found the balance between their day jobs and their evening jobs. Ultimately, “[a] faculty standard that requires full-time faculty is likely to result in better education, but the standard should be revised to focus specifically on the educational impact of the faculty rather than [just] their employment status.”¹³¹ Therefore, although schools should endeavor to ensure that part-time evening LRW sections are taught by full-time LRW professors rather than by adjuncts, it may not be feasible based on “local factors such as the needs of the first-year curriculum as a whole, faculty and university policies, law school tradition, and other local concerns and priorities.”¹³² The question that must be asked when determining who will teach part-time students in LRW is whether the benefits outweigh the detriments in an appreciable way such that part-time students are receiving the best education possible. In our view, the detriments to utilizing adjuncts outweigh the benefits, and it is our recommendation law schools utilize full-time faculty to teach the LRW course to all students.

3. Scheduling the LRW Class

When assessing a current part-time evening program or designing a new part-time evening program, keep in mind when students are required to take the basic LRW course.¹³³ There are

faculty include adjuncts’ real-life experience, smaller class sizes, competitiveness in the pool of possible teachers that allows for only the best to be hired, and diversity among the pool of LRW professors); Karen L. Tokarz, *A Manual for Law Schools on Adjunct Faculty*, 76 Wash. U. L.Q. 293, 296 (1998) (arguing that adjuncts “play a significant and valuable role in most law schools in this country” and identifying “those courses with significant lawyering skills components” as those for which adjuncts are particularly well-suited to teach).

131. Garon, *supra* n. 19, at 527.

132. *Sourcebook*, *supra* n. 101, at 85. Adjuncts can benefit the law school’s community at large. Among other things, these instructors “add[] to law faculties’ knowledge of practice” *MacCrate Report*, *supra* n. 123, at 246; *see also* Lander, *supra* n. 122, at 289–290 (noting that the benefits of adjunct instructors include such things as providing schools with the ability to include more course offerings without increasing full-time faculty teaching loads, lower budgeting costs for salaries, “special expertise” allowing for course offerings full-time faculty may not be best positioned to teach, and the ability to teach “practical skills courses, such as trial and appellate advocacy” due to their daily use of these skills).

133. We are, of course, referring to what is traditionally thought of as a first-year LRW course. *See generally supra* n. 6. Typically, this involves an objective component, which is most often taught in the first semester of the LRW course, and a persuasive component

two elements to this decision: (1) the global consideration as to which year (or semesters) students are required to take the course, and (2) the practical consideration regarding what time the course is scheduled.

a. Which Year?

The basic LRW course should be required during the first year for all law students regardless of part-time or full-time status. Additionally, evening students should not experience an interruption—the second semester or quarter should contain the second part of their LRW instruction. In most instances this means that students would receive instruction in objective writing in the first semester or quarter and instruction in persuasive writing in the second semester or quarter.¹³⁴

Given the pressures that face part-time evening students, it may seem pedagogically sound to allow them the opportunity to get used to law school before requiring them to take their intensive LRW instruction. But this creates another set of problems because LRW courses teach first-year students the basics needed to perform legal analysis—a skill they will need to sufficiently understand their doctrinal courses.¹³⁵ According to Professor Sam Jacobson, because doctrinal courses are typically taught from the

(either through trial briefs or appellate briefs), which is most often taught in the second semester of the LRW course. This point does not address classes beyond what is traditionally referred to as LRW I and LRW II.

134. Although we believe that in most schools basic LRW instruction for evening students occurs in the first year, there are some schools that are not following this protocol. For example, until a few years ago, Temple allowed part-time students to opt for an “extended program” in which the basic LRW course was completed in the second year of study as opposed to the first. Temple U. Beasley Sch. of L., *The Abridged Wise Guide* 7–9 (2005–2006) (copy on file with Authors). Professor Scalo taught Temple’s last section of extended evening division students during the 2006–2007 academic year, after which the extended evening division was removed as a curricular option.

135. See generally M.H. Sam Jacobson, *The Curse of Tradition in the Law School Classroom: What Casebook Professors Can Learn from Those Professors Who Teach Legal Writing*, 61 Mercer L. Rev. 899, 906–908 (2010) (discussing teaching differences between LRW professors and doctrinal professors). Professor Jacobson has noted that doctrinal courses typically do not provide instruction in a manner that teaches students how to analyze the material because doctrinal professors typically do not consider how to layer the material logically. See *id.* at 906–907 (stating that LRW professors know “that they must begin instruction by establishing a foundation of information and analytical skills for their students . . . [and] that [professors] must layer material, from simple to complex, to maximize understanding and to provide a platform from which students can structure subsequent information” (footnote omitted)).

teacher's perspective rather than the learner's perspective, it becomes exceedingly difficult for students to acquire and understand the connections between the information provided.¹³⁶ Certainly, students struggle with their doctrinal courses regardless of whether they receive LRW instruction during the first year. But, LRW professors supply students with the means to make the analytical connections and solve problems in their doctrinal courses. Thus, those students who are not receiving LRW instruction during their first year are forced to come up with their own analytical strategies and may be at a disadvantage.

Other issues can arise if LRW is not taught during the first year. Students typically are not eligible to participate on a law journal or moot court, for example, until they have completed their LRW instruction. For part-time evening students this may mean that they have to wait until third year before they are able to participate in certain co-curricular activities, which leads to more differences between the part-time and full-time students. Further, once students get past their first year, the level of their doctrinal instruction becomes more intense as they begin to build on the basics that were learned during the first year and as they take more complex courses that demand more of their time. Combining the more intense doctrinal load with the demands of LRW can become overwhelming for students.¹³⁷

b. What Time?

Although this may seem like a minor point, it matters what time evening students are scheduled to take their LRW class. “[P]art-time students are plagued with time restrictions and fatigue . . .”;¹³⁸ therefore, scheduling a labor-intensive class that requires active participation by most students during each class session can become burdensome for both the students and the professor if basic class scheduling is not taken into consideration.

136. *Id.* at 907.

137. *See e.g.* Arnold, *supra* n. 99, at 33 (discussing the stress of trying to balance the research required for LRW and completing assignments for other classes). Ms. Arnold was an extended evening division student at Temple and was one of Professor Scalo's LRW students during the 2006–2007 academic year.

138. Maloney, *supra* n. 14, at 175; *see also generally infra* sec. IV(B)(1)(c) (discussing chronobiological levels and noting that “morning” students will struggle during evening classes).

In our experience, day-division students typically receive LRW instruction twice a week with each class meeting for the same amount of time. For evening students, however, the class is typically scheduled for one evening with the total amount of time equaling that of the day division. For example, in schools where the first semester LRW class receives two credits, day students have two, fifty-minute classes and evening students have one class totaling 100 minutes.¹³⁹

The number of classes per week, however, is not the only consideration. Whether evening students are taking LRW as their first class of the evening or their second class of the evening is also an important scheduling decision.¹⁴⁰ Scheduling not only affects the students' ability to process information, it is also relevant to the professors' effectiveness in teaching evening students, especially if students are receiving a week's worth of LRW instruction in one class period. Given evening students' general level of exhaustion, the timing of classes matters.¹⁴¹ The combination of a full work day, followed by the commute to school, *and* a demanding doctrinal class prior to the LRW class, makes it exceedingly difficult to capture and keep the students' attention so they are able to fully participate and actively concentrate in LRW.¹⁴²

139. This was the structure of Temple's program; however, during the 2010–2011 academic year, evening LRW classes will be scheduled in the same fashion as day division LRW classes—two classes per week for an equal amount of time. Widener-Delaware structures its program so that day division and evening division students have two scheduled classes per week for the same amount of time during each class in the fall semester. In the spring semester both day and evening division LRW classes meet once a week.

140. For example, at Widener-Delaware, all evening LRW classes (called Legal Methods) are held on two nights of the week. In the fall semester, Legal Methods I is the second class of the evening only once during the week. Therefore, the LRW professors have one night a week when their classes are the first classes of the evening. In the spring semester, Legal Methods II meets one night a week, but it is the only class scheduled for the evening.

141. Professor Scalio experienced this first-hand when she moved from Temple to Widener-Delaware. Although her Temple students participated in class it was typically the same students who did so. It was often difficult to get participation from the class, especially later in the semester when the exhaustion factor overtook the novelty factor. At Widener-Delaware, there was a marked increase in the number of students who participated in class and the amount of participation that occurred; so much so, that it took Professor Scalio a couple of weeks to adjust her approach to account for the time that the students were actively engaged in the classroom discussions.

142. This schedule can also be difficult for the professor who will have only one opportunity a week to assess her students' progress in those programs where part-time evening classes only meet once a week. *See generally supra* sec. IV(A)(1) (noting that evening students tend to have less interaction with their LRW professors).

The solution to these issues comes down to careful scheduling of LRW classes. First, the basic LRW course should be required during the first year of law school regardless of whether the students are part-time or full-time. Second, evening classes should be scheduled to maximize the energy levels of the students. Teaching LRW once a week should be avoided, but, if necessary, schedule it as the only class of the evening. And, LRW should not always end up as the last class of the evening, thereby allowing LRW professors at least one opportunity a week to work with their students before another class saps the students' energy.

4. *Program Rigor*¹⁴³

Taking into account the needs of part-time evening students does not mean that program rigor should be compromised. We are charged with teaching *all* of our students in a manner that will prepare them for practice.¹⁴⁴ We need to “ensure that students perceive and ultimately experience [research and] writing in the social context unique to law.”¹⁴⁵ That means that part-time students must have the same opportunities and the same experiences as their full-time counterparts. Therefore, part-time students should receive the same assignments and fulfill the same ultimate expectations as full-time students.

No single guide exists that will work for all schools because each LRW program has its own specific method for teaching LRW, and presumably there is some variation between professors in each classroom. But, there are general questions that should be considered when reviewing or designing a part-time LRW pro-

143. This is not a question of class customization, see *infra* sec. IV(B)(3), which, for example, may allow part-time students more flexible deadlines out of compassion for their schedules. Rather, it is a question of experiences and ensuring that part-time evening students receive the same rigorous LRW experience as their full-time counterparts.

144. See *Best Practices*, *supra* n. 123, at 7–8 (“It is especially important for law schools to make an institutional commitment to do the best they can to prepare their students for practice.”); see generally *MacCrate Report*, *supra* n. 121, at 113–114 (“[T]he educational continuum for virtually all lawyers commences in the accredited law school. There the professional development for each individual lawyer begins. . . . [L]aw schools have given increasing attention to their role at the entry point to the profession and as the initiators for each student’s professional development.”) Of course, it is not the sole responsibility of law schools to ensure the professional development of new lawyers—this is a task that must also be shared with practitioners. *Id.* at 131 (“[L]aw schools and the practicing bar must share responsibility for giving new members of the profession the training needed to practice competently.”).

145. Rideout & Ramsfield, *supra* n. 106, at 83.

gram: (1) Are all first-year students (full-time and part-time) required to draft the same number of substantive assignments (including any rewrites) during the same semester?; (2) Are all first-year students receiving the same number of conferences with the same level of written feedback prior to those conferences?; (3) Are all first-year students required to complete the same number and type of research assignments during the same semester?; (4) Are all first-year students receiving professionalism instruction as part of the LRW curriculum?; and (5) Are all LRW students held to the same standards of excellence regardless of their status? If there are differences, part-time students will be short-changed. Moreover, substantive differences between part-time and full-time LRW programs can feed into the misguided notion that part-time students are not as well-prepared as their full-time colleagues to practice law upon graduation.¹⁴⁶

Part-time students may already feel marginalized due to their inability to fully participate in the law school community as a result of their non-law school responsibilities.¹⁴⁷ Even if they do not feel marginalized, these students must balance work responsibilities, family and personal responsibilities, and studying.¹⁴⁸ Notably, even with these extra demands, part-time students are “typically able to achieve academic performance comparable to full-time students”¹⁴⁹ Thus, anything less than full program rigor for these students would further marginalize their law school experience, adding to the feeling “that their legal education . . . [differs] from that of full-time students.”¹⁵⁰

146. See Chavkin, *supra* n. 50, at 722–726 (discussing the “historical prejudice and opposition” to part-time legal education that may still affect perceptions of part-time programs and students).

147. See Goddard, *supra* n. 70, at 130–131 (noting that part-time students may find it difficult to participate in co-curricular activities, like moot court and law review, and may choose to avoid participating in extracurricular activities, like student government and student organizations); Maloney, *supra* n. 14, at 175–176 (noting, for example, that part-time students are “isolated socially,” and are unable to participate in such activities as study groups due to the inability to find additional time to do so).

148. Goddard, *supra* n. 70, at 136–138.

149. *Id.* at 130 (footnote omitted).

150. Maloney, *supra* n. 14, at 176 (discussing the results of a student questionnaire circulated to part-time students attending University of Missouri Kansas City School of Law).

B. Pedagogical Tips for Enhancing the Classroom Experience

The suggestions we make in this section deal with those changes that are within the control of legal writing professors. As with our suggestions for the best programmatic practices, these are not necessarily “one-size-fits-all” solutions, and each individual LRW professor needs to determine what is best suited for his or her students. However, implementation of these suggestions can enhance the students’ learning experience and the professor’s teaching experience.

Certainly these tips will also enhance the learning experience for day-division students. However, these suggestions are important for evening students because of their limited access to their professors outside the classroom. Unlike day students, who can attend office hours several times in a semester if necessary, evening students may never get to office hours because of their daytime responsibilities. This limited access to faculty is the major reason why the evening LRW course must be designed for maximum effectiveness and efficiency, regardless of the students’ generational differences, learning styles, work schedules, or familial responsibilities.

1. Adjusting to Generational Differences and Learning Styles

Understand that the composition of the evening LRW class will typically not be homogeneous. Professors will likely have a mix of Generation X¹⁵¹ and Millennial¹⁵² students (and maybe some Baby Boomers,¹⁵³ too). It is important for professors to understand how to adjust their teaching styles to reach all of the students.¹⁵⁴ In addition, the evening LRW students will be di-

151. The span of birth years for Generation X is 1961 to 1981. Tracy L. McGaugh, *Generation X in Law School: The Dying of the Light or the Dawn of a New Day*, 9 Leg. Writing 119, 120 (2003). The term “Generation X” was coined by author Douglas Copland. *Id.* at 119 n. 3; see also Douglas Copland, *Generation X: Tales for an Accelerated Culture* (St. Martin’s Press 1992).

152. The Millennial Generation began with people born after 1982. McGaugh, *supra* n. 151, at 120. Millennials are also called “Generation Y.” *Id.* at 143.

153. The span of birth years for the Baby Boomers Generation is 1943 to 1960. *Id.* at 120.

154. See Jacobson, *supra* n. 77, at 141 (stating that “[f]or all law professors, whether new or experienced, knowing something about learning styles will enhance the professors’ teaching and the students’ ability to master the material”).

verse in their learning styles.¹⁵⁵ “[L]earning styles are those cognitive, affective, and psychological behaviors that indicate how learners interact with and respond to the learning environment and how they perceive, process, store, and recall what they are attempting to learn.”¹⁵⁶ “Learning styles vary with age, achievement levels, culture, and individual-processing of new information.”¹⁵⁷ Maximizing effective teaching by adjusting to the students’ learning styles and generational differences is particularly essential in the evening because of the students’ exhaustion and limited access to the professor.

a. Teaching across Generational Gaps.

“Generations are defined by shared values, experiences, and world views.”¹⁵⁸ The majority of the students in evening class are likely to be Generation Xers and Millennials. Generation Xers tend to need a lot of stimulation to be fully engaged in the classroom.¹⁵⁹ Millennials are “similar to Xers in that they are accustomed to constant visual and auditory stimulation.”¹⁶⁰ To meet each generation’s need for stimulation, use teaching methods that allow students to process information in multiple ways while still focusing on a single topic.¹⁶¹ The goal is to engage more than one of the students’ senses at once.¹⁶² This allows the students to focus on the materials because the more they are required to inter-

155. Robin A. Boyle, *Employing Active-Learning Techniques and Metacognition in Law School: Shifting Energy from Professor to Student*, 81 U. Det. Mercy L. Rev. 1, 2 (2003); Robin A. Boyle & Rita Dunn, *Teaching Law Students Through Individual Learning Styles*, 62 Alb. L. Rev. 213, 216 (1998).

156. Jacobson, *supra* n. 77, at 142; Boyle & Dunn, *supra* n. 155, at 214 (defining “learning style” as “the way in which individuals ‘begin[] to concentrate on, [internalize,] and [remember] new and difficult [academic] information or skills’” (brackets in original) (quoting Rita Dunn & Kenneth Dunn, *Teaching Secondary Students through Their Individual Learning Styles: Practical Approaches for Grades 7–12*, at 2 (Allyn & Bacon 1993)).

157. Boyle & Dunn, *supra* n. 155, at 214.

158. McGaugh, *supra* n. 151, at 120.

159. *Id.* at 125.

160. *Id.* at 143.

161. *Id.* at 134.

162. *Id.* at 134–135. A tool to consider when lecturing is guided note-taking in conjunction with visuals such as PowerPoint and document projectors. *Id.* at 135. Professors can create one type of guided note-taking handout by printing out their “PowerPoint slides as handouts with three slides per page and lines next to each one. This gives the students some structure while still leaving you some flexibility.” *Id.* (An example of a guided note-taking handout is reproduced on page 135.)

act with the information, the less likely it is that something else will occupy their attention simultaneously.¹⁶³

Although Generation Xers tend to be “enthusiastic consumers of skills training,” they need to understand the value of everything they learn if they are expected to retain it.¹⁶⁴ Test results for Millennials indicate that they tend to be better writers than the Xers, likely as a result of educational reforms that placed greater emphasis on fundamental skills.¹⁶⁵ To help evening LRW students understand the relevance of the skills and concepts they teach, professors should explain how each assignment fits into the bigger picture—“the course as a whole, their legal education as a whole, and, when appropriate, their needs in practice.”¹⁶⁶

Another way to make the information in each class relevant to Generation X evening students is to give students very concrete goals for each assignment, and then connect the skills covered in class to the goals so they can clearly understand which skills and information must be mastered to successfully meet each goal.¹⁶⁷ Unless Xers are told what they are trying to accomplish and why, they may feel as though the professor is “hiding the ball.”¹⁶⁸ At several points in the semester, help students gain perspective on their progress by reminding them of the skills they have learned and pointing out how the topics they have covered in class meet the course goals.¹⁶⁹ The goals should also be used as grading criteria for the final product.¹⁷⁰

163. *Id.*

164. *Id.* at 128.

165. *Id.* at 143. On the other hand, Millennials may be “less proficient at tasks requiring creativity than at tasks requiring information recall.” *Id.* at 143–144. “Xers will disregard information unless they are given a framework for understanding how this information is relevant to them now and how it will continue to be relevant in the future.” *Id.* at 137.

166. *Id.*

167. *Id.*

168. *Id.* at 138.

169. *Id.*

170. *Id.* In helping evening students to succeed in LRW, “communicate concretely the minimum standards and [the] consequences for falling below them.” *Id.* at 141. Many evening students have spouses and children, and Generation “Xers are far less willing to sacrifice time with their families for career goals.” *Id.* at 141; *see infra* sec. IV(B)(5) (discussing “Managing Expectations (Yours and Theirs)”). Xers “are willing to forego a certain amount of success in law school so that they . . . can maintain some balance between their personal and academic lives.” McGaugh, *supra* n. 151, at 140–141. For evening students, this may mean that time with family is prioritized over weekend study time. As legal educators, “we have failed to take into account the need that Xers have to carve out time for the people and non-law-school activities that are important to them.” *Id.* at 132.

When critiquing the work of Generation X evening students, keep in mind their attitudes about people in authority. Xers tend to be uncomfortable with authoritarian supervision. Instead, students will prefer to be coached in how to perform a skill and then given feedback on how well they performed.¹⁷¹ However, they will respond best to constructive and respectful reactions to their work and suggestions for improvement.¹⁷² Furthermore, Xers want professors to be generous in the amount of feedback they give.¹⁷³ To justify the effort and time it takes students to create their work, they want to know that their professors put significant time into evaluating their writing.¹⁷⁴ This is especially true for evening students, who tend to put a higher value on their time than day-division students.

b. Reaching a Variety of Learning Styles

Law students learn in different ways.¹⁷⁵ Evening classes will be comprised of students with an unknown variety of learning styles. “Knowing the most effective way to absorb information can be especially empowering to the evening student,”¹⁷⁶ who is keenly interested in maximizing his or her effectiveness in law school. Also, since lawyers practice law “with a diversity of learning styles, professors [should] help law students understand their own learning styles and how to maximize their strengths[, which] will help students become better prepared for law practice.”¹⁷⁷

If possible, use a diagnostic assessment to determine which learning styles are present among the students.¹⁷⁸ Professors should adapt their teaching methods to reach the “learning-style majorities” in the class.¹⁷⁹ If assessing students is not feasible, then, in the alternative, “use a combination of instructional meth-

171. *Id.* at 139.

172. *Id.*

173. *Id.*

174. *Id.*

175. Boyle & Dunn, *supra* n. 155, at 222. Some of the ways students learn include “verbally, aurally, physically, or visually.” *Id.*

176. Jacobson, *supra* n. 77, at 157 n. 64.

177. Joanne Ingham & Robin A. Boyle, *Generation X in Law School: How These Law Students Are Different From Those Who Teach Them*, 56 J. Leg. Educ. 281, 286 (2006).

178. Boyle & Dunn, *supra* n. 155, at 216. “Law professors may wish to use the learning-styles assessments at undergraduate institutions affiliated with their law schools.” *Id.* at 225 n. 61.

179. *Id.* at 216.

ods . . . that can be incorporated into most class periods and that are likely to reach a broad spectrum of students.”¹⁸⁰

Teaching to diverse learning styles helps students in three ways. “First, students will be more successful in mastering their coursework if they are better able to absorb, process, and retain information. Second, students will be more successful in mastering their coursework if they learn how they learn best.”¹⁸¹ The process in which students learn how they learn best is referred to as “metacognition.”¹⁸² Third, students will retain more when they have the opportunity to review the material through a “secondary perceptual strength.”¹⁸³ Teaching to multiple learning styles allows each student to engage more than one perceptual strength while learning LRW.¹⁸⁴

To reach students of differing learning styles, professors should vary their teaching styles. “Because of law school’s heavy reliance on written materials, students who learn more effectively by absorbing information through modes other than through reading may have difficulty.”¹⁸⁵ A straight lecture, for example, will reach only those students with high auditory preferences.¹⁸⁶

180. *Id.*; see also Jacobson, *supra* n. 77, at 156 (discussing how to accommodate students’ different learning styles).

181. Jacobson, *supra* n. 77, at 142; see Boyle, *supra* n. 155, at 6 (stating that “[s]ome professors jump-start their students’ active learning by raising awareness of the students’ learning styles”).

182. Jacobson, *supra* n. 77, at 142. “[S]tudents must understand their own ‘cognitive style,’ including their own individual learning style.” Boyle, *supra* n. 155, at 13 (quoting Paula Lustbader, *Construction Sites, Building Types, and Bridging Gaps: A Cognitive Theory of the Learning Progression of Law Students*, 33 Willamette L. Rev. 315, 324 (1997)). “Metacognition involves knowing how one learns and what results one achieves from different learning processes; it involves self-regulation of cognitive activities through monitoring and making appropriate adjustments.” Jacobson, *supra* n. 77, at 142.

183. Boyle, *supra* n. 155, at 7.

184. In addition to encouraging students to become aware of their learning processes, professors too should become aware of their own learning styles. Boyle, *supra* n. 155, at 17. Professors sometimes teach based on their own learning style, which excludes students with learning styles that differ from the professor.” *Id.*; see also Ingham & Boyle, *supra* n. 177, at 290 (stating that “professors should take into account that their students’ learning styles may differ from their own”). “When professors become aware of their own learning style, and then utilize different techniques to reach the diversity of students in the class, the result is a better learning experience” for all students. Boyle, *supra* n. 155, at 17–18.

185. Jacobson, *supra* n. 77, at 151. “Any classroom teaching method that relies primarily on auditory means is unlikely to be effective for the majority of students in the lecture hall.” Ingham & Boyle, *supra* n. 177, at 285.

186. Boyle & Dunn, *supra* n. 155, at 228. “An aural learner is one who best absorbs information by listening; e.g., by using tapes or lectures.” Jacobson, *supra* n. 77, at 151. However, even aural learners “will remember only three-fourths of what they heard during

In general, professors can post written materials or resources in advance of class and use class time to visually and orally review and further explore key concepts in the materials.¹⁸⁷ Professors can also provide opportunities for students to work with new concepts as they are introduced,¹⁸⁸ including in-class research and writing assignments.¹⁸⁹

Students with high visual strengths remember a high percentage of what they read or see.¹⁹⁰ To reach these students, professors should reinforce their lectures with PowerPoint slides and videos, write on the board, distribute handouts, and use charts,

a fifty-minute lecture.” Boyle, *supra* n. 155, at 2. Videotaping, audiotaping, or podcasting the class may help aural learners improve their absorption of information. *See infra* sec. IV(B)(4); *see also* Jacobson, *supra* n. 77, at 155. Aural learners may also improve their ability to absorb information in class “by minimizing distractions while listening, e.g., by taking fewer notes in class, by not taking notes on a laptop, or by sitting in the front of the classroom.” Jacobson, *supra* n. 77, at 155.

187. *Id.* at 156. “[P]rofessors need to give students opportunities for reflection . . . [by] providing assignments, including reading assignments, well in advance of due dates.” *Id.* at 172.

188. *Id.* at 156.

189. McGaugh, *supra* n. 151, at 135. “In-class exercises that require students to use information to solve a problem, draft something, or edit something all require that the students stay focused on the topic so they can participate.” *Id.*

190. Boyle & Dunn, *supra* n. 155, at 228. Visual learners in law school “may be disproportionately represented in the bottom of the class.” Jacobson, *supra* n. 77, at 151–152. The fictional Professor Kingsfield was correct when he questioned the likelihood that Brooks, the student with the photographic memory, would succeed in law school. *The Paper Chase* (Twentieth Century Fox 1973).

While absorbing information verbatim may be good for memorizing and effective for description, it is problematic for legal analysis . . . The information absorbed is not synthesized with other ideas, a skill needed to establish an analytical framework; it is not prioritized, a skill needed to eliminate the irrelevant; and it does not establish the connections between ideas, a skill needed to understand and critically evaluate the reasoning and logical support for the ideas.

Jacobson, *supra* n. 77, at 152. All of these skills—synthesis, factual analysis, and analogical reasoning—are key to success in LRW. *See id.* at 152 n. 52 (reporting that “nearly all of the students who fail [LRW] at Willamette University College of Law are visual learners”); *but see* Boyle, *supra* n. 155, at 23 (stating that “[k]inesthetic learners are law professors’ biggest challenge because those students learn in a way that is so different from traditional law school methods”). Visual learners tend to “absorb information in its entirety, rather than in parts.” Jacobson, *supra* n. 77, at 152. Visual learners tend to have “a picture [in their head] of the information they want to absorb.” *Id.* For example, when analyzing the facts in a legal writing problem, visual learners may find it helpful to “visualize the case as a play or television show; the characters help to understand ideas, the plot helps to establish relationships between ideas, and the affectations of the characters help prioritize information.” *Id.* at 153. When trying to process what he or she has read, a visual learner might “mentally scroll down” to a specific location of text in their memory “to recall what was written.” *Id.* at 152. “Visual learners remember an idea, not because of the idea itself, but by where it appears on a page.” *Id.*

diagrams, and other visual models to illustrate concepts.¹⁹¹ Add visual interest by using color.¹⁹² Professors can also select textbooks with visual appeal, e.g., with charts, photographs, diagrams, tables, insets, graphs, shading, or color.¹⁹³ In addition, “encourage students to use visual tools . . . to collect information in an analytically useful way so that relationships between ideas will be more clear.”¹⁹⁴ Even during conferences, visual aids will help visual learners absorb the conversation even if the professor draws simple diagrams on paper.¹⁹⁵

Oral learners prefer to talk out their ideas.¹⁹⁶ Speaking in class is one of the ways an oral learner processes information and develops ideas.¹⁹⁷ To help oral learners thrive, provide them with opportunities to talk.¹⁹⁸ For example, breaking students into small groups for a project or discussion will give them more opportunities to talk, “including those oral learners who are too intimidated to contribute to the discussion in the full class or who are eager to contribute but may not have sufficient opportunity.”¹⁹⁹

Some law students learn better if they can “complement another mode of absorbing information with a tactile or kinesthetic mode, e.g., by touching and feeling what they are to absorb.”²⁰⁰ Tactual learners remember what they write, draw, or doodle.²⁰¹

191. Boyle & Dunn, *supra* n. 155, at 228–229; Jacobson, *supra* n. 77, at 153.

192. Jacobson, *supra* n. 77, at 152.

193. *Id.*

194. *Id.* at 153. “A graphic organizer is a visual and graphic display that depicts the relationships between facts, terms, and or ideas within a learning task. Graphic organizers are also sometimes referred to as knowledge maps, concept maps, story maps, cognitive organizers, advance organizers, or concept diagrams.” Tracey Hall & Nicole Strangman, CAST, *Graphic Organizers 1*, <http://aim.cast.org/sites/aim.cast.org/files/NCACgo.pdf> (Mar. 2002).

195. Jacobson, *supra* n. 77, at 153. Professor Sam Jacobson observed that “[n]o matter how simple a depiction may be, the comment [she received] from nearly every student when she creates a visual depiction of what she and her student are discussing is, ‘Can I have that?’” *Id.* at 153 n. 56.

196. *Id.* at 154. “An oral learner is one who best absorbs information by talking out ideas.” *Id.* at 151.

197. *Id.* at 154.

198. *Id.*

199. *Id.* In the fall semester of Professor Tavares’s first-year LRW class at Temple, students work in small groups for their first two (of three) research assignments. Rather than calling on students individually during the first week of class, Professor Tavares queries the small groups during in-class discussions of the first research and writing assignment.

200. *Id.* at 155.

201. Boyle & Dunn, *supra* n. 155, at 229; *see also* Boyle, *supra* n. 155, at 19 (stating

Professors can reach these students by encouraging them to make their own tactual instructional materials, such as charts, graphs, and time lines²⁰² to organize facts and legal analysis. Kinesthetic learners prefer to learn through activities and experience, such “as simulations, role-playing, . . . and other skills or experiential activities.”²⁰³ Computer tutorials or interactive texts can help tactile and kinesthetic learners absorb information that might otherwise be presented in a conventional reading assignment.²⁰⁴

Another method for accommodating multiple learning style preferences is through small-group techniques, such as collaborative learning.²⁰⁵ However, law professors should allow students to have a choice whether to work within a group or independently.²⁰⁶ In her first-year LRW class, Professor Tavares assigns her students to research in groups of two or three during orientation week. Students complete their first research assignment as a group project. For their second research assignment, students are allowed to choose whether they would like to work with a partner or individually. Small-groups are useful for auditory, visual, and tactile learners.²⁰⁷

c. Managing Chronobiological Levels

An additional physiological factor that may particularly impact an evening student’s ability to absorb information is time-of-day energy levels. Almost everyone has an opinion about whether

that “writing . . . is tactual”).

202. Boyle & Dunn, *supra* n. 155, at 229.

203. *Id.* at 231; Boyle, *supra* n. 155, at 23; Jacobson, *supra* n. 77, at 155. When possible, evening students with tactile and kinesthetic learning styles should be encouraged to pursue outside the classroom activities, such as externships, internships, and clerkships to enhance their learning. Jacobson, *supra* n. 77, at 155.

204. *Id.* at 156; McGaugh, *supra* n. 151, at 136. Computer-assisted learning is also helpful for reaching Generation X students. See McGaugh, *supra* n. 151, at 136 (noting that “many Xers simply do not have the concentration skills necessary to stay focused on something that is presented only in print”).

205. Boyle & Dunn, *supra* n. 155, at 242. “Collaborative learning and cooperative learning have different aims: collaborative learning focuses on group work toward a unified final product.” Boyle, *supra* n. 155, at 6 (quoting Clifford S. Zimmerman, “Thinking Beyond My Own Interpretation”: Reflections on Collaborative Learning Theory in the Law School Curriculum, 31 Ariz. St. L.J. 957, 961 (1999)). “Cooperative learning focuses on individual mastery of a subject via a group process.” *Id.* (quoting Zimmerman, *supra* n. 205, at 961).

206. *Id.*

207. Boyle & Dunn, *supra* n. 155, at 242.

he or she is naturally a “morning person” or a “night person.”²⁰⁸ “[C]hronobiological levels are biologically imposed and, . . . [students] should learn . . . more easily if they concentrate on the material at the time’ when their energy level is at its peak.”²⁰⁹ “[W]hen “performing cognitively difficult tasks, students learn more and retain it better during their chronobiological highs rather than their lows.”²¹⁰

At least a few students in your class will be “night people” and may reach their optimal time for peak efficiency during your evening class.²¹¹ The “morning people” will struggle, however. Those students should be advised to arise early in the morning, if possible, to read and write for class.²¹² Students can also be advised to take advantage of the technological learning tools provided by the instructor during their chronobiological highs. For example, during their peak times, students could listen to class podcasts or review PowerPoint slides.²¹³

2. Teaching the LRW Class as a Workshop

Approach class as a workshop. More classroom time should be devoted to “the application of theory to practice.”²¹⁴ Teaching in this way acknowledges that students will often come to class exhausted while maximizing the benefits of the students’ classroom experience within the limited time available.²¹⁵ To fight past this exhaustion and “[t]o be engaged on all levels, [evening] students need to *interact* with information.”²¹⁶ Also, unless the professor is a night owl, he or she is likely to be tired when teaching in the evening. Teaching class as a workshop allows the pro-

208. *Id.* at 233.

209. *Id.* (alterations in original) (quoting Rita Dunn & Kenneth Dunn, *Teaching Secondary Students through Their Individual Learning Styles* 408 (Allyn & Bacon 1993)).

210. *Id.* at 233–234.

211. *Id.* at 234.

212. *Id.* at 233.

213. *Id.* at 234.

214. Chavkin, *supra* n. 50, at 740. Also, depending upon the mix of learning styles in the classroom, teaching class as a workshop will enhance the learning experience for many students, allowing them to better absorb the information taught in class. *See generally* Jacobson, *supra* n. 77, at 156; *see also supra* sec. IV(B)(1)(b) (discussing tips for teaching students with a variety learning styles).

215. Chavkin, *supra* n. 50, at 749–750.

216. McGaugh, *supra* n. 151, at 133 (emphasis in original). “Active learning advances understanding of the material.” Ingham & Boyle, *supra* n. 177, at 286.

fessor to shift the “energy expenditure . . . from professor to student for an active learning experience.”²¹⁷

In lieu of generic in-class exercises to illustrate a particular writing technique, professors should utilize in-class exercises that allow their evening students to draft portions of the assignment that is due. As the students write in class, the professor and teaching assistant(s) should circulate through the room to provide on-the-spot feedback.²¹⁸ This technique provides evening students with an opportunity for feedback during the writing process—something many are unable to receive due to the time constraints they face. Many evening students lack the time to reflect upon what they have learned and to properly prepare for each class.²¹⁹ Turning classes into workshops will provide students with more opportunities to internalize the subject matter and to practice their skills.

Professors should not be afraid to allow evening students to write and rewrite portions of their writing assignments during class. The advantages of allowing evening students to work on their writing assignments during class outweigh the disadvantages. “Many legal writing professors resist teaching the memo or brief problem directly, out of fear that they will give away too much or that the students will fail to try to do their own work on the problem.”²²⁰ Ideally, all students (day and evening) will rewrite their assignments as part of the writing process.²²¹ However, evening students benefit from having in-class opportunities to work on portions of assignments because they have less time to write outside of class. Furthermore, in our experience, professors cannot give away too much to novice legal writers.²²²

217. Boyle, *supra* n. 155, at 2.

218. Boyle & Dunn, *supra* n. 155, at 243. Students can also be given “feedback on their written assignments by asking questions in class” and by using PowerPoint slides to show model/sample answers. Boyle, *supra* n. 155, at 20. Class discussion should emphasize the various ways in which the students could have analyzed the problem. *Id.*

219. Evening students have “limited time for class preparation and . . . study.” Sal-talamachia, *supra* n. 86, at 894.

220. Margolis & DeJarnatt, *supra* n. 110, at 118.

221. The stages of the writing process include “(1) analyzing the issues and the raw materials that can be used to resolve the issues and raw materials; (2) organizing them so that they can be written about; (3) producing a first draft; and (4) rewriting through several further drafts until the final product is achieved.” Richard K. Neumann, Jr., *Legal Reasoning and Legal Writing: Structure, Strategy, and Style* § 6.1, 53 (6th ed., Aspen Publishers 2009).

222. “At Temple, we believe that you cannot give away too much and that the benefits

Legal writing is a difficult skill to master, and we expect our students to quickly reach a level of competency. Repeated opportunities to write in class only serve to assist students in navigating this steep learning curve.

Professors also fear that if students receive interim feedback on writing assignments, they will bitterly complain (perhaps in course evaluations) if their final work product does not receive a high grade. This concern can be alleviated by grading only the final writing assignment, which allows students to concentrate on learning skills, rather than obsessing about obtaining perfect grades on interim assignments.²²³ In fact,

many professors who defer grading until the end of the semester report that their students are generally more satisfied with the course and the professor. This may be because early assignments are for the stated goals of receiving feedback and improving rather than grading. Because those are the goals that can usually be met by sheer effort, students are not as frustrated with the results.²²⁴

Also, the opportunity to practice skills in the classroom gives students some of the practical legal experience they may not otherwise receive. Many part-time evening students work full-time during the day in non-legal jobs.²²⁵ “Novice learners enter the discourse community of lawyers most successfully when they are immersed in it.”²²⁶ The detailed, individual feedback evening students receive from their legal writing professor may be the only in-depth feedback they receive on their writing until they graduate and become practicing lawyers.

Students should have opportunities to work individually in class and in groups. One easy way to incorporate group work is to assign group research assignments²²⁷ that students complete dur-

of cooperative and collaborative learning far outweigh the risk that students will not do their own work.” Margolis & DeJarnatt, *supra* n. 110, at 118.

223. “Because the Temple program is built around the idea that students learn by doing and that they will make many mistakes along the way, we grade only the final product in each semester.” *Id.* at 123.

224. McGaugh, *supra* n. 151, at 139 n. 72.

225. Chavkin, *supra* n. 50, at 750.

226. Margolis & DeJarnatt, *supra* n. 110, at 108.

227. At Temple, “[w]e assign the students to research in teams of three for the first assignment because the trip to the library is made less frightening that way, and the students can often help each other as they pick up on different aspects of the research process.

ing class time. Professors can also have students discuss hypotheticals in groups.²²⁸ Students can also work on case synthesis exercises and in-class writing exercises, such as writing a thesis sentence or question presented,²²⁹ in small groups. The professor can determine whether these group assignments are graded or non-graded, depending on the professor's educational objectives.²³⁰

For a better classroom experience, professors should inform their evening students in advance of their expectations for preparation and active class participation. Students should know that class sessions will require their involvement and that they will need to read and process the relevant legal authorities outside of class. A survey of evening students attending the William S. Boyd School of Law at the University of Las Vegas, Nevada (UNLV) revealed that the "majority . . . learned best when the teacher gave them advance notice they would be called on or when the teacher [planned to rely] on volunteers."²³¹ Similarly, a general warning that students will sometimes be expected to produce work during class should help them obtain the greatest benefit from class sessions. At Temple, students may receive a transcript notation of "Distinguished Class Performance," which could serve as an additional incentive for evening students to come to class prepared. On the other hand, threat of penalties did not motivate many of the students to prepare for class and some students considered threats to be counterproductive to learning.²³²

3. *Maintaining Flexibility*

One of the ways we show respect for our evening students is by "acknowledging their busy schedules and by treating their

Each professor tries to spend several hours in the library when the students are conducting their research, providing individual instruction to the groups as they run into snags." *Id.* at 102–103.

228. See Jacobson, *supra* n. 77, at 168–169. For example, "a class might focus on statutory interpretation using the statutes in an assignment to identify ambiguities and possible interpretations that would affect the outcome of the problem." Margolis & DeJarnatt, *supra* n. 110, at 105.

229. "In a class on Questions Presented, students might review their work in progress, in workshop format, to see whether their questions adequately present the issues raised in the assignment." *Id.*

230. Jacobson, *supra* n. 77, at 169.

231. Levy, *supra* n. 85, at 71.

232. *Id.*

time like a precious commodity.”²³³ A professor who has taught a day division LRW course and is teaching evening students for the first time will need to adjust deadlines to be compatible with the schedules of working students.

Part-time evening students have “fractured interests,” which make it difficult for them to devote all of their time to legal education.²³⁴ It is admittedly difficult to teach “students in the evening who have just finished a full work day.”²³⁵ Evening students may have unexpected work emergencies and will need some slack²³⁶ because their control over their schedules is limited.²³⁷ They tend to come late or miss class more often than day students because an employer may send them “out of town on a moment’s notice . . . [or they can] get handed all-consuming work assignments by job supervisors who give no consideration to the impact of those assignments on the students’ educational plans.”²³⁸

Some evening students struggle to submit assignments on time due to the same work pressures that may cause poor class attendance. Both Professors Tavares and Scalio adopt a liberal attitude in granting timely requests for deadline extensions. Nevertheless, professors should not become pushovers; they should require students to maintain high standards of professionalism because students need to be taught the importance of adhering to deadlines.²³⁹ Typically, however, part-time evening

233. *Id.* at 81 n. 106 (citing Gerald F. Hess, *Heads and Hearts: The Teaching and Learning Environment in Law School*, 52 *J. Leg. Educ.* 75, 89 (2002)). Evening students are “perpetually time-deprived and law school is only one factor of their hectic lives.” Saltalamachia, *supra* n. 86, at 894.

234. Maloney, *supra* n. 14, at 171.

235. Chavkin, *supra* n. 50, at 726 n. 27.

236. See Levy, *supra* n. 85, at 81. In Professor Levy’s survey of evening students at UNLV, students were asked, “How important is it to you that your teachers treat students with respect during class?” *Id.* Respecting students “means not just treating students with dignity in class, but also recognizing the special sacrifices they have made just to attend law school.” *Id.* “Teachers need to ‘respect the constraints and limits for students who are balancing work, family and school,’” one student commented. *Id.* Another student said, teachers should “understand that classmates and I put in eight hours a day in professional careers before coming to class each night.” *Id.*

237. Chavkin, *supra* n. 50, at 749.

238. *Id.* at 746. “Even those students working for bosses who claim to be supportive of their employees’ ambition to become lawyers often find their employers think nothing of approaching them at 5:30 p.m. with a new assignment, making it difficult for even the most-motivated part-time student to arrive on time . . . [T]hese same bosses would not hesitate to send their law-student employees away on business trips with minimal notice.” *Id.* at 739 n. 61.

239. Melissa H. Weresh, *Fostering a Respect for Our Students, Our Specialty, and the*

students tend to respect deadlines because they have work experience and already understand business pressures.²⁴⁰ Furthermore, allowing students to submit assignments electronically provides an efficient means for students to meet deadlines even when work responsibilities interfere with attending class.

Syllabus considerations are especially important because most part-time evening students do their “homework” over the weekends and try to work ahead as much as possible.²⁴¹ Therefore, professors should avoid assigning work that must be completed in less than a week and should schedule major assignment due dates to fall after a weekend. Additionally, any syllabus changes should only be made with advanced notice. Basically, professors must be cognizant of students’ time constraints when setting and making changes to assignment deadlines. Also, keep in mind that most law school’s evening schedules make the scheduling of make-up classes impossible.²⁴² When teaching at night, it is especially important to stay on schedule to the greatest extent possible. When planning a syllabus, make sure to allow enough flexibility in the overall lesson plan to cover all of the basic material even if a canceled class cannot be rescheduled.

The professor’s flexibility will also be required when scheduling conferences and office hours. Conferences may have to be held well outside of typical business hours, such as on nights and weekends. Professors may need to conduct a conference over the

Legal Profession: Introducing Ethics and Professionalism into the Legal Writing Curriculum, 21 *Touro L. Rev.* 427, 457 (2005).

240. The part-time students in Professor Chavkin’s evening clinic “were generally more serious about work; they were generally better organized; and they needed to feel (even more than day students) that their investment of time was bearing immediate dividends.” Chavkin, *supra* n. 50, at 740.

241. “Part-time students are generally at the law school only when they are attending classes. They do not ‘hang out’ in the library or in the law school cafeteria between classes.” *Id.* at 740 n. 72. The first semester Professor Tavares taught LRW in the evening, she received the following complaints on her course evaluations concerning the timing of assignments: “[1] Assignments should be due on Monday to allow evening students to complete over the weekend; [2] As an evening student with a full-time job I often tried to do assignments a week in advance . . . ; [3] It was sometimes difficult that as evening students assignments were due on Wednesday or Friday for material covered only that Monday.” Temple University Course and Teaching Evaluations, Fall 2007, Legal Research & Writing I, Section 052 (on file with Author).

242. See Saltalamachia, *supra* n. 86, at 896. Evening law classes are typically Monday through Thursday, between approximately 6:00 p.m. and 10:00 p.m. See *supra* sec. IV(A)(3) (discussing the typical weekly schedule of classes for an evening student).

telephone to accommodate students' needs and should be available for office hours at times that are convenient to students.

4. *Utilizing Technology*

Technology should be used in two ways to enhance the educational experience of evening students. First, the effective use of instructional technology in the classroom will help professors reach more students than a low-tech approach to teaching. Second, the use of technology will provide more efficient means to communicate with evening students despite their busy schedules.

First, use instructional technology²⁴³ in the classroom. The effective use of technology in the LRW classroom enhances the learning experience for all students—day or evening.²⁴⁴ However, since many evening students will not have opportunities for legal employment during law school,²⁴⁵ giving evening students realistic expectations about the realities of law practice is of paramount importance. “[T]echnology is particularly well suited for legal education, and especially for legal research and writing instruction, because the nature of law practice is becoming increasingly technical.”²⁴⁶ Using technology in the classroom helps to refine the skills that lawyers need to achieve professional competence.²⁴⁷ For attorneys today, the computer is a key practice resource, not just a means for enhancing productivity.²⁴⁸ Integrating technology in the LRW classroom allows professors to better prepare students for law practice, since attorneys rely less on the library and support staff, and more on their own computers to complete work at their desks.²⁴⁹

243. See e.g. Maria Perez Crist, *Technology in the LRW Curriculum—High Tech, Low Tech, or No Tech*, 5 Leg. Writing 93, 93 n. 3 (1999) (providing a definition of instructional technology).

244. *Id.* at 96 (stating, “your students may learn better if you are able to use modern technologies effectively in the classroom”).

245. See *supra* sec. II(C)(2) (discussing the disadvantages of part-time legal education, specifically, the limited opportunities for evening students to obtain legal employment during law school).

246. Kristin B. Gerdy et al., *Expanding Our Classroom Walls: Enhancing Teaching and Learning through Technology*, 11 Leg. Writing 263, 263 (2005).

247. Crist, *supra* n. 243, at 96.

248. *Id.*

249. *Id.*

Furthermore, instructional technology is particularly effective because technology is already widely used by students.²⁵⁰ Since most law students own computers and have used them in the classroom and at home since childhood, they expect technology to play a key role in their legal education.²⁵¹ However, even though most law students enter school with some computer know-how, they should be encouraged to attend computer training offered by the law school.²⁵²

Instructional technology encourages active learning by allowing more active class participation and more opportunities for collaborative learning.²⁵³ To stay engaged during late classes, exhausted evening students need to be involved in active learning to the greatest extent possible. For example, the professor can use a projection device, such as a document camera or an LCD projector, to focus the students' attention on particular language in a case or statute or to demonstrate critical reading skills.²⁵⁴ Student writing can also be displayed and edited collaboratively.²⁵⁵ The professor can also demonstrate research strategy, using search terms generated by the class to conduct an Internet search.²⁵⁶

Consider using PowerPoint to outline the material presented in class, and then post the slides immediately after each class.²⁵⁷ Some professors prefer to post their slides prior to class. This al-

250. *Id.* at 99; *see also* McGaugh, *supra* n. 151, at 143 (explaining that students tend to be "far less accustomed . . . to print resources and non-computerized activities").

251. Gerdy et al., *supra* n. 246, at 264. "The Internet has . . . changed the way students approach their education. For example, while students used to depend on the campus library for the majority of their research needs, today's students opt for Internet searching, with almost three-quarters using the Internet more than the library and slightly less than 10% preferring the library." *Id.* at 265. Moreover, the "advent of e-mail, instant messaging, and readily accessible Internet browsing has influenced the way students learn. . . . [S]tudents who regularly use these technologies expect their learning to be more 'hands on' than passive (they expect to try things rather than hear about them), and they tend to learn more visually and socially." *Id.*

252. Crist, *supra* n. 243, at 122. At Temple, all evening LRW students are required to attend Westlaw and Lexis-Nexis training during the second week of law school. This training is supplemented by one or two additional in-class Westlaw and Lexis-Nexis training sessions during the first year LRW course.

253. *Id.* at 98–99. "Materials using graphics, video, audio streaming, and online simulations can supplement traditional class content and vastly improve the learning of visual and kinesthetic learners." Gerdy et al., *supra* n. 246, at 272; *see generally supra* sec. IV(B)(1).

254. Crist, *supra* n. 243, at 98, 112–113; *see also* Boyle, *supra* n. 155, at 22.

255. Crist, *supra* n. 243, at 98, 115; *see also* Boyle, *supra* n. 155, at 21–22.

256. Crist, *supra* n. 243, at 98.

257. *See* Boyle, *supra* n. 155, at 20–21.

lows students to begin thinking about the material *before* class. “Providing handouts and other materials online in advance can . . . improve class discussion and make class time more effective.”²⁵⁸ It also allows students to use the slides as class notes, rather than furiously and mechanically typing every word the professor utters without really listening or thinking during class.²⁵⁹ One of the keys to successful learning is providing students opportunities to examine their experience and to recall a context into which new information can be placed. Electronic materials allow students access to such context and examples. “Technological tools are well-suited for providing background information and other ‘big picture’ summaries that do not require extended discussion.”²⁶⁰

Professors may also choose to record their classes to make lectures more accessible to students who missed all or part of a class, or who simply want to review the material. Options include videotaping or podcasting,²⁶¹ or adding an audio soundtrack to a PowerPoint presentation.²⁶²

Second, communicate electronically—employing technology will allow professors more flexibility in communicating with their students.²⁶³ “Faculty can help enhance individual learning through e-mail, online discussion and conferencing, and other communication technologies to expand course dialogue beyond the finite class period.”²⁶⁴ For example, utilizing electronic critiquing will provide more flexibility in returning assignments.²⁶⁵ Students can have feedback immediately. They will not need to remember to stop by the professor’s office to pick up a hard copy of their critiqued assignment.

To ensure that the students use the professors’ technology from the outset, professors should make a point of discussing the

258. Gerdy et al., *supra* n. 246, at 272.

259. See Saltalamachia, *supra* n. 86, at 896.

260. Gerdy et al., *supra* n. 246, at 270.

261. In written course evaluations, students in Professor Joyce Saltalamachia’s evening Torts class were overwhelmingly positive about her use of technology, but podcasting was their favorite. Saltalamachia, *supra* n. 86, at 898. Students reported listening to the podcasts on their iPods and work computers. *Id.* They listened during their commutes, which could take several hours per day in some cases, and while exercising. See *id.* (explaining how one student planned to listen to the podcasts while running the New York marathon).

262. See Chavkin, *supra* n. 50, at 751.

263. See *id.* at 740-41.

264. Gerdy et al., *supra* n. 246, at 273.

265. See Chavkin, *supra* n. 50, at 748 (observing that “[t]he ‘review and comment’ function available within Microsoft helps facilitate the review of documents”).

technology they will use during the first week of class.²⁶⁶ Professors should include a paragraph or two about the technology that will be used in the course syllabus and discuss the students' responsibility to regularly check the course website and their e-mail account.²⁶⁷ Professors should be consistent with use of technology.²⁶⁸ If a professor tells the students that he or she will post materials at a certain time, the professor should do so faithfully.²⁶⁹ "[P]art-time students . . . are great time-maximizers; they will not waste their time repeatedly checking to see if [the professor has] posted material."²⁷⁰ Also, professors should add content to their course websites on a regular basis so that students see the value in logging on.²⁷¹ In fact, professors should do as much as they can electronically (announcements on Blackboard²⁷² or TWEN,²⁷³ emails, conference scheduling, etc.).²⁷⁴ Posting assignments and other course materials to Blackboard or TWEN is incredibly helpful to evening students because the course website offers twenty-four hour accessibility.²⁷⁵ If a student loses an assignment or needs course materials during work hours, he or she can access the website rather than seeking out the professor for another copy.²⁷⁶

Although the authors have not tried this yet, course management software could be used "to conduct virtual office hours."²⁷⁷ "Thus, a student stuck at a remote location [could] still

266. See Saltalamachia, *supra* n. 86, at 900.

267. Professors who plan to communicate frequently by e-mail should give students the opportunity to reconsider using their work e-mail address as their primary contact in case their employer has a policy against using their work e-mail address for personal matters.

268. *Id.* at 900; see also Crist, *supra* n. 243, at 109 (explaining that a course website "requires constant maintenance by the LRW faculty. You must be prepared to keep it up-to-date; you cannot just create a web site and forget about it.").

269. Saltalamachia, *supra* n. 86, at 900.

270. *Id.*

271. See *id.*

272. Blackboard is a product of Blackboard Inc., a leading provider of enterprise learning software applications and related services. Blackboard, *Investor Overview*, <http://investor.blackboard.com/phoenix.zhtml?c=177018&p=irol-irhome> (accessed Apr. 15, 2011).

273. The West Educational Network (TWEN) is a product of Thomson Reuters. Westlaw, *The West Education Network (TWEN)*, <https://lawschool.westlaw.com/shared/signon10.asp?path=%2Ftwen%2Fdefault%2Easpx&> (accessed Apr. 15, 2011).

274. See Chavkin, *supra* n. 50, at 748 (noting the value of group e-mails and discussion threads for communicating with evening clinic students).

275. Crist, *supra* n. 243, at 105, 109.

276. See *id.* at 105.

277. Chavkin, *supra* n. 50, at 747; Crist, *supra* n. 243, at 99. To enhance their accessi-

engage in a dialogue with [the professor]" even if the student is unable to come to campus for a conference or office hours.²⁷⁸

Professors may also extend class discussion by creating a "threaded discussion list"²⁷⁹ via the "Discussion Board" feature in Blackboard or the "Forum" feature in TWEN. A threaded discussion allows the professor to answer commonly asked questions while ensuring that everyone in the class gets the same answer at the same time. This is especially helpful for students whose work schedules rarely (if ever) allow them to attend office hours.

5. Managing Expectations (Yours and Theirs)

Although the evening LRW course must be equally rigorous as the LRW course taught to day-division students, evening division LRW professors should set realistic expectations for their students' learning curve. For some evening students who give law school their very best effort, all of the pressures of attending school at night while working full-time during the day may result in a final product that is not what professors would expect from their top day-division students. Experienced LRW professors who are teaching in the evening for the first time may notice that, on average, the early assignments produced by their evening students are not at the level typically expected from the day-division students they have taught over the years. The evening students may take a little longer and require additional repetition before the "light bulb" moments occur. However, although it may take longer, the students will accomplish the course goals and many will excel.

6. Projecting Confidence

Within the mix of students enrolled in an evening LRW section, there may be a few older students who are quite accomplished in their careers. Especially for younger professors, teaching older, more experienced students can be intimidating. How-

bility to evening students, professors may also want to experiment with adding a regular online office hour to their schedules.

278. Chavkin, *supra* n. 50, at 747-748.

279. Crist, *supra* n. 243, at 103 n. 31 (explaining that "'threaded' discussion lists are accessed on the Internet at a pre-determined site. When students go to that site on the Internet, they see a chronological listing of subject lines from e-mail questions. Each question represents a 'thread' of online discussion and is preserved on the site.>").

ever, students identified confidence as one of the most important traits of effective teachers.²⁸⁰ The term “teacher prestige” refers to “the authority a teacher projects in class about her expertise and knowledge of the subject matter.”²⁸¹

One easy way to improve an LRW professor’s confidence after the first year of teaching is to reuse assignments. “Creating and using a brand new set of LRW problems every year forces even the most experienced LRW professor back into the novice role.”²⁸² Reusing problems allows an LRW professor to become intimately familiar with the law, facts, and analysis anchoring the writing assignment. The confidence that comes from becoming an expert on the assignments they teach will be projected to the students and will boost professors’ credibility, even with older evening students who are “experts” in their own fields.

V. CONCLUSION

With this Article we have sought to shed light on a student population who may sometimes be overlooked. Traditional part-time evening students are equal to their full-time colleagues in intellect, drive, and ability. But, these students present unique challenges to the way in which we think about the LRW classroom and the teaching methods we use. As any LRW professor who has taught in an evening program can attest, however, meeting these challenges is worth it. These students enhance our classes and our law schools with their individuality, hard work, and varied life experiences. They also enhance our teaching lives as we face the challenge of guiding these students through the LRW learning curve.

As educators we are responsible for ensuring that each of our students is provided with the best education possible. Therefore, it is incumbent upon us and our institutions to carefully consider the methods we are using to educate our part-time students. This Article is the beginning of the dialogue and one that we hope will

280. Levy, *supra* n. 85, at 79 (reporting responses of evening students to the following survey question: “How important is it to you that your teachers are confident in their knowledge of the material being taught?”). Students place high value on “professors [who] project confidence about the material they teach.” *Id.* Teacher prestige is “a critical trait of effective teachers because it makes students more receptive to the instruction they offer.” *Id.*

281. *Id.*

282. Margolis & DeJarnatt, *supra* n. 110, at 132.

spark a robust discussion on how to best educate our traditional part-time students.