

## Depression and Anxiety in Law Students: Are We Part of the Problem and Can We Be Part of the Solution? \*

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It is no secret that law school is a breeding ground for depression, anxiety, and other stress-related illnesses.<sup>1</sup> The literature is replete with alarming facts concerning the negative emotional and physical reactions many students experience as they pursue a law degree.<sup>2</sup> One noted author reports that “up to 40 percent of law students may experience depression or other symptoms as a *result of the law school experience*.”<sup>3</sup> Another author states unequivocally, “self-reports of anxiety and depression are significantly higher among law students than among either the general popula-

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<sup>1</sup> E.g., G. Andrew H. Benjamin et al., *The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers*, 1986 Am. B. Found. Research J. 225; Michael E. Carney, *Narcissistic Concerns in the Educational Experience of Law Students*, 1990 J. Psych. & L. 9; B.A. Glesner, *Fear and Loathing in the Law Schools*, 23 Conn. L. Rev. 627 (1991); Cathaleen A. Roach, *A River Runs Through It: Tapping Into the Informational Stream to Move Students From Isolation to Autonomy*, 36 Ariz. L. Rev. 667 (1994).

<sup>2</sup> *Supra* n.1; see Matthew M. Dammeyer & Narina Nunez, *Anxiety and Depression Among Law Students: Current Knowledge and Future Directions*, 23 L. & Human Behavior 55 (1999); Kennon M. Sheldon & Lawrence S. Krieger, *Does Legal Education Undermine Law Students?* (unpublished manuscript 2003) (on file with the authors at Florida State Law School) (presenting empirical evidence documenting “negative changes in [students’] motivation, values, and well-being”).

<sup>3</sup> Roach, *supra* n. 1, at 670 (emphasis in original) (citing Benjamin et al., *supra* n. 1, at 246-47); see also Connie J.A. Beck, Bruce D. Sales & G. Andrew H. Benjamin, *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers*, 10 J.L. & Health 1 (1995-96) (noting that more than 40% of the law students tested scored significant elevations in scores for obsessive-compulsiveness, anxiety, social alienation and isolation, and interpersonal sensitivity, as compared to only 2.27% of the general population).

tion or medical students.”<sup>4</sup> Others note the high risk that students will respond to the stress of law school by becoming alienated, withdrawing psychologically and intellectually from the learning experience,<sup>5</sup> or turning to alcohol or drugs for relief.<sup>6</sup>

Authors from diverse backgrounds ranging from psychology to educational theory have speculated on what it is about the structure of law school that may be creating this problem.<sup>7</sup> Some authors have suggested that personality characteristics common to many incoming law students vary significantly from those of their equally-talented peers who pursue other advanced degrees, and that law students may bring a predisposition for unhappiness to the classroom.<sup>8</sup> Others have looked at the structure of the traditional law school itself, highlighting the detrimental effects of the Langdellian case method, the over-dependence on Socratic dialogue as the primary teaching tool, lack of feedback, lack of educational context in the learning process, domination of large classes and lack of personal interaction with professors, and the reliance on class rank as an evaluation and hiring tool, to explain the stress students feel.<sup>9</sup> Nearly everyone writing on the subject of legal education agrees that the current system places enormous amounts of emo-

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<sup>4</sup> Dammeyer & Nunez, *supra* n. 2, at 55.

<sup>5</sup> *E.g.* Carney, *supra* n. 1, at 11; Paul D. Carrington & James J. Conley, *The Alienation of Law Students*, 75 Mich. L. Rev. 887 (1977); Glesner, *supra* n. 1 at 627, Student Author, *Making Docile Lawyers: An Essay on the Pacification of Law Students*, 111 Harv. L. Rev. 2027 (1998).

<sup>6</sup> *E.g.*, Beck, et al *supra* n. 3; G. Andrew H. Benjamin, Elaine J. Darling & Bruce Sales, *The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse Among United States Lawyers*, 13 Intl. J.L. & Psych. 233 (1990); Susan Saab Fortney, *Soul for Sale: An Empirical Study of Associate Satisfaction, Law Firm Culture, and the Effects of Billable Hour Requirements*, 69 UMKC L. Rev. 239, 272-73 (2000); Glesner, *supra* n. 1, at 629-30 (citing numerous empirical studies and articles documenting the incidence of substance abuse among law students).

<sup>7</sup> See generally *supra* n. 1.

<sup>8</sup> Dammeyer & Nunez, *supra* n.2, at 70; see also G. Andrew Benjamin & Bruce D. Sales, *Lawyer Psychopathology: Development, Prevalence, and Intervention*, in *Law & Psychology* 281, n. 19 (J.R.P. Ogloff ed., Carolina Academic Press 1982) (speculating that earlier studies may have underestimated predisposition to psychological distress of prospective law students by failing to ask about law students' family histories); Stephen B. Shanfield & G. Andrew H. Benjamin, *Psychiatric Distress in Law Students*, 35 J. Leg. Educ. 65, 69 (1985).

<sup>9</sup> *Supra* n. 1; see also, Benjamin et al., *supra* n. 1; Arthur Austin, *One Person's Challenge is Someone Else's Stress*, 3 Tex. Rev. of Law & Politics 157 (1998) (discussing several well-known "victim autobiographies" written by survivors of the first year of law school); Dammeyer & Nunez, *supra* n. 2; Marilyn Heins et al., *Law Students and Medical Students: A Comparison of Perceived Stress*, 33 J. Leg. Educ. 511, 523 (1983); James B. Taylor, *Law School Stress and the 'Deformation Professionnelle'*, 27 J. Leg. Educ. 251, 254-56 (1975).

tional stress on students that negatively affects, perhaps irreparably, students' self-esteem, their ability to perform, their short-term and long-term health, and their ultimate satisfaction with the profession.<sup>10</sup>

Despite widespread, and fairly unanimous, advice from experts inside and outside of the profession that change is critical, nothing much changes in the field of legal education – and especially not in the first-year classroom.<sup>11</sup> The Langdellian case method remains the dominant mode of learning, classroom size remains large, student evaluation rests on an end-of-year or end-of-semester exam, class rank continues to be distributed to employers who continue to limit interviews by placement in class, participation in prestigious extracurricular activities remains competitive and often related to grades, workloads remain enormous, Socratic dialogues remain intimidating or, at best, confusing, and on and on.<sup>12</sup> As a result, in an effort to survive, students grasp at coping mechanisms ranging from emotional withdrawal to obsessive control – coping mechanisms that are detrimental to their learning<sup>13</sup> and to their growth and development as professionals.<sup>14</sup> Law school continues to do harm to its own, and the profession continues to reel from the repercussions

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<sup>10</sup> An interesting trend in the literature emphasizes the long-term repercussions of the deleterious effects of law school, with numerous authorities noting that students develop unhealthy coping mechanisms in law school that follow them into the practice of law, perhaps accounting for a great deal of the dysfunction in the practicing bar. See, e.g., Carney, *supra* n. 1; Glesner, *supra* n. 1; see also Lani Guinier et al., *Becoming Gentlemen: Women's Experiences at One Ivy League Law School*, 143 U. Pa. L. Rev. 1 (1994) (documenting women's underachievement in law school despite incoming admissions predictors comparable to their male peers, and attributing at least some of the differences to the patriarchal structure of traditional law schools); see generally *supra* n. 6.

<sup>11</sup> B. A. Glesner has an especially interesting discussion on this point. Glesner, *supra* n. 1 (citing Auerbach, *Legal Education and Some of Its Discontents*, 34 J. Legal Ed. 43 (1984)); Larry S. Krieger, *What We're Not Telling Law Students -- and Lawyers*, 13 J. L. & Health 1 (1998-99) (attributing lawyer discontent to law schools' failure to teach principles of self-actualization critical to survival in a demanding profession); Paul T. Hayden, *Applying Client-Lawyer Models in Legal Education*, 21 Leg. Stud. Forum 300 (1997) (speculating that students will ultimately relate to their clients in the way they experienced their own relationships with their law professors); see also Feinman & Feldman, *Pedagogy and Politics*, 73 Geo. L.J. 875, 925-30 (1985). But see Arturo L. Torres and Karen E. Harwood, *Moving Beyond Langdell: An Annotated Bibliography of Current Methods of Law Teaching*, 1994 Gonz. L. Rev. 1 (Special Ed. 1994) (citing literature exploring innovations in classroom teaching); Clifford S. Zimmerman, *Thinking Beyond My Own Interpretation: Reflections on Collaborative and Cooperative Learning Theory in the Law School Curriculum*, 31 Ariz. St. L.J. 957, 966-971 (1999) (noting the addition of new teaching methods in law schools).

<sup>12</sup> Krieger, *supra* n. 11; Roach, *supra* n. 1; James Archer & Martha M. Peters, *Law Student Stress*, 23 NASPA J 48 (Spring 1986).

<sup>13</sup> Roach, *supra* n. 1; Archer & Peters, *supra* n. 13.

<sup>14</sup> Carney, *supra* n. 1; Glesner, *supra* n. 1; Krieger, *supra* n. 11.

of these initial injuries.<sup>15</sup>

Self-efficacy theory, a widely recognized and highly developed construct of human behavior in the field of social psychology,<sup>16</sup> offers a fresh perspective on the root causes of much of this angst in law school. Even better, self-efficacy theory offers a clear, rational roadmap for implementing small (and large) changes in the law school classroom that would create potentially powerful results. For legal writing professionals, the best news is that, of everyone in the legal academy, we are in the best position to take a leadership role in experimenting with such changes. Thus, at a time when legal writing professionals are struggling for recognition and power,<sup>17</sup> it might well be that we are already in the enviable position of being able to change positively the lives of those we teach in ways not as readily available in more traditional law school classrooms.<sup>18</sup>

This article begins in Section I with an introduction to the basic tenets of self-efficacy theory, a brief exploration of what that theory tells us about people's feelings and behavior, and an explanation of how self-efficacy beliefs are acquired. This introduction is not intended to be an exhaustive discussion of that research, but rather a brief layman's introduction to the concepts. It is the author's hope that such an introduction will pique the interest of legal scholars and encourage others to investigate further the potential applications of this theory to legal education. In Section II, the traditional law school environment is examined through the lense of self-efficacy theory, leading to the observation that much of the emotional distress experienced by law students would be completely predictable to a social scientist versed in the theory. The article moves to Section III with an observation and an invitation: self-efficacy theory demonstrates unequivocally that the choices we make daily in our classes can and do

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<sup>15</sup> See *supra* n. 6.

<sup>16</sup> The literature in the field of social psychology is replete with literally thousands of studies based on Albert Bandura's landmark work in the area of self-efficacy. *Self-Efficacy, Adaptation, and Adjustment: Theory Research, and Application*, edited by James E. Maddux of George Mason University, is an invaluable tool summarizing much of that research to date. *Self-Efficacy Adaptation, and Adjustment: Theory, Research, and Application* (James E. Maddux ed., Plenum Press 1995).

<sup>17</sup> See Jenny B. Davis, *Writing Wrongs*, 87 ABA J. 24 (Aug. 2001) (detailing the struggle of legal writing professionals to attain status and pay comparable to those of doctrinal professors).

<sup>18</sup> See Jill J. Ramsfield, *Legal Writing in the Twenty-First Century: A Sharper Image*, 2 Leg. Writing 1 (1996) (reporting results of 1992 and 1994 surveys of the Legal Writing Institute).

affect our students' emotional states and intellectual achievements. We can point to the myriad of causes of the many problems in modern legal education and hope for major reform, or we can take a leadership role in legal pedagogy by instituting positive changes in our own classrooms. This third section offers concrete examples of lesson plans, program policies, and teacher behaviors that will help our students select appropriate goals and inevitably increase their beliefs in their abilities to achieve those goals. Finally, in Section IV the article concludes that by increasing those beliefs, you will reduce anxiety and depression, at least in your class, and increase the probability that your students will excel with energy and confidence.

## I. AN OVERVIEW OF SELF-EFFICACY THEORY

### A. The Basic Tenets

The term “self-efficacy” was coined by Albert Bandura in his landmark article, *Self-Efficacy: Toward a Unifying Theory of Behavioral Change*,<sup>19</sup> as a way to explain how individuals’ perceptions of their competence and control develop, and to explore how those perceptions affect their ability to actually cope with the challenges they face. Self-efficacy is the personal belief that you can control an outcome – that you can achieve a desired result.<sup>20</sup> Self-efficacy applies to narrow, specific, and concrete goals and each of us has widely different levels of self-efficacy for different tasks. Thus, I can have high self-efficacy with respect to my ability to ski (i.e., I believe that I can perform the tasks necessary to ski well), but have low self-efficacy in my ability to rock climb (i.e., I do not believe that I can do the things necessary to climb a rock face). On a more general level, I can have high self-efficacy about my athletic abilities (perhaps self-defined as my ability to perform well in most athletic events) even while I have low self-efficacy about my ability to rock climb. In this example, though, I can only have high self-efficacy about my athletic abilities, while simultaneously doubting my rock-climbing abilities, if I also believe that rock climbing is not a critical athletic skill.

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<sup>19</sup> Albert Bandura, *Self-Efficacy Theory: Toward a Unifying Theory of Behavioral Change*, 84 *Psychol. Rev.* 191 (1983).

<sup>20</sup> Maddux, *supra* n. 16, at 7.

It is easy to confuse self-efficacy with self-esteem.<sup>21</sup> Self-esteem, while related, is a different concept entirely. Self-esteem has to do with my evaluation of my overall self-worth, not my belief about my ability to function well in specific areas. Self-esteem is related to self-efficacy in that I will value myself more highly if I believe I can do the things that a worthwhile person should be able to do. Conversely, I will devalue myself if I believe I am not competent in areas that I value highly. Thus, I can have high self-esteem while having low self-efficacy beliefs about many tasks. The key to having high self-esteem is to have high self-efficacy about the tasks that I value.<sup>22</sup>

The importance of managing self-efficacy in educational settings has been examined extensively.<sup>23</sup> Empirical studies show unequivocally that individuals with high self-efficacy for a specific task are significantly more likely to do the things necessary to succeed at the task and far more likely to persist in the face of adversity than are individuals with low self-efficacy in relation to that specific task.<sup>24</sup> Thus, students are more likely to study efficiently and longer when they believe they will master the material than when they have doubts about their ability to learn.<sup>25</sup>

The relationship of self-efficacy to depression is also clear.<sup>26</sup> Students who value a goal highly but develop low self-efficacy in relation to their ability to achieve that goal become despondent and depressed.<sup>27</sup> Thus, if I want to achieve something very badly but feel that I will not be able to do the things necessary to get it, I can become overwhelmed with sadness.<sup>28</sup> Individuals in such a situa-

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<sup>21</sup> Albert Bandura, *Self-Efficacy: The Exercise of Control* 11-12 (W.H. Freeman & Co. 1997).

<sup>22</sup> *Id.*; see also Maddux, *supra* n. 16, at 9.

<sup>23</sup> See Dale M. Schunk, *Self-Efficacy and Education and Instruction* in Maddux, *supra* n. 16, at 281 (citing many specific empirical studies that have contributed to the general understanding of the relationship of self-efficacy to education); see also Bandura, *supra* n. 21 at 174-75, 186-87, 214-51.

<sup>24</sup> Maddux, *supra* n. 16, at 12-13.

<sup>25</sup> Schunk, *supra* n. 23.

<sup>26</sup> See generally James E. Maddux and Lisa J. Meier, *Self-Efficacy and Depression* in Maddux, *supra* n. 16, at 143 (containing detailed accounting of numerous studies).

<sup>27</sup> Maddux, *supra* n. 16, at 14.

<sup>28</sup> Obviously not everyone who is blocked from reaching a specific goal, even in law school, suffers clinical depression. The relationship of sadness to depression is complex and well beyond the scope of this article. Similarly, the relationship of sadness and perceived low self-efficacy is complex. Readers who are interested in learning more about this relationship between sadness and self-efficacy are encouraged to begin by reading James E. Maddux and Lisa J. Meier, *supra* n. 26; see also Bandura, *supra* n. 21.

tion often choose to disengage from the problematic goal, recognizing that their choice is to continue to feel depressed about their lack of power to attain the goal, or to quit caring about the goal altogether.<sup>29</sup>

Research in self-efficacy theory also has established a relationship between anxiety and low self-efficacy.<sup>30</sup> Studies show that individuals who believe that they lack the ability to avoid severe negative consequences and painful events experience significant anxiety.<sup>31</sup> Thus, if I have low self-efficacy about my ability to do what I need to do to keep something bad from happening to me, I become afraid.

Educational studies applying self-efficacy theory have shown that the presence of low self-efficacy in relation to specific academic tasks creates a spiraling effect that significantly reduces students' chances to reach their full potential.<sup>32</sup> With reduced self-efficacy, the ability to make wise choices about how to achieve the goal<sup>33</sup> and the commitment to behaviors that would lead to the successful attainment of the goal<sup>34</sup> are also reduced. *Regardless of incoming ability levels*, students who do not believe they can achieve a goal are far less likely to do so than their peers who do believe they can achieve that goal.<sup>35</sup> By the same token, the development of high self-efficacy for goals that are valued by an individual creates success that, in turn, not only increases self-esteem, but also the chance that the individual will continue to engage in behaviors that will allow the student to excel.

The task for educators who want to maximize our students' performance becomes clear: increase the self-efficacy of our students in relation to a specific task necessary for their ultimate success and we will increase the chance that they will not only succeed, but will

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<sup>29</sup> Several authors have noted the tendency of law students to become withdrawn and disengaged from the learning environment. *E.g.* Glesner, *supra* n. 1, at 1-2; Student Author, *supra* n. 5.

<sup>30</sup> Maddux, *supra* n. 16, at 14. *See generally* S. Lloyd Williams, *Self-Efficacy and Anxiety and Phobic Disorders* in Maddux, *supra* n. 16, at 69.

<sup>31</sup> *Id.*

<sup>32</sup> Maddux, *supra* n. 16, at 12-13; Schunk, *supra* n. 23, at 284-93.

<sup>33</sup> Maddux, *supra* n. 16, at 13 (stating "[P]eople who believe strongly in their problem-solving abilities remain highly efficient and highly effective problem solvers and decision makers; those who doubt their abilities become erratic, inefficient, and ineffective."); Schunk, *supra* n. 23, at 286-87.

<sup>34</sup> Maddux, *supra* n. 16, at 12-13.

<sup>35</sup> Bandura, *supra* n. 21, at 214.

excel. Without any additional effort on our part, students will become more likely to seek help when they need it, take logical steps to accomplish their goals efficiently, try harder, experiment more, be persistent in the face of early failures, and be tolerant of constructive criticism.<sup>36</sup> Moreover, if we can convince our students that the goal is valuable while increasing their self-efficacy about being able to accomplish the goal, we will also increase their overall self-esteem. Finally, if we help students establish goals that are attainable and minimize the threat of negative consequences over which they have no control, we can rest assured that our classes will not be a breeding ground for depression and anxiety.

In contrast, when we deliberately or inadvertently lower our students' self-efficacy about a specific task, we reduce the chance that the task will be mastered. When the task is valued highly by the student, reduction of self-efficacy becomes a prescription for depression. Similarly, when we reduce our students' self-efficacy about their ability to avoid a negative or painful consequence, such as being embarrassed in class, receiving what they perceive to be a failing grade, or not attaining desired employment, we write a prescription for anxiety. It's that simple.

#### B. How Do Our Students Develop Their Self-Efficacy Beliefs?

People develop self-efficacy (high or low) for a specific task in four ways:<sup>37</sup>

- (1) through personal or imagined experience;
- (2) through vicarious experiences (modeling);
- (3) from feedback from their social environment;
- (4) from physiological and/or emotional reactions to an event.

Thus, I could develop high self-efficacy for my ability to ski by (1) skiing well, imagining myself skiing well, or remembering that I have always been good at other sports and assuming those successes would generalize to skiing; (2) watching people who are a lot like me ski well; (3) hearing a ski instructor tell me I have natural talent for skiing or that I'm catching on quickly; and/or (4) feeling exhilaration or excitement while skiing. On the other hand, I could develop low self-efficacy about my ability to ski by (1) falling a lot

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<sup>36</sup> *Supra* n. 32.

<sup>37</sup> Bandura, *supra* n. 21, at 79-115; Maddux, *supra* n. 16, at 10-12.

and believing I should not be falling; (2) not seeing anyone like me ski well or seeing people like me ski poorly; (3) hearing from people I care about or respect that I am no good at skiing; and/or (4) feeling scared or being hurt while skiing.

**1. Personal Experience:** In an exhaustive text summarizing much of his work on self-efficacy, Albert Bandura notes that the most powerful way that people develop their sense of self-efficacy is through "enactive mastery experiences,"<sup>38</sup> or, in layman's terms, personal experience. According to Bandura, "Successes build a robust belief in one's personal efficacy. Failures undermine it, *especially if failures occur before a sense of efficacy is firmly established.* [However,] [i]f people experience only easy successes, they come to expect quick results and are easily discouraged. A resilient sense of efficacy requires experience in overcoming obstacles through perseverant effort."<sup>39</sup> Significantly, actual success is not as important as is perceived success. In other words, as we assess our experiences, it is our subjective belief that we have succeeded or failed that most strongly influences the development of high or low self-efficacy about our abilities to succeed in that area. What others believe about our level of success, or even what they know to a certainty, is not what counts unless we believe what they believe.<sup>40</sup>

**2. Vicarious Experience:** While people are most influenced by their assessment of their own past experiences, they are also strongly influenced by the experiences of others: (1) people get a sense of their own strengths and weaknesses by comparing themselves to others -- am I better or worse than average?; and (2) people make assumptions about their abilities to succeed or fail by watching others succeed or fail.<sup>41</sup> Research shows that the more closely the observer identifies with the model, the more the model's experience will influence the observer's beliefs about his or her own abilities.<sup>42</sup> Moreover, the less personal experience individuals have, the more they will rely on the observed experiences of others to develop self-efficacy beliefs about themselves.<sup>43</sup>

**3. Social Feedback:** A third way that people develop beliefs

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<sup>38</sup> Bandura, *supra* n. 21, at 80.

<sup>39</sup> *Id.* (emphasis added).

<sup>40</sup> *Id.* at 81.

<sup>41</sup> *Id.* at 86-87.

<sup>42</sup> *Id.* at 87 (citing empirical studies in support of this proposition).

<sup>43</sup> *Id.* at 87.

about their abilities to achieve rests in "social persuasion."<sup>44</sup> Social persuasion encompasses all the ways we get feedback from others as we move towards our goals. Studies show that self-efficacy can be increased by giving people the right kind of feedback about their underlying abilities and effort, and decreased by giving the wrong kind of feedback.<sup>45</sup> For example, at least one study indicated that positive feedback about ability is more effective in developing persistence than is positive feedback about effort alone,<sup>46</sup> but feedback about effort is also helpful. Positive messages about underlying ability are most effective when given early on in the development of a new skill.<sup>47</sup> Moreover, it is critical that such feedback be realistic. "To raise unrealistic beliefs of personal capabilities . . . only invites failures that will discredit the persuaders and further undermine the recipients beliefs in their capabilities."<sup>48</sup>

Bandura emphasizes that persuasion has its greatest benefit in strengthening efficacy beliefs that already exist, and that it is difficult to create self-efficacy beliefs using social persuasion alone, in the absence of any personal or observed experience. Thus, "[p]ersuasive efficacy attributions . . . have their greatest impact on people who [already] have some reason to believe that they can produce effects through their actions."<sup>49</sup> Moreover, it is easier to convince talented people that they will fail than it is to convince less talented people that they will succeed.<sup>50</sup>

Feedback that focuses on the part of a task that has already been achieved raises self-efficacy while feedback that focuses primarily on what has not yet been achieved tends to decrease self-efficacy.<sup>51</sup> Similarly, criticism that targets personal flaws in the

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<sup>44</sup> *Id.* at 101-106.

<sup>45</sup> *Id.* at 101-102.

<sup>46</sup> *Id.* at 102 (citing D.H. Shunk, *Sequential Attributional Feedback and Children's Achievement Behaviors*, 76 *J. Educ. Psych.* 1159 (1984)).

<sup>47</sup> *Id.* at 102.

<sup>48</sup> *Id.* at 101.

<sup>49</sup> *Id.* at 101 (citing C.A. Chambliss and E.J. Murray, *Efficacy Attribution, Locus of Control, and Weight Loss*, 3 *Cognitive Therapy & Research* 349-54 (1979)).

<sup>50</sup> *Id.* at 101. Bandura hypothesizes that people who are discouraged by initial negative feedback alone simply never test their actual ability, so they never get a chance to confirm that they in fact could have done the task but for the negative feedback. In contrast, people who are given unrealistic positive feedback can become quickly discouraged when their abilities do not allow their performance to match the expectations developed through excessively positive feedback.

<sup>51</sup> *Id.* at 103 (citing F. Jourden, *The Influence of Feedback Framing on the Self-Regulatory Mechanisms Governing Complex Decision Making*, Ph.D. Diss., Stanford Univer-

individual lowers self-efficacy while criticism that focuses on needed changes in performance increases self-efficacy.<sup>52</sup> Finally, the perceived credibility and expertise of a person providing feedback has a direct effect on how persuasive the feedback will be.<sup>53</sup> "People are inclined to trust evaluations of their capabilities by those who are themselves skilled in the activity, have access to some objective predictors of performance capability, or possess a rich fund of knowledge gained from observing and comparing many different aspirants and their later accomplishments."<sup>54</sup>

**4. Physical and Emotional Reactions:** "[T]he fourth major way of altering efficacy beliefs is to enhance physical status, reduce stress levels and negative emotional proclivities, and correct misinterpretations of bodily states."<sup>55</sup> In a nutshell, self-efficacy theorists explain that we attribute meaning to the physiological and psychological states we experience as we strive to achieve, and that meaning can either raise or lower our self-efficacy beliefs about our abilities to achieve our goals. The effect of somatic reactions is particularly strong where the goal is related to physical activities or health, including the ability to cope with stress.<sup>56</sup> Moreover, "the less absorbed people are in activities and events around them, the more they focus attention on themselves and notice their aversive bodily states and reactions in taxing situations."<sup>57</sup> People's interpretation of what their physical or emotional state means about their ability to perform is what dictates the raising or lowering of self-efficacy. Thus, if I believe that a sense that my heart is racing is a good thing -- perhaps indicating I'm excited about an upcoming success -- my self-efficacy about my ability to achieve a goal will increase if I experience that symptom. If, on the other hand, I interpret the same symptoms as a bad thing -- perhaps indicating I'm going to panic and fail -- my self-efficacy about my ability to successfully achieve the goal will decrease when my heart begins to race.<sup>58</sup>

Like physical experiences, emotional states also strongly affect

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sity (1991).

<sup>52</sup> *Id.* at 103.

<sup>53</sup> *Id.* at 105.

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

<sup>55</sup> *Id.* at 106.

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

<sup>57</sup> *Id.* at 107.

<sup>58</sup> *Id.* at 108.

self-efficacy beliefs. "[A] negative mood activates thoughts of past failings, whereas a positive mood activates thoughts of past accomplishments."<sup>59</sup> When burdened with negative memories, our self-efficacy about any task is reduced. Conversely, when we feel good, we perceive our abilities to reach our goals to be greater.<sup>60</sup>

## II. SELF-EFFICACY THEORY AND TRADITIONAL LEGAL PEDAGOGY

Looking at the structure of a traditional law school through the eyes of a self-efficacy theorist, it is hard to imagine a more perfect laboratory for development of low self-efficacy beliefs in students about tasks most of them value highly (at least when they begin their studies), as well as low self-efficacy beliefs about students' abilities to avoid negative or painful events. It is completely predictable that depression and anxiety would pervade the law school classroom.

As an example, the following discussion explores what might happen to students' self-efficacy beliefs about their abilities to master the skill of learning to "think like a lawyer" as they move through the first year of law school.<sup>61</sup> Most entering law students are highly invested in mastering legal reasoning – it is a skill they value in and of itself, and is a necessary stepping stone to even more highly valued goals such as ultimate career success. Their personal experience with analytic tasks in the past (in most cases) has been positive, most have excelled at what they perceive to be thinking tasks in other academic settings, and most have received considerable reinforcement from others for their reasoning skills. In fact, being a clear thinker is what got most of our students into law school in the first place. Thus, it is logical to assume that the majority of our students begin law school in with some significant confidence (i.e., with high self-efficacy) that they will master legal reasoning. Predictably, first year students often begin their studies enthusiastically, reading cases for many hours, taking copious notes, talking with their classmates about law, and seeking their

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<sup>59</sup> *Id.* at 111.

<sup>60</sup> *Id.* at 111 (citing numerous empirical studies in support of these propositions).

<sup>61</sup> This same exercise could be done using any number of common first-year students' goals: achieving high grades, learning how to help someone with a legal problem, finding a satisfying job, learning about justice, etc. The goal of learning to think like a lawyer is used here by way of illustration only.

professors out during and after class.

As the year progresses, however, something often changes. Astute observers, and anyone who has ever lived through the first year of law school, report that students begin to run out of steam.<sup>62</sup> They participate less in class, avoid their peers who appear to be excelling, begin to experience stress symptoms, and often stop reading or briefing cases thoroughly. In self-efficacy terms, it is likely that their self-efficacy beliefs about their abilities to achieve academically have been reduced. Using our example of learning to "think like a lawyer," what could have caused that reduction in self-efficacy?

**1. Personal Experience:** Students begin to suspect fairly quickly that legal reasoning is not like anything else they've done before.<sup>63</sup> The Socratic classroom is not like any other classroom they've been in.<sup>64</sup> Case reading and briefing are not like any other homework assignments they've tackled in the past.<sup>65</sup> Thus, any strong self-efficacy beliefs about their reasoning abilities that they brought with them to law school soon become irrelevant. They must begin to build new self-efficacy beliefs from scratch. When they are called on in class, however, many feel they fail to shine. Some experience strong, negative physiological reactions to speaking publicly under pressure in large classes,<sup>66</sup> with large numbers of students sacrificing sleep, exercise, and leisure in an effort to man-

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<sup>62</sup> Roach, *supra* n. 1; Lawrence Silver, *Anxiety and the First Semester of Law School*, 1968 Wis. L. Rev. 1201 (1968).

<sup>63</sup> See *id.*; see also Scott Turow, *One L* (Putnam 1977) (recounting for posterity the experience of one law student in his first year); J. Christopher Rideout, *Explorations Into Law School Literacy*, 15(4) Prof. Educ. Research Q. 2, 7 (1994). Reviewing an earlier reading study by Dorothy Deegan, Professor Rideout states, "much of the anxiety of first-year law students could be attributed to the common anecdotal knowledge . . . that their previous success in college or on predictive exams does not necessarily guarantee the level of their individual performance in law school." *Id.*

<sup>64</sup> Peggy Cooper Davis & Elizabeth Ehrenfest Steinglass, *A Dialogue About Socratic Teaching*, 23 N.Y.U. Rev. L. & Soc. Change 249 (1997).

<sup>65</sup> See Mary A. Lundeberg, *Metacognitive Aspects of Reading Comprehension: Studying Understanding in Legal Case Analysis*, 22 Reading Research Q. 407 (1987); see also Lisa Eichhorn, *Hard Cases: Reading in the First Year of Law School* (unpublished manuscript 1995) (available from the author, who teaches at the University of South Carolina School of Law); Elizabeth Fajans & Mary R. Falk, *Against the Tyranny of Paraphrase: Talking Back to Texts*, 78 Cornell L. Rev. 163 (1993); Laurel Currie Oates, *Beating the Odds: Reading Strategies of Law Students Admitted Through Alternative Admissions Programs* (an unpublished paper presented at the National Reading Conference held in December of 1996); Rideout, *supra* n. 63.

<sup>66</sup> See Archer & Peters, *supra* n. 12.

age the time demands of a difficult workload.<sup>67</sup> Moreover, in most traditional law school classrooms, students receive little or no direct feedback, and grades almost always rest on one long final exam in each course.<sup>68</sup> Thus, as students stumble through the first weeks of law school, the experiences of many are negative, causing them to begin to suspect that they are not good at, and will never be good at, "thinking like a lawyer."<sup>69</sup>

**2. Vicarious Experience:** Even lacking personal success experiences, students might be able to acquire high self-efficacy by observing the success of others with whom they strongly identify.<sup>70</sup> However, in any school (or writing program) that relies on a curved grading system, 90 percent of upperclass students will land below the top 10 percent of the class.<sup>71</sup> Many upperclass students are extremely upset by their class rank and are often preoccupied with its impact on their job choices – to the detriment of their interest in class.<sup>72</sup> Thus, it would be difficult for students to hold on to a belief that they will succeed in light of watching so many of their more experienced peers reel from perceived failure.<sup>73</sup> Sadly, the students who have achieved academically are often the ones least

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<sup>67</sup> See Benjamin & Sales, *supra* n. 8, at 285-86; Glesner, *supra* n. 1; Martha M. Peters, *Management of Time a Necessary But Difficult Task*, Fla. Law. 272 (Summer 1990).

<sup>68</sup> Douglas A. Henderson, *Uncivil Procedure: Ranking Law Students Among Their Peers*, 27:2 Univ. Mich. J. L. Reform 399 (Winter 1994); Phillip C. Kissam, *Law School Examinations*, 42 Vand. L. Rev. 433 (1989); Greg Sergienko, *New Modes of Assessment*, 38 San Diego L. Rev. 464 (2001).

<sup>69</sup> See Lundberg *supra*, n. 65 (comparing self-talk of experts and novices when reading cases, and finding that novices blamed themselves for their inability to read a difficult decision, whereas experts blamed the judges who wrote the decision).

<sup>70</sup> As noted earlier, however, it is very difficult to raise a student's self-efficacy beliefs unless the student already has some reason to believe he or she will succeed. See text accompanying *supra* n. 49.

<sup>71</sup> *Supra* n. 68; see also Krieger, *supra* n. 11, at 11 ("I recently asked our entire first year class how many wanted to be in the top 10% of the class. The affirmative response from 90% of the class indicates the potential problem: if this *want* is perceived as a *need*, most of the class must eventually see themselves as failures.") (emphasis in original).

<sup>72</sup> See Taylor, *supra* n. 9; Glesner, *supra* n. 2.

<sup>73</sup> Bandura, *supra* n. 21, at 87 ("observing others perceived to be similarly competent fail despite high effort lowers observers' judgments of their own capabilities and undermines their effort") (citation omitted); Zimmerman, *supra* n. 11, at 974 n. 70 (citing Roger E. Schechter, *Changing Law Schools to Make Less Nasty Lawyers*, 10 Geo. J. Leg. Ethics 367, 390 (1996) (noting the author states that students who do not make top grades and win top honors are "publicly identified as . . . losers"); see also Krieger, *supra* n. 11, at 12 (urging law teachers to "pay special attention not to convey, expressly or tacitly, the message that only the 'top' students are valuable or employable. In most professional contexts, it is character, consistency, and competence that carry the day, but student behavior demonstrates that they believe otherwise.").

likely to come in contact with first year students because they are preoccupied with journal and moot court responsibilities as a direct result of their success with grades. Moreover, many are often exhausted by the increased demands on their time and are not enthusiastic about what they have achieved. Thus, if entering students look for confident upperclass models who have demonstrated excellence in the ability to “think like a lawyer,” they’re hard-pressed to find them. Similarly, entering students looking for signs of success from their 1L peers are left with observing what goes on in the Socratic classroom – and concluding that everyone is equally inept, confused, or embarrassed. In the rare instance when a peer succeeds, competition makes it difficult for others to identify with him or her.<sup>74</sup>

**3. Social Feedback:** The third means of developing self-efficacy is through direct feedback from the social environment, with the strongest input coming from individuals perceived to be in authority or holding special knowledge. Again, the very structure of law school inhibits the development of high self-efficacy in our students. Throughout most of the semester, concrete individual feedback is not to be found.<sup>75</sup> Evaluation of academic performance is almost always restricted to a grade placed on one exam in each class per semester.<sup>76</sup> Exams are frequently never given back, or never picked up, by students. Even when they are, written comments are rare. In class, the nature of the Socratic dialogue leaves students confused about when they are right and when they are wrong. Questions beget more questions, and traditional professors often leave students at the end of class with the infamous rhetorical question, “Well, that [classroom discussion] has given us more to think about, hasn’t it?” For students desperately seeking tangible feedback, the open-ended nature of classroom feedback assures low self-efficacy beliefs in relation to their ability to “think like lawyers” because they never get any reassurance that they are on the right track.<sup>77</sup>

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<sup>74</sup> Zimmerman, *supra* n. 11, at 972 n. 62 (citing Alfie Kohn, *No Contest: The Case Against Competition* 196 (1992) (observing that students in a competitive environment “wish failure” upon student who responds)).

<sup>75</sup> See Silver, *supra* n. 62.

<sup>76</sup> *Supra* n. 68; see also Krieger, *supra* n. 11, at 982-85 (questioning the meaningfulness of feedback on traditional exams).

<sup>77</sup> But see Paul T. Wangerin, *Objective, Multiplistic, and Relative Truth in Developmental Psychology and Legal Education*, 62 Tul. L. Rev. 1237, 1259 (1988) (asserting that at

**4. Physical and Emotional Reactions:** The final means of developing self-efficacy, physical and emotional reactions to situations, is equally likely to develop low self-efficacy in our students about their abilities to be successful law students, and ultimately successful lawyers. When people are faced with extreme stress, the natural reaction is to run away or fight.<sup>78</sup> This “fight or flight” response is often accompanied by sweaty palms, rapid heart rate, loss of analytical reasoning ability, nausea, and other physical reactions. These physical responses are often experienced by students called on in a large class, facing a three or four hour exam that will decide their academic fate, or looking in the eyes of a judge during their first oral argument experience.<sup>79</sup> Unless students are expressly taught otherwise,<sup>80</sup> most are likely to interpret these natural stress reactions as indicators of the likelihood that they will fail to develop the legal reasoning skills they seek. Of course, many of these physical responses interfere with performance in very concrete ways,<sup>81</sup> thus further reducing students' efficacy beliefs by confirming their conviction that they will fail. Quite apart from these common stress reactions to immediate classroom experiences, the well-documented time demands of law school take a physical and emotional toll as well. Students frequently report loss of sleep, loss of appetite, reduction in exercise, and loss of contact with loved ones as natural consequences of the rigorous schedule of a traditional first-year curriculum.<sup>82</sup>

Even a cursory examination of a typical first year experience, then, leads to the inference that the institutional environment reduces students' self-efficacy beliefs about their ability to think like lawyers -- a fundamental academic and professional task. As our students' efficacy beliefs about their abilities to develop critical law student skills diminish, what happens to their emotional states? Low self-efficacy about one's ability to reach a valued goal leads to sadness. Similarly, to the degree that students experience signifi-

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least some of this stress is the result of inappropriate thinking on students' part as they learn to move from "dualistic to multiplistic and relativistic thinking," and that the angst experienced in law school may be a necessary part of the educational task).

<sup>78</sup> Archer & Peters, *supra* n. 12.

<sup>79</sup> *Id.*; Carney, *supra* n. 1; Glesner, *supra* n. 1.

<sup>80</sup> See generally Krieger, *supra* n. 11 (developing the thesis that students benefit from being taught expressly how to be "whole people" so they can be "whole lawyers.")

<sup>81</sup> Archer & Peters, *supra* n. 12.

<sup>82</sup> *E.g.*, Krieger, *supra* n. 11, at 8-9.

cant negative consequences as they struggle to develop this new skill (e.g., embarrassment in class, receipt of grades they perceive to be unacceptably low, loss of a balanced life due to the time demands of studying, rejection in the job market) that they feel ill equipped to avoid, they will also be anxious. It is no wonder law school has been called “the dark night of the soul.”<sup>83</sup>

### III. SELF-EFFICACY THEORY AND LEGAL WRITING PROGRAMS – MAKING A DIFFERENCE

The question raised in the title to this paper is “Are We [legal writing professionals] Part of the Problem and Can We Be Part of the Solution?” The answer on the first count is “perhaps” and the answer on the second is a resounding “yes.” To the extent that legal writing programs and classrooms persist in mirroring the aspects of traditional legal education that are at the heart of sabotaging student self-efficacy, we are indeed perpetuating the problem. To the extent that we have the freedom to choose, or have already chosen, to do things differently, we can be significant framers of a solution. To differing degrees, depending on our program design, we are already in the enviable position of being able to teach in small classrooms, have significant one-on-one student contact, work with Teaching Assistants, give multiple assignments, many with re-writes, and control the grading environment.<sup>84</sup> No matter how small our budgets, no matter how constrained our ability to control our program designs, no matter how overwhelmed we are by our own workloads,<sup>85</sup> self-efficacy theory provides us with a tool to create positive, and significant, change in our students' lives. Like all legal educators, we need to take ownership of our part in the problems of depression and anxiety in law school, but also pride in our potential ability to turn that problem around.

Looking at the four means for development of self-efficacy again, the possibilities for development of positive self-efficacy in our writing classrooms are endless. Positive self-efficacy about stu-

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<sup>83</sup> Roach, *supra* n. 1 (quoting Jay Feinman & Marc Feldman, *Pedagogy and Politics*, 73 *Geo. L.J.* 875, 878 (1985)). Ms. Roach makes a strong case in her article for the fact that the emotional impact of law school goes beyond the negative ramifications of the psychological effects themselves, but rather directly affects academic progress.

<sup>84</sup> See generally Ramsfield, *supra* n. 18.

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

dents' abilities to achieve meaningful goals, combined with our management of the environment to reduce unnecessary negative consequences for students, will directly reduce depression and anxiety in our students. The following discussion is by no means an exhaustive or particularly detailed list of possibilities for the writing classroom. Rather, it is my hope that these suggestions will stimulate creative thought for each of us in the legal writing classroom about the many ways we can help our students identify appropriate educational goals, and about how we can increase their self-efficacy beliefs about their abilities to reach these goals.

For purposes of illustration, let's examine how the thoughtful structuring of a first-year writing classroom could reduce unnecessary negative consequences for students and positively increase their self-efficacy beliefs about their ability to learn to "think like lawyers."<sup>86</sup>

**(1) Personal Experience:** We can increase our students' self-efficacy beliefs about their ability to be clear legal reasoners by drawing logical connections between their past intellectual successes and the present challenge of learning this new reasoning skill, thus taking advantage of high self-efficacy from the past to fuel the effort needed to learn this new skill. Even those students who are struggling the hardest have had some intellectual success in the past. To the degree that we can tap into that past success, we can increase the likelihood that the student will do whatever is necessary to succeed now.

In addition, we can structure exercises that are sufficiently challenging to build resilient self-efficacy beliefs, while being manageable enough to allow students to experience success. Self-efficacy theory teaches us that it is particularly important for beginners to experience success early on, reinforcing the notion that it makes sense to structure assignments so that students learn legal reasoning in increasingly difficult steps, building confidence with each success. As an example, a program that offers an opportunity for students to analyze a case in the first weeks of school, synthesize two or more related cases a week or so later, and then incorpo-

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<sup>86</sup> This same exercise can be done productively for any number of our own goals, or those of our students. For example, we can increase or decrease our students' self-efficacy beliefs about their ability to be influential leaders in the legal community; their ability to write accurately; their ability to do reliable research; their ability to have happy families; their ability to be strong public speakers, and on and on.

rate those cases in a short intra-office memo would be well on the way to building high self-efficacy about legal reasoning in its students.

Expressly teaching logic and incorporating logic exercises in the curriculum would be another way to ensure our students' successful mastery of legal reasoning.<sup>87</sup> Where students lack any incoming skills they need to master our initial lessons, we should strive to warn them through pre-admission information about our expectations and we should work towards having remedial opportunities available if a particular student needs more attention to begin to succeed.<sup>88</sup>

To be effective, of course, the program would have to set clear goals for each assignment, give students clear feedback about where they stand in relation to those criteria, and give students who miss the boat a chance to rewrite or otherwise redeem themselves.<sup>89</sup> Experts in rhetoric theory emphasize that you can't separate thinking, speaking, and writing.<sup>90</sup> Armed with that knowledge, we should give students as many opportunities as possible to think out loud and to write about what they are thinking. With each opportunity, we should strive to give express feedback, helping them know when they have succeeded and know what they need to do to succeed when they have failed.

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<sup>87</sup> Professor Craig Smith, Director of the Writing Program at Vanderbilt, gave an intriguing demonstration at the 2000 Legal Writing Institute Conference highlighting use of a computer-generated spreadsheet to help students working openly in a group learn to compare and contrast holdings of related cases.

<sup>88</sup> I do not mean to imply that legal writing professionals should take hands-on responsibility for every struggling student. Rather, I mean that we can significantly contribute to the likelihood that all of our students will succeed if we consciously design programs that identify the incoming skills each will need, and have a referral service available that will help students catch up if they are behind. At UNC, we have had considerable success asking for volunteers to help others. Our academic support program rests on the principle that we all have strengths and we all have weaknesses, and that if we can share our gifts we will all benefit.

<sup>89</sup> Judith W. Wegner, Professor and former Dean of the UNC School of Law, used an interesting technique to help first-year students in her small section seminar develop exam-writing skills. She gave students a practice exam and had each student continue to rewrite his or her exam until it was written at an "A" level. In that way, every student in her class experienced success in the exam writing process and learned first-hand that he or she had the capacity to write such an exam.

<sup>90</sup> I was first introduced to this concept in 1991 at a workshop run at the University of North Carolina School of Law by Professor James Williams of the Department of English at the University of North Carolina. See generally Kellen McClendon, *The Convergence of Thinking, Talking, and Writing: A Theory for Improving Writing*, 38 Duq. L. Rev. 21 (2000) (exploring the interface between thinking, talking, and writing as a way to improve students' writing).

**(2) Vicarious Experience:** First-year writing programs often isolate students from upperclass students who have succeeded in the past.<sup>91</sup> That is a mistake. Rather, self-efficacy theory teaches us that we should take every opportunity to help students learn that others have succeeded before them. The more our students learn about the successes of other students, the more they will believe that they, too, will be successful. The more they believe that they will be successful, the more successful they will, in fact, be.

There are many ways to integrate the work of successful upperclass students in first-year writing programs. Upperclass students can work as Teaching Assistants and, in some programs, carry a great deal of the teaching load themselves.<sup>92</sup> They can work as tutors, mentors, or advisors. On a less intensive level, we can hold panels of upperclass students who can address questions of beginning students on topics we identify as relevant to our class assignments (e.g., how do you maintain coherent research notes? what resources have you found helpful when analyzing a legal problem? How has work on a journal affected your second year studies?). Older students can be invited as guest speakers in class on topics they excelled in when they were first-year students. If you are hesitant to bring actual students into the classroom, you can still show many, many examples of outstanding student work. Perhaps even more effective is the use of less-than-stellar student work that has led to improvement and, ultimately, to excellence. The more we use examples of successful student work (especially showing progressions of work from a novice to an expert stage), the more fledgling students will come to believe that they, too, can make progress. By introducing current students to the value of perseverance, we encourage them to persevere themselves. Diversity is an important component of selecting models. Under self-efficacy theory, we know that we will develop self-efficacy by watching those *with whom we closely identify* succeed. Thus, we need to incorporate students with a wide range of interests and a variety of backgrounds as models.

Use of modeling is not limited to upperclass students. Our students can learn a great deal from each other, and collaborative learning can be valuable tools for helping students gain useful feed-

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<sup>91</sup> Ramsfield, *supra* n. 18, at 10, 15 (noting 56% of legal writing programs in 1994 used teaching assistants in some capacity).

<sup>92</sup> Ramsfield, *supra* n. 18, at 14-15.

back from their peers.<sup>93</sup> Similarly, using overheads or computer editing techniques to move through an example of legal logic gives students a chance to compare their thinking to that of their peers.<sup>94</sup> On a programming level, consider adopting an open honor code philosophy – one where students are encouraged to share their thoughts and writing with each other and with experts. In general, the more we isolate students from one another, set students in competition against one another, and hold out only our best and brightest as examples, the greater the risk that our students will not develop the high self-efficacy they need to succeed.

**(3) Social Feedback:** Students in law school are starved for feedback. In legal writing classes, we often have a rare opportunity to give them the feedback they need to develop self-confidence in their skills.<sup>95</sup> Research on self-efficacy indicates that feedback has its greatest impact on self-efficacy when it comes from someone who is perceived to be an expert and is trusted and respected.<sup>96</sup> Thus, our own behavior in the classroom and our positive, professional relationships with our students will dictate the effect that our feedback will have. It is equally important that our students know why we are qualified to teach them, so we should let them know our strengths and our weaknesses, and our teaching credentials. Similarly, our ability to develop a positive, supportive classroom environment will affect what they can learn from each other. It is only in an environment of trust and mutual respect that they will be able to use each other as models.<sup>97</sup>

The effect of feedback cuts both ways: feedback that is perceived as strongly negative and condemning can reduce self-efficacy just as certainly as valid positive feedback can increase

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<sup>93</sup> See generally Zimmerman, *supra* n. 11. Interested readers would also enjoy Volume 15, No. 2 of *The Second Draft* (June 2001), containing a collection of short articles on the use of collaboration and cooperation in legal writing programs.

<sup>94</sup> *Supra* n. 87. If you have a few students who are not "catching on" in group brainstorming exercises, self-efficacy principles would encourage us to do some additional, private exercises with that group so that they, too, experience incremental successes.

<sup>95</sup> Ramsfield, *supra* n. 18, at 7 (noting that the 1994 survey of the Legal Writing Institute documented that students receive feedback at least three times a year in all legal writing programs, and at least four times a year in most).

<sup>96</sup> Maddux, *supra* n. 16, at 11.

<sup>97</sup> The importance of developing trust in a learning environment, especially a small group learning environment, cannot be overemphasized. I am indebted to Edward M. Neal, Director of Faculty Development at the University of North Carolina School at Chapel Hill Center for Teaching and Learning, for introducing me to this important concept.

self-efficacy.<sup>98</sup> Additionally, negative feedback that the student cannot avoid (for example, feedback that appears erratic and unpredictable, personally abusive, or which the student cannot control by his or her own efforts) is devastating.

Legal writing teachers typically give written feedback on at least major assignments, and recent studies indicate that we often give feedback and a chance for rewrites on many other assignments as well.<sup>99</sup> Feedback that is thoughtfully structured to the goal we have set will maximize the development of positive self-efficacy. For example, in our illustration, our goal is to develop high self-efficacy in our students about their ability to "think like lawyers." Our feedback, then, should be clearly directed to that goal, targeting analysis that is accurate and sophisticated, and raising questions about analysis that is flawed.<sup>100</sup> Our focus should be on objective intellectual content, never straying to a personal attack on a student's innate reasoning abilities or self worth.<sup>101</sup>

The language we use when evaluating student work is important.<sup>102</sup> Self-efficacy theorists emphasize that it is the students' *perceptions* about our feedback that matters, not what *we think* we are communicating. Thus, whatever grading system we adopt, we

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<sup>98</sup> Anne Enquist, *Critiquing Law Students' Writing: What the Students Say is Effective*, 2 Leg. Writing 145, 166-68 (1996) (noting that students participating in her study were "unanimous in their remarks indicating that positive feedback is an essential part of their learning").

<sup>99</sup> Ramsfield, *supra* n. 18, at 6-7.

<sup>100</sup> See Enquist, *supra* n. 98, at 160-66 (documenting the effectiveness of "in-depth explanations" accompanying comments on student papers).

<sup>101</sup> Bandura, *supra* n. 21, at 102 notes that social persuasion comes in many forms. Some are extremely subtle. As an example, when interacting with people we perceive to have limited abilities, we often "pull our punches," giving "disingenuous comments" or otherwise communicating that we do not expect as much. In the legal writing context, we need to be sure that we maintain high standards for our students and communicate our faith that they are able to reach those standards. Where we have concerns about our students' abilities to reach the standards set, we can consider breaking the goal down to smaller, more manageable tasks and helping students identify what they need to do to master each incremental step.

<sup>102</sup> Students, perhaps understandably, are enormously preoccupied with grades. To help combat the negative effects of traditional grading and to distinguish our writing course from doctrinal classes, at the UNC School of Law we have experimented successfully with using a competence based grading system (i.e., evaluating student work in comparison to an objective standard rather than to each other) that adopts professional definitions of grades (e.g., an "A" memo is one that the senior partner could circulate to the firm or a client with no significant revisions, a "B" memo is one that the senior partner would find useful, but would need to revise before circulating, etc.). Students are given a copy of that grading rubric with their syllabus on the first day of class, and are told that it is our goal for every student to achieve as high a level of performance as possible on each assignment. Grades in our writing program are factored into students' overall class rank.

should be clear about levels of competency: what grade or other evaluative terms indicate that the student has met expectations, which ones indicate that the students have truly excelled, which ones indicate that the students have not yet caught on or demonstrated competence? Do the students understand your grading system the way you do? Do you believe the grading system you use is fair, reliable, and valid? Have you made rational choices between comparative grading (grading on a curve) and standard based grading (grading based on each person's performance in relation to a set performance standard)? Do you want your students to assess their performance in comparison to someone else or in comparison to an objective standard of excellence?

Finally, we can create a classroom environment that allows students to give each other honest and supportive feedback.<sup>103</sup> Peer editing is an increasingly popular tool that not only saves the teacher time, but allows students to receive feedback from each other.<sup>104</sup> Peer editing, or in the case of our example, a related brainstorming exercise, also allows students an opportunity to compare their own performance to others -- an important step in the development of self-assessment tools critical to the development of high self-efficacy.<sup>105</sup> One of my favorite students who graduated many years ago was working hard, but not meeting my expectations. She was disappointed in her grade, and I was too inexperienced to articulate clearly what she was doing wrong. Fortunately, I knew enough to ask a student who had earned a very high grade if I could use that student's paper as a teaching model. When the distressed student read the other student's work, she said in amazement, "I knew you wanted me to think hard. I didn't know you wanted me to think THIS hard."

**(4) Physical and Emotional Reactions:** There is a halo effect to physiological and emotional responses that directly affects self-efficacy.<sup>106</sup> When I am feeling good physically or emotionally, I

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<sup>103</sup> See generally Janet Mancini Billson, *The College Classroom as a Small Group: Some Implications for Teaching and Learning*, 14 *Teaching Sociology* 143 (1986) (applying principles of small group process to create an effective classroom environment).

<sup>104</sup> See e.g. Ann Piccard, *Using Peer Editing to Supplement Feedback*, 15 *Second Draft* 14 (June 2001); Ruth Anne Robbins, *Varying the Traditional Methods of Peer Editing*, 15 *Second Draft* 15 (June 2001).

<sup>105</sup> See *supra* n. 87 (discussing Craig Smith's group case analysis exercise); Susan C. Wawrose, *Using Groups to 'Divide and Conquer,'* 15 *Second Draft* 14 (June 2001).

<sup>106</sup> See Glesner, *supra* n. 1; see also James E. Levy, *The Cobbler Wears No Shoes* - A

am likely to believe I can master the task that I am facing at that time. When I am feeling bad, physically or emotionally, I am likely to attribute at least some of that bad feeling to my incompetence relating to the task at hand. Thus, our attention to details in and around the classroom and in our conference rooms can have a major impact on the self-efficacy our students develop. Temperature matters. Noise matters. Having adequate time matters. Reducing unnecessary anxiety matters.<sup>107</sup> Privacy in conferences matters. Hunger matters. Rest matters. To the degree that we can control these things, we need to make sure our classes and conferences are held in locations with adequate space and light, where there is little noise interference, and that they are not scheduled when students are tired or hungry.

Similarly, if you are discussing confidential or private information, make sure you are in an environment that respects the student's confidence. Consider the healing effect of laughter. Consider our own state of mind when we enter the classroom – moods are contagious.<sup>108</sup> Have you ever chosen to meet outside on a nice day? Have you taken the class for a walk or a "field trip" to a local courthouse? Develop a referral base of professionals in the community or in your school to whom you can refer students who appear despondent, depressed, or inordinately anxious. Acknowledge students' moods as well as their intellectual input.<sup>109</sup> Both matter. Consider sharing your own feelings from time to time. How does it feel to be confused in your analysis? Do you enjoy legal analysis? Acknowledging that a student is angry or confused or sad about receiving a grade lower than he or she wants can go a long way towards releasing the student from the feeling, and freeing the student to try again.<sup>110</sup> Our students need to associate the study of legal

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*Lesson for Research Instruction*, 51 J. Leg. Educ. 39, 41-42 (March 2001).

<sup>107</sup> See Benjamin & Sales, *supra* n. 8, at 282 (noting that cumulative daily hassles create as much or more stress than major life events). Self-efficacy theory teaches us that students feel anxiety when they believe they cannot avoid a negative consequence. Consider what you can do to reduce negative experiences over which students have no control. As an example, we offer an oral argument support group for students with severe speech anxiety at the UNC School of Law, a group which experience has taught us includes approximately 5% of each entering class.

<sup>108</sup> See Levy, *supra* n. 106 (emphasizing the importance of creating a positive mood in a classroom in order to motivate students to learn, and the contagious nature of moods).

<sup>109</sup> See *id.* (stating that people communicate on two levels -- the cognitive and the emotional, and that failure to attend to both leads to misunderstandings and reduction of communication).

<sup>110</sup> Ruth Ann McKinney, *Are We Hearing What They're Saying? Active Listening Skills*

research, reasoning, and writing with positive feelings and personal pride in accomplishment. Returning to our example, such associations would increase their self-efficacy about their ability to "think like lawyers" and that, in turn, will increase the chance that it will happen.

#### V. CONCLUSION

While legal writing programs cannot be a panacea for all the ills of the legal educational world, we are uniquely positioned to make a significant difference that will stay with young lawyers throughout their careers. As one author has stated:

Although a sense of control, competence, or mastery does not ensure good psychological adjustment, good adjustment is difficult, if not impossible, without such beliefs. The most common complaints of emotional distress [anxiety and depression] are both characterized by the belief that the good things in life cannot be obtained and that the bad things in life cannot be avoided through one's own efforts. Sometimes perceptions of lack of control are the direct result of ineffective behavior, but such perceptions also can produce ineffective behavior, as well as inaction and inertia.<sup>111</sup>

By thoughtfully integrating the teachings of self-efficacy theory into the structure of our writing programs and the realities of our writing classrooms, we can empower our students with the valid belief that they can develop the skills necessary to excel in the practice of law -- and then they will.

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*for Lawyers* (unpublished manuscript presented at the Festival of Legal Learning, Chapel Hill, NC 1997) (copy on file with the author); see generally Carl Rogers, *On Becoming a Person* (Houghton Mifflin 1961).

<sup>111</sup> Maddux, *supra* n. 16, at 37.