The Classroom Experience

Law School Background

How is law school different from college?

In law school, acquiring vast amounts of knowledge is not enough. You must acquire that knowledge only so that you can demonstrate your skills. What you need to learn is how to apply the knowledge you acquire and to do so in writing.

Best practices for acquiring new skills:

1) Acquiring new skills requires you to practice those skills over and over
2) Acquiring new skills requires you to seek out and obtain feedback from experts
3) Acquiring new skills requires a large expenditure of time by you and does not necessarily come easily or quickly.

In law school, while students must learn many skills, the principal skills they must learn are:

1) Legal reasoning
2) Expressing their reasoning in writing

Law schools assume that you possess certain skills and knowledge before arriving at law school. If you feel deficient in any of these areas, you need to address this deficiency as soon as possible:

1) Reading comprehension
2) Writing skills
   a. Law schools assume you possess excellent knowledge and skill regarding grammar, usage, paragraphing, punctuation, organization, and other related writing skills.
3) Learning skills
4) Basic knowledge of civics
   NOTE: Your Burks Scholar will cover much of this material in the first class sessions.
   a. How cases move through our legal system
   b. Court hierarchies
   c. Concepts of precedent and appeal
   d. How statutes become law
   e. The roles lawyers commonly play and the work they do
   f. State and federal constitutions and their roles within our legal system
   g. Relationships between federal and state law and between our state and federal systems.
5) All law school assume you are teachable

**Socratic Method**

This method of instruction is characterized by little lecture and lots of questions directed by the professor to the students.

Professors select one student (or, occasionally two or three) and ask them to describe aspects of a rule or court opinion the class is studying.

Many professors require the student to identify the relevant facts, the court’s holding, and the policy underlying the holding. For rules, many professors require the student to break the rule down into a set of sub-requirements and articulate the policy underlying the rule.

The professor then focuses on the application of the holding or rule by asking the student to apply the rule or holding to a hypothetical question or series of hypothetical questions.

**Professors assume you will come to class having carefully read and briefed all the assigned court opinions.**

The Socratic Method requires students to learn vicariously because, while a student is being questioned, the other students in the class are not directly involved. However, law professors assume that all the students in the class are following along, answering the professor’s questions in their heads and learning from the selected student’s answers to the questions and the professor’s responses to the student’s answers.

The non-selected students must practice by trying to answer the professor’s questions in their heads and apply the professor’s feedback and corrections to their answers.

**Note-taking**

**Introduction**

To be able to follow the discussion and produce a record in their notes that they will be able to use later, students need to actively determine, throughout the class session, what their professors are asking and to what goal they are teaching.

You must focus on the law and the application of the law in class. Your notes should reflect this goal.

**You should not try to write down everything.** You should also not be on the internet.
Laptops vs. Handwritten Notes? A few things to think about:

Laptops have certain negatives:
1) Distractions (internet, email, games, etc.)
2) Stenographical temptation
   a. When students use a laptop in class, they are tempted to write down every word said by their professors and their classmates. This prevents students from taking an active role in the classroom experience and being mentally engaged in the classroom discussion.
   b. Your classes are intended to be a dialogue between professor and student. If you write down every word as it is being said, you will likely lose track of what you are supposed to take away from that day’s class.
   c. More importantly, you won’t be part of the dialogue because your focus will be on the words you are hearing and not on the ideas being discussed.
3) Your professor may not allow them.
   a. Or at the very least, there may be times during the semester when your professor may ask you to close your laptop.

With handwritten notes, you know you will not be able to take down every single word, and you are more likely to listen carefully and remain engaged in the classroom dialogue.

Whichever way you choose to take notes, you want to make sure you brief your cases in the same manner. This will make correcting your case briefs during class discussion much easier.

**Purposes of Class**

Law professors generally assume students have acquired most of the basic knowledge they will need about a case from their reading of the text. Consequently, in class, professors focus on developing students’ lawyering/analytical skills.

Expert learners typically have in mind four core goals in learning from lectures:

1) Self-monitoring for comprehension (understanding what their professors are trying to teach)
2) Help-seeking (resolving areas of confusion)
3) Obtaining feedback (by comparing their answers to their professors’ questions to their peers’ answers)
4) Recording what they have learned in a form that allows for easy use in organizing their course materials and studying for examinations
These goals require you to:

1) Prepare for class carefully
2) Remain focused throughout the class session
3) Ask questions and volunteer answers
4) Take clear, succinct, and well-organized notes

**Preparing for Class**

1) Set a learning goal
   a. Effective goals must meet the following four criteria:
      i. They must be concrete. They must have explicit criteria for their achievement so that the student can know what she needs to achieve it
      ii. They must be short-term
      iii. They must be challenging
      iv. They must be achievable
   b. Goal setting requires some thought. You cannot simply look at an assignment in a law school syllabus and set a goal for it because you do not know what it is you must learn.
      i. You need to look over the assigned materials and get a feel for the topic, the length of the assignment and the complexity of the topic.
      ii. You also want to consider any instructional objectives provided by the instructor.

2) Read and Brief the Cases
   a. In college, professors devote considerable classroom time to re-explaining the knowledge already explained in the textbooks for the course. In law school classes, professors start with the assumption that all the students in the class can acquire knowledge from text and therefore focus classroom time on student skill development, i.e. students’ lawyering/analytical skills.
      i. You will also want review your briefs for a few minutes before the start of class.

3) Review/Synthesize Your Prior Day’s Notes
   a. Humans learn new material by connecting the new material to their prior learning.
   b. As part of this review, you are determining the extent to which you understood what occurred in the previous class session and evaluating the success of the learning strategies you used in preparing for and participating in the last class session.
   c. This activity allows you to identify a need for any assistance from your peer or instructor.
      i. Confusion is likely to produce additional confusion. You must clear up any confusion as soon as possible.

4) Plan Notes
a. A particularly important activity for maximizing your learning from lectures involves planning your notes.
   i. Plan your notes in light of your goals in having notes – monitoring your learning for comprehension, obtaining help where needed, getting feedback on your progress in a course, and having an accurate record of what transpired in class.
   ii. Prepare a note-taking form that will result in a set of notes that you will readily be able to use.
   iii. Plan the structure of your notes (headings, sub-headings, use of underlining or highlighting, etc.)
   iv. Develop a set of abbreviations and a shorthand technique that allows for rapid note taking.
      1. For example, “Π” instead of “Plaintiff” and Δ instead of “Defendant.”

b. Use a separate notebook for each course
c. Use a separate page for each class session.
d. Imposing a structure on your note-taking will:
   i. create a schema for your new learning
   ii. speed up your note-taking
   iii. require you to process the material you are hearing rather simply recording what is said in class, and this will increase the likelihood of later recall.

There are many different approaches to note-taking. Here are a few for you to consider. As a general rule, regardless of the approach you choose, you want to make sure you leave plenty of space between topics and headings for your reactions, questions, and corrections/additional information:

1) Two-Thirds/One-Thirds
   a. One example of this is devoting two-thirds of the page (divided vertically) to class discussion and one-third of the page for your reaction to the discussion
   b. Another example is devoting two-thirds of the page (divided vertically) to your case brief and one-third to your class notes and corrections about the case.

2) Cornell Method
   a. Under this approach, the student divides the paper into two columns: the note-taking column (usually on the right) is twice the size of the questions/key word column (on the left). The student should leave five to seven lines, or about two inches, at the bottom of the page.
   b. To assist with future reviews, relevant questions (which should be recorded as soon as possible so that the lecture and questions will be fresh in the student’s mind) or key words are written in the key word column.
   c. Within 24 hours of taking the notes, the student must revise and write questions and then write a brief summary
in the bottom five to seven lines of the page. This helps to increase understanding of the topic. When studying for either a test or quiz, the student has a concise but detailed and relevant record of previous classes.

For more information, see:

http://lsc.cornell.edu/Sidebars/Study_Skills_Resources/cornellsystem.pdf

5) Plan strategies for focusing attention
   a. Assume some disagreement
      i. You will not agree with everything your professor or peers say
      ii. Do not allow these disagreements to interfere with your acquisition of knowledge and skills need to succeed in law school.
   b. Develop questions to ask and questions you expect to be answered
      i. These questions should address areas of confusion for you and areas you expect the professor to address in the classroom discussion

Effective Listening

1) Preparation (as described above)
2) Preparing yourself mentally, including removing distractions, avoiding hasty judgments and jumping to conclusions, resisting boredom, frustration, and other emotional reactions and being physically ready (not hungry, thirsty, or tired) to focus attention
3) Self-monitoring throughout discussion for comprehension
   a. Evaluate whether you understand what the professor is trying to teach
   b. Evaluate whether your class preparation was effective
   c. Make sure you do not lose your focus
   d. Your professor can speak at 100 words per minute. You can think at about 400 words per minute.
      i. Try to anticipate what he/she is going to say next.
      ii. Evaluate what he/she is using for supporting evidence.
      iii. Periodically summarize the class discussion for yourself.
4) Sense-making
   a. Constantly strive to translate into your own words what you are hearing in class.

Effective Note-Taking

1) Put a heading on your notes.
2) Be sure to date all your notes. The sequence of material is important.
3) Focus on Key Points/Follow Cues
a. Be able to distinguish the important points from the not-so-important points
b. One of the worst things a law student can do is try to record everything spoken in class
c. Listen for ways to relate ideas to previous lectures, to the textbook, and to previous experiences.
d. It is equally misguided to decide to simply listen and rely on memory and secondary sources (e.g., hornbooks, commercial outlines) to make sense of course material.
e. Expert learners know to attend to and follow the cues provided by their instructors. These cues include:
   i. The things they write on the board
   ii. Any outlines or study guides the professors provide
   iii. The things they repeat or restate in different words
   iv. The things they summarize
   v. The things they review at the beginning or end of their lecture
   vi. If your professor refers to his/her recent book or article
   vii. When your professor glances at his/her lecture notes before making a point

4) Write down all hypotheticals
   a. After discussing a case, your professor may change the facts or present a hypothetical situation.

5) Try not to take notes in paragraph form. It is difficult to find important parts when you are studying for a test. Take notes in lists or “one-liners” as much as possible.

6) Use abbreviations when possible.

7) Leave lots of space.
   a. Students who leave themselves plenty of space tend to record more of the information they need than those who limit their writing space in any way.

8) Correct confusion regarding rules and holdings and restate them.
   a. Expert law students also use class discussions to correct their case briefs and rule statements.
   b. Expert law students also use lectures to develop statements of a rule or holding in their own words.

9) Organize while writing.
   a. Think before you write – Listen actively.
   b. Expert law students force themselves to organize the material as they take notes.
   c. Do not worry about using numbers and letters while taking notes in class.

Post-Class Activities
The “Snowball Effect” – Legal learning is a cumulative process where each class builds on the concepts learned in previous classes. If you do not understand the first week’s lectures as well as you should, then it will be impossible to understand the next week’s lectures to their fullest because next week’s concepts will build on this week’s ideas.

However, if you understand this week’s material to the fullest, you already have a head start on next week’s material.

Expert students recognize that the first few hours after class are a crucial time period with respect to their learning from class experiences.

At that time material is much fresher and more easily remembered, areas of confusion are more readily identified, and abbreviations and shorthand are more easily recalled.

Expert students force themselves to review and revise their notes as soon as possible after the class session has ended. This effort involves three tasks:

1) Reviewing for comprehension and legibility
   a. Make sure you understand everything you wrote down
   b. Are there things that can be stated more concisely and clearly?
      i. Do not be afraid to question what you wrote
      ii. Your job is to distill your notes down to their essence
      iii. Remember, your class notes are far from perfect and should be treated accordingly.

Handwritten notes will need to be typed into your computer, and therefore, you are more likely to change them and even remove material. In addition, by typing the notes in this fashion, you will have to reconsider and review every aspect of what you wrote during class, and this will help you further learn the material.

Even when you are pressed for time, resist the temptation to leave your notes in their original form.

2) Reflect on your experience of the class
   a. Reflect on the success or failure of your efforts to take notes and the causes of the success or failure
   b. Review the hypotheticals discussed in class
c. Create your own hypotheticals to test whether you truly understand a new concept.
d. If you still have questions, be sure to answer them immediately.

3) Transfer to Outline/Graphic Organizer
   a. Transfer your notes as soon as possible but no later than the weekend following the class session.
      i. This quick turnaround serves as a second opportunity for clarification while the material is still fresh and ensures better encoding of the new learning.
      ii. This also connects the new learning to the student’s prior learning, which also increases the speed and accuracy of later efforts to recall the learning.

   Outlining

   What is an outline? An outline is an attempt to reduce the materials for one class into a cogent and organized study aid of reasonable length. An outline should illustrate how the various ideas you have learned in class interact with one another.

   What are goals for creating an outline?

   1) Structuring the course material
      a. Outlining courses offers you an opportunity to create structures that will increase the likelihood that you will be able to recall and use what you have learned.
      b. The hierarchy you create allows your brain to more readily store the learning.

   2) Recording the course material

   3) Checking for comprehension
      a. The act of creating the course outline will cause you to check for comprehension.
      b. Every time expert law students add to their outlines, they assess whether they understand what they are adding.
      c. This helps you understand the words of the rules and holdings you are including, but you can also develop examples and non-examples of the concepts those words describe.

   The process of creating the outline is actually more important than the end product. It is while creating the outline (or similar study aid) that students place what they have learned in class into a larger framework.

   Outlining should begin early in the semester (within the first two or three weeks of the start of the semester).
Do not use a commercial outline in place of your own. Commercial outlines are often extremely long (300-400 pages is not an uncommon length) and they do not capture your professor’s particular approach to the subject matter.

Do not use a classmate’s outline.

a. You learn the law when writing an outline. Outlining is part of a process that leads to a deeper understanding of your courses.
   i. Another student’s outline would be fine if your exams emphasized memorizing a long list of rules, but they do not.
   ii. Exams are about identifying problems and analyzing them, and the outlining process, which requires synthesizing rules and organizing them logically, is an integral part of mastering the art of legal analysis.

b. Your outline must be a reflection of your professor’s class.

c. Outlines are unique to their authors.
   i. Your outline will not be a helpful study tool unless it is written based on your own strengths and weaknesses.

d. Another student’s outline may contain mistakes.

When should you outline? Consider creating your outline on a rolling basis – For example, reviewing and outlining a week’s worth of class notes over the weekend.

When creating your outline, you will do the following:

1) Organize your ideas around concepts and rules rather than merely listing cases
2) Display the proper relationships between concepts
3) Classify/synthesize cases into groups
4) Uses cases and hypotheticals to help define concepts and illustrate rules

How to Create an Outline

Before we talk about how to create your outline, you should know there are two common errors most novice law students make when outlining their course material:

1) Failing to start early and to work continuously on their outlines
2) Failing to make the extra effort necessary to create a structured portrayal of the course material.

So, start early, work continuously on your outline, and commit to making the effort to truly structure the course material you’ve learned.

So, how do you create an outline?

1) Create a list of concepts and ideas important to the course
Where do you find the concepts and ideas?

i. Your case book
ii. The course syllabus
iii. Your class notes
iv. Your case briefs

Start with your casebook and focus on the table of contents. The table of contents is likely broken down into topics that should be included in your outline.

Once you have listed all the topics from the table of contents, move on to your syllabus. The syllabus will help you find additional concepts the professor has focused on during the year.

Next, review your class notes and case briefs, scanning them for additional ideas you may have missed.

**Your goal at this point of the process is to create a long list of ideas. Do not worry about organizing the ideas yet.**

Do not worry about creating a “perfect” list. The list should be a product of your own brainstorming session. As such, it will contain ideas you may later decide to exclude.

You will be updating your outline weekly throughout the semester, so you will have to create a new list of topics each week.

Remember, your outline will be constantly evolving until the moment you incorporate the material from your last day of class. You add new ideas each time you work on the outline, and you may have to reorganize existing portions of the outline as well.

**2) Organize the list**

Now that the list is in place, your next task is to organize it and insert rules of law.

Your casebook and course syllabus can help with this as well.

Be sure your organization proceeds logically and you begin with the broadest ideas. **Within a topic, your outline should move from the general to the specific.**

Be sure to consider multiple ways of organizing the information and know why you chose one method of organization over another.
Also know that Microsoft Word has an outline feature – Take 15-20 minutes to familiarize yourself with how it works.

3) Add the rules

Once you have completed the basic organization of your outline, the next step is to add rules of law to the topics.

The rules to be incorporated into your outline will come from a few different sources. **Primarily you will obtain the rules from the cases you read.** However, you should also consider these other sources:

a. Classroom Discussion
b. Treatises, Hornbooks, and other supplements
c. Additional Cases
   a. Sometimes suggested by your professor
   b. Often listed in the Notes and Questions section after the case

4) Adding Cases and Hypotheticals to Illustrate Rules

In law school, your professors expect you to apply the rules of law to fact patterns you have never seen before. In order to do this effectively, you need to understand how rules have been applied in the past.

Multiple examples of how your professor applied the rule will help you better understand the principles involved (usually, two or three hypotheticals are enough to illustrate the point).

5) Editing your work

Until exams begin, your outline will always be a work in progress. Therefore, do not be afraid to add, delete, or move material.

Make sure you check your outline for **comprehension** as you create your outline. How do you do this? There are four ways:

i. Make sure you understand the rules and holdings you are including
ii. Make sure you can paraphrase the rules and holdings in your own words
iii. Make sure you understand the reasons for the rules
iv. Make sure you can generate both an example that satisfies what the rule requires and an example that
does not satisfy what the rule requires (a non-example)

Make sure you check the **accuracy** of what you are including in your course outlines. How do you do this?

a. Compare your outline with court opinions recorded in your case briefs and class notes
b. Compare your work with your peers
c. Follow up with your instructor on any question about which you have doubt

6) **Policy considerations and Rationale**

You should also include the policies or rationales for the doctrines and holdings. This will assist you in understanding the “whys” of the rules as well as help you further understand how to apply the rules.

7) **Remember, your outline is intended to be a study tool**

Consider the following when viewing your outline as your primary study aid:

**Length**

1. It should be short enough that you can read it from beginning to end multiple times in a single day. It needs to be long enough to fully explain ideas that you may not have reviewed for several months.
2. You will condense your outline as you get closer to examination, ultimately arriving at a final condensed version that is skeletal in nature and approximately 1-2 pages long. This skeletal version of your outline can be quickly written down at the beginning of an exam, for example.

Outlining is not the only way to make sense of and organize the material covered in classes and reading. Here are a few other options we will explore in the coming weeks:

- **Graphic organizers**
  - There are five types of graphic organizers useful to law students
    - **Timelines**
      - Allow learners to organize complex materials in a way that allows them to recognize the sequence of events and identify progressions.
• Very limited in the quantity of information they can depict.
  
  ▪ Comparison charts
    • Allow learners to depict the similarities and differences among concepts or ideas.
    • The items to be compared are listed down the left-hand side of the table and the bases of comparison are shown across the top.
    • They are particularly helpful tools for synthesizing, identifying, and thinking through the similarities and differences between cases.
  
  ▪ Hierarchy charts
    • Depict the relationship among the materials to be learned in a top-to-bottom or broadest-to-narrowest structure.
    • These charts are particularly helpful when you need to learn not only concepts but also the relationships among those concepts.
    • Can depict only a small amount of information
    • While useful for seeing the big picture of a body of law, they cannot depict all you need to know (unless you make an enormous chart or multiple charts).
  
  ▪ Flow charts
    • Similar to hierarchy charts, but where hierarchy charts show relationships among concepts, flow charts show procedures, the order in which to proceed on a task.
    • However, flow charts tend to restrict student thinking.
    • Students who rely too heavily on flow charts sometimes fail to see the complexities in a rule's application or to see arguments that will take them out of the process altogether.
  
  ▪ Mind maps (sometimes referred to as “spider maps”)
    • Similar to a hierarchy chart, in that it shows the relationships among concepts you are learning, but with a mind map, the connections and relationships need not be hierarchical.
    • You may connect anything you want to know about the core-concept or sub-concept regardless of hierarchy.

Please know we will spend more time discussing different approaches to studying (including study groups) in the coming months.