TEACHING LAW STUDENTS TO TEACH THEMSELVES:

USING LESSONS FROM EDUCATIONAL PSYCHOLOGY TO SHAPE SELF-REGULATED LEARNERS

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ABSTRACT

Amidst current concerns about the value of a legal education, this Article seeks to identify ways in which law schools and law professors can take steps to maximize the learning experience for their students. The Article focuses on cutting-edge strategies that will help a diverse population of law students become self-regulated learners. Drawing on the work of educational psychologists, it describes ways to help students adapt to the demands of the law school learning experience and then outlines specific strategies for teaching students to regulate their motivational beliefs, their resource management practices, and their approaches to mastering the material. Throughout, the Article emphasizes the importance of these skills for success both as law students and as lawyers. Finally, checklists are provided to help law professors build a culture of self-regulated learning in their schools.

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I. INTRODUCTION

The value of a legal education is being criticized from many quarters, with ramifications for practicing lawyers, current law students, and prospective law students. Legal educators need to think more deeply about how to maximize the learning experience for our students. This very minute, there are likely many hundreds of law students around the country who are on a path to failing out of law school—and who are getting exactly the wrong advice from well-meaning advisors. They are being told to "suck it up and study harder" or to hire a private tutor. Neither will help the law student who is lost. Precisely how to help these underperforming students succeed has recently become the subject of some debate.[1] Educational psychology research about effective teaching

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1. Improving legal education has received renewed attention as of late, with calls for change in legal education to more effectively prepare law students to be lawyers. *See, e.g.*, ROY STUCKEY ET AL., CLINICAL LEGAL EDUC. ASS'N, BEST PRACTICES FOR LEGAL EDUCATION 132 (2007), *available at* http://www.cleaweb.org/Resources/ Documents/best_practices-cover.pdf (suggesting that law school professors should rely on research about effective teaching to guide their teaching decisions); WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSIONS OF LAW 76-78 (2007); Margaret Martin Barry, *Practice Ready: Are We There Yet?*, 32 B.C. J.L. & SOC. JUST. 247 (2012) (providing framework for integrating the Carnegie Report's three apprenticeships of knowledge, skills, and values); Louis N. Schulze, *Alternative Justifications for Academic Support II: How "Academic Support Across the Curriculum" Helps Meet the Goals of the Carnegie Report and Best Practices*, 40 CAP. U. L. REV. 1 (2012) (describing how academic support programs can lead the way for law schools working to improve teaching practices through "academic support across the curriculum" movement).

suggests that working with students to help them develop self-teaching skills and take responsibility for their own learning is the most effective way to help them succeed in law school.[2] Moreover, individual academic counseling can be the primary vehicle to create self-regulated learners.[3] Self-regulated learning is defined as "an active, constructive process whereby learners set goals for their learning and then attempt to monitor, regulate, and control their cognition."[4] The idea is that students who actively engage in the learning process and take responsibility for their own learning become "metacognitively, motivationally, and behaviorally active participants in their own learning process."[5] The practice of law requires lifelong learning, and law professors may be uniquely positioned to teach students to self-reflect and constantly monitor their learning to help shape and achieve their learning goals.[6]

Teaching students to become self-regulated learners is especially important given the research indicating that incoming law students are less prepared for law school than ever before, lacking not only analytical, research, and writing skills but also the important study skills that will enable them to become active and engaged learners.[7] Add to this the fact that law schools today are more diverse than they have ever been, which affects the ways their students think and learn.[8] As Paula Lustbader has observed,

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2. STUCKEY ET AL., *supra* note 1, at 93.

3. Schulze, *supra* note 1.

4. Ian Clark, *Formative Assessment: Assessment Is for Self-Regulated Learning*, 24 EDUC. PSYCHOL. REV. 205, 216 (2012).

5. Barry J. Zimmerman, *A Social Cognitive View of Self-Regulated Academic Learning*, 81 J. EDUC. PSYCHOL. 329, 329 (1989).

6. Anthony Niedwiecki, *Teaching for Lifelong Learning: Improving the Metacognitive Skills of Law Students Through More Effective Formative Assessment Techniques*, 40 CAP. U. L. REV. 149, 151 (2012) (demonstrating importance of incorporating metacognitive instruction and training); MICHAEL HUNTER SCHWARTZ, EXPERT LEARNING FOR LAW STUDENTS 3 (2d. ed. 2008) [hereinafter SCHWARTZ, EXPERT LEARNING].

7. Melissa J. Marlow, *It Takes a Village to Solve the Problems in Legal Education: Every Faculty Member's Role in Academic Support*, 30 U. ARK. LITTLE ROCK L. REV. 489, 496-97 (2008) ("Today more law students begin their course of study with poor study and metacognition skills, not accustomed to independent and active learning."). *See also* Christine P. Bartholomew, *Time: An Empirical Analysis of Law Student Time Management Deficiencies*, 81 U. CIN. L. REV. 897 (2013).

8. Vernellia R. Randall, *Teaching Diversity Skills in Law School*, 54 ST. LOUIS U. L.J. 795, 796 (2010) (discussing importance of incorporating views of minorities into analysis of the law to prepare students to practice law in our diverse society); Eric A. DeGroff & Kathleen A. McKee, *Learning Like Lawyers: Addressing the Differences in Law Student Learning Styles*, 2006 BYU EDUC. & L.J. 499, 505 (2006); M.H. Sam Jacobson, *A Primer on Learning Styles: Reaching Every Student*, 25 SEATTLE U. L. REV. 139, 140-41 (2001).

> As primarily white, middle-class institutions, law schools create
> cultural barriers to learning. Many nontraditional and diverse
> students experience cultural and value conflicts leading to
> feelings of isolation and disenfranchisement. This occurs
> because voices and values reflected by differences of gender,
> sexual orientation, race, class, and learning abilities are not
> represented.[9]

Law school is often alienating for these students and creates crises of
confidence, which leads many to question whether they even want to be
lawyers.[10] This affects the diversity of the legal profession, which in turn
creates a legal system that does not embrace the values and needs of our
"culturally diverse society."[11]

Indeed, one of the initial reasons for the development of academic
support programs was to help make law school accessible to minority
students who were admitted in higher numbers as a result of race- and
gender-conscious admission programs.[12] Of course, inequalities in legal

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9. Paula Lustbader, *Construction Sites, Building Types, and Bridging Gaps: A Cognitive Theory of the Learning Progression of Law Students*, 33 WILLAMETTE L. REV. 315, 318-19 (1997) [hereinafter Lustbader, *Construction*]; *see also* Robin A. Boyle & Rita Dunn, *Teaching Law Students Through Individual Learning Styles*, 62 ALB. L. REV. 213, 218 (1998) (noting tendency of traditional Socratic method to alienate individuals in marginalized groups such as women and people of color); Marsha Garrison, Brian Tomko & Ivan Yip, *Succeeding in Law School: A Comparison of Women's Experiences at Brooklyn Law School and the University of Pennsylvania*, 3 MICH. J. GENDER & L. 515, 516 (1996) (exploring data on disadvantages to women in law school and examining relationships between gender, law school environment, and academic success); Lani Guinier, Michelle Fine, Jane Balin, Ann Bartow & Deborah Lee Stachel, *Becoming Gentlemen: Women's Experiences at One Ivy League Law School*, 143 U. PA. L. REV. 1 (1994) (reporting on research related to disparity in academic performance between men and women in law school); Louis N. Schulze, Jr., *Alternative Justifications for Law School Academic Support Programs: Self-Determination Theory, Autonomy Support, and Humanizing the Law School*, 5 CHARLESTON L. REV. 269, 298 (2011) (justifying humanizing movement to counteract law school environment's negative impact on women, students of color, and lesbian, gay, bisexual, and questioning students); Ruta K. Stropus, *Mend It, Bend It, and Extend It: The Fate of Traditional Law School Methodology in the 21st Century*, 27 LOY. U. CHI. L.J. 449, 462 (1996).

10. Paula Lustbader, *You Are Not in Kansas Anymore: Orientation Programs Can Help Students Fly Over the Rainbow*, 47 WASHBURN L.J. 327, 344 (2008) [hereinafter Lustbader, *Orientation Programs*].

11. Paula Lustbader, *From Dreams to Reality: The Emerging Role of Law School Academic Support Programs*, 31 U.S.F. L. REV. 839, 839 (1997) [hereinafter Lustbader, *Dreams*].

12. Kathy L. Cerminara, *Remembering Arthur: Some Suggestions for Law School Academic Support Programs*, 21 T. MARSHALL L. REV. 249, 252 (1996); Debra Moss Curtis, *Teach the Children Well: Incorporating Cultural Literacy into the Law School Learning Experience*, 37 CUMB. L. REV. 177, 225 (2006-07); Nancy E. Dowd, Kenneth B.

education remain. While law schools are admitting diverse students, often these students do not feel listened to or accepted.[13] Law schools should accordingly make efforts to "level the playing field, or at least the exam room floor,"[14] so that all students can be successful, not just the ones who come into law school already familiar with the white middle-class principles that have led to a certain amount of academic success.[15] Traditional law school admission indicators such as LSAT score and undergraduate GPA may predict academic performance in law school to the extent that they measure the current abilities of the applicant, but they fail to measure whether the applicant has the ability to learn how to learn in a manner that will lead to success as a law student.[16] To maximize success for a diverse group of students, in-class teaching methods should go hand in hand with individual academic counseling methodologies that make all students feel valued.[17]

This Article explores teaching and academic counseling strategies that law professors can use to enable a diverse population of law students to become self-regulated learners. Part II will provide an overview of the three phases of self-regulated learning and demonstrate how self-regulated learners manage three critical psychological aspects of academic learning: motivation, behavior, and cognition.[18] Part III will explore each of these psychological facets of academic learning in depth

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Nunn & Jane E. Pendergast, *Diversity Matters: Race, Gender, and Ethnicity in Legal Education*, 15 U. FLA. J.L. & PUB. POL'Y 11, 12 (2003); Kristine Knaplund & Richard H. Sander, *The Art and Science of Academic Support*, 45 J. LEGAL EDUC. 157, 158 (1995); Lustbader, *Dreams, supra* note 11, at 840; Denise Riebe, *A Bar Review for Law Schools: Getting Students on Board to Pass Their Bar Exam*, 45 BRANDEIS L.J. 269, 290 (2007).

13. Stropus, *supra* note 9, at 465.

14. Laurel Currie Oates, *Leveling the Playing Field: Helping Students Succeed by Helping Them Learn to Read as Expert Lawyers*, 80 ST. JOHN'S L. REV. 227, 227 (2006).

15. *Id.* at 251; *see also* Derek Alphran, Tanya Washington & Vincent Eagan, *Yes We Can, Pass the Bar. University of the District of Columbia, David A. Clarke School of Law Bar Passage Initiatives and Bar Pass Rates—From the Titanic to the Queen Mary!* 14 U. D.C. L. REV. 9, 40 (2011) (discussing the obligation to help admitted "minority students who have been socially and educationally disadvantaged" prepare for and pass the bar exam).

16. Lustbader, *Dreams, supra* note 11, at 843; Manuel Martinez-Pons, *Parental Influences on Children's Academic Self-Regulatory Development*, 41 THEORY INTO PRACTICE 126, 129 (2002) (describing importance of parental modeling and social support in developing self-regulated learners and the need for students who are not exposed to this "hidden curriculum" to be taught these self-regulatory skills).

17. Dowd, Nunn & Pendergast, *supra* note 12, at 40; Sonia Bychkov Green, Maureen Straub Kordesh & Julie M. Spanbauer, *Sailing Against the Wind: How a Pre-Admission Program Can Prepare At-Risk Students for Success in the Journey Through Law School and Beyond*, 39 U. MEM. L. REV. 307 (2009) (demonstrating how concerted academic support programs help at-risk law students succeed).

18. *See infra* Part II.

and propose specific methodologies that law professors can use to teach students to regulate their motivational beliefs, resource management practices, and approaches to mastering the material.[19] Ultimately, the degree of students' understanding about how they learn will influence their engagement in law school and future success, both in school and in the profession.[20]

II. SELF-REGULATED LEARNING

A review of the research on self-regulated learning and psychological aspects of academic learning demonstrates why it is crucial to teach law students to become self-regulated learners and provides context for the proposed counseling methodologies. Self-regulated learning stems from both the cognitivist and constructivist learning theory movements.[21] The cognitivist piece involves the concept that learners engage in the process of storing and then retrieving their new learning by creating schema.[22] It is constructivist in that students learn to create their own significance in the materials by drawing upon their own experiences and constructing interpretation accordingly.[23] Rather than relying on the instructor to teach, "[t]he learner truly is in charge of learning. The instructor simply helps the learner by providing a rich environment from which the learner can learn."[24]

Self-regulated learning also encompasses elements of Albert Bandura's social cognitive theory, with its emphasis on metacognition and self-efficacy.[25] "Metacognition is the awareness of the learners in

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19. *See infra* Part III.

20. Helen Askell-Williams, Michael J. Lawson & Grace Skrzypiec, *Scaffolding Cognitive and Metacognitive Strategy Instruction in Regular Class Lessons*, 40 INSTRUCTIONAL SCI. 413 *passim* (2012).

21. SCHWARTZ, EXPERT LEARNING, *supra* note 6, at 3 (providing an in-depth explanation of the educational psychology literature on self-regulated learning, and making a compelling case for why we need to teach law students to become self-regulated learners); Michael Hunter Schwartz, *Teaching Law Students to be Self-Regulated Learners*, 2003 MICH. ST. L. REV. 447 *passim* (2003) [hereinafter Schwartz, *Teaching*].

22. SCHWARTZ, EXPERT LEARNING, *supra* note 6, at 3; Schwartz, *Teaching*, *supra* note 21, at 487; Michael Hunter Schwartz, *Teaching Law By Design, How Learning Theory and Instructional Design Can Inform and Reform Law Teaching*, 38 SAN DIEGO L. REV. 347, 373 (2001) [hereinafter Schwartz, *Law By Design*].

23. Carlo Magno, *Developing and Assessing Self-Regulated Learners, in* 1 THE ASSESSMENT HANDBOOK: CONTINUING EDUCATION PROGRAM 26, 29 (2009); SCHWARTZ, EXPERT LEARNING, *supra* note 6, at 154.

24. Marilla D. Svinicki, *Student Learning: From Teacher-Directed to Self-Regulation*, 123 NEW DIRECTIONS FOR TEACHING & LEARNING 73, 74 (2010).

25. Clark, *supra* note 4, at 215.

their own academic strengths and weaknesses, cognitive resources that they can apply to meet the demands of tasks, and how to regulate the engagement of tasks."[26] This is also known as "thinking about thinking."[27] It has been described as the "aspect of regulation that focuses on monitoring and controlling" one's learning,[28] and it "encourage[s] learners to be introspective, conscious, and vigilant about their own learning."[29] To successfully use metacognition, students must first choose to study in a way that complements their cognitive style (and takes account of teaching context) and then evaluate and assess their study methods.[30] In other words, cognitive skills are what are needed to perform the task itself while the metacognitive skills require the "understanding of how that task is performed."[31] Law schools tend to focus on teaching cognitive skills, such as how to use the IRAC[32] format to organize an exam, whereas the corresponding metacognitive skills would involve when to modify IRAC in response to a different type of question or set of directions, which would benefit from an alternative approach.[33]

Schema theory explains how students understand the "relationships among substantive concepts and the structure of legal discourse."[34] They must create meaning for themselves by placing new learning material into their existing schema, making connections and recognizing relationships between concepts, and then developing "domain-specific patterns of thought."[35] Having developed and placed knowledge in the appropriate schema enables the "expert learner" to access the information more easily and demonstrate her knowledge successfully.[36] Law students often have trouble with this task because studying the law

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26. MAGNO, *supra* note 23, at 28.
27. Niedwiecki, *supra* note 6, at 156.
28. Svinicki, *supra* note 24, at 76.
29. Schwartz, *Law By Design, supra* note 22, at 376.
30. Lustbader, *Construction, supra* note 9, at 324-25.
31. Niedwiecki, *supra* note 6, at 157.
32. IRAC is an acronym that stands for Issue, Rule, Application, Conclusion.
33. Niedwiecki, *supra* note 6, at 157.
34. Lustbader, *Construction, supra* note 9, at 325.
35. *Id.* at 326.
36. *Id.* at 327; Jacobson, *supra* note 8, at 172-73 (linking this concept to the importance of using an organizational system to preview new information by linking it with preexisting knowledge that the learner can draw upon); *see also* Camille Lamar Campbell, *How to Use a Tube Top and a Dress Code to Demystify the Predictive Writing Process and Build a Framework of Hope During the First Weeks of Class*, 48 DUQ. L. REV. 273, 296-97 (2010) (explaining how helping students make connections between new learning material and existing knowledge provides link between schemata theory and principles of positive psychology).

seems so different from their prior learning. The significance of prior knowledge is paramount.[37] Because learners create meaning "through an internal process of interchange between new knowledge and previous knowledge during which new meanings are continuously evolving out of prior understanding,"[38] effective law professors provide schemas early on in the learning process to help students make connections to skills and information they already possess.[39] The process of recognizing the connections between what they already know and their new learning is called "tuning," and the more effective the tuning, the more likely the student will be able to understand, recall, and integrate newly acquired information to ensure successful performance.[40]

The goal of self-regulation training is to "enhance learners' control over their own learning"[41] and to help students see learning in a *proactive* way rather than as a covert event that happens to them in reaction to teaching."[42] The three phases of the self-regulated learning cycle, which can be thought of as "sub-processes of metacognition,"[43] are forethought, performance, and reflection.[44]

A. Forethought/Preparation Phase

During the forethought phase, the student plans how she will go about the learning task. Michael Hunter Schwartz breaks this down into five steps. The first is perceiving the task, in which the student determines what the specific assignment is and when it is due.[45] Second, the student must classify what skills the task requires, thinking about five possible categories: reading comprehension, research, synthesis,

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37. Curtis, *supra* note 12, at 182 (stating that psychologists and educators agree that the concept of "prior knowledge is arguably the single most important factor in learning").

38. Clark, *supra* note 4, at 224.

39. Paula Lustbader, *Principle 7: Good Practice Respects Diverse Talents and Ways of Learning*, 49 J. LEGAL EDUC. 448, 456-57 (1999).

40. Timothy W. Floyd, Oren R. Griffin & Karen J. Sneddon, *Beyond Chalk and Talk: The Law School Classroom of the Future*, 38 OHIO N.U. L. REV. 257, 267 (2011); Kenneth A. Kiewra, *How Classroom Teachers Can Help Students Learn and Teach Them How to Learn*, 41 THEORY INTO PRACTICE 71, 77 (2002) (describing process of "relating information" in which students can use past knowledge and experiences to "generate self-explanations" that create crucial connections to new knowledge); SCHWARTZ, EXPERT LEARNING, *supra* note 6, at 174.

41. Svinicki, *supra* note 24, at 75.

42. Barry J. Zimmerman, *Becoming a Self-Regulated Learner: An Overview*, 41 THEORY INTO PRACTICE 64, 65 (2002).

43. Clark, *supra* note 4, at 242.

44. SCHWARTZ, EXPERT LEARNING, *supra* note 6, at 29.

45. *Id.* at 35-36.

problem-solving, and exam preparation.[46] The third step requires becoming interested in completing the task and invoking self-efficacy.[47] "Self-efficacy is defined as beliefs about capabilities to produce designated levels of performance that exercise influence over meaningful events."[48] Put differently, it "is the personal belief that you can control an outcome—that you can achieve a desired result."[49] Barry Zimmerman, a leading educational psychologist in the field of cognition, found that students with strong senses of self-efficacy "choose more challenging tasks; are more productive; more persistent; and resistant to stress, anxiety, and depression."[50] Numerous studies demonstrate that self-efficacy is directly related and corresponds to learning outcomes such as how students choose and persist at tasks, engage in effective studying, acquire skills, and achieve academically.[51]

The fourth step in the preparation phase involves setting concrete, short-term, challenging, and realistic mastery learning goals.[52] Learners who set mastery goals focus on learning for the sake of mastering the course material itself.[53] The opposite of mastery-oriented learners are performance-oriented learners, who focus primarily on the outcome of their learning and learn a specific task for the purpose of performing well on the subsequent assessment measure.[54] Mastery-oriented learners use

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46. *Id.* at 37-41.

47. *Id.* at 42-44.

48. Clark, *supra* note 4, at 235.

49. Ruth Ann McKinney, *Depression and Anxiety in Law Students: Are We Part of the Problem and Can We Be Part of the Solution?*, 8 LEGAL WRITING: J. LEGAL WRITING INST. 229, 233 (2002).

50. Clark, *supra* note 4, at 236.

51. McKinney, *supra* note 49, at 236; Frank Pajares, *Gender and Perceived Self-Efficacy in Self-Regulated Learning*, 41 THEORY INTO PRACTICE 116, 117 (2002); Riebe, *supra* note 12, at 321-22; Schwartz, *Teaching*, *supra* note 21, at 477; Zimmerman, *supra* note 5, at 331.

52. SCHWARTZ, EXPERT LEARNING, *supra* note 6, at 44-46.

53. Leah M. Christensen, *Enhancing Law School Success: A Study of Goal Orientations, Academic Achievement and the Declining Self-Efficacy of Our Law Students,* 33 L. & PSYCHOL. REV. 57, 58 (2009) [hereinafter Christensen, *Enhancing Law School Success*].

54. Leah M. Christensen, *The Power of Skills: An Empirical Study of Lawyering Skills Grades as the Strongest Predictor of Law School Success (or in Other Words, It's Time for Legal Education to Get Serious About Integrating Skills Training Throughout the Law School Curriculum if We Care About How Our Students Learn)*, 83 ST. JOHN'S L. REV. 795, 799-800 (2009) [hereinafter Christensen, *Power of Skills*]; Jacobson, *supra* note 8, at 166; Anastasia S. Hagen & Claire Ellen Weinstein, *Achievement Goals, Self-Regulated Learning, and the Role of Classroom Context,* 63 NEW DIRECTIONS FOR TEACHING AND LEARNING 43, 44 (1995) (explaining the difference between mastery learners and performance-oriented learners by showing that mastery learners say "how can I do it," but performance-oriented learners ask "can I do it?").

"quality learning strategies and [have] greater motivation, whereas performance goal orientation is more associated with . . . 'shallow learning' and tenuous motivation."[55] Thus, mastery-oriented learners are more likely to use self-regulated learning strategies.[56]

The final step is creating a plan for learning that incorporates motivational and environmental strategies, plus cognitive strategies for accomplishing the task, which are often based on the student's self-assessment of learning preferences and/or style.[57] A learning style is "the way in which students perceive, absorb, and process new information."[58] Another way of defining learning styles is "those cognitive, affective, and psychological behaviors that indicate how learners interact with and respond to the learning environment and how they perceive, process, store, and recall what they are attempting to learn."[59] When students are explicitly taught about the different learning styles and experiment with them to assess what works best for their own personal learning styles, they are engaging in metacognition.[60]

B. Performance/Implementation Phase

The performance phase refers to the processes that take place during the learning attempt. It involves (1) attention focusing through a series of motivational and emotional control strategies;[61] (2) engaging in the learning activity itself using different types of learning strategies; and (3) self-monitoring, so that throughout the process of learning the student is constantly evaluating the strategy used, the amount of time it is taking, and whether the particular methodology is effective.[62] Schwartz describes five aspects of learning that expert learners monitor: comprehension, efficiency, environmental strategies, help-seeking activities, and attention.[63] Self-monitoring enables students to diagnose their own weaknesses in learning and analyze them in relation to the chosen learning strategies to determine whether they need to change their

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55. Svinicki, *supra* note 24, at 77.
56. Hagen & Weinstein, *supra* note 54, at 47.
57. SCHWARTZ, EXPERT LEARNING, *supra* note 6, at 47.
58. DeGroff & McKee, *supra* note 8, at 509.
59. Jacobson, *supra* note 8, at 142.
60. *Id.*
61. Teresa Garcia, *The Role of Motivational Strategies in Self-Regulated Learning*, 63 NEW DIRECTIONS FOR TEACHING & LEARNING 29 *passim* (1995) (exploring motivational strategies of defensive pessimism and self-handicapping, and demonstrating an interface with strategies of cognition).
62. SCHWARTZ, EXPERT LEARNING, *supra* note 6, at 67-69.
63. *Id.* at 69-71.

strategies.[64] Different types of learning strategies will be explored in Part III of this article.[65]

C. Reflection Phase

In the final stage, the student reflects on the learning experience to help guide her future learning. There are a variety of skills students must be taught to help them accurately assess their levels of progress and what remains to be done.[66] Schwartz describes the four critical tasks involved in reflection in the following manner: The first is engaging in self-evaluation, during which the student conducts an internal evaluation of how well she thinks she did, compares it to external criteria such as a rubric or model answer, analyzes the efficiency of the overall learning process, and considers how accurate she was in self-assessing.[67] Second, the student engages in attribution, which is how students explain the causes of success or failure.[68] Students with productive attributional beliefs ascribe their outcomes to controllable factors, such as working hard and using effective strategies, as opposed to those with unproductive attributional patterns who chalk results up to inalterable innate ability.[69]

Third is self-reaction, during which the learner thinks about how the learning results make her feel and compares her results to outcomes on similar tasks in the past to help see improvement.[70] Finally—and most importantly—is adaptation, during which the learner thinks back to her original learning goals, reflects on her self-evaluation, and determines how she could have approached the learning task differently.[71] She then adjusts to improve performance on future learning tasks.[72] Consider, for example, a student realizing that using flashcards to achieve her goal of

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64. Barry J. Zimmerman & Andrew S. Paulsen, *Self-Monitoring During Collegiate Studying: An Invaluable Tool for Academic Self-Regulation,* 63 NEW DIRECTIONS FOR TEACHING & LEARNING 13, 23 (1995).

65. *See infra* Part III.

66. Svinicki, *supra* note 24, at 79.

67. SCHWARTZ, EXPERT LEARNING, *supra* note 6, at 75-76.

68. *Id.* at 77.

69. Deborah L. Butler, *Individualized Instruction in Self-Regulated Learning,* 41 THEORY INTO PRACTICE 81, 83 (2002); *see also* Leah M. Christensen, *The Paradox of Legal Expertise: A Study of Experts and Novices Reading the Law,* 2008 BYU EDUC. & L.J. 53, 86 (2008) [hereinafter Christenson, *Paradox of Legal Expertise*] (emphasizing crucial role of work and repetition in attaining success because "motivation may be the most important factor in the development of expertise").

70. SCHWARTZ, EXPERT LEARNING, *supra* note 6, at 78-79.

71. *Id.* at 79.

72. *Id.* at 33.

memorizing the law of statute of frauds did not work because, although the student knew the requirements of the law, she lacked the context to understand when the statute of frauds would be a defense to raise as an issue on an exam. The student then decides to modify the strategy by making a visual flowchart that shows how all of the elements fit together and creating a mnemonic technique to remember the different scenarios that would prompt the statute of frauds analysis.[73]

Another example would be a student who realizes that she was not availing herself of the faculty resources at her disposal. Self-regulated learners are skilled in recognizing when they need help and seeking help when they need it. They are known for their resiliency, "personal initiative, perseverance, and adoptive skill."[74] Adaptive help-seeking is a strategy of self-regulated learning in which students strategically seek out help in order to facilitate their indepedent learning.[75] These students view asking professors for help as a tactical rather than dependent behavior.[76] The reflection phase inevitably leads back to the forethought phase as the student frames new goals and methodologies to achieve those goals.

Self-regulated learning can be seen as a "fusion of skill and will,"[77] and teaching students to be self-regulated learners improves both motivation and performance.[78] Numerous studies demonstrate the

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73. An example of this is a mnemonic device taught in bar preparation classes: "MY LEGS." Marriage (promises in consideration of), Year (service contracts not capable of performance within a year), Land (transfer in interest of real estate for term of more than one year), Executor (promise to pay obligation of estate from own funds), Goods (sale of goods for $500 or more), and Surety (promise to pay if someone else does not unless the deal benefits guarantor).

74. Zimmerman, *supra* note 42, at 70.

75. Richard Newman, *How Self-Regulated Learners Cope With Academic Difficulty: The Role of Adaptive Help Seeking,* 41 THEORY INTO PRACTICE 132, 132 (2002).

76. Svinicki, *supra* note 24, at 79.

77. Garcia, *supra* note 61, at 29.

78. Frederick T. Bail, Shuqiang Zhang & Gary T. Tachiyama, *Effects of a Self-Regulated Learning Course on the Academic Performance and Graduation Rate of College Students in an Academic Support Program,* 39 J.C. READING AND LEARNING 54, 66 (2008) (providing evidence that "a single SRL course can have a significant impact on the long-term academic performance of underprepared college students, including whether or not they graduate from college"); Barbara K. Hofer & Shirley L. Yu, *Teaching Self-Regulated Learning Through a "Learning to Learn" Course,* 30 TEACHING PSYCHOL. 30, 31 (2003) (describing positive impact of semester-long undergraduate level course on self-regulated learning that focused on "developing a repertoire of learning" and self-motivational strategies); MAGNO, *supra* note 23, at 26; Svinicki, *supra* note 24, at 77; Zimmerman, *supra* note 42, at 69.

astonishing impact of teaching underperforming and at-risk students to become self-regulated learners.[79]

Self-regulated learners manage three psychological aspects of academic learning: (1) Self-regulation of motivation and affect involves "controlling and changing motivational beliefs such as efficacy and goal orientation" to help adapt to the demands of the learning experience; (2) Self-regulation of behavior involves the "active control of the various resources students have available to them [including] time, their study environment . . . and their use of . . . faculty members to help them"; and (3) "Self-regulation of cognition involves the control of various cognitive strategies for learning."[80] Students can maximize their learning strengths and overcome weaknesses to master challenging material and achieve success by learning to self-regulate these three crucial components of learning.

III. METHODOLOGIES TO TEACH SELF-REGULATED LEARNING

Law professors may use the tools suggested in this section to help their students self-regulate motivational beliefs, behavior, and cognition, thereby enabling them to meet their own self-articulated expectations of law school success.[81] Law professors would certainly be doing a disservice to their students if they attempted to teach them a "magic formula" for achieving the "one size fits all" definition of success in law

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79. Clark, *supra* note 4, at 232 (stating that working to incorporate formative assessment activities and strengthen perceptions of self-efficacy will make it more probable that "at-risk" students will seek out assistance); Butler, *supra* note 69, at 86; LaVergne Trawick & Lyn Corno, *Expanding the Volitional Resources of Urban Community College Students*, 63 NEW DIRECTIONS FOR TEACHING & LEARNING 57, 57-58 (1995) (depicting community colleges as "an entry point into higher education for students who have historically been excluded" and demonstrating success of helping students "expand their volitional resources" through self-regulated learning strategies); Laurel Currie Oates, *Beating the Odds: Reading Strategies of Law Students Admitted Through Alternative Admissions Programs*, 83 IOWA L. REV. 139 *passim* (1997) (noting success of teaching reading strategies to help at-risk students become expert legal readers and lawyers); Claire E. Weinstein & Gretchen Van Mater Stone, *Broadening Our Conception of General Education: The Self-Regulated Learner*, 81 NEW DIRECTIONS FOR COMMUNITY COLLEGES 31 *passim* (1993) (describing importance of teaching self-regulatory skills as opposed to just focusing on knowledge enhancement for students at risk for academic failure because these students need more than just general knowledge).

80. Paul R. Pintrich, *Understanding Self-Regulated Learning*, 63 NEW DIRECTIONS FOR TEACHING & LEARNING 3, 7 (1995). This is a variation of social cognitive theory's three self-regulatory classes of self-reaction strategies: behavioral self-reactions, personal self-reactions, and environmental self-reactions. *See* Zimmerman, *supra* note 5, at 334.

81. Schulze, *supra* note 9, at 272 (introducing concept of autonomy support as methodology to help students become self-regulated and successful learners).

school. Instead, the goal of academic counseling should be to help students tailor and self-regulate their own unique strategies for achieving their own goals by creating the "settings in which such epiphanies are more likely to occur."[82]

A. Self-Regulation of Motivation: Humanizing & Setting High Expectations

Self-regulation of motivation stems from the humanizing movement and involves helping students to change their negative beliefs about their inherent abilities and improve their self-efficacy.[83] These components, which are also related to positive psychology and autonomy support, have a demonstrated connection to academic success.[84] Perhaps most worrisome in law school is the loss of human connections, despite their demonstrated positive impact on student retention and performance—not to mention the crucial role of interpersonal skills in the legal profession, where learning to interact with clients, colleagues, and the court is critical to success. The related field of positive psychology offers solutions for law schools by focusing on the "conditions that lead to optimal levels of well-being" to help address the needs of sufferers.[85]

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82. Bail, Zhang & Tachiyama, *supra* note 78, at 70. The law school at which I teach places renewed emphasis on the counseling portion of our academic support program to great effect. The counseling component complements the first-year curriculum, which consists of a one-year-long voluntary weekly Academic Excellence class open to all 1L students. The class starts with law school basics, such as taking notes, outlining, and preparing for class, and then progresses toward legal analysis and exam preparation. During the spring semester, we meet regularly with our 1L students who underperformed on their fall exams to provide individualized assistance.

83. *See* Michael Hunter Schwartz, *Humanizing Legal Education: An Introduction to a Symposium Whose Time Came,* 47 WASHBURN L.J. 235 *passim* (2008) [hereinafter Schwartz, *Humanizing Legal Education*] (paving the way for addressing concerns about humanizing education and creating effective self-regulated learners); *see also* Allison D. Martin & Kevin L. Rand, *The Future's So Bright, I Gotta Wear Shades: Law School Through the Lens of Hope,* 48 DUQ. L. REV. 203, 204-05 (2010) (discussing importance of engendering hope in students).

84. Floyd, Griffin & Sneddon, *supra* note 40, at 267.

85. Todd David Peterson & Elizabeth Waters Peterson, *Stemming the Tide of Law Student Depression: What Law Schools Need to Learn From the Science of Positive Psychology,* 9 YALE J. HEALTH POL'Y L. & ETHICS 357, 362-63 (2009); *see also* Corie Rosen, *Creating the Optimistic Classroom: What Law Schools Can Learn from Attribution Style Effects,* 42 MCGEORGE L. REV. 319 (2011) (discussing how incorporating optimistic language into law school learning environment may lessen negative impact of law school experience). A variation of this is to focus on what successful students do to help meet the needs of struggling students. *See* Christensen, *Paradox of Legal Expertise, supra* note 69, at 67 (detailing study that used achievement

Lawrence Krieger and Barbara Glesner-Fines are at the forefront of the humanizing movement. Krieger asserts that a humanizing environment would incorporate "an understanding of human nature and would therefore maximize meaning, positive motivation, well-being and performance . . . . It would provide consistent autonomy support and encourage intrinsic values and motivations."[86] Glesner-Fines incorporates three fundamental principles into her definition of humanizing: (1) "Do no harm"—a call to eliminate the negative law school sources of stress that can be eliminated, and help students minimize what cannot be;[87] (2) "Teach students, not just subjects"— encouraging the professor to see herself as a teacher of students rather than a teacher of a particular doctrinal subject;[88] and (3) "Peace and justice"—a larger call to humanize the entire legal profession (not just law school) by helping students view themselves as the lawyers they will soon be.[89]

When law students are self-regulated learners, they feel a sense of control over their law school experience. This heightens their feeling of autonomy,[90] their feelings of autonomy support[91] from their law schools, and their "sense of competency."[92] A mechanism for providing autonomy support is part of self-determination theory, a motivation theory that supports the self-regulated learning movement.[93] It encourages taking the time to help students understand why they are learning what they are learning in order to help them buy into the educational experience, feel a sense of control and ownership over what they are learning, and succeed.[94] Tied into this notion is the importance of emphasizing mastery goals (described above) as opposed to performance goals so that students believe in the "intrinsic value of

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goals theory to examine learning goals of the most successful law students to demonstrate importance of emphasizing mastery learning goals).

86. Lawrence S. Krieger, *Human Nature as a New Guiding Philosophy for Legal Education and the Profession*, 47 WASHBURN L.J. 247, 260 (2008).

87. Barbara Glesner Fines, *Fundamental Principles and Challenges of Humanizing Legal Education*, 47 WASHBURN L.J. 313, 313-14 (2008).

88. *Id.* at 318-19.

89. *Id.* at 322.

90. Newman, *supra* note 75, at 134.

91. Floyd, Griffin & Sneddon, *supra* note 40, at 267 (defining the three features of autonomy support: choice provision, meaningful rationale provision, and caring about point of view).

92. Schwartz, *Humanizing Legal Education*, supra note 83, at 243.

93. Svinicki, *supra* note 24, at 76.

94. Schulze, *supra* note 9, at 301 (linking self-determination theory and autonomy support as mechanisms for humanizing the law school environment).

learning."[95] It has been shown that students who experience autonomy support consistently perform better in law school.[96]

When a student contacts me for academic assistance, I begin by e-mailing out an extensive questionnaire which covers a broad array of topics, such as note-taking, study methodologies, amount of time devoted to law school tasks, unique circumstances, and possible learning disabilities. Each student is also asked to take and report her results on the online VARK learning styles questionnaire.[97] Spending the time responding to the questionnaire gives the students an opportunity to self-reflect and become engaged in the important process of articulating their learning goals, monitoring their learning, and building self-regulation skills. It also lets the students know that they are in control of much of the support process. A student's response to these surveys helps me form an initial assessment of the student's situation and frame important issues to address in our introductory meeting. Information about the prior knowledge and educational background of my students also helps me to understand where knowledge and cultural gaps might be and how I can bridge these gaps to make our work together feel meaningful and relevant to my student.[98]

My initial task is to work with each student to create an individual study plan that addresses that student's unique needs. I use our first meeting as an opportunity to start building trust with my student, exhibit enthusiasm about the important work we will do together, and create an environment of mutual respect.[99] I ask each student to share something interesting about herself to signal that I am engaged in the important process of getting to know her and to help her see that her experiences

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95. Newman, *supra* note 75, at 135.

96. Floyd, Griffin & Sneddon, *supra* note 40, at 267.

97. *VARK: A Guide to Learning Styles*, http://www.vark-learn.com/english/index.asp (last visited Mar. 12, 2014) ("VARK is a questionnaire that provides users with a profile of their learning preferences. These preferences are about the ways that they want to take-in and give-out information.").

98. Curtis, *supra* note 12, at 226 (describing how academic support programs can help combat students' lack of cultural knowledge and/or background information about the law).

99. Floyd, Griffin & Sneddon, *supra* note 40, at 268 ("[S]tudents are more motivated to learn when the environment embodies mutual respect among students and teachers."). *See also* Sonia Bychkov, *A Montessori Journey: Lessons for the Legal Writing Classroom*, 13 PERSP.: TEACHING LEGAL RES. & WRITING 82, 86 (2005) (suggesting ways to create respectful environment by applying Montessori principle of teaching "ethics and good behavior through kind leadership"); Leah M. Christensen, *Law Students Who Learn Differently: A Narrative Case Study of Three Law Students with Attention Deficit Disorder (ADD)*, 21 J. L. & HEALTH 45, 72 (2008) [hereinafter Christensen, *Law Students Who Learn Differently*] (listing practical suggestions for facilitating learning for law students who learn differently).

are valuable and an important part of how she will use the context of her life to create understanding of law. What students choose to share is often quite revealing. Whether the student tells me that she is the first person in her family to attend college or that her grandfather invented the Twinkie (true story), it gives me context, not to mention a conversation starter, for subsequent meetings. I keep detailed notes on each student, not only on academic progress but on our discussion points, ranging from summer plans to career aspirations. It means a great deal to struggling students that I make the effort to remember the seemingly insignificant details they have shared with me. I find building trust in this way helps students to believe in my good intentions, and once they believe in me, they are able to believe me when I assure them that, if they put in the tremendous amount of effort required, they can succeed in law school.[100] The considerable degree of effort I put into fostering these relationships is intended to model for my students the genuineness they should exhibit when interacting with their own clients one day and to help them see how important it will be for them to similarly trust, respect, and empower the people whom they help as lawyers.[101]

There is a demonstrated connection between teachers' expectations and student achievement.[102] Teachers who have high expectations of their students work hard to provide more challenging opportunities and feedback, which help students perform to their utmost potential. When teachers' expectations are lower, they tend to give up on their underperforming students and do not help them in a way that enables them to improve at all.[103] I am always amazed to realize that when I set high expectations for my underperforming students, they meet them. As Glesner-Fines puts it, "if teachers do not believe that all students—even the most biased and resistant to learning—can be taught, teachers cut short their own ability to achieve excellence in teaching."[104]

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100. This is an example of the high expectation language used in B. Glesner Fines, *The Impact of Expectations on Teaching and Learning*, 38 GONZ. L. REV. 89 *passim* (2003).

101. NECASP Conference Facilitated by Martha Peters (Dec. 10, 2012). The conference referred to studies demonstrating that clients were most satisfied with lawyers who used the following behaviors: "consults about client's interests and concerns, fully explains processes, options & consequences, is client, not lawyer centered, empowers client to make process and outcome decisions, and is genuine. *These behaviors build trust and respect.*" *Id.*

102. Glesner Fines, *supra* note 100, at 94.

103. *Id.* at 98-99 (noting that the impact of expectations is so pronounced that "merely communicating higher expectations without changing any other teaching behavior may be sufficient to cause some students to increase their own learning behaviors, resulting in higher achievement").

104. *Id.* at 128.

The highest and most consistent expectation I set for my students is that they become self-regulated learners. By boosting their self-efficacy for learning, they become mastery-oriented learners, which improves educational outcomes.[105] Another benefit of encouraging students to set mastery learning goals is that it helps to engender hope and minimize test anxiety in my students.[106] When a student and I are reviewing her mid-year exams, I attempt to minimize the performance goal (the grade on one exam) and instead focus on the mastery goal of grasping how building understanding of that particular topic will be important both for her legal education and practice.[107] In addition, when assigning work to build specific skills, I make sure to articulate precisely how each particular skill will translate into success in legal practice.

Sharing anecdotes about the work I did as a commercial litigator can be a helpful avenue for providing the context to understand what is being taught in law school and why it is being taught.[108] Telling a story, for example, about the many occasions when a supervising attorney at my law firm would instruct me that the client was coming in that afternoon, and I had two hours to research a particular area of law, digest it, and be prepared to explain it helps a student appreciate how the skill of reading efficiently is required not just for performing well when you are called on in law school. In addition, if the student can relate what she is doing now to her ultimate career goals, it helps her orient herself toward mastery learning in the sense that she realizes that she is working to build these skills because they are required for success as a lawyer and not just success in law school.

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105. Christensen, *Enhancing Law School Success, supra* note 53, at 76.

106. Hofer & Yu, *supra* note 78, at 33; Martin & Rand, *supra* note 83, at 219 (highlighting research that "high-hope students tend to choose learning instead of performance goals").

107. Perhaps the student did not understand how personal jurisdiction and subject matter jurisdiction were building blocks in the first semester of Civil Procedure, but now we need to look at how they will be important not because they will be tested once again in the spring, but because when the student is in legal practice, she will need to understand these concepts to help her determine where and whether she can file a complaint. Or, for a student who did not balance her time well and accordingly performed poorly on a quiz, we will discuss the importance of developing the skills of balancing tasks because a practicing lawyer must manage multiple tasks daily.

108. *See* Paula Lustbader, *Teach in Context: Responding to Diverse Student Voices Helps All Students Learn*, 48 J. LEGAL EDUC. 402, 404-05 (1998) [hereinafter Lustbader, *Teach in Context*] (discussing how techniques "premised on contextualized learning" improve student learning outcomes by helping them relate the material to their own lives, "own" the concepts, and then translate them).

I work to provide my students with "pedagogical context"[109] by being "explicit and transparent about teaching metacognition"[110] and embarking on a journey together to help them become self-regulated learners. I often encourage my students to create their own hypotheticals using their own personal situations to help make their law school experience have meaningful context for them. In individualizing the strategies I employ with each of my students, I am "conscious of differences, context, and culture"[111] as I work to rectify the disparity of performance[112] by incorporating my cultural understanding into the strategies I use to create self-regulated learners. Ultimately, I work to convince my students that hard work and commitment are larger indicators of academic success than "gender or established social structure."[113] Crucial to my work is fostering productive attributional beliefs. Trained optimism is a related concept in which students learn to think about negative events as isolated, temporary, and easily overcome by effort.[114] The first step toward creating effective self-regulated learners is convincing my students that they can learn to be self-regulating and control their own learning.[115] I make it my explicit mission to work with them to achieve that goal.

Within the context of humanizing education, I believe the factor that contributes most significantly to the success of my students is the knowledge that they have a direct connection to someone at the law school who is on their team and cares about them.[116] In highlighting the enormous role teachers play in developing student identities and advocating for the appropriateness of being authentic, Krieger maintains that "the experience of a role model expressing her genuine self encourages others to do the same thing. Such behavior results in

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109. Lustbader, *Orientation Programs, supra* note 10, at 346; *see also* Stropus, *supra* note 9, at 477 (advocating for giving context to Langdellian method, so students will understand methodology as a prerequisite for focusing on learning).

110. Kristina L. Niedringhaus, *Teaching Better Research Skills by Teaching Metacognitive Ability,* 18 PERSP.: TEACHING LEGAL RES. & WRITING 113, 113 (2010).

111. Dowd, Nunn & Pendergast, *supra* note 12, at 17.

112. Hillary Burgess, *Deepening the Discourse Using the Legal Mind's Eye: Lessons from Neuroscience and Psychology that Optimize Law School Learning,* 29 QUINNIPIAC L. REV. 1, 4 (2011) (describing negative impact of traditional law school teaching methods on "economically challenged, educationally challenged, non-traditional students, and diverse groups").

113. Pajares, *supra* note 51, at 123.

114. SCHWARTZ, EXPERT LEARNING, *supra* note 6, at 20.

115. Pintrich, *supra* note 80, at 8.

116. Lustbader, *Orientation Programs, supra* note 10, at 352 (discussing how students are more motivated and high performing when they "feel cared for by the administration, by the faculty and staff . . . and when the pedagogy supports caring relationships").

experiences of autonomy, integrity, relatedness, and well-being."[117] The relationships that I develop and nurture with my students throughout law school ease their transformation into self-regulated learners by enabling their independence while retaining their safety net.

B. Self-Regulation of Behavior and Resources

Self-regulation of behavior involves strategies for managing resources that will help students achieve academic success, including how to manage time, choose a study environment, and seek assistance from faculty members. A mechanism for teaching self-regulation of behavior is modeling, which involves engaging in a task in a manner that enables the students to observe and build an understanding of how to accomplish that task on their own.[118] Numerous studies demonstrate the positive effects of modeling on skills and perceptions of self-efficacy.[119] Modeling has even been shown to boost self-efficacy skills of students who "have undergone many experiences confirming their inefficacy."[120] One important aspect of modeling is helping students set "specific, proximal, and manageably difficult"[121] goals. Research on intrinsic motivation demonstrates that students who set general goals such as "[d]o your best" show no improvements in motivation or learning.[122] Proximal goal setting such as daily page completion goals has been linked to better intrinsic interest, self-efficacy, and improved academic performance in stark contrast to distal goal setting.[123]

Giving students choices about how to learn the material is also a critical component in developing their self-regulation skills and helping them to "experience the huge effect their own proactive control of learning situations can have on their learning and on their motivation."[124] When students choose, evaluate, and then modify their own strategies, they become more focused and committed to making the changes that will enable them to experience success frequently and, accordingly, feel more hopeful and optimistic.[125] Teaching time management is an

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117. Krieger, *supra* note 86, at 290.
118. Sherri L. Horner & Craig S. Shwery, *Becoming an Engaged Self-Regulated Reader*, 41 THEORY INTO PRACTICE 102, 106 (2002).
119. Zimmerman, *supra* note 5, at 331.
120. *Id.* at 335.
121. Jacobson, *supra* note 8, at 167; *see also* Pajares, *supra* note 51, at 117.
122. Zimmerman, *supra* note 5, at 333.
123. *Id.*
124. Bail, Zhang & Tachiyama, *supra* note 78, at 70.
125. Martin & Rand, *supra* note 83, at 222 (suggesting strategies to help students become agentic thinkers and counter the obstacles of law school with a "can do" attitude

important component of self-regulation of behavior, as it is crucially linked with preparation for the practice of law, where lack of time is a huge impediment to success.[126]

A basic knowledge of learning styles enables me to help students self-regulate their behavior. Numerous legal educators have written on the topic of learning styles recently,[127] though a review of the literature on learning styles is beyond the scope of this Article. Learning styles are mentioned here as a tool for students to use in their forethought and reflection phase so that they can adjust their learning behaviors to maximize performance.[128] In fact, it has been suggested that self-regulating is an important way for students to "compensate for their individual differences in learning."[129] That being said, I am careful not to overemphasize the importance of learning styles for the following reason: Although knowledge of learning styles is useful for students to determine their preferred modes of learning the material, it is also important for them to realize that, as lawyers, they will be responsible for utilizing skills in practice that draw upon all of the different methodologies for learning. These include responding to oral communications from supervising attorneys and/or the court and reading

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and ability to persist); *see also* Campbell, *supra* note 36, at 312 (describing how her exercise that uses a non-legal example to introduce novice legal writers to the writing process integrates positive psychology to help engender hope and agentic thinking in first-year law students).

126. Bartholomew, *supra* note 7, at 21.

127. Robin A. Boyle, *Law Students with Attention Deficit Disorder: How to Reach Them, How to Teach Them*, 39 J. MARSHALL L. REV. 349, 373-77 (2006) (providing suggestions for diversifying traditional teaching methods to accommodate students with different learning styles); Boyle & Dunn, *supra* note 9, at 217 (exploring increasing focus of law schools on teaching to individual learning styles); Christensen, *Law Students Who Learn Differently, supra* note 99, at 65 (discussing learning styles in the context of her recommendation to alter law school pedagogy to better serve students who learn differently); Joanne Ingham & Robin A. Boyle, *Generation X in Law School: How These Law Students are Different From Those Who Teach Them*, 56 J. LEGAL EDUC. 281, 282 (2006) (suggesting teaching methodologies to complement different law students' learning styles); Pamela Lysaght & Cristina D. Lockwood, *Writing-Across-the-Law-School Curriculum: Theoretical Justifications, Curricular Implications*, 2 J. ASS'N LEGAL WRITING DIRECTORS 73, 93 (2004); Marlow, *supra* note 7, at 505.

128. DeGroff & McKee, *supra* note 8, at 537 (advocating for "empowering students through knowledge of their own learning styles to adjust their learning behavior to the learning programs they encounter"). *But see* Aida M. Alaka, *Learning Styles: What Difference Do the Differences Make?*, 5 CHARLESTON L. REV. 133 *passim* (2011) (exploring criticisms addressed to learning style theories generally and to research suggesting a positive correlation between teaching to students' individual learning styles and learning outcomes).

129. Zimmerman, *supra* note 42, at 64.

and writing a variety of different types of documents. The practice of law may require them to strengthen all of their modalities.[130]

1. Managing Time & Study Strategies

Teaching students how to self-regulate their resources is complicated initially by the fact that many students expect me to give them the "answer" they need to succeed.[131] Instead, I work to model for them the practices they must engage in to learn the material effectively, emphasizing mastery goals to encourage deep learning rather than shallow memorizing.[132] By modeling the learning process and "emphasizing planning and preparation,"[133] I attempt to break down the overall goals of improved academic performance into small manageable steps. I find this strategy not only helps my students regulate their behavior but also facilitates their self-regulation of motivation.

To begin with, I teach all the 1L students to approach law school using what we call the Four-Step Study Plan.[134] Step One is to prepare for class, which involves reading and briefing the cases. Step Two is to attend class, take proper notes, and participate, either explicitly or implicitly. Step Three is to review what was covered as soon after class as possible to fill in cognitive gaps and begin organizing the class material in the context of the overall course. Finally, Step Four is to test comprehension by practicing multiple-choice questions regularly. After completing the questions, they review the answers, and, next to each problem they answered incorrectly, I have students explain in their own words why they got it wrong so that they are able to demonstrate their newfound understanding of the concept. This process helps them both to gauge whether they understand the material and remedy any comprehension problems they are having as they encounter them. These

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130. Alaka, *supra* note 128, at 167-68 (demonstrating how thinking about learning styles can help instructors improve their teaching); Robin A. Boyle, *Applying Learning-Styles Theory in the Workplace: How to Maximize Learning Styles Strengths to Improve Work Performance in Law Practice,* 79 ST. JOHN'S L. REV. 97, 99 (2005).

131. Dianne L. Koller, *Legal Writing and Academic Support: Timing is Everything,* 53 CLEV. ST. L. REV. 51, 67-68 (2005-06) (discussing importance of promoting self-regulated learning as opposed to delivering in a way that "reinforces the students' resistance to independent learning").

132. Pajares, *supra* note 51, at 122 ("If there is one finding that is incontrovertible in education and psychology, it is that people learn from the actions of models.").

133. Martin & Rand, *supra* note 83, at 224.

134. This methodology was suggested to me by Professor Louis Schulze, Director of Academic Excellence at New England Law | Boston and influenced by a similar approach taken by our colleague Herb Ramy, Director of Academic Support at Suffolk University School of Law.

problems can later be incorporated into their outlines as hypotheticals to illustrate the principles at play. Thus, when I work with each student to develop an appropriate plan for management of resources, we use the Four-Step Study Plan as a backdrop for what it is they need to accomplish.

Each time we meet, the student fills out an Action Plan, with specific assignments, next steps, and notes. We each initial the bottom of the Action Plan and write in the date for our next meeting. I require each student to keep this series of Action Plans and work completed in a binder, and we use the Action Plan to guide our meeting. Once students realize that they are accountable to me to such an extensive degree, they are more likely to complete the work and put in the required effort. In addition, teaching students to be organized in this way helps them in all of their classes. For many of them, basic organizational skills are the root of their larger problems, and spending time tweaking their overall "system" goes a long way toward improvement in self-regulating resources. I make sure that the Action Plan encompasses specific as opposed to general goals ("complete ten multiple-choice questions on adverse possession" instead of "learn adverse possession law"), specific time parameters ("e-mail Professor Bloom a draft of the Contracts outline by Sunday night at 9 p.m."), and manageable tasks (we usually limit the Study Plan to five concrete tasks) so that my students begin to experience regular feelings of success and embrace their developing expertise.

As discussed above, I also ask each student to take and report her results on the VARK learning style questionnaire.[135] Encouraging my students to use a variety of different learning methods that recognize and validate multiple learning styles helps them to comprehend the material more deeply and aids them as they assess the best way to learn. Moreover, thinking about how my own learning style affects the way I teach ensures that I am supporting the learning styles of my different types of students as opposed to emphasizing the strategies that work best for me personally.

As we fill out the Action Plan, I ask careful leading questions that call for the student to assess the benefits of her most recent study strategies, and the student leads the conversation from there. By the second or third meeting, the majority of my students have recognized, for example, that practicing multiple-choice questions helped them to understand a specific legal concept, and they want to work on incorporating those questions into their outlines as illustrations of the

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135. *VARK: A Guide to Learning Styles, supra* note 97.

legal concept. Students also like knowing what to expect, and having a predictable routine in my office makes our meetings more efficient and productive. As the semester progresses, the students become more internally motivated, running the meetings and taking the initiative to suggest what they would like to address in subsequent meetings.

Professors often underestimate how important basic time management and organizational skills are for juggling the multiple tasks of law school. Students often fail to see the big picture of their week or month or semester, which is why many end up underperforming. They simply fail to allocate enough time for the specific task required, which then has a snowball effect on their work for other classes. I emphasize that one of the many reasons why it is so important for them to be organized is that this is precisely what they will need to do in law practice. In this economy especially, employers have very high expectations and will expect attorneys to juggle multiple tasks and clients simultaneously.[136]

We work on scheduling time in multiple ways. Many of my students find it helpful to fill in a blank calendar weekly, in which they account for their time in class, when they will complete specific assignments, fulfill all of the steps of the Four-Step Study Plan, and even schedule personal time as well. For my students who are put off by something so detailed and mechanistic, I encourage them to fill out a Time Management/Self-Monitoring Log developed by Schwartz based on logs recommended by experts in teaching self-regulated learning skills.[137]

The log requires the student to incorporate the three phases of learning—forethought, performance, and reflection—by having students fill in information for the following categories: "Concept/Skill to be Studied, Learning Goal(s), Strategies for Learning, Place for Studying, Time Planned for Studying and for Break, Actual Study Time and Study Break, Actual Time Getting Help and Source of that Help, Ability to Focus During Study, Steps Used to Study the Material, and Effectiveness of Study Techniques."[138] This log allows them to record their "learning goals, decide how, when, and where" they will study, and then record the actual results of their studying.[139] It helps them over time to become increasingly efficient and effective and, most importantly, to know when they need to ask for help. "There is also extensive evidence that

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136. Elizabeth Fajans, *Legal Writing in the Time of the Recession: Developing Cognitive Skills for Complex Legal Tasks,* 49 DUQ. L. REV. 613, 616 (2011).

137. SCHWARTZ, EXPERT LEARNING, *supra* note 6, at 264.

138. *Id.*

139. *Id.* at 51.

prompting students to keep records affects learning, motivation and self-efficacy."[140]

2. Seeking Assistance from Faculty

Self-regulation of behavior also encompasses knowing how and when to reach out for help. As we evaluate the strategies my students are utilizing to manage their time and learn the law, we can determine which weaknesses are a result of poor time management and environmental strategies and which result from substantive confusion with the law. This enables us to determine when the student should reach out to a professor to seek additional assistance. Engaging in Step Four of the Four-Step Study Method is another tool to diagnose when a student needs to reach out for help. When a student is not performing well on multiple choice or essay practice, we can work together to determine whether the weaknesses are structural or substantive. If the student is having substantive comprehension difficulties, I encourage her to seek help from her doctrinal professors to remedy these problems as they arise.

Providing individual academic counseling as one component of an academic support program that actively engages and garners the support of all faculty members promotes excellence in teaching and learning.[141] The notion of a community of teachers envisions an environment with "collaboration as the centerpiece,"[142] where faculty meet frequently to discuss their learning objectives, design collaborative exercises, and work together toward their joint mission of preparing students to be lawyers.[143] When faculty make learning the concentration and focus

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140. Zimmerman, *supra* note 5, at 333.

141. Adam G. Todd, *Academic Support Programs: Effective Support Through a Systemic Approach*, 38 GONZ. L. REV. 187, 188 (2002-03).

142. Melissa J. Marlow, *Law Faculties: Moving Beyond Operating as Independent Contractors to Form Communities of Teachers*, 38 OHIO N.U. L. REV. 243, 244 (2011).

143. *Id.* at 244-45. I recently visited the Forest Avenue School in Middletown, Rhode Island. The teachers there have created an early learning center where all teachers work together to nurture and support the growth of their students. Their mission is as follows: "In partnership with students, parents, and community the mission of Forest Avenue School is to create a safe, and supportive environment that fosters curiosity, creativity, caring, and a love of learning, enabling all students to succeed in the 21st century." FOREST AVENUE SCH., http://www.ri.net/middletown/forest/index.html (last visited Feb. 2, 2014). Their use of space enhances the community dynamic. I attempt to model that structure by making my office a safe space for my law students and a welcoming space for fellow professors who wish to work together to enhance the academic experience for our joint students.

together on learning outcomes,[144] it leads to "a collaborative culture of disclosure, coordination, and communication."[145] Furthermore, having this coordinated effort helps with academic support in many ways.[146] Academic support faculty can act as resources for doctrinal faculty by advising on curriculum and course development, consulting on teaching methods and issues with students, team teaching courses, reviewing exam questions, and sharing ideas for substantive exam reviews.[147]

At my law school, a community of teachers shares in supporting struggling students. There are many ways that we work together in the context of classroom teaching and individual counseling. Most notably, working with my students on techniques for exam writing enables me to work collaboratively with a wide range of fellow professors.[148] Since my students work on practice exam essays designed by their doctrinal professors, this necessitates conversations and collaboration with my colleagues about best practices for evaluation and also enables us to confer about specific students and work together to help struggling students in the most comprehensive and sensitive way possible. In addition to working one-on-one with the student, I am also able to have the student circle back with the professor when it becomes clear that additional assistance is needed in understanding the doctrine. Embedding self-regulated learning strategies within the doctrinal classes enables faculty to work together to help our students achieve success.

Another example of effective teamwork is sharing information about student behaviors and patterns in the law school classroom.[149] Collaborating with colleagues who teach doctrinal courses and sharing this information can help them improve their teaching, help me improve

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144. Schwartz, *Law By Design, supra* note 22, at 358-59 (emphasizing importance of designing courses using the "instructional design" approach by first analyzing context of learning and what learning tasks are required to help determine assessment methods and teaching techniques); *see also* Brian P. Coppola, *Progress in Practice: Using Concepts from Motivational and Self-Regulated Learning Research to Improve Chemistry Instruction,* 63 NEW DIRECTIONS FOR TEACHING & LEARNING 87, 89 (1995); Curtis, *supra* note 12, at 218-19; Svinicki, *supra* note 24, at 74.

145. Steven I. Friedland, *Outcomes and the Ownership Conception of Law School Courses,* 38 WM. MITCHELL L. REV. 947, 975 (2012).

146. Marlow, *supra* note 7, at 514 ("Building a community of teachers is the only real and lasting solution [for helping struggling students].").

147. Lustbader, *Dreams, supra* note 11, at 844.

148. Lustbader, *Orientation Programs, supra* note 10, at 355 (describing how "effective learning communities . . . enhance learning").

149. Ann E. Woodley, *A Student-Centered Approach to Teaching Excellence: 10 Ways to Identify Opportunities for Improvement Through the Observation of Students in the Classroom,* 4 PHOENIX L. REV. 155, 159-60 (2010) (identifying observable student behaviors such as level of engagement and nonverbal behavior as useful information to aid the improvement of teaching).

my counseling, and help us collectively to assist students more effectively. Often I meet with students who are concerned about whether they are even qualified to be in law school. They are doing everything they can think of but are still falling short. I have learned that while some of these students are able to articulate these specific concerns and fears, many take an opposite approach, acting angry and insolent, avoiding eye contact, and attempting to get out of my office as soon as humanly possible. Once I am able to reach these students through a combination of active listening and building trust, it is helpful for me to be able to share my newfound information with their professors. Thus, for example, when a doctrinal professor steps into my office and tells me that one of my specific students appears apathetic and unwilling to put in the requisite amount of work, I am able to offer insight into the reality of the situation. It should be noted that neither the Family Educational Rights and Privacy Act nor the regulations governing its interpretation[150] require that I explicitly obtain permission from the student before sharing this information with her doctrinal professor.[151] Nonetheless, I still prefer to encourage my student to take the lead in sharing personal information with the professor to facilitate the self-empowerment that accompanies self-regulated learning.

A common scenario is the student who is terrified to speak in class. I have experienced success having these students meet with their professors prior to class to come up with a plan to help them participate (which may be as simple as preparing a response to a question they know will be asked ahead of time). I have never encountered a doctrinal professor who is unwilling to work with a student in that manner. What ultimately transpires is that both the image the doctrinal professor had of the student and possibly the image the student had of herself are transformed. As we experience these successes together, the relationships I have with both my students and the other professors at my law school are strengthened. An added positive effect is that it makes the professors more likely to return to my office to discuss these types of concerns, which enables us to work together more frequently and productively to help improve student performance. In sum, working with my students to self-regulate their time management and environmental resources in addition to their use of faculty resources improves student learning and helps create a collaborative community where faculty work together to improve student learning across the board.

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150. 20 U.S.C. § 1232g(6)(b)(1)(A) (2006); 34 C.F.R. § 99.31(a)(1)(i)(A) (2008).

151. Louis N. Schulze, *Balancing Law Student Privacy Interests and Progressive Pedagogy: Dispelling the Myth that FERPA Prohibits Cutting-Edge Academic Support Methodologies*, 19 WIDENER L.J. 215 *passim* (2009).

C. Self-Regulation of Cognition: Active Learning Strategies & Formative Feedback

Self-regulation of cognition involves identifying and using strategies for mastering the vast amount of learning material. This process envisions the interplay of active learning exercises with effective formative feedback, which entails a combination of self-critique and professorial feedback. In the area of writing, there are several articles detailing why it is so important to provide multiple and frequent writing opportunities for our law students.[152] Ultimately, helping students to develop useful writing strategies reinforces self-regulated learning by teaching students to take responsibility for their writing process.[153] In addition, much has been written on the benefits of teaching law students (especially underperforming law students) how to write good exams.[154]

In addition to writing, improving reading skills is a crucial part of cultivating academic success in law school, especially because reading is such a significant component of how lawyers acquire information and make decisions. "Good legal readers are purposeful; they are aware of the context of their reading as they proceed, and, although detail-oriented, they do not get mired in the details to the extent of losing sight

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152. Fajans, *supra* note 136, at 613-16 (focusing on importance of writing in practice and inability of firms to train to the same degree given reality of economic times); Floyd, Griffin & Sneddon, *supra* note 40, at 258 (discussing importance of writing exercises that "engage the students and enhance student learning to better prepare students for the practice of law"); Lustbader, *Teach in Context, supra* note 108, at 414; Carol McCrehan Parker, *Writing Throughout the Curriculum: Why Law Schools Need It and How to Achieve It*, 76 NEB. L. REV. 561, 565-68 (1997) (discussing three specific goals of writing in law school: (1) using writing as a study methodology as part of the "writing-to-learn" movement, (2) learning to write the types of legal documents they will need to write as lawyers as a way to enter the "discourse community," and (3) writing as a means to examine the role of lawyers in our society); Kathleen Elliott Vinson, *Improving Legal Writing: A Life-long Learning Process and Continuing Professional Challenge*, 21 TOURO L. REV. 507, 546-47 (2005) (suggesting ways academia and the legal profession can work together to improve legal writing of law students and lawyers).

153. Lustbader, *Teach in Context, supra* note 108, at 414. Karen R. Harris, Steve Graham, Linda H. Mason & Bruce Sadler, *Developing Self-Regulated Writers*, 41 THEORY INTO PRACTICE 110, 112-13 (2002) (presenting structure for self-regulated writing strategy development of (1) developing background knowledge, (2) discussing strategy, (3) modeling strategy, (4) memorizing strategy, (5) supporting strategy, and (6) independent performance); Michel Ferrari, Therese Bouffard & Line Rainville, *What Makes a Good Writer? Differences in Good and Poor Writers' Self-Regulation of Writing*, 26 INSTRUCTIONAL SCI. 473 *passim* (1998).

154. *See, e.g.,* Adam G. Todd, *Exam Writing as Legal Writing: Teaching and Critiquing Law School Examination Discourse*, 76 TEMP. L. REV. 69, 71 (2003) (discussing importance of focusing on exam writing skills, especially for underperforming students).

of the main ideas in the reading."[155] Many articles have been written on specific strategies to improve student reading.[156] In addition, there have been studies demonstrating how students that use mastery-oriented reading skills demonstrate self-regulated learning methodologies.[157] This section focuses specifically on active learning exercises that help to improve writing, although many of these exercises build reading comprehension skills as well.

Formative feedback maximizes the learning that results from writing and reading opportunities.[158] The two types of assessments are formative (assessments for learning) and summative (assessments of learning).[159] Formative assessments are provided with the intention of providing feedback to improve student learning, while summative assessments usually take place only once at the end of the semester.[160] Studies document the importance of formative feedback[161] so long as it is exercised in a manner that "empower[s] students as self-regulated learners."[162] This involves identifying a gap in learning and then

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155. Larry O. Natt Gantt, II, *Deconstructing Thinking Like a Lawyer: Analyzing the Cognitive Components of the Analytical Mind,* 29 CAMPBELL L. REV. 413, 472 (2007).

156. *See* Christensen, *Paradox of Legal Expertise, supra* note 69, at 86 ("[Expert legal readers] (1) Read with a purpose; (2) Use background knowledge to situate the case; (3) Establish the context of the case before beginning to read; (4) Evaluate the case and have an opinion about its outcome; and (5) Read flexibly; skim and skip when appropriate"); Leah M. Christensen, *Legal Reading and Success in Law School: An Empirical Study,* 30 SEATTLE U. L. REV. 603 (2007) (reporting results on an empirical study on how successful law students read cases differently than their less successful peers and presenting examples of reading strategies they use); Debra Moss Curtis & Judith R. Karp, *In a Case, On the Screen, Do They Remember What They've Seen? Critical Electronic Reading in the Law Classroom,* 30 HAMLINE L. REV. 247, 276-77 (2007) (focusing on unique reading challenges that arise when students read on a computer screen and the resulting need to use higher metacognitive skills when reading in this medium); Oates, *supra* note 79, at 139; Karol Schmidt, *Learning from the Learners: What High-Performing Law Students Teach Us About Academic Support Programming,* 4 PHOENIX L. REV. 287, 310-11 (2010).

157. Christensen, *Power of Skills, supra* note 54, at 813-14.

158. Clark, *supra* note 4, at 205 (drawing upon 199 sources on assessment, learning, and motivation to show how "formative feedback actualizes and reinforces self-regulated learning strategies among students"); *see also* Christensen, *Power of Skills, supra* note 54, at 84; Lustbader, *Orientation Programs, supra* note 10, at 362.

159. *Id.*

160. Rogelio A. Lasso, *Is Our Students Learning? Using Assessments to Measure and Improve Law School Learning and Performance,* 15 BARRY L. REV. 73, 77 (2010).

161. Niedwiecki, *supra* note 6, at 175 (stating that in a review of more than 250 articles and books, formative assessment was found to produce "significant improvements in student learning when compared to student learning without formative assessment").

162. Clark, *supra* note 4, at 211.

engaging in a process to work with the student to understand and close the gap to help the student move forward in the learning process.[163]

To maximize learning, active learning opportunities must be linked with effective formative feedback. Educational psychologist Marilla Svinicki sets out four specific teaching tools to link formative feedback to self-regulated learning: (1) setting out clear criteria for performance, (2) encouraging self-assessment through activities requiring students to evaluate their own performance, (3) providing diagnostic information about student performance, and (4) providing opportunities to practice and improve.[164] I will discuss how I use these tools to train my students to use the formative assessment process as a way to build their metacognitive skills.

1. Criteria

Providing my students with specific criteria helps them understand what constitutes quality performance in law school. There is a widely held belief that it is important to be transparent when creating different types of written assessment tools to help students "understand themselves as learners."[165] In fact, Ian Clark maintains that "sharing learning intentions and identifying clear assessment criteria is the *sine qua non* of formative assessment."[166] I provide these specific criteria to my students in the form of rubrics, checklists, and model answers, which we use to review exams and writing exercises.[167]

I encourage my students to experiment with two very different kinds of checklists to assess their performance. The first requires them to evaluate their performance on the exam, including their ability to issue spot, state and articulate the rule correctly, undertake sufficiently detailed analysis, and provide a conclusion that flows logically. The other, modeled after a form in Schwartz's *Expert Learning for Law Students*

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163. Niedwiecki, *supra* note 6, at 177.

164. Svinicki, *supra* note 24, at 80. Svinicki also mentions three other teaching tools that help link formative feedback to self-regulated learning: (1) providing opportunities for dialogue, (2) encouraging self-efficacy, and (3) relaying information to the instructor to help improve teaching methodology. *Id.*

165. Clark, *supra* note 4, at 240.

166. *Id.* at 210; *see also* Niedwiecki, *supra* note 6, at 177-78.

167. Rubrics provide notice to students about learning outcomes and what successful performance on a particular assignment entails. Friedland, *supra* note 145, at 967; *see also* Sophie M. Sparrow, *Describing the Ball: Improve Teaching by Using Rubrics— Explicit Grading Criteria*, 2004 MICH. ST. L. REV. 1, 6 (2004) (noting educators in other disciplines have discovered that "students learn more effectively when their teachers provide them with the criteria by which they are evaluated").

Workbook,[168] takes them through the reflection phase of the self-regulated learning cycle and encourages them to characterize the effectiveness of their chosen learning strategies and channel it into a successful strategy for improving performance.[169] This embodies the crucial connection between formative feedback and encouraging self-regulated learning. Students need to be provided with very detailed instruction on how to use the tools that will help develop their self-regulated learning skills.[170]

2. Self-Assessment

Having students self-assess before receiving instructor feedback is a crucial component of metacognition because it requires students to be aware of their knowledge of cognition, monitor their learning, and make appropriate adjustments to improve.[171] In the context of exam review, I have my students obtain and review their exams prior to our meeting, self-assess their strengths and weaknesses using the rubric or model answer provided by their professor (and the self-assessment checklist I provide), and come prepared to lead our meeting.

In addition to having the students use the model answer to compare how they analyzed the law, I ask them to diagram the model answer using the tools we developed. I have them diagram where IRAC was used and identify where different tools for analysis (such as rule-based, analogy-based, and policy-based) were used.[172] Once they are able to identify and articulate the specific components of successful writing, they are able to take the next step of using these tools in their own analysis.

3. Providing Information

After a student completes a self-assessment, we review it together alongside the assignment. During our meeting, I work through the exam with the student, diagnosing mistakes and connecting strategies back to what I taught in class. This provides an opportunity for the student to

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168. MICHAEL HUNTER SCHWARTZ, EXPERT LEARNING FOR LAW STUDENTS WORKBOOK 143 (2d. ed. 2008).

169. *Id.*

170. Lasso, *supra* note 160, at 93.

171. Burgess, *supra* note 112, at 53; Niedwiecki, *supra* note 6, at 183-84 (2012) ("[I]t allows the students to focus keenly on the feedback and use it to improve learning.").

172. *See* Schmidt, *supra* note 156, at 312-13 (detailing a similar "deconstruction activity" and demonstrating how this helps students see how "variations on IRAC" can work as well).

identify patterns of weakness and make appropriate adjustments to improve. For example, if my student consistently provides insufficient analysis within the IRAC structure, and she fails to note this on her self-assessment, I am able to take the student through a cognitive think aloud[173] to help her see the areas in which she failed to identify her poor analysis. The goal is to give the student the chance to articulate what she is thinking and how she is processing as she performs a task, which enables me to understand what strategies the student is using and how to help the student further develop her self-regulation skills.[174] The teacher can also cognitively model effective strategies by thinking aloud for the benefit of the student on the topic of her thinking process and why she is choosing the particular strategies suggested.[175] I guide the students as they learn to recognize and correct their own mistakes. By creating this "internal editorial voice"[176] for the students, I also model the types of questions I want my students to address as they engage in this process on their own.

Feedback plays an important role in how students perceive their self-efficacy.[177] I am very conscious of the way the students will interpret my comments, especially in light of the fact that they are struggling already. I attempt to make my feedback "respectful, constructive, and depersonalized,"[178] which helps students realize that underperformance was due to their particular learning strategies as opposed to their innate abilities. I learned that I must always find something good to say—even if it is as simple as "good job stating the rule of law up front."[179] Seeing a positive message written on their paper helps them stomach the more critical feedback and motivates them to improve.[180] Framing feedback in a way that helps students reflect on the process of learning as opposed to the final product also helps motivate the student to master the material,

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173. Magno, *supra* note 23, at 37 (describing how "[i]n think aloud techniques, students report their thoughts and cognitive processes while performing a task").

174. *Id.*

175. Coppola, *supra* note 144, at 89; Horner & Shwery, *supra* note 118, at 106; Pintrich, *supra* note 80, at 10 (emphasizing importance of faculty "modeling various learning and thinking strategies for students").

176. Parker, *supra* note 152, at 586.

177. McKinney, *supra* note 49, at 251-52.

178. Martin & Rand, *supra* note 83, at 227.

179. This also fulfills the requirement of being constructive by strategically guiding the learning as opposed to just making a general comment like "good," which would not scaffold further inquiry or promote self-regulated learning. Niedwiecki, *supra* note 6, at 181-84.

180. Glesner Fines, *supra* note 100, at 114-18 (discussing how "high expectation language" improves results).

not merely the assessment measure.[181] Even as I provide specific
information to my students, I aim to scaffold my students' learning so
that they continue to guide the conversation and resolve the challenge.
The idea of scaffolding learning encompasses providing tips and
thoughtful instruction, as opposed to exact answers, to help students
"generate internal feedback which makes them more engaged, effortful,
and self-regulated."[182] Scaffolding should be a "temporary support that
allows students to complete tasks and helps them develop or retain a
learning-oriented motivation."[183] Ultimately, it should fade and be
transferred to the student.[184]

4. Practicing and Improving Through Active Learning

The final step in Svinicki's process is to provide numerous active
learning opportunities for practice and improvement.[185] Many of the
active learning opportunities I provide for my students are based on the
"writing to learn"[186] movement and help students to build writing skills,
organizing skills, test-taking skills, and reading skills.[187] The concept is

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181. Jacobson, *supra* note 8, at 167.

182. Clark, *supra* note 4, at 214.

183. Horner & Shwery, *supra* note 118, at 106.

184. Harris, Graham, Mason & Sadler, *supra* note 153, at 113.

185. Svinicki, *supra* note 24, at 80.

186. Lysaght & Lockwood, *supra* note 127, at 74 ("[W]riting is viewed as a means, as
a tool, for learning more information, or for coming to a more confident understanding
[of the law]"); Andrea McArdle, *Writing Across the Curriculum: Professional
Communication and the Writing that Supports It*, 15 LEGAL WRITING: J. LEGAL WRITING
INST. 241, 245-46 (2009) (advocating for an increase in "non-transactional" writing in
law school as part of the "writing to learn" movement); Carol McCrehan Parker, *Writing
is Everybody's Business: Theoretical and Practical Justifications for Teaching Writing
Across the Law School Curriculum*, 12 LEGAL WRITING: J. LEGAL WRITING INST. 175, 179
("Writing is how students connect the dots in their knowledge."); Susan E. Thrower,
*Teaching Legal Writing through Subject-Matter Specialties: A Reconception of Writing
Across the Curriculum*, 13 LEGAL WRITING: J. LEGAL WRITING INST. 3, 13-14 (2007)
(discussing how MacCrate Report's call for greater skills instruction helped pave the way
for "writing across the curriculum" movement).

187. An extensive discussion of specific exercises to help students become self-
regulated readers is beyond the scope of this Article, but this is another of the skills that I
tackle in our one-on-one counseling sessions. We revisit the goals students are selecting
for their reading assignments and how they implicate strategy use and monitoring. As the
student progresses from framing the goal as to get through the reading assignment and
refocusing it on understanding the holding of a particular case and how it can be
synthesized with the other cases to extract the pertinent rule of law, the reading becomes
more focused and specific, and the monitoring and reflection becomes more sophisticated
as well. Students engage in the three-step processes of (1) putting the case in context, (2)
previewing the case for an overview, and (3) rereading the case analytically. *See*

that translating your thoughts into written words helps develop analytical skills.[188] Providing different opportunities to write guides the work I do with my students as we use writing as a tool to test, guide, and demonstrate their understanding of the law. In designing practice exercises for my students, I am mindful of creating assignments that maximize their self-efficacy.[189] By starting with manageable problems, I allow my students to experience small successes, which they can then draw upon to build confidence to tackle more challenging problems.

Often students think they understand the material ("the illusion of knowing")[190] but do not engage in any activities that will help them confirm this belief. Frequently, the students I work with did not know that they did not understand the material until they received their grades on first semester exams. One of the strategies I use to improve their self-monitoring is testing themselves (Step Four of the Four-Step Study Method). Writing exam essays is one form of self-testing. I connect these opportunities to the exercises that they are simultaneously completing in our weekly class. The students who I work with one-on-one are required to submit their essays to me in advance of our meetings so that I can provide detailed comments and feedback when we meet. Working through essay hypotheticals embodies problem-based learning through which students work on learning information within a factual context to make recall easier and to teach the process of determining where they are struggling and how to self-correct.[191] The process of working through a specific problem also facilitates self-regulated learning by changing traditional teacher/student roles as I depart from the traditional model of the professor as "sage on the stage" and reinvent myself as one of their "guides on the side."[192] This has positive results on my students' motivation, self-efficacy, and, in turn, performance.

SCHWARTZ, EXPERT LEARNING, *supra* note 6, at 103. Once they have finished this process, they are ready to brief the case. I also familiarize my students with Ruth Ann McKinney's formulation of "EMPOWER" as an overall reading strategy. RUTH ANN McKINNEY, READING LIKE A LAWYER 54 (2005) ("Engage with Energy; Monitor your reading and read for the Main Idea; . . . [R]ead with a Purpose; Get Oriented . . . and 'Own' your prior knowledge . . . ; [Remember the five Ws] (Who, What, When, Where, and Why); Evaluate what [you are reading] and, Review, Rephrase, Record.").

188. Floyd, Griffin & Sneddon, *supra* note 40, at 277.
189. McKinney, *supra* note 49, at 247.
190. Weinstein & Van Mater Stone, *supra* note 79, at 34.
191. Curtis, *supra* note 12, at 217.
192. Ellen Yankiver Suni, *Academic Support at the Crossroads: From Minority Retention to Bar Prep and Beyond—Will Academic Support Change Legal Education or Itself Be Fundamentally Changed?*, 73 UMKC L. REV. 497, 499-500 (2004); *see also* Christensen, *Power of Skills, supra* note 54, at 819 (describing how this causes the "traditional roles of teacher and student to change in a positive way"); Debra Moss

Writing exam essays also ties in to the overall process of outlining, as it helps students understand that good writing stems from organizing the material properly. Students with unorganized, poorly analyzed exams rarely have clear course outlines.[193] Outlining requires students to make sense of the law in a way that will be a prerequisite for writing a good exam. Outlining reveals my students' thinking processes and helps us identify where they are having trouble. Consistently, the students that I work with either failed to outline in the first semester or began too late. We create manageable schedules, and students regularly send me portions of their outlines to review in advance of our meetings. When a student is really struggling, we sit in my office and create an outline together, using class notes, case briefs, and supplements when necessary. Many students need just a little guidance before they have their "lightbulb moment" and are able to outline effectively on their own. The length of the outlining process is simply underestimated by the vast majority. Once they embrace the time commitment and realize it takes everyone a great deal of time to make sense of and understand the material, they are more willing to engage in the hard work required of them. Through this reflection, they are able to return to the planning stage, budget more time for their work, and then monitor the process to make sure their changes resulted in improvement.

I encourage my students to think about outlining as a broad category that encompasses many different options, including traditional roman numeral outlines, graphic organizers, concept maps, matrixes, tables, and more.[194] Many students fail to outline because the traditional format does not work for them, and they do not know any alternatives. In fact, visual aids and exercises have been shown to help students learn at a deeper level, retain the knowledge longer, and transfer the knowledge to new situations, which has clear implications for success on the bar exam and in practice.[195] Through the process of mapping out their analysis in a graphic form, students can see the relationship among the concepts, "the big picture of how the components of the analysis" intersect, and how their arguments and counterarguments can lead to more than one possible

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Curtis, *You've Got Rhythm: Curriculum Planning and Teaching Rhythm at Work in the Legal Writing Classroom*, 21 TOURO L. REV. 465, *passim* (2005) (discussing a multitude of styles teachers bring to the classroom and connecting styles to curriculum planning and course rhythms); Horner & Shwery, *supra* note 118, at 106 (explaining that coaching involves observing the learning of students and offering tips, scaffolding, feedback, modeling, and suggested tasks to help them become expert learners).

193. Schmidt, *supra* note 156, at 305.

194. SCHWARTZ, EXPERT LEARNING, *supra* note 6, at 164-70 (surveying different types of graphic organizers and how they can help law students make sense of law).

195. Burgess, *supra* note 112, at 3.

conclusion.[196] The activity of actually drawing out the material has the added benefit of encouraging active learning.[197] Active learning helps encode the skill, enables the information to move from short-term to long-term memory, and "has been shown to improve the quality of student learning."[198] What is crucial is that in whatever manner students choose to create their outlines, they should be more than just words cut and pasted from class and book notes.[199]

Consequently, I work to incorporate exercises that help students "chunk" information to create schema for understanding and then structure new schema in different ways to create various paths to the information.[200] This methodology is supported by research that suggests that using multiple pathways to retrieve information will make the information easier to remember and increase comprehension.[201] An example of this is the different functions that the three branches of government serve in Constitutional Law. To learn the Commerce Clause, my students will outline the three broad categories of activity that Congress may regulate under the Commerce Clause.[202] But in order to issue spot, the students need to recognize that Congress acting (as opposed to another branch of government) will trigger a Commerce Clause problem. Thus, I encourage them also to make charts for the branches of government in which they set out each branch's powers. Then, when they see a hypothetical on an exam in which Congress has

196. Lisa T. McElroy & Christine N. Coughlin, *The Other Side of the Story: Using Graphic Organizers to Counter the Counter-Analysis Quandary,* 39 U. BALT. L. REV. 227, 240 (2010); Kiewra, *supra* note 40, at 74 (explaining research that confirms benefits of organizing comparative information into matrixes rather than using traditional outline formats).

197. Gerald F. Hess, *Principle 3: Good Practices Encourages Active Learning,* 49 J. LEGAL EDUC. 401, 402 (1999) (demonstrating the connection between active learning and self-regulated learning by stating that "an active learning orientation proceeds from the assumption that students learn best when they take responsibility for their own education"); *see also* Floyd, Griffin, & Sneddon, *supra* note 40, at 258, 266, 304 ("[L]earning is best when students are self-regulating, engaged, and motivated learners, and when the learning process is active, experiential, collaborative, and reflective.").

198. Friedland, *supra* note 145, at 971-72; *see also* Floyd, Griffin & Sneddon, *supra* note 40, at 268; McElroy & Coughlin, *supra* note 196, at 236-37.

199. Schmidt, *supra* note 156, at 305.

200. Burgess, *supra* note 112, at 32; SCHWARTZ, EXPERT LEARNING, *supra* note 6, at 235.

201. Burgess, *supra* note 112, at 38; SCHWARTZ, EXPERT LEARNING, *supra* note 6, at 174.

202. First, Congress may regulate the use of the channels of interstate commerce. Second, Congress may regulate the instrumentalities of interstate commerce as well as goods and things in interstate commerce. Third, Congress may regulate intrastate activity that substantially affects that commerce. *See* Gonzales v. Raich, 545 U.S. 1 (2005).

acted, they now have multiple pathways to understanding as they run down the different possibilities of sources of power and determine whether it is indeed a Commerce Clause problem on their exam.

This methodology is particularly effective with underperforming students in light of the research demonstrating that adding visual aids to text helps underachieving readers more than advanced readers; using these visual aids also helps educationally disadvantaged students catch up more quickly to their peers, helping to remedy the preexisting educational imbalances discussed above.[203] Other simple tools I give my students are encouraging the use of timelines to help them make sense of fact-heavy cases or helping them diagram complicated questions such as Property hypotheticals involving property ownership.

Working with students to model how to develop organization results in improved writing.[204] After a student has written a practice essay and reviewed the model answer, I often have the student attempt to "outline" the model answer as a more comprehensive way to make sense of the information and determine where it belongs in the course outline.[205] The students can then see how the model answer outlined one particular area of the law and compare it to how they outlined the same material. In addition to using the student's outline as a source of information to determine whether she synthesized the material correctly, we go back and review the student's class notes and book notes on that particular topic. Working together to assess whether the student's note-taking was effective helps us determine precisely at what point in the learning progression the system broke down. Helping the student to understand how important it is to have precise and detailed notes to construct a comprehensive outline, which in turn will provide the structure for writing an effective exam answer, demonstrates how all of these components are interrelated, important building blocks of learning.

I keep a folder with detailed notes on each student to make it easier for me to see the trends in their strengths and weaknesses and have the work ready to show the student as well. I am careful to end each meeting by having the student answer specific questions that address the monitoring and evaluating components of self-regulated learning but also

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203. Burgess, *supra* note 112, at 49.

204. Jacobson, *supra* note 8, at 172.

205. This is similar to what Karen Koch has her students do in the Legal Research & Writing context. She asks them to reflect back on and create a visual representation of their research experience, citing the benefits of visual techniques both as an aid to metacognition and active learning. Karen L. Koch, *"What Did I Just Do?" Using Student-Created Concept Maps or Flowcharts to Add a Reflective Visual Component to Legal Research Assignments,* 18 PERSP: TEACHING LEGAL RES. & WRITING 119 *passim* (2010).

segue into starting over with new goals. For example, "what steps will you take to improve your analysis on exams, and how will you determine whether you have been successful?" The more they self-regulate, the more they are able to take what we are doing together and do it on their own as they learn how empowering it feels to be in control of their education.

IV. CONCLUSION

Teaching students to become self-regulated learners helps them to succeed in the traditional law school classroom and improves educational outcomes for students from a variety of diverse backgrounds. Self-regulated learners engage successfully in forethought and preparation, performance, and, most importantly, reflection. Successful learners self-regulate their motivational beliefs such as efficacy and goal orientation; their behavior and choices related to time, environment, and use of faculty resources; and their various cognitive strategies for learning.

Students often return to me in their final year of law school reporting on how they realized that one small strategy they used in their independent work with me proved to be the key to their success. For example, a student who found practicing multiple-choice questions particularly useful will report that she went ahead and continued using that strategy on her own throughout the remainder of law school to test her ability to apply what she was learning. Another student will tell me that she is using the time management/self-monitoring log to plan her studying for the bar exam and is consequently feeling calm and competent. What these students are implicitly articulating is that they succeeded in learning how to self-regulate and are using this crucial skill to help guide their future learning. I encourage them to carry these tools with them into practice so that my self-regulated law students ultimately become successful self-regulated attorneys.

APPENDIX:
CHECKLISTS FOR TEACHING SELF-REGULATED LEARNING

1. Checklist for Self-Regulation of Motivation
   ✓ Gather information about the student's prior knowledge and educational background to help individualize a study plan.
   ✓ Build trust by fostering a productive relationship through which you take interest in the student as a person.
   ✓ Set high expectations for self-regulation, positive attributional beliefs, and ultimate achievement.
   ✓ Provide the student with pedagogical context and encourage her

to make her law school experience meaningful and unique.

2. Checklist for Self-Regulation of Resources
- ✓ Model importance of attaining mastery goals by helping the student to develop specific, proximal, and manageable tasks.
- ✓ Use knowledge of learning style as one methodology for developing learning strategies and making choices about learning environments.
- ✓ Support development of organizational skills by assisting with time scheduling and encouraging recordkeeping to assist with the evaluation process of a self-regulated learning cycle.
- ✓ Actively engage with and work to garner support from faculty members to foster communication about students and coordinate efforts to help students succeed.

3. Checklist for Self-Regulation of Cognition
- ✓ Provide multiple active learning exercises that build skills and give students the opportunity to reflect on and revise learning strategies.
- ✓ Provide frequent, formative feedback in a manner that sets out clear criteria for performance, encourages self-assessment, and provides diagnostic information about student performance.
- ✓ Incorporate outlining exercises that help students "chunk" information to create schema for understanding and then structure the schema in different ways to create multiple paths to the information.
- ✓ Review writing exercises and exams in conjunction with notes and student outlines to demonstrate how synthesizing and organizing the material correctly is a prerequisite for successful exam writing.