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From Dreams to Reality: The Emerging Role of Law School Academic Support

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From Dreams to Reality: The Emerging Role of Law School Academic Support Programs

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"THE FUTURE BELONGS to those who believe in the beauty of their dreams."[1] Trina Grillo understood this better than most people I know. As one of the pioneers of law school academic support, Trina mentored countless students because she believed in the beauty of their dreams. In addition, she devoted countless hours working in law school academic support because she believed in the dream that creating a safe and effective learning environment for diverse students would help diversify the legal profession and ultimately result in a more just legal system and society.[2] Most academic support teachers share this dream.

Like many of us, Trina observed that the legal system does not adequately represent the values or serve the needs of a culturally diverse society because the legal profession is dominated by the voices and values of persons who come from a white, upper-middle class, heterosexual, and

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1. According to staff of the Franklin D. Roosevelt Library & Museum, this phrase is often attributed to Eleanor Roosevelt. However, they are aware of no known writing in which it is contained.

2. The necessity of having a more diverse legal profession is underscored by the fact that lawyers not only provide access to the justice system but, more importantly, they occupy the majority of the power positions in this country. In fact, "[i]n 1978, 69.6% of U.S. senators and 52.2% of U.S. representatives gave their occupation as 'lawyer.'" Michael Jordan, *Law Teachers and the Education Continuum*, 5 S. CAL. INTERDISC. L.J. 41, 49 n.17 (1996) (citing FRANCES KAHN ZEMANS & VICTOR G. ROSENBLUM, THE MAKING OF A PUBLIC PROFESSION 1 (1981)). Thus, lawyers are "shaping the contours of social debate" over legal, moral, and political issues. *Id.* at 49.

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often male experience.[3] This experience is not reflective of the voices, values, and experiences of a diverse society because it promotes exclusivity over inclusivity,[4] individuality over community,[5] economic efficiency over moral or humanistic efficiency,[6] and rights over care–orientation.[7] Many people have argued that the legal system will continue to inadequately respond to a culturally diverse society until a critical mass of diverse lawyers and legal academicians enter the system and influence it.[8] The underlying purpose of most Academic Support Programs ("ASPs") is to diversify the legal profession by helping more diverse students gain admission into, remain and excel in, and graduate from law schools, so they can pass a bar examination and gain entry into the legal profession.

The first step toward diversifying the legal profession is to diversify law schools. Law schools must reflect a diverse culture and community

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3. *See* GEOFFREY C. HAZARD, JR., THE LAW AND ETHICS OF LAWYERING 900–01 (1994); Patricia McKeown, *Diversity in the Workplace: What Does It Mean for Your Bottom Line?*, 67 WIS. LAW. 10, 10 (1994); *see also* Elizabeth K. Ziewacz, *Can the Glass Ceiling Be Shattered?: The Decline of Women Partners in Large Law Firms*, 57 OHIO ST. L.J. 971, 977–79 (1996).

4. *See* Lucinda M. Finley, *Breaking Women's Silence in Law: The Dilemma of the Gendered Nature of Legal Reasoning*, 64 NOTRE DAME L. REV. 886, 895–96 (1989).

5. *See id.*; Leslie Bender, *A Lawyer's Primer on Feminist Theory and Tort*, 38 J. LEGAL EDUC. 3, 9 (1988).

6. *See* Bender, *supra* note 5, at 8–9.

7. *See* Finley, *supra* note 4, at 886; *see also*, Bender, *supra* note 5, at 8–9; Sandra Janoff, *The Influence of Legal Education on Moral Reasoning*, 76 MINN. L. REV. 193 (1991) (discussing a study conducted of first year men and woman law students to determine the effects that law school had on their moral reasoning). In general, the study concluded that men tend to be more rights-oriented and women tend to be more care-oriented. *See id.* at 201. Subjects were tested before beginning law school and then re-tested at the end of the first year of law school. *See id.* at 209. While the effect of the first year law school on men's moral reasoning was insignificant, it was significant on women's. *See id.* Women shifted their moral reasoning from a care-oriented system to a rights-oriented system. *See id.* at 229–32. This is attributable to the fact that law has tended to be more rights-oriented and there has been little inclusion of care-oriented morality within the law school pedagogy. *See id.* at 233–37.

8. *See, e.g.*, Derrick Bell & Erin Edmonds, *Students as Teacher, Teachers as Learners*, 91 MICH. L. REV. 2025, 2031–38 (1993), responding to Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34 (1992) (attacking "non-traditional" legal scholarship as being impractical and leading to the demise of proper training for lawyers). Bell and Edmonds defend the need for "non-traditional" legal scholarship (including interdisciplinary, critical race, feminist, and critical legal studies) as it provides a vehicle to influence the legal system and gain justice for minorities and women. *See id.*; *see also, e.g.*, Charles R. Calleros, *Training a Diverse Student Body for a Multicultural Society*, 8 LA RAZA L.J. 140, 144–50 (1995); Kimberlé Williams Crenshaw, *Forward: Toward a Race-Conscious Pedagogy in Legal Education*, 11 NAT'L BLACK L.J. 1, 31 (1989); Carrie Menkel-Meadow, *Feminist Legal Theory, Critical Legal Studies, and Legal Education or "The Fem-Crits Go to Law School,"* 38 J. LEGAL EDUC. 61, 82–84 (1988); *cf.* Kathleen S. Bean, *The Gender Gap in the Law School Classroom—Beyond Survival*, 14 VT. L. REV. 23, 54–56 (1989); K.C. Worden, *Overshooting the Target: A Feminist Deconstruction of Legal Education*, 34 AM U. L. REV. 1141, 1155 (1985).

within the institution and its curriculum.[9] The existence of diverse faculty,[10] students, ideas, and inclusive teaching methods provides some of the particulars of our students' life and culture. The existence of a special admissions program tells students that we value them. The existence of an ASP tells students that we care about them, that we will challenge them, and that we believe in the beauty of their dreams.

To help law schools address the needs of a diverse student body, ASPs have developed in a variety of different ways and have taken on a variety of different forms.[11] Although several programs have been in existence for

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9. *See* Claude M. Steele, *Race and the Schooling of Black Americans*, THE ATLANTIC MONTHLY, Apr. 1992, at 68, 74, 78.

10. Although an ASP can provide important indicia of a law school's commitment to and value of diversity, nothing speaks as powerfully as having a diverse faculty. Thus, in addition to developing ASPs, law schools must hire and retain diverse faculty members. *See* Colloquy, *The 1985 Minority Law Teachers' Conference*, 20 U.S.F. L. REV. 383 (1986); Derrick A. Bell Jr., *Application of the "Tipping Point" Principle to Law Faculty Hiring Policies*, 10 NOVA L.J. 319, 327 (1986); Richard H. Chused, *The Hiring and Retention of Minorities and Women on American Law School Faculties*, 137 U. PA. L. REV. 537, 555 (1988); Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411 (1989) (asserting that creative narrative on the part of out-groups can help break down traditional thought patterns); Jeffrey L. Harrison, *Confess'n the Blues: Some Thoughts on Class Bias in Law School Hiring*, 42 J. LEGAL EDUC. 119, 119–20 (1991).

11. The form and organization of ASPs within their respective institutions vary dramatically in terms of which students the program serves, what program components are offered, and which personnel teaches in the program.

For example, some programs are open only to all minority students, regardless of their statistical indicators, others are open only to students who have lower indicators, and others are open to a combination of the above. Some programs do not rely on predictive indicators and, instead, offer a program only after the first semester to students whose grade performance indicates the need for assistance. Other programs offer two types of assistance: one type to a targeted group of students based on criteria listed above; and another type of assistance to the general population.

Program components also vary among institutions. Some ASPs offer a one-day orientation for their entering diverse students and, at the other end of the spectrum, some offer an eight-week comprehensive introductory course that receives credit towards graduation. Some have components just for selected first year courses, some for all first year courses, some for first year and upper-level courses, some for bar preparation, and some offer a combination of the foregoing components. The forms these components take vary from supplemental instruction, that complements a specific course, to integrated instruction within a course, to some combination of the two. No one component operates in isolation from another; therefore, a theoretical framework is necessary to provide coherence among the different components. Although, to some extent, all components must continually address similar learning challenges, such a theoretical framework helps to articulate what learning challenges each component will address, how that component fits together with other components in the program, and its sequence in the overall program and curriculum.

The teaching personnel also varies within each program. Some ASPs are run by full-time faculty directors, others by faculty as part of a reduced teaching load, others as part of a legal writing program, and others by administrative personnel as part of their other duties. Some ASPs have tutorials led by faculty, others have tutorials led by students, and others have no tutorials, but instead, faculty and/or students work individually with students. Like the other categories, many ASPs have some combination of personnel.

decades, until 1988, many ASPs existed in isolation from one another. Each program developed in response to the specific needs of its institutions and students. In fact, most law schools did not have a formal ASP. But with the increasing need for law schools to diversify their student body, came a concomitant duty to provide assistance for those students. Thus, many law schools became interested in developing their own ASPs. As a result of this growing interest, ASPs became a "hot" topic in the legal academy, and the search for the perfect model program commenced.

This search began in earnest with Access 2000,[12] which was followed up with a full-day mini-workshop on academic support at the American Association Law Schools (AALS) annual conference in 1989. Several "round table" forums were scheduled at succeeding AALS annual conferences. Simultaneously, the Law School Admission Council (LSAC) committee on minority affairs concentrated its efforts to promote the proliferation of ASPs by retaining a consultant who: researched existing programs to collect a variety of program designs, instructional materials, and administrative models; created a manual for ASPs; traveled to numerous schools to help them develop a program; and developed a five-day institute on ASPs. The June 1992 *Academic Assistance Training Workshop*, at the University of Colorado School of Law in Boulder, was a Mecca for ASP professionals because it gave them the opportunity to break through their respective isolation, and it created a synergy that carried professionals and their programs to unimagined new heights.

Although no model program design[13] emerged from these AALS and LSAC efforts, what did emerge was a consensus that ASPs share a common mission: to provide diverse persons access to legal education, help create community, help diverse students succeed and excel academically, and most importantly, preserve students' feelings of self-worth and value. In addition to this common mission, ASP professionals realized that they serve a variety of roles in carrying out this mission. For example, they: impact admissions decisions; act as a resource for faculty; build community to improve the general atmosphere both within their individual institutions and

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12. During his term as President of the Law School Admission Council, Craig Chirstensen wanted a conference to review the recent history of minority access to the legal profession, to initiate plans for the future, and to mark the twentieth anniversary of CLEO and the tenth anniversary of the decision in *Regents of the Univ. of Cal. v. Bakke*, 429 U.S. 953 (1976). Charles E. Daye chaired the planning committee for *Access 2000: The Challenge to Assure Diversity in the Legal Profession*. LSAC, the major funding source, co-sponsored Access 2000 with the AALS, ABA Section of Legal Education and Admission to the Bar, and CLEO. This was the first major conference to explore issues related to Law School ASPs.

13. There is no model program design because each program must consider the unique needs of its students, faculty, administration, and institution, as well as the available resources.

within the national legal academy and profession; influence law school pedagogy; and help students adjust to a culture where the students' differences based upon factors such as race, class, disability, gender, and/or sexual orientation, can lead to feelings of stigma, disenfranchisement, and alienation.[14] In serving these different roles, ASPs have become one of the most exciting areas in legal education today.

ASPs provide diverse students access to law school by challenging, and ultimately disproving, the accuracy of traditional admissions indicators. General law school admissions policies favor applicants who were raised with the advantage of economic, academic, and cultural experiences that enable the applicant to perform well on the LSAT and in undergraduate institutions. To a certain extent, these indicators are predictive of academic performance in law schools because they measure an applicant's current ability to think in a linear, hierarchical, compartmentalized manner. They do not, however, measure an applicant's ability to learn these patterns of thought. Thus, relying on traditional indicators presumes that law school pedagogy only refines these skills and does not teach them. Many ASPs have shown that with interventions such as a shift in pedagogy, traditional indicators are not predictive of performance. In fact, many ASPs have consistently shown that students have outperformed their predictors.[15] Thus,

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14. Such feelings can significantly create barriers to learning and decrease student motivation and/or retention. *See generally*, Steele, *supra* note 9, at 74 (explaining that a common coping mechanism for black students is to withdraw from the educational endeavor and dis-identify with achievement so that it is no longer as important to their self-esteem). In this way, though they may stay in school, they psychologically insulate themselves from academics and act like a "disinterested visitor" instead of an active participant. *See id.*; *see also* Lani Guinier et al., *Becoming Gentlemen: Women's Experiences at One Ivy League Law School*, 143 U. PA. L. REV. 1, 3, 96 (1994) (showing that even with similar entry-level credentials, female law students do not perform as well as their male counterparts). Guinier states that the Socratic method alienates women more than men. *See id.* at 96. Furthermore, "men are *three times more likely* to be in the top 10% of their law school class." *Id.* at 3; *see also* Cathaleen A. Roach, *A River Runs Through It: Tapping into the Informational Stream to Move Students from Isolation to Autonomy*, 36 ARIZ. L. REV. 667, 669–70 (1994).

15. *See* Charles L. Finke, *Affirmative Action in Law School Academic Support Programs*, 39 J. LEGAL EDUC. 55, 67, 69 (1989) (citing statistics showing that below a certain ranking students do *not* outperform their predictors, but which are otherwise in accord with the general principle that students often outperform their predictors); Kristine Knaplund & Richard H. Sander, *The Art and Science of Academic Support*, 45 J. LEGAL EDUC. 157, 161, 207 (1995) (discussing an empirical study on the effectiveness of UCLA's academic support program); *see also* Linda F. Wightman, *The Threat to Diversity in Legal Education: An Empirical Analysis of the Consequences of Abandoning Race as a Factor in Law School Admission Decisions*, 72 N.Y.U. L. REV. 1, 52 (1997) (finding "that law school graduation is statistically independent of admission predicated from LSAT and UGPA for every ethnic group"). Thus, LSAT and UGPA "are not significant predictors of graduation." *Id.*

ASPs enable many law schools to take greater risks and open their admissions to students who would not otherwise have access to law school.[16]

ASPs also act as a resource for faculty. Many academic support faculty have developed an understanding of learning theory and teaching methods. As a result, several ASP teachers advise other faculty on curriculum and course development and work to integrate ASP pedagogy in substantive courses. Substantive faculty consult with the academic support faculty regarding teaching methods, problems with students, ways to address issues of diversity in a sensitive manner, and ways to avoid alienating students. Some academic support faculty team-teach courses with substantive faculty or teach their own substantive course employing ASP pedagogy. In addition, some academic support faculty review exam questions for potential problems before the exam is given and share ways for the substantive faculty to conduct an exam review for the students.

In addition to the roles of helping students and faculty, ASPs also help foster a sense of community both in and out of the law school. Many programs build bridges between and among students, faculty, staff, alumni, and the larger community. Because academic support faculty work to help students retain a sense of self-worth and to demystify the learning process, they decrease the amount of competition among students, especially those who participate in the formal programs. ASPs provide a link between faculty and students by helping students understand what the substantive faculty is doing, and why, and also by helping the substantive faculty understand what the students are doing, and why. In addition, academic support faculty develop and improve relations within the institution because they interact with students, faculty, staff, and alumni. Finally, academic support faculty often participate with recruiting, help with bar exam preparation, interact with faculty of other law schools and undergraduate schools, and develop mentor programs with alumni and other practitioners. In this way, academic support faculty establish connections outside the institution.

ASPs are building a national professional community among themselves and as a result, are building community between ASPs and the larger legal academy. Since 1992, with the sponsorship of the Law School Admission Council, academic support professionals have had an annual national

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16. For support for alternative admissions practices, see Wightman, *supra* note 15, at 50–51, 53 (finding a 78% correlation between actual and predicted admission decisions relying solely on LSAT and UGPA for white applicants, and only 41% for applicants of color, based on 1990–91 admission data). When Asian Americans were excluded from this group, the correlation was only 32%. *See id.* at 50. African-American applicants showed the lowest correlation of 10%. *See id.* at 51. Wrightman argues that if law school admission practices made admissions decisions based only on LSAT and UGPA, it would result in "systemic and predictable discriminatory selection" and as a result, would diminish the ethnic diversity in law school. *Id.*

conference.[17] These conferences have provided a much needed forum for ASP teachers to share their ideas, knowledge, approaches to solving problems, theories, and teaching methods. Because of this professional organizing and collaborating, many existing programs have improved their effectiveness, new programs have been established, and the number of ASP professionals has grown significantly.[18]

One of the most exciting aspects of the ASP's professional development is its influence within the national legal academy, not just on the development of ASPs, but also on traditional legal pedagogy. In the past few years, numerous law schools have consulted with ASP faculty for assistance in setting up an ASP or for training faculty in teaching methodology. ASP faculty have presented at several professional conferences including the Institute for Law Teaching,[19] Society of American Law Teachers,[20] the Legal Writing Institute,[21] and a variety of other law school and non-law school

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17. LSAC sponsored the following conferences: *Academic Assistance Training Workshop*, Boulder, CO (1992); *Academic Assistance Training Workshop*, Williamsburg, VA (1993); *Selected Issues in Academic Assistance*, Los Angeles, CA (1994); *Academic Assistance Training Workshop*, San Diego, CA (1995); four Regional Workshops in Chicago, New York, Florida, and Seattle (1996); and *Academic Assistance Training Workshop*, White Plains, NY (1997).

18. Between 1992 and 1996, attendance at the LSAC sponsored ASP conferences has increased by 30%. Telephone Interview with Kent Lollis, LSAC Associate Executive Director and Assistant to the President for Minority Affairs (July 25, 1996).

19. In June 1994, at the Science and Art of Law Teaching conference, which was the first conference of the Institute of Law School Teaching, and was held in Spokane, WA, two of the six presenters were ASP teachers. Paula Lustbader presented *Why Students Construct Faulty Analysis and Pedagogical Strategies to Build Solid Foundations: Insights from Learning Theory*, and Martha M. Peters presented *Students Learning Styles*. In 1995, Vernellia Randall presented *Helping Students Learn: A Model for Planning Effective Legal Teaching*. In June 1995, Martha M. Peters presented *Adult Learning Theory*. In 1997, Paula Lustbader and Laurie Zimet will present *Teaching the Whole Class*.

20. ASP teachers presented at two SALT conferences. They presented: *Incorporating Academic Assistance Pedagogy into Our Classrooms and Clinics to Create an Effective Learning Environment* at *Diversity in the Law School Curriculum Conference*, at the University of Minnesota School of Law (1994); and *Strategies for Changing Institutional Culture*, break out sessions, *Managing Academic Support Program Classroom and Tutorial Dynamics: Helping Students Retain Their Values and Integrity*, and *Keeping Students from Falling Through the Cracks*, at the *Reimaginging Law School Courses: Workshops Integrating Class, Disability, Gender, Race, and Sexual Orientation and Other Issues of Social Concern into Teaching and Course Materials*, in Santa Clara, CA (1993).

21. ASP teachers have presented at Legal Writing Institute conferences. For example: Paula Lustbader presented *The Relationship Between Legal Writing and Academic Support*, in Ann Arbor, MI (1990); Martha Peters presented *Dealing with Stress in Tight Budget Times*, and Paula Lustbader presented *The Developmental Stages of Learning to Think Like a Lawyer*, and *Learning and Cognitive Theory*, in Tacoma, WA (1992); Kris Knaplund presented *Teaching Students in Academic Difficulty*, Paula Lustbader presented *Helping Students Build Bridges Across the Raging Rivers in Learning Legal Analysis*, Angela Passalacqua presented, *What Directors Can Do To Help New Legal Writing Instructors*, and Laurie Zimet presented *Motivating Students to Excel: The Nexus Between Legal Writing Class and Law Exam Writing*, in Chicago, IL (1994); Paula

conferences.[22] In addition, ASP methods have been the topic of several section programs at AALS Annual Conferences.[23] In 1995, the AALS created a provisional section for academic support. Over 200 law professors attended each of the first two AALS Annual Conference sections on ASPs.[24]

In addition to being visible at the conference level, ASPs are becoming increasingly visible in scholarship. Numerous articles have been written on why law schools must better serve the needs of diverse students and on

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Lustbader presented *Teaching the Whole Student: Developing a Humanistic Pedagogy from Academic Support*, Angela Passalacqua presented *Providing Academic Support Without an Academic Support Program*, Ann Sheehan presented, *Selecting and Designing Legal Writing Problems: A Pedagogical Approach*, and Ruta Stropus presented *Can We Talk: Dealing with Difficult Students*, in Seattle, WA (1996).

22. For example, Paula Lustbader and Laurie Zimet presented *Innovative Pedagogical Strategies For Creating A Safe And Diverse Learning Environment: Perspectives from Legal Education Academic Support Programs*, at the National Institutes on Issues in Teaching and Learning conference on Thinking Through Difference: Teaching Practices and Student Diversity, in Chicago, IL (1993); Leslie Yalof Garfield presented *Squaring Affirmative Action Admission Policies with Federal Judicial Guidelines: A Model for the Twenty-First Century*, at the Conference on Race and Ethnicity in Higher Education, Santa Fe, NM (1995); Dana Underwood presented *Editing for Law Clerks*, at the 8th Circuit Court of Appeals Workshop (1995); Paul Bateman is a frequent presenter at the National Judicial College, in Reno, NV; Barbara Glesner Fines presented *Using Computers in Instruction*, at the Center for Computer Assisted Instruction Annual Conference, in Chicago, IL (1996); and Paula Lustbader presented *The Emerging Role of Academic Support Programs in the Law Schools*, at the ABA Annual Conference, Orlando, FL (1996).

23. For example, Charles E. Daye co-chaired the second AALS Academic Support Roundtable and Kris Knapland presented *Evaluation of Academic Support Programs*, in Washington, D.C. (1991); Paula Lustbader presented *Teaching Legal Analysis*, at the Section on Legal Writing, Reasoning, and Research, in San Francisco, CA (1993); Charles E. Daye co-chaired the AALS Mini-Workshop on *Professors in the Profession Using Innovative Teaching Methods*, in Orlando, FL (1994); Margalynne Armstrong, Trina Grillo, Rod Fong, Paula Lustbader, and Laurie Zimet presented *The Culturally Diverse Classroom: Learning New Techniques from Academic Support Programs*, a three-hour session for the Section on Teaching Methods, in New Orleans, LA (1995); Martha M. Peters presented *Attending to Learning Style Difference in Clinical Teaching*, Association of American Law Schools workshop on Clinical Legal Education, in St. Louis, MO (1995); Leslie Yalof Garfield presented *Presenting a Diversity Training Program to Incoming First Year Students*, at the AALS Joint Program of Sections on Administration in Law Schools and Student Services, in San Antonio, TX (1996).

24. Charles Calleros, Sue Lunbeck, Paula Lustbader, Angela Passalacqua, and Athornia Steele presented *Understanding Learning Styles, Cultures, and Contexts to Enhance Teaching*, in San Antonio, TX (1996); Fran Ansley, Charles Day, David Dominquez, Rod Fong, Ann Ijima, Paula Lustbader, and Laurie Zimet presented *Inclusive Teaching Methods Across the Curriculum*, in Washington, D.C. (1997).

The program committees of these two sessions were comprised of a combination of academic support professionals, substantive faculty, and administrators. These program committees, in themselves, have served an important function. Several persons who served on these committees walked away saying that they had never had such a positive learning experience. Academic support program presentations have developed a loyal following because these programs are viewed as being on the cutting edge. The AALS section programs are like political conventions; these programs invite, incite, and inspire.

ASPs in general. Equally significant is the scholarly contribution made by ASP teachers on a variety of topics.[25]

The academy's interest in ASP pedagogy is not surprising. As ASPs have grown, word of their success in increasing the retention and perform- ance of diverse students has spread. Many faculty think ASPs work "magic," and they want to learn the "tricks." There is, however, nothing magical or gimmicky about ASPs. It just so happens that in fulfilling their most significant role, that of helping students adjust to law school culture, values, and pedagogy, academic support faculty have developed a useful pedagogy. This pedagogy addresses both the academic and non-academic factors that impact student performance by teaching processes for learning and methods for coping with feelings of alienation and disenfranchisement. ASP's pedagogical approach is simple: it creates a safe and effective learn- ing environment; is student oriented; reinforces students' logic and values; provides challenges and ways to help them achieve those challenges; re- sponds to student voices; and, as a result of the above, empowers students. Although much of the pedagogy is the result of academic support faculty's intuition and creativity, learning and cognitive theory form its basis. This basis for ASP pedagogy can be summarized in the following teaching principles.

I. ASP Teachers Begin Where the Students Begin and then Relate and Develop Legal Concepts Based on Students' Prior Experiences

A student oriented teaching approach is an essential element of aca- demic support[26] to assist students' cognitive processes[27] as well as to in-

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25. *See, e.g.*, Kathy L. Cerminara, *Remembering Arthur: Some Suggestions for Law School Academic Support Programs*, 21 T. MARSHALL L. REV. 249 (1996) (discussing, *inter alia*, meth- ods for involving faculty more fully in ASP programs); Leslie Yalof Garfield, *Squaring Affirma- tive Action Admissions Policies with Federal Judicial Guidelines: A Model for the Twenty-First Century*, 22 J. COL. & UNIV. L. 895 (1996) (proposing ways of aligning law school admissions policies with recent federal requirements); Barbara Glesner, *Fear and Loathing in the Law Schools*, 23 CONN. L. REV. 627 (1991) (suggesting ways law faculty can help reduce student stress and improve student mental health); Ruta 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 (1996) (call- ing for an end to Christopher Columbus Langdell's method of legal education).

26. *See* James E. Bruno et. al., *Enhancing Academic Support Services for Special Action Students: An Application of Information Referenced Testing*, 21 MEASUREMENT AND EVAL. IN COUNS. AND DEV. 5 (April 1988) (finding that students with special needs of any kind can be effectively assisted by an academic support service that is student based and committed to ad- dressing the needs of a particular student population).

27. A major difference between poor problem solvers and good ones is not the difference in the amount of information possessed, but rather the "extent to which two groups could bring the relevant knowledge they already had to bear on the problem." William Wesley Patton, *Opening*

crease and sustain students' motivation to learn the material. Part of cognitive processing involves the development of schemata.[28] Schemata are the structural frameworks or maps that people use to organize the relationships among different units of information. Students must identify these relationships to move beyond mere rote memorization of isolated facts to a complete comprehension of the new information being learned.[29] Students construct schemata of new information either by incorporating it into their pre-existing schemata (assimilation), which are based upon their previous knowledge base, or by constructing new schemata that are not connected to their existing schemata (accommodation).[30] Assimilation may be the preferred method of constructing schemata because, when done with proper guidance, it can be the most efficient method for gaining comprehension, as it uses a structure that is already in place in the students' minds,[31] whereas accommodation, students must first learn a new structure. However, whether students assimilate or accommodate, without explicit instruction

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28.   Research indicates the schemata affect a variety of specific cognitive functions. *See* Ruth Hamill et al., *The Breadth, Depth, and Utility of Class, Partisan, and Ideological Schemata* (Nov. 26, 1984) (unpublished manuscript on file with the *University of San Francisco Law Review*). First, they provide categories for labeling people, places, events, and processes, which simplifies the environment. *See id.* Second, they "influence what new information will be attended to, encoded, and retrieved from memory." *Id.* Third, schemata "enable the individual to make inferences from incomplete data by filling in missing information." *Id.* Fourth, they "provide a plan for solving problems and making more confident decisions." Fifth, they influence the weighing of evidence in making decisions and predications. *See id.* Finally, they "generate expectations against which reality is contrasted and one's experiences are compared." *Id.*

The concept of knowledge structures is central to contemporary schema theory. *See id.*

The basic unit of analysis is the knowledge structure. Whether labeled a frame, a script, or a schema, a knowledge structure is defined in terms of its domain-specific knowledge. Specific elements include: "(1) declarative knowledge, the 'factual' information describing the instances and attributes of some particular aspect of the world, and (2) associational knowledge, the semantic connections which form a network of interrelationships linking examples and characteristics to schema concepts." *Id.* at 852 (emphasis omitted) (citations omitted).

29.   "It is this binding of declarative and associational knowledge within a coherent memory structure that turns otherwise disjointed bits of information into meaningful patterns of thought and accounts for systematic effects in human information processing." *Id.*

30.   *See* John B. Mitchell, *Current Theories on Expert and Novice Thinking: A Full Faculty Considers the Implications for Legal Education*, 39 J. LEGAL EDUC. 275, 287 (1989).

31.   Knowledge structure theory suggests that a person's prior knowledge about some domain influences what that person sees and remembers and how the person interprets reality, and guides the person's behavior. What a student brings with her to the law school environment, including her values, her prior education, and her life experiences, will form the basis of her knowledge structures. Schemata or knowledge clusters allow for cognitive economy, providing a mechanism for selectively attending to some stimuli while disregarding others and for making decisions without full information. *See* Joseph W. Alba & Lynn Hasher, *Is Memory Schematic?*, 93 PSYCH. BULL. 203, 203 (1983).

and learning exercises that facilitate students' construction of schemata, students will construct faulty schemata.[32]

When teachers do not explicitly relate the new information to the students' developed schemata of prior knowledge, students cannot assimilate the new ideas, or they may mischaracterize them. These assimilation problems can be exacerbated for diverse students because the majority of information disseminated (cases and hypothetical problems) in law school classrooms is generated from a white, upper-middle class, often male experience. Consequently, much of the information does not reflect, and is not relevant to, diverse students' prior knowledge or experience. Not only does this lack of relevancy impede the development of schemata and retention,[33] but also, for many diverse students, the lack of relevancy fuels feelings of alienation and isolation, and as a result, reduces their motivation. Motivation to learn new information is directly connected to how a student perceives the relevancy of the new information to his or her own life.[34]

ASP teachers help students' cognitive and motivational processes by asking students about their lives,[35] and then by using this information to form examples that are specific to the students' lives. Teachers then move to progressively higher levels of generalizations and abstractions. In addition, ASP teachers enhance student learning by helping students provide meaning and context to what they are learning. For example, they may have students create their own hypothetical problems as a way to help students provide their own context and to reflect the type of situations and surnames that have meaning to them. In addition, they may suggest that students substitute the names of people they care about when they read a case or hypothetical and find themselves not engaged with the material. ASP teachers also may encourage students to keep journals to help them keep their own values and voices intact. By including these specifics to students' lives, ASP teachers are telling students that their experiences and values are relevant to what they are studying, and in turn, that what they are studying is relevant to them.

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32. *See* Mitchell, *supra* note 30, at 287; R.C. ANDERSON, THE NOTION OF SCHEMATA AND THE EDUCATIONAL ENTERPRISE: GENERAL DISCUSSION OF THE CONFERENCE, SCHOOLING AND THE ACQUISITION OF KNOWLEDGE 415–29 (Richard C. Anderson et al. eds., 1977); DONALD NORMAN, LEARNING AND MEMORY 18–19 (1982).

33. The extent that new information is meaningful and relevant influences memory retention. *See* Eugene A. Lovelace, *Metamemory: Monitoring Future Recallibility During Study*, 10 J. OF EXPERIMENTAL PSYCHOL.: LEARNING, MEMORY & COGNITION 756, 756–57 (1984).

34. *See* JOHN DEWEY, HOW WE THINK: A RESTATEMENT OF THE RELATION OF REFLECTIVE THINKING TO THE EDUCATIVE PROCESS 1 (1971); JEROME S. BRUNER, ON KNOWING: ESSAYS FOR THE LEFT HAND 120–24 (1979); Steele, *supra* note 9, at 74, 78.

35. *See* Steele, *supra* note 9, at 74, 87.

II.   ASP Teachers Facilitate Students' Development of Substantive and Syntactical Schemata

Students need a context for, and assistance in developing, substantive schemata[36] for the doctrinal areas they are learning. Additionally, students need assistance in identifying and internalizing syntactical schemata[37] for the structure of legal discourse and the conventions contained in the legal system. Experts, as compared to novices, have elaborate schemata that enable them to assimilate new information as well as efficiently process information and problem solve.[38] Part of becoming an expert involves the building and strengthening of these substantive and syntactical schemata through experience.[39]

ASP teachers enhance student learning by facilitating the development of substantive schemata in a variety of ways. They provide a basic schema

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36.   Substantive schemata refers to subject specific relational links among discrete bits of knowledge. It is this binding of declarative and associational knowledge within a coherent memory structure that turns otherwise disjointed bits of information into meaningful patterns of thought and accounts for systematic efforts in human processing. See Hamill et al., *supra* note 28, at 852.

37.   Syntactical schemata refers to the structure and conventions of a particular discourse according to specific patterns of thought. See JOSEPH. J. SCHWAB, SCIENCE, CURRICULUM, AND LIBERAL EDUCATION 229, 246 (1978). These conventions carry implicit assumptions about both the content and the structure of the discourse, and comprise domain-specific schemata. Without such schemata, a novice, who may understand the specifics of a substantive area, will be unable to effectively use her knowledge because she will not know the structure of the discourse, the order in which to present ideas, when to emphasize different concepts, and what information she needs to make explicit versus what information is implicitly understood.

38.   Both syntactical and substantive schemata influence the selection, abstraction, interpretation, and integration of new information. See Alba & Hasher, *supra* note 31, at 203. The assumption underlying the schema concept is that such knowledge structures allow for cognitive economy, providing people with a mechanism for making decisions in the absence of complete information. See Hamill et al., *supra* note 28, at 852; RICHARD NISBETT & LEE ROSS, HUMAN INFERENCE: STRATEGIES AND SHORTCOMING OF SOCIAL JUDGMENT 38–41 (1980).

Complete schemata of this kind enable experts to accurately and efficiently solve problems because they can recognize patterns of problems and solutions. See Gary L. Blasi, *What Lawyers Know; Lawyering Expertise, Cognitive Science and the Functions of Theory*, 45 J. LEGAL EDUC. 313, 344 (1995).

Another characteristic of experts is that because they have a schema, they are able to use "forward reasoning." "Forward reasoning" consists of starting the reasoning process from the present situation and moving toward the problem solution. The expert can do this only because he or she has a large number of schemata to facilitate sorting out possible paths toward a solution. If the expert finds no appropriate schematic match, the expert will resort to "backward reasoning." In contrast, novices tend to use "backward reasoning," where they reason from the "problem goal to the present situation, often using heuristics like subgoaling to narrow the distance between the law." *Id.* at 345; *see also* Mitchell, *supra* note 30, at 283–84.

39.   *See* Susan T. Fiske & Linda M. Dyer, *Structure and Development of Social Schemata: Evidence from Positive and Negative Transfer Effects*, 48 J. PERSONALITY & SOC. PSYCHOL. 839, 840 (1985).

for each of the substantive areas at the beginning of the course.[40] This basic schema is a bare outline of the major categories contained in the doctrinal area. As students progress through the course, ASP teachers refer to the basic schema and create exercises to help students develop their own schemata to increase their understanding of the substantive area. Such exercises include fill-in-the-blank charts or diagrams, or writing assignments where students write an explanation of the relationship among concepts to a non-lawyer, like their mother or younger sibling. Once students understand the material, ASP teachers help students translate their schemata to the more conventional schemata. For example, students might create a checklist to use in analyzing a hypothetical problem.

In addition, ASP teachers facilitate students' development of syntactical schemata by explicitly reviewing the legal system and the conventions of the discourse such as Issue, Rule, Application, Conclusion, and Policy. They discuss the reasons underlying these conventions, and more importantly, the knowledge base they presume.

III. ASP Teachers Approach Learning as a Developmental Progression

Learning is a developmental process that begins with understanding basic concepts and then develops more sophisticated aspects and dimensions to the concepts being taught, as well as an understanding of their relationship to other concepts.[41] Learning occurs when there is an intertwining of the student's experience with the discipline-based knowledge being taught. Thus, effective teaching occurs when the instruction combines both the student's experience and the domain-specific experience. In this way, teaching is the bridging of the novice's existing substantive and syntactical schemata base with the expert's domain specific substantive and syntactical schemata.[42]

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40. One must be careful not to provide too much detail in this initial schema because it will basically be meaningless to students until they have experience within the doctrinal areas. However, providing a simple framework can give students a roadmap of where they are and where they are going. *See* Mitchell, *supra* note 30, at 287.

41. For a discussion of such a developmental process for law students, see SOIA MENT-SCHIKOFF & IRWIN P. STOTZKY, THE THEORY AND CRAFT OF AMERICAN LAW xix-xxiii (1982); ABRAHAM H. MASLOW, TOWARD A PSYCHOLOGY OF BEING 71–102, 126–135 (2d ed. 1982); JEAN PIAGET, SUCCESS AND UNDERSTANDING 213–231 (1974); Paula Lustbader, *Construction Sites, Building Types, and Bridging Gaps: A Cognitive Theory of the Learning Progression of Law Students*, WILLAMETTE L. REV. (forthcoming Aug. 1997); Kurt M. Saunders & Linda Levine, *Learning to Think Like a Lawyer*, 29 U.S.F. L. REV. 121, 123 (1994) (attempting to make explicit a dynamic process in which is learned "as set of highly complex and interdependent cognitive skills in a stressful environment").

42. *See* JEROME S. BRUNER, PROCESS OF EDUCATION 31 (1966).

ASP teachers enhance student learning because they begin teaching from the student's knowledge base and then progressively build upon foundational concepts in a useful sequence. Thus, ASP teachers establish basic schemata and teach concrete factual analysis in a script format, and then gradually shift their focus to more elaborate schemata and abstract concepts such as policy, synthesized analysis, and sophisticated use of facts, doctrine, and policy.[43] They also work to keep students' self-esteem intact by matching their expectations to where the students are in their progression of development.

IV.   ASP Teachers Focus on the Processes of Learning and Help Students Develop and Refine Their Metacognitive Processes

Students need to understand their own learning processes, modify those processes to be more effective,[44] and have accurate "feelings of knowing,"[45] all of which requires a "ridged feedback mechanism."[46]

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43. *See* Lustbader *supra* note 41.

44. Metacognitive skills improve with experience and can be taught. *See* ALBERT BANDURA, THE SOCIAL FOUNDATIONS OF THOUGHT AND ACTION: A SOCIAL COGNITIVE THEORY 125 (1988). Self-reflection is the basis of the metacognitive theory. *See id.* It involves gaining understanding, evaluating, and altering one's own thinking. *See id.* "In verifying thought through self-reflective means, they [learners] monitor their ideas, act on them, or predict occurrences from them, judge the adequacy of their thoughts from the results, and change them accordingly." *Id.* at 21.

45. "Feelings of knowing" is the state of believing that currently unreachable information will be retrievable. When feelings of knowing are weak, students tend to quickly give-up when problem solving; whereas when feelings of knowing are strong, students' motivation to search for ways to solve problems increases. *See* Lynne M. Reder & Frank E. Ritter, *What Determines Initial Feeling of Knowing? Familiarity With Question Terms, Not With the Answer*, 18 J. EXPERIMENTAL PSYCHOL.: LEARNING, MEMORY & COGNITION 435, 435–51 (1992).

46. In experiments conducted to explore the metacognitions exhibited by students on insight types of problems, as opposed to non-insight (objective) kinds of problems, researchers found that the students' subjective metacognitions were predictive of performance on non-insight problems, but their subjective metacognitions were not predictive of performance on insight problems. *See* Janet Metcalf & David Wiebe, *Intuition in Insight and Non-Insight Problem Solving*, 15 MEMORY & COGNITION 238, 239 (1987).

Recent research suggests that people are unable to monitor their own reading processes to an accurate degree. Even though most people have had the feeling of reading a passage and knowing that they did not understand what it means, the only strategy most people have for modifying their own reading techniques is to slow down and reread the passage. The real problem with calibration of comprehension (the ability to predict comprehension performance) is that students have poor detection skills, together with high levels of confidence. In other words, students feel really good about what they are doing. Unfortunately they are often doing the wrong thing. The basic problem is apparently aggravated by increasing the number of items (the level of detail) required per text to be read. This article suggests that the only way to address the calibration problem is to provide students with a rigid feedback mechanism. *See* Charles A. Weaver, III, *Constraining Factors in Calibration of Comprehension*, 16 J. EXPERIMENTAL PSYCHOL.: LEARNING, MEMORY & COGNITION 214, 214–22 (1990).

To facilitate students' awareness of how they learn,[47] ASP teachers focus on the process of learning, provide examples of different ways students can master a specific skill, help students develop ways to evaluate their learning, and encourage students to modify their study techniques accordingly. ASP teachers explain the purpose or goal of a given study task (reading, briefing, outlining, analyzing, and writing), and then demonstrate different processes to accomplish the goal. For example, students might be asked to try one or more of the processes to brief a specific case. After they brief the case, ASP teachers may collect the briefs and provide feedback, or give students samples of different briefs of the same case to determine whether the process they employed worked for them. If it did not, students are encouraged to try a different process until they find one that works for them. Practice exams are also a key component to any ASP because they provide students with accurate feedback that helps students identify areas of confusion while increasing their feelings of knowing.

At every step in the learning process, ASP teachers provide students with an honest, objective appraisal of the quality of their work. One of the strengths of ASPs is their ability to provide increased feedback early in the law school process.

V. ASP Teachers Use a Variety of Teaching Methods to Teach to a Variety of Learning Styles

Learning is an individual process. As such, people have different learning styles.[48] For example, some students are more visual learners, some are more auditory, and some are more kinesthetic. In addition, some students process and learn through writing, while others process and learn through speaking. Moreover, some students are abstract, conceptual thinkers, while others are concrete and practical.

Academic support faculty enhance student learning because they teach to different learning styles by employing a variety of teaching strategies in every session. The most common strategies are learning through collaborating, learning through writing, and learning through experiencing. In addition, the small size of study groups enables academic support faculty to

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The problems created by inaccurate feelings of knowing are even worse for students in the law school environment where students are required to absorb large amounts of text in a high level of detail and where the only formal feedback comes once a semester during exams, and even then the information is limited to a grade.

47. Some teachers give their students a learning style inventory to help them better understand their own learning process.

48. *See* Don Peters & Martha M. Peters, *Maybe That's Why I Do That: Psychological Type Theory, The Myers-Briggs Type Indicator, and Learning Legal Interviewing*, 35 N.Y.L. Sch. L. Rev. 169, 175 (1990).

design learning experiences that incorporate various learning styles and processes. For example, students who tend to not talk in larger classes are encouraged to talk in the study sessions. Because the class is smaller, more students become actively engaged with the material. To help students process orally, ASP teachers create numerous mock oral arguments and play games such as charades and jeopardy.

VI.   ASP Teachers Generally Teach Skills in the Context of a Particular Subject and Explicitly Demonstrate the Relationship Between What the Students Are Learning and How They Are Expected to Display Their Knowledge and Skills on an Exam

Studies have shown that teaching skills in the abstract, for example, a lecture on briefing not connected to a particular subject, is not very useful for students.[49] However, teaching those skills in the context of a substantive course, where the student is applying the skills they are learning to what they are learning, enhances not only the learning, but also increases the transferability of those skills to new situations.[50] This approach is especially true when teachers explicitly relate how students will use the knowledge and skills they are acquiring, both on exams[51] and in practice.[52]

ASP teachers not only teach skills in the context of the course, but also tailor their teaching to the substantive professor's teaching style and method of examination. This is critical because the frame of reference of the questioner is key to the answerer's determination of the type of answer the questioner seeks. Much of problem solving is related not to how well students know the answer, but rather, to how familiar they are with the problem.[53]

VII.   ASP Teachers Promote Active Learning so Students Become Independent Learners

The principle of active learning is that students can maximize their understanding and retention when they are active rather than passive learn-

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49.   *See* Richard L. Roe, *Valuing Student Speech: The Work of the Schools as Conceptual Development,* 79 CAL. L. REV. 1271, 1294 (1991).

50.   *See id.; see also* Jack Friedlander, *Delivering Academic Assistance: Exemplary Approaches,* 7 J. DEV. & REMEDIAL EDUC. 13, 14 n.3 (1984) (suggesting that in order to maximize student success, support services must be offered in cooperation with substantive courses).

51.   *See* Brooke K. Baker, *Beyond MacCrate: The Role of Context, Experience, Theory, and Reflection in Ecological Learning,* 36 ARIZ. L. REV. 287, 295–301 (1994).

52.   *See* Roe, *supra* note 49, at 1295; ALEXANDRA WEINBAUM & ANNE M. ROGERS, CONTEXTUAL LEARNING: A CRITICAL ASPECT OF SCHOOL-TO-WORK TRANSITION PROGRAMS 7–12 (1995).

53.   *See* Reder & Ritter, *supra* note 45, at 435–51.

ers. Active learning requires each student to manipulate and process information in his or her own way in order to fully understand it. Because legal reasoning involves more than merely reciting the laws, students cannot survive by merely memorizing the laws or the reasoning in a particular case. Instead, students must understand the information and be able to use it in different ways for varying situations.[54]

ASP teachers promote active learning and encourage students to become independent learners because they design study-sessions to model an effective study group. ASP teachers continually remind students that their role is to facilitate the learning process, rather than to provide a substantive lecture. In the beginning of the program, ASP teachers may take a more directive role in the study-session, such as providing a substantive schema for the course, an outline of the topics to be covered in the session, and examples of how to apply doctrinal areas to hypothetical situations. However, by the end of the program, ASP teachers are less directive and ask students to generate their own schema, outline of topics, and hypothetical problems.

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54. *See* JEANNE E. ORMROD, HUMAN LEARNING PRINCIPLES, THEORIES, AND EDUCATIONAL APPLICATIONS 26 (1990); *see also* Ruth H. Maki et al., *Increased Processing Enhances Calibration of Comprehension*, 16 J. EXPERIMENTAL PSYCHOL.: LEARNING, MEMORY & COGNITION 609, 609 (1990). Maki and her colleagues conducted a series of experiments in which students were asked to read passages of text with a consistent pattern of deleted letters. *See id.* A basic assumption was made that the passages with deleted letters would require more processing in reading than other passages of similar difficulty but with all letters intact; that is, the students reading passages with deleted letters would have to be more active in the reading process. *See id.* The students were then asked to predict how well they would perform on recall tests and recall tests were administered. *See id.* Results suggest that even though passages with deleted letters would be more difficult to read, presumably because they were more active in the learning process, the students were better able to assess what they could remember for the test when they read passages with deleted letters. *See id.* However, even though students predicted their performance more accurately, they did not actually perform better on the recall tests. *See id.* For purposes of developing academic support, these results at least suggest that active learning makes students more aware of their own cognitive processes and increases their feelings of knowing. *See id.*

Unsuccessful retrieval attempts prime subjects for later recognition of unrecalled items, and that the degree of priming is positively correlated with feelings of knowing elicited at the time of the initial retrieval failure. *See* Ilan Yaniv & David E. Meyer, *Activation and Metacognition of Inaccessible Stored Information: Potential Bases for Incubation Effects in Problem Solving*, 13 J. EXPERIMENTAL PSYCHOL.: LEARNING, MEMORY & COGNITION 187–190 (1987). This suggests that having students complete practice exercises, even when they claim they are not prepared or have not studied seems to reinforce recall. If students attempt to work through a problem, even if they can not come up with the rule or the policy, according to this research, they will have an easier time recalling that same information later on. Additionally, it is important for students to think about whether the information is missing from their knowledge structure or whether it is merely temporarily inaccessible. Establishing a "feeling of knowing" at the time of the initial attempt at retrieving the information ("Do you think you would remember the elements of battery later on if you thought about it?") seems to have a positive correlation with more successful retrieval later on.

In addition, ASP teachers do not hand out completed outlines or summaries of doctrinal areas. Instead, they create learning exercises such as fill-in-the-blank, matching games, taking doctrinal labels and having students paste them in a specific order, and having students critique each other's work.

VII.   ASP Teachers Treat Students with Respect and Promote Excellence

Law students are adult learners. As such, they learn best when they are treated as adults.[55] A significant aspect of adult learning methodology is that adult learners should be treated with the respect that is often missing from traditional law school teaching practices.[56]

Of particular concern to ASPs is the issue of stigma and its negative impact on learning.[57] This occurs when programs are remedial rather than based on an excellence model.[58] Students who participate in ASPs need to feel that they are as competent as their counterparts. They need to view the program as supplemental, not remedial. One way ASP teachers accomplish this is that from the first contact with students, teachers regularly communicate to the students who participate in their program that they are expected to perform at high levels. Further, ASP teachers explain learning theory[59] for students to view the problems they may encounter as an institutional failing instead of a personal failing.

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55.   Adult learning theory, andragogical methodology, shows how adults move from a subject-centered to a problem-centered process. *See* Frank S. Bloch, *The Andragogical Basis of Clinical Legal Education*, 35 VAND. L. REV. 321, 332–34 (1982). Adult learning should relate to concurrent changes in the student's social role or readiness to learn. *See id.* Adults should be taught through mutual inquiry between teacher and student, through active experiential learning exercises, and in the context of problems they are likely to face. *See id.*

56.   *See id.* at 332–34.

57.   Racial stigma sets up a double jeopardy for black students (and presumably for all diverse students) because they not only risk devaluation for a particular incompetence, such as a wrong answer, but also, they risk that such failure will confirm the broader, racial inferiority they are suspected of. *See* Steele, *supra* note 9, at 73–74.

58.   *See id.*

59.   Such explanations include discussions of expert/novice, schema, and metacognition theories, as well as modes of intelligence models based Gardner's work. *See* HOWARD GARDNER, FRAMES OF MIND: THE THEORY OF MULTIPLE INTELLIGENCES (1983) (positing that many types of intelligence exist including linguistic, musical, logical-mathematical, spacial, and body-kinesthetic intelligence). For example, ASP teachers may list an inventory of skills and types of intelligence necessary to be a good lawyer and then show how law school pedagogy emphasizes mainly one type of intelligence—logical-mathematical—when in fact, the practice of law requires that type in addition to other types. *See* Jordan, *supra* note 2, at 52–53.

IX. ASP Teachers Attend to Many of the Psychological Barriers to Learning Because They Care, Listen, Validate, and See Their Students' Backgrounds, Culture, Values, and Experience as Gifts, Not Baggage

When my daughter was three, we had the following conversation at the dinner table: "Mom, what work does Joe do?" "Joe is a teacher like me. Have you thought about what you want to be when you grow up? You know, you can be anything you want to be. You could be a teacher, doctor, dancer, artist, engineer, scientist, or anything. What do you want to be?" With a quivering lower lip, she answered, "But I don't want to be anything; I just want to be me!"

Many students have shared a similar sentiment when they finally get into law school, and as a result, suffer psychological stress. But, as mentioned earlier, these problems are exacerbated for diverse students because they have to not only deal with the typical psychological stress, but also, they must manage feelings of disenfranchisement, cultural and values dissonance, and invisibility. Many diverse students question whether they can succeed because it is like learning a completely different way of being and relating, where they fear they will lose something of themselves. Like my daughter, they just want to be themselves.

Many diverse students expend most of their energy just keeping themselves intact and holding their place, which leaves little energy for them to devote to academics. Thus, it is essential to address the myriad of psychological[60] barriers (attitude, self-esteem, motivation, and alienation) to learning. These barriers must be attended to before students can be receptive to skill-improvements.[61]

Students need opportunities to explore and express their ideas and feelings.[62] Many diverse students experience a cultural and values dissonance

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60. It is also essential to provide students with assistance or referrals for a variety of other "non-academic" problems (financial, familial, housing, medical, etc.) that can interfere with their ability to focus on their studies.

61. *See* Fred B. Newton, *Academic Support Seminars: A Program to Assist Students Experiencing Academic Difficulty*, 31 J. Col. Student Dev. 183 (1990) (describing the cooperation between the Kansas State University's counselling services and the office of the dean of the College of Architecture & Design, brought about to help students on academic probation).

Low self-concept, cited as a prevalent problem, is clearly a barrier to success. *See id.* Although this article addresses undergraduate institutions, this observation is especially relevant in the law school context given the humiliation that is too often a by-product of the Socratic method.

62. The Socratic method of teaching is an inadequate method for teaching and modeling these skills because the large size of typical first year classes does not allow for quality interaction

because their voices and perspectives are not discussed in traditional law school classrooms.[63] As a result of this dynamic, some diverse students may feel responsible for voicing the perspectives that reflect their background and experience, but do not want to be "the" voice for their "people."[64] For example, an African-American woman student once explained her frustration with a Criminal Procedure course. Almost all of the defendants in the cases were African-American, and the class continually looked to her to explain the defendants' motives. She asked me why these students thought she would know what the defendants were thinking just because she was African-American like them.

Diverse students also express concern that in order to succeed, they must lose their voices and give up their values.[65] Thus, it is necessary to provide opportunities for students to keep their own voices, so they can become bi-cultural. Finally, the absence of other voices in the classroom invalidates students' values and perspectives, which leaves some students feeling hostile or not valued for who they are and for what they can contribute to the discussion.

ASP teachers elicit student perspectives and feelings and introduce students to perspectives that have been excluded from the classroom.[66] They provide time and a safe learning environment to allow the full spectrum of student ideas to be aired, and they offer opportunities for students to process their emotional reactions to the law school experience and doctrinal areas.

Through the small size of ASP sessions, individual contact with students, and the human touch, ASP teachers help students retain their primary language, skills, culture, and values. At the same time, ASP teachers accul-

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and learning, often increases students' feelings of alienation, and causes some students to disengage from the learning altogether. One way law teachers can address this is to have supplemental, smaller discussion groups or brown-bag lunch meetings on a regular basis. This would promote more personal interaction, possibly reduce some of the competitiveness, and increase the academic performance of students. *See* Guinier, *supra* note 14, at 93, 96 (demonstrating that women's academic performance is negatively impacted by current law school pedagogy and suggesting, among other needed changes, that law schools should reconsider using the Socratic method as the primary pedagogy of the first year curriculum, but cautions that merely reducing the class size is not sufficient); *see also* Michael E. Carney, *Narcissistic Concerns in the Educational Experience of Law Students*, 18 J. PSYCHIATRY & L. 9, 27 (1990) (suggesting that seminar classes in the first year would reduce the degree of psychological distress of law students).

63. *See* Crenshaw, *supra* note 8, at 3.

64. *See id.* at 1.

65. In fact, at some level, students will experience a shift in their value structure. *See* Guinier, *supra* note 14, at 96 (showing that women's attitudes change significantly, as compared to men's, between their first year of law school and their third year); Sandra Janoff, *The Influence of Legal Education on Moral Reasoning*, 76 MINN. L. REV. 193, 194 (1991).

66. For example, ASP teachers may provide students with readings from critical race jurisprudence, feminist jurisprudence, and critical legal studies to further enable students to see that their perspectives are valid.

turate students so they will be able to participate as lawyers. They need to be able to traverse between their communities and the legal system. The best lawyer is one who can bring a combination of intelligence, skill, and empathy to a situation.[67]

In these ways, ASPs work to change the pedagogy, not the students. ASP teachers realize that students bring a variety of unique gifts to the learning experience. These gifts include the students' cultural backgrounds, learning styles, perspectives, values, fears, and dreams.

X. ASP Teachers Believe in the Beauty of Their Students' Dreams

Perhaps the most powerful way ASP teachers help students is by knowing the students' dreams and believing in those dreams, even when the students lose faith. *Some of us, the dreamers, were meant to dance upon the wind.*[68] Dancing upon the wind implies that the dancer is moving with little effort because the wind supplies most of the momentum. It also implies that there is joy in the dance. Many ASP teachers are committed to a pedagogy that enables students to dance upon the wind in law school. This pedagogy is student centered, not teacher or institution centered, and it builds from the students' experience, knowledge base, and strength; in so doing, this pedagogy keeps students' dreams attainable and alive.

Conclusion

The majority of ASP teachers share Trina's dream of creating a safe and effective learning environment for all students. This article described some of the ways ASPs help combat issues of exclusion, alienation, and disenfranchisement; help students achieve their academic goals; help substantive law faculty achieve their teaching objectives; and help the entire law school function as a community. All these help foster a safe and effective learning environment.

In these ways, ASPs are creating a gateway for a legal system that is more responsive to a culturally diverse society. Once law school pedagogy becomes more inclusive, diverse students will develop and articulate their voices. This, in turn, will provide an opportunity for non-diverse students to learn about and understand the experiences, values, and voices of many of their future clients.[69] As academic support pedagogy and philosophy con-

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67. *See* Jordan, *supra* note 2, at 47.
68. Believed to be a traditional Native American saying.
69. *See* Calleros, *supra* note 8, at 144–50.

tinues to proliferate within the legal academy, more students, not just diverse students, but all types of students, will thrive and realize their dreams.