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## Teaming up to Learn in the Doctrinal Classroom

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# Teaming Up to Learn in the Doctrinal Classroom

Jodi S. Balsam

## I. Introduction

*“I loved the idea of building teams to participate in class . . . . The quizzes were kind of hard but it was a very good way of going through the readings . . . . The most useful course materials were the class team-based activities . . . . The weekly quizzes were very useful in preparation for class . . . . The group exercises and hypos were extremely helpful . . . . The strength of this class was definitely working in groups. I haven’t been in a class where we get to work in groups and chat about applying the law . . . . It was a nice break from professors lecturing AT us.”*

Team-based learning (TBL) is a “learner-centered teaching strategy” that “engage[s] students in active and collaborative learning experiences throughout a course.”<sup>2</sup> Learning in the TBL classroom is dynamic, inclusive, and situated in student discussion and debate.<sup>3</sup> TBL’s adopters and proponents praise the method’s success in engaging students in advanced high-level applications of their learning. Students come to class prepared, they are more engaged in class, and they learn more.<sup>4</sup>

**Jodi S. Balsam** is Associate Professor of Clinical Law, Director of Externship Programs, Brooklyn Law School. This article is an extension of remarks given at the AALS 2018 Annual Meeting, Section on Teaching Methods program on “Learning Together: Diverse Models of Collaborative Learning in Law School.” I thank my fellow panelists Angela Mae Kupenda and Melissa H. Weresh, as well as panel moderator Ric Simmons, for their helpful comments and suggestions. I thank Arthur R. Miller, who generously partnered with me in introducing the modified team-based learning described in this article in the sports law course that we co-teach at New York University School of Law.

1. Excerpts from anonymous course evaluations for Sports Law-Fall 2016, Professor Jodi Balsam, and Sports Law-Spring 2017, Professors Jodi Balsam and Arthur Miller.
2. Sophie M. Sparrow & Margaret Sova McCabe, *Team-Based Learning in Law*, 18 LEGAL WRITING: J. LEGAL WRITING INST. 153, 156 (2012). Team-based learning is a related pedagogy to cooperative learning. Vernellia R. Randall, *Increasing Retention and Improving Performance: Practical Advice on Using Cooperative Learning in Law Schools*, 16 T.M. COOLEY L. REV. 201, 202 (1999).
3. Sparrow & McCabe, *supra* note 2, at 153-54.
4. *Id.* at 161; Anne E. Mullins, *Team-Based Learning: Innovative Pedagogy in Legal Writing*, 49 U.S.F.L. REV. F. 53, 60 (2015) (reporting on increased student engagement and understanding).

Team-based learning stands in contrast to the teacher-centered Socratic method<sup>5</sup> still predominant in law school doctrinal courses. A mix of Socratic dialogue, lecture,<sup>6</sup> and teacher-led discussion<sup>7</sup> is the typical doctrinal course experience to this day.<sup>8</sup> Despite the urging of the Carnegie Report,<sup>9</sup> Best Practices,<sup>10</sup> the revised ABA Standards,<sup>11</sup> and countless symposia,<sup>12</sup> faculty have been slow to develop the kind of “multimodal” teaching approach envisioned by legal education reformers.<sup>13</sup> One reason is that implementing innovative teaching methods such as TBL presents “challenge and complexity.”<sup>14</sup> Introducing TBL in most doctrinal courses would require professors to rethink their coverage, spend significant time preparing new course components, and

5. For best practices for implementing the Socratic method, see ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROADMAP 231 (2007) [hereinafter BEST PRACTICES]; see also DEBORAH MARANVILLE ET AL., BUILDING ON BEST PRACTICES: TRANSFORMING LEGAL EDUCATION IN A CHANGING WORLD 104-10 (2015) (offering strategies for optimizing the Socratic method to achieve active learning) [hereinafter BUILDING ON BEST PRACTICES].
6. See BEST PRACTICES, *supra* note 5, at 231 (“If we can avoid lecturing students, we should.”). Lecture has been described as the “banking” or transmission model of education, by which teachers deposit knowledge into passive students. See PAULO FREIRE, PEDAGOGY OF THE OPPRESSED: 50TH ANNIVERSARY EDITION 74 (4th ed. 2018).
7. For best practices for using discussion as a teaching method, see BEST PRACTICES, *supra* note 5, at 227-31.
8. In 2007, *Best Practices* identified three “non-experiential teaching methods”: Socratic dialogue/case method, discussion, and lecture. BEST PRACTICES, *supra* note 5, at 207-34. The chapter on “best practices for delivering instruction, generally” included only a brief mention of “encourage[ing] collaboration.” *Id.* at 119-20. In 2015, *Building on Best Practices* acknowledged that *Best Practices* “was not explicit as to how pervasive teamwork should be in a law school’s curriculum, or how law teachers might teach it,” and offered additional suggestions for doing so. BUILDING ON BEST PRACTICES, *supra* note 5, at 333-36.
9. WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007).
10. See generally BEST PRACTICES, *supra* note 5; BUILDING ON BEST PRACTICES, *supra* note 5.
11. ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS, ABA (2017-2018) (spelling out in chapter 3 that, *e.g.*, law schools must establish and assess learning outcomes, and students must complete at least six experiential coursework credits) [hereinafter ABA Standards].
12. See, *e.g.*, symposia on “Rebellious Lawyering at 25,” reported in 23 CLIN. L. REV. 1 *et seq.* (Fall 2016); “Revising Langdell: Legal Education Reform and the Lawyer’s Craft,” 51 WAKE FOREST L. REV. 231 *et seq.* (Summer 2016); Alliance for Experiential Learning in Law, *Experience the Future: Papers from the Second National Symposium on Experiential Education in Law*, 7 ELON L. REV. 1 (2015).
13. BEST PRACTICES, *supra* note 5, at 132; BUILDING ON BEST PRACTICES, *supra* note 5, at 49 (recommending greater incorporation of alternative teaching methods such as small-group discussions, presentations, and simulations); Gerald P. Lopez, *Transform-Don’t Just Tinker with Legal Education*, 23 CLIN. L. REV. 471, 472 (2017) (criticizing “status-quo plus changes”).
14. Sparrow & McCabe, *supra* note 2, at 154.

completely redesign their class plans.<sup>15</sup> For these reasons and others, I was wary of implementing it in my sports law course, which typically enrolls between thirty and fifty students in a semester.<sup>16</sup>

As educators, we are often reminded “to meet students where they are.”<sup>17</sup> In that spirit, I explored adapting TBL to meet law faculty in their pedagogical comfort zone. This article describes the key components of TBL (Part II), summarizes the method’s benefits and challenges (Part III), and offers a modified version of TBL that achieves many benefits while mitigating the challenges, to encourage faculty experimentation with the method (Part IV). The article concludes with advice and resources to facilitate adoption of collaborative learning techniques in doctrinal courses.

## II. Team-Based Learning Essentials

As defined by the Team-Based Learning Collaborative, an international organization of educators who use the method, TBL is a form of collaborative learning designed around units of instruction that are taught in a three-step cycle of student preparation, in-class readiness-assurance testing, and application-focused exercises.<sup>18</sup> Team-based learning has gone global in every sense of the word. Faculty have adopted the teaching strategy in over twenty-three countries.<sup>19</sup> It is used in all class sizes and at all levels of education—primary, secondary, college, graduate, and professional schools.<sup>20</sup> Many professions and occupations, including medicine, pharmacy, social work, business, and accounting, rely on it for basic training and workforce development.<sup>21</sup>

15. Mullins, *supra* note 4, at 59 (“At the outset, TBL is exceptionally work-intensive, both before and during the semester.”).
16. I teach sports law as a two-credit course in the fall at Brooklyn Law School, where I am a member of the full-time faculty, and as a three-credit course in the spring at New York University School of Law as a visitor. Enrollment in both iterations of the course is usually between thirty and fifty students.
17. Raja Raghunath, *The “Plus One” Clinic: Adding (Political) Value to the Clinical Experience by Representing Landlords Alongside Tenants*, 18 *CLINICAL L. REV.* 245, 254 (2011); see Barbara Glesner Fines, *Fundamental Principles and Challenges of Humanizing Legal Education*, 47 *WASHBURN L.J.* 313, 318 (2008) (“we teach students, not subjects”).
18. *Overview*, TEAM-BASED LEARNING COLLABORATIVE, <http://www.teambasedlearning.org/definition/> (last visited March 1, 2019); see also *Team-Based Learning*, INSTITUTE FOR LAW TEACHING AND LEARNING, <http://lawteaching.org/resources/> (last visited March 1, 2019).
19. Sparrow & McCabe, *supra* note 2, at 157.
20. *Id.*; *Application Areas*, *supra* note 18, at <http://www.teambasedlearning.org/application-areas/>.
21. Sparrow & McCabe, *supra* note 2, at 157; see Richard M. Schwartzstein & David H. Roberts, *Saying Goodbye to Lectures in Medical School—Paradigm Shift or Passing Fad?*, 377 *N. ENGL. J. MED.* 605 (2017), <https://www.necjm.org/doi/full/10.1056/NEJMp1706474> (describing movement toward TBL in medical schools and improved student learning and performance); Rondall E. Allen et al., *Team-Based Learning in U.S. Colleges and Schools of Pharmacy*, 77 *AM. J. PHARM. EDUC.* 6 (2013), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3748296/> (reporting that faculty in one-third of U.S. schools and colleges of pharmacy use TBL).

The TBL pedagogy comprises four elements:

- (1) Teams must be properly formed and managed.
- (2) Students must be motivated to come to class prepared.
- (3) Students must learn to use course concepts to solve problems.
- (4) Students must be truly accountable.<sup>22</sup>

These elements are briefly reviewed below.

#### *A. Properly formed and managed teams*

Classic TBL places students in semester-long fixed teams, formed strategically and transparently to equitably distribute the student assets the instructor feels are important for team success.<sup>23</sup> Teams are typically five to seven students, large enough to capture the diverse perspectives and talents necessary for effective performance.<sup>24</sup> Teams also need to be permanent so team cohesion has time to build.<sup>25</sup> Permanence creates a “repeat-player situation” that holds students consistently accountable and alleviates problems of student free-riding or domination.<sup>26</sup>

Law student teams can be formed in various ways. Some instructors sort their student teams randomly.<sup>27</sup> Others use questionnaires in which students score themselves on relevant knowledge, skills, and values, which the instructor uses to create balanced teams.<sup>28</sup> Still others poll the students in class on Day One to assess their educational and work history and other personal traits

22. JIM SIBLEY & PETE OSTAFICHUK, GETTING STARTED WITH TEAM-BASED LEARNING 9 (2014); see also Michael Sweet & Larry K. Michaelsen, *Critical Thinking and Engagement: Creating Cognitive Apprenticeships with Team-Based Learning*, in TEAM-BASED LEARNING IN THE SOCIAL SCIENCES AND HUMANITIES 6 (2012).
23. Larry K. Michaelsen & Michael Sweet, *The Essential Elements of Team-Based Learning*, 116 NEW DIRECTIONS FOR TEACHING AND LEARNING 10 (2008).
24. *Id.*; see Randall, *supra* note 2, at 241 (recommending group distribution that empower students who struggle with law school dynamics, including women, minorities, and introverts); Dorothy H. Evensen, *To Group or Not to Group: Students' Perceptions of Collaborative Learning Activities in Law School*, 28 S. Ill. U. L.J. 343, 396 (2004) (reporting that law student study groups attributed their success to member diversity).
25. Michaelsen & Sweet, *supra* note 23, at 10.
26. Mullins, *supra* note 4, at 54; Randall, *supra* note 2, at 269 (identifying three common forms of problematic student behavior as: passive uninvolved, active uninvolved, and taking charge).
27. Melissa H. Weresh, *Uncommon Results: The Power of Team-Based Learning in the Legal Writing Classroom*, 19 LEGAL WRITING: J. LEGAL WRITING INST. 49, 58 (2014) (explaining that the “student population has been randomized based on entering credentials . . . and therefore [presented] a relatively homogenous population”).
28. Sparrow & McCabe, *supra* note 2, at 197.

relevant to the subject matter. They then award points for those attributes, line up the students according to point score, and count off to distribute the students among evenly sized teams.<sup>29</sup> Other resources available to instructors for team formation include transcripts and admissions data.<sup>30</sup>

TBL instructors will make time early in the course for newly assigned teams to quickly get to know one another and learn what each member has to offer to the group. The distribution of resources among heterogeneous groups invites team members to value one another in two ways: “We are all pretty equal, and we each may have some particular strength to bring to the discussions.”<sup>31</sup>

*B. Students must be motivated to come to class prepared*

A signature strategy of TBL is the “readiness assurance process” that occurs at the beginning of each major instructional unit. It typically relies on a multiple-choice quiz to ensure that students complete the pre-class reading and have acquired the foundational knowledge that they will need for in-class teamwork.<sup>32</sup> Readiness assurance requires the instructor first to divide the course into modules or units, consistent with backward-design teaching methodology.<sup>33</sup> For each unit, the instructor assigns foundational and contextualizing readings.<sup>34</sup> Some instructors provide study guide questions to help students focus on key concepts to be tested.<sup>35</sup>

What motivates the students to prepare conscientiously for class is the quiz they must take on the first day of each unit.<sup>36</sup> Class begins with a closed-book multiple-choice test that uses questions that fall on the lower level of Bloom’s

29. Team-Based Learning Collaborative, *Getting Started with TBL*, <https://tcambasedlearning.site-ym.com/?page=started> (last visited March 1, 2019).
30. Mullins, *supra* note 4, at 54.
31. Team-Based Learning Collaborative, *supra* note 29.
32. SIBLEY & OSTAFICHUK, *supra* note 22, at 74 (describing the difficulty of using classroom discussion to impart lessons when students are unprepared: “Having students come to class prepared is critical in order to have any possibility of deeper classroom conversations and meaningful problem-solving activities”).
33. Sparrow & McCabe, *supra* note 2, at 178-79 (recommending breaking a course into four to seven units corresponding to several weeks of classes and aligned with desired learning objectives); *see also* Weresh, *supra* note 27, at 59 (“In converting the course to TBL, I didn’t really change the syllabus, but I thought more carefully and precisely about the [eight] units, or modules, and how those could be used to punctuate the progression of the course.”).
34. Sparrow & McCabe, *supra* note 2, at 182-83 (“The assigned material must be accessible and clear enough that all students can independently learn the basic material to answer test questions about it.”).
35. Weresh, *supra* note 27, at 60.
36. Barbara Glesner Fines, *Competition and the Curve*, 65 UMKC L. REV. 879, 883 (1997) (acknowledging that grades “operate as a powerful incentive”).

taxonomy—understanding and remembering.<sup>37</sup> Students take the quiz twice—first individually, and then as a team.<sup>38</sup> When taking the quiz collectively, teams find themselves debating the concepts and seeking to build consensus. Students self-score the team quiz,<sup>39</sup> providing immediate feedback and allowing them to compare their performance against other teams’ and to determine whether they want to appeal a wrong answer.<sup>40</sup> Both the individual and team scores count toward a student’s final grade. Debriefing of the readiness-assurance process affords the instructor opportunities for corrective in-class instruction.<sup>41</sup>

*C. Students must learn to use course concepts to solve problems*

Having measured the students’ grasp of the instructional unit’s basic concepts and filled any gaps, TBL professors use the unit’s remaining classes for team application exercises.<sup>42</sup> The core of TBL is the application phase—it is what makes the TBL classroom look and sound so different from a typical doctrinal course. Yet any law professor who has crafted an exam scenario or spun out hypothetical scenarios during Socratic dialogue should be comfortable developing application exercises.<sup>43</sup> Furthermore, designing the exercises feeds the recursive process of backward design, in which the instructor traces things back to the course concepts that the students would need to solve the problem.<sup>44</sup>

The TBL literature identifies four essential attributes—the “four S’s”—of an application exercise: “(1) assignments should always be designed around a problem that is *significant to students*, (2) all of the students in the class should be working on the *same* problem, (3) students should be required to make a *specific choice*, and (4) groups should *simultaneously* report their choices.”<sup>45</sup> Exercises should involve students in critical thinking, synthesis, or evaluation—the higher levels of Bloom’s taxonomy.<sup>46</sup> To optimize the team structure, tasks should seek ideas, solutions, and arguments, rather than simple recall

37. Sparrow & McCabe, *supra* note 2, at 185 (citing Michael Hunter Schwartz et al., *TEACHING LAW BY DESIGN* 68-70 (Carolina Academic Press 2009)).

38. Sparrow & McCabe, *supra* note 2, at 184-85 (advising that the quiz tests basic knowledge but also engages higher-level thinking skills).

39. Mullins, *supra* note 4, at 56 (noting that for the team quiz, many TBL instructors use Immediate Feedback Assessment Technique scratch-off cards that immediately tell students whether their answer is correct and allow them to self-score the team quiz).

40. Sparrow & McCabe, *supra* note 2, at 187-88; SIBLEY & OSTAFICHUK, *supra* note 22, at 83-84.

41. Sparrow & McCabe, *supra* note 2, at 188-89.

42. *Id.* at 190.

43. *Id.*

44. SIBLEY & OSTAFICHUK, *supra* note 22, at 116-17.

45. Michaelsen & Sweet, *supra* note 23, at 20.

46. Sparrow & McCabe, *supra* note 2 at 185.

of information.<sup>47</sup> When an assignment poses a question that requires a specific team decision, student teams simulate what lawyers do in practice—integrate and articulate analysis of the facts and the law to make professional judgments.<sup>48</sup> Simultaneous reporting of teams' specific solutions avoids the pitfalls of sequential reporting of group work in which the first answer can distort the ensuing discussion, later reporting teams can unfairly modify their answers, and each subsequent answer can sap the energy in the room.<sup>49</sup>

As students work on the application activities, the instructor circulates around the classroom, answering questions and facilitating conversation.<sup>50</sup> After the big reveal of team answers, the instructor guides the teams' interactions as they argue for their solutions.<sup>51</sup> The instructor's role is principally to coach the students through the learning process—the students take the stage rather than watch passively from the seats as the instructor performs.

#### D. Students must be truly accountable

Another central feature that distinguishes a TBL course from a typical doctrinal course is students' accountability not only to the instructor, but also to their teammates. TBL promotes and measures this accountability along three axes.<sup>52</sup> First, unit quizzes and application exercises hold students accountable for *individual pre-class preparation and class attendance*. Second, students are held accountable for *contributing to their team* through peer assessments of their collaborative efforts, which are factored into final grades.<sup>53</sup> Third, students are held accountable for *high-quality team performance* through a grading system that attributes a significant portion of the final grade to both individual and team performance.<sup>54</sup>

47. Barbara Glesner Fines, *Using Team Based Learning in a Large Enrollment Course*, 2013 working paper at 13, 40 (assigning students in professional responsibility course to determine whether attorney-client privilege exists in a child-custody case) [draft on file with author]; see, e.g., Weresh, *supra* note 27, at 69-70 (pre-drafting worksheet assignment in legal writing course); Sparrow & McCabe, *supra* note 2, at 191-93 (describing a contracts course problem that asks students to develop a factual investigation plan for a breach scenario, and an administrative law course problem that asks students to identify the biggest weakness in a claimant's position).

48. Sparrow & McCabe, *supra* note 2, at 169, 193.

49. *Id.* at 194-95 (suggesting simultaneous reporting by having teams hold up a large letter corresponding to options offered by the hypothetical or post on the wall a sheet of paper containing a written answer); SIBLEY & OSTAFICHUK, *supra* note 22, at 121 (suggesting cutoff time to report to teacher, who then simultaneously reveals the answers).

50. Weresh, *supra* note 27, at 69.

51. Derek R. Lane, *Teaching Skills for Facilitating Team Based Learning*, in *TEAM BASED LEARNING: SMALL-GROUP LEARNING'S NEXT BIG STEP* 55-56 (Larry K. Michaelsen et al. eds., 2008).

52. Michaelsen & Sweet, *supra* note 23, at 11.

53. *Id.*

54. *Id.* at 15; SIBLEY & OSTAFICHUK, *supra* note 22, at 145-49; Glesner Fines, *supra* note 36, at 884



Most critically, the professor does not have to rely on the Socratic method to ensure students have read and understand the material. Many students who come to class unprepared do so with anticipation that the teacher will clear it up for them, either through lecture or teasing out the important bits of class discussion. With TBL, students come to class ready to work and to apply their knowledge.

### III. TBL Benefits and Challenges

#### A. Benefits

*“Any fool can know. The point is to understand.”*—Albert Einstein

Why adopt team-based learning? To paraphrase a long-ago presidential campaign slogan: “It’s the learning outcomes, duh.” Together, students working in teams consistently achieve more than they would individually.<sup>55</sup> A wealth of quantitative data substantiates the effectiveness of TBL in improving student knowledge acquisition.<sup>56</sup> In the law school setting, it has been shown to boost clarity and discernment of important legal doctrines, tests, rules, concepts, and procedures.<sup>57</sup> Further, TBL seamlessly integrates this knowledge with critical skills and values.<sup>58</sup> Application exercises engage students in such analytical skills as synthesis and application, and such interpersonal skills as communication and cooperation.<sup>59</sup> Team interactions inculcate a sensitivity to social and ethical behaviors essential in the legal workplace, such as treating others with respect and pulling one’s weight.<sup>60</sup>

Law professors who use TBL and other collaborative learning methods have also identified a spectrum of collateral benefits:

- Students come prepared to the TBL classroom, not only because of the (“grades may be one of the most efficient methods to induce learning behaviors”).

55. Institute for Law Teaching & Learning, *Resources*, <http://lawteaching.org/resources/> (last visited March 1, 2019).

56. Sparrow & McCabe, *supra* note 2, at 163-64; see also Sin-Ning Cindy Liu & A. Alexander Beaujean, *The Effectiveness of Team-Based Learning on Academic Outcomes: A Meta-Analysis*, 3 SCHOLARSHIP OF TEACHING AND LEARNING IN PSYCHOLOGY 1 (2017); M. Fatmi et al., *The effectiveness of team-based learning on learning outcomes in health professions education*, 35 MED. TEACH. 12 (2013); FRANK J. DINAN, AN ALTERNATIVE TO LECTURING IN THE SCIENCES, IN TEAM-BASED LEARNING: A TRANSFORMATIVE USE OF SMALL GROUPS IN COLLEGE TEACHING 107 (Larry K. Michaelsen et al. eds., 2004) (reporting that TBL organic chemistry classes “consistently obtain statistically significant higher mean and average grades than do the lecture students”).

57. Sparrow & McCabe, *supra* note 2, at 169; see Mullins, *supra* note 4, at 58 (crediting group work with developing students’ deeper understanding); Randall, *supra* note 2, at 218-19 (reporting studies showing that cooperative learning environments develop higher-level reasoning and facilitate transfer of learning); but see Weresh, *supra* note 27, at 78 (identifying factors that may have complicated efforts to quantify student improvement in a legal writing course).

58. Sparrow & McCabe, *supra* note 2, at 171.

59. *Id.*

60. *Id.* at 171-72.

quizzes, but because their teammates will apply pressure.<sup>61</sup> This translates into more “engaging and energetic” classes.<sup>62</sup> Students transform from passive recipients of knowledge to active participants, and the environment of the classroom transforms from one of silent, furious note-taking to one of dynamic learning.<sup>63</sup>

- Students build positive personal relationships with their classmates and professors.<sup>64</sup> Having one learner assist another generates empathy and can reduce social isolation.<sup>65</sup> Through team activities, “students understand how they can learn from others and how to resolve intellectual and interpersonal conflict.”<sup>66</sup> Students further benefit from the potential for these relationships to carry over into postgraduate contexts and enrich their professional networks.<sup>67</sup>
- Collaborative learning increases student respect for diversity and contributes to their ability to navigate cultural difference when they enter practice.<sup>68</sup> Indeed, it’s been argued that this pedagogy is critical to achieve the educational benefits of diversity.<sup>69</sup>
- Collaborative learning advances professional identity formation and career satisfaction.<sup>70</sup> The proximity of student group work to real legal

61. Weresh, *supra* note 27, at 79; Randall, *supra* note 2, at 267.

62. Weresh, *supra* note 27, at 79-80.

63. Sparrow & McCabe, *supra* note 2, at 165.

64. BUILDING ON BEST PRACTICES, *supra* note 5, at 333-34; BEST PRACTICES, *supra* note 5, at 120 (both noting that team learning produces healthier student relationships); Randall, *supra* note 2, at 215 (observing that cooperative learning methods create community while “competitive and individualistic learning situations . . . isolate[c] students and create[c] negative relationships between classmates and with instructors”); *see id.* at 220-21 (noting importance to nontraditional students of the increased social support generated in cooperative learning environments).

65. Lynn C. Herndon, *Help You, Help Me: Why Law Students Need Peer Teaching*, 78 UMKC L. REV. 809, 818-19 (2010); Carol Goforth, *Encouraging Cooperative Learning with A Non-Traditional Examination Process*, 42 N. KY. L. REV. 47, 49 (2015) (listing “improved morale” as a benefit of collaborative learning).

66. Sparrow & McCabe, *supra* note 2, at 164-65.

67. Evensen, *supra* note 24, at 412; *see also* Cristina D. Lockwood, *Improving Learning in the Law School Classroom by Encouraging Students to Form Communities of Practice*, 20 CLIN. L. REV. 95, 98 (2013).

68. Randall, *supra* note 2, at 222 (“Cooperative Learning teaches tolerance based on respect.”); Carole J. Buckner, *Realizing Grutter v. Bollinger’s “Compelling Educational Benefits of Diversity”—Transforming Aspirational Rhetoric into Experience*, 72 UMKC L. REV. 877, 928 (2004) (“cooperative learning promotes more positive cross-ethnic relationships”).

69. Buckner, *supra* note 68, at 879-80; *see* Glesner Fines, *supra* note 36, at 903 (“[A] learning environment that prizes individualistic competition and conformity would impede certain groups of students more than others”).

70. BEST PRACTICES, *supra* note 5, at 120 (praising cooperative learning for advancing psychological health); *see* Glesner Fines, *supra* note 36, at 907 (linking competitive learning environments in law school with lawyer career disenchantment); Susan Bryant, *Collaboration*

work nurtures students' "growing identity as novice lawyers."<sup>71</sup> When students have to ask one another for help, they learn valuable lessons in trust, humility, and the meaning to be found in shared experience.<sup>72</sup>

- *Best Practices* credits collaborative learning with "heighten[ing] student awareness of the need for public service and the value of pro bono work."<sup>73</sup> The interdependence and multiple perspectives that define collaborative learning lead students to "understand legal rules and procedures as cultural phenomena, as complex compromises between competing social, political, and economic agendas."<sup>74</sup> Consequently, they are better prepared to critique the status quo, understand the roots of systemic problems, move beyond abstract doctrinal analysis, and take responsibility for social change.<sup>75</sup>

### B. Challenges

*"Everyone thinks of changing the world, but no one thinks of changing himself."*

—Leo Tolstoy

Strictly implemented, and especially the first time around, team-based learning presents considerable challenges, which have been helpfully sorted into four categories: (1) classroom, (2) administrative, (3) institutional, and (4) cultural.<sup>76</sup> They are summarized here in order:

- Classroom challenges include the need for the instructor to invest the time and resources in redesigning a course.<sup>77</sup> Although this initial investment will pay off in the long run, each iteration of the course may require updating.<sup>78</sup> In addition, TBL instructors must adjust to a new

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*in Law Practice: A Satisfying and Productive Process for a Diverse Profession*, 17 VT. L. REV. 459, 63 (1993) (discussing the benefits of collaboration, including an increase in professional satisfaction).

71. Evensen, *supra* note 24, at 419; Herndon, *supra* note 65, at 825 ("Collaborative learning provides a practical view to participating in a legal career.").
72. David Dominguez, *Seven Principles for Good Practice in Legal Education—Principle 2: Good Practice Encourages Cooperation Among Students*, 49 J. LEGAL EDUC. 386, 387 (1999); Glesner Fines, *supra* note 36, at 913 (peer learning generates both cognitive and affective differences).
73. BEST PRACTICES, *supra* note 5, at 120.
74. Dominguez, *supra* note 72, at 387.
75. *Id.* at 394-95.
76. Sparrow & McCabe, *supra* note 2, at 199-208.
77. Sparrow & McCabe, *supra* note 2, at 199-200 (estimating that preparing four to six effective multiple-choice tests for the readiness-assurance process might take over forty hours); Robert L. Jones, *Integrating Experiential Learning into the Law School Curriculum*, in *Alliance for Experiential Learning in Law*, *supra* note 12, 7 *Elon L. Rev.* at 43 (attributing faculty resistance to innovation to concerned they lack the "time or expertise to plan and execute" new course components); Mullins, *supra* note 4, at 59 (professor relied on special institutional funding to transition to TBL).
78. Sparrow & McCabe, *supra* note 2, at 200.

role in which they do not dispense knowledge but rather facilitate the students' articulation of their understanding of course content.<sup>79</sup> While most experienced teachers have the communication skills and techniques to succeed at TBL, they might initially struggle with reorienting the focus of class time.<sup>80</sup> Likewise, students may resist the idea that they can effectively learn the subject matter by "teaching themselves."<sup>81</sup>

- Administrative barriers to implementing TBL can surface when using the method in a large class with a dozen or more teams, each requiring quiz materials and detailed recordkeeping.<sup>82</sup> Again, once this steep learning and preparation curve is surmounted, TBL's administrative burdens diminish.<sup>83</sup>
- Institutional challenges arise principally out of school grading policies, which may impose a mandatory curve or mean.<sup>84</sup> TBL tends to compress the curve, with fewer students at the low end of the scale.<sup>85</sup> It may be necessary to develop workarounds or seek an accommodation from the academic dean.<sup>86</sup> Furthermore, students may resist grading that is based on nonanonymous group work, necessitating instructor transparency and clarity in communicating objective assessment standards.<sup>87</sup>
- Cultural challenges stem from both the students' and the legal academy's "general aversion to innovative pedagogy."<sup>88</sup> Proactive messaging about the value of collaboration is necessary to overcome students' preoccupation with individual performance on a final exam.<sup>89</sup> Junior fac-

79. Lane, *supra* note 51, at 55-56; Randall, *supra* note 2, at 259-60.

80. Lane, *supra* note 51, at 56.

81. *Id.*; Sparrow & McCabe, *supra* note 2, at 204-05.

82. Sparrow & McCabe, *supra* note 2, at 201; Weresh, *supra* note 27, at 74-75 (describing burdens of administering quizzes, including makeups when students miss class, and reliance on "a wonderful administrative assistant").

83. Sparrow & McCabe, *supra* note 2, at 201.

84. *Id.* at 202.

85. *Id.* at 202-03. Randall, *supra* note 2, at 264 (TBL professor risks being pegged as an "easy grader"); Glesner Fines, *supra* note 36, at 887-89 ("The characterization 'easy grader' may be used to communicate a message that the instructor is either dishonest or incompetent").

86. Randall, *supra* note 2, at 262-63 (suggesting working within the curve to "set a criteria-referenced system that assures everyone who meets the minimum criteria" will receive a certain grade).

87. See *supra* notes 51-54 and accompanying text; see also Randall, *supra* note 2, at 270 (observing that a TBL professor who is running an isolated experiment may see a negative impact on student course evaluations).

88. Sparrow & McCabe, *supra* note 2, at 204; see generally Lopez, *supra* note 13.

89. Sparrow & McCabe, *supra* note 2, at 205-06; Weresh, *supra* note 27, at 76 (remarking on student frustration with TBL's "flipped classroom" pedagogy, which requires them to complete significant work out of the classroom).

ulty may find it challenging to gain support of more senior colleagues, who during a class audit may wonder why the TBL professor does not appear to be “teaching.”<sup>90</sup> Consideration should be given to a preemptive strike at this skepticism—for example, by presenting the teaching method at a faculty pedagogy workshop.

#### IV. Modified Team-Based Learning

As laid out in Part II, TBL is not merely a collection of teaching strategies. The performance outcomes described above depend on a combination of course design, ongoing assessment and feedback, active and collaborative learning techniques, and student accountability. The professor must incur significant startup costs “to harness the power of student learning teams,” and must commit to transforming the classroom experience.<sup>91</sup> To those who find the prospect daunting, this article offers a modified version of TBL that allows the instructor to transition more gradually into collaborative learning. Although this piecemeal approach admittedly sacrifices some of the distinctive benefits of TBL, it also ameliorates enough of its challenges to tempt the wary.<sup>92</sup>

As mentioned, my TBL experiment was situated in my sports law course.<sup>93</sup> The course is open to all upper-level and LL.M. students and imposes no prerequisites. A potentially vast field of study, sports law offers the opportunity to design a capstone class that brings together and applies to a single industry various bodies of law, including contract, antitrust, labor, and intellectual property.<sup>94</sup>

The first time I taught sports law, I adopted conventional law school instructional methods, using a leading sports law casebook,<sup>95</sup> spending class

90. Weresh, *supra* note 27, at 76; Sparrow & McCabe, *supra* note 2, at 206; Randall, *supra* note 2, at 266 (noting the difficulty of changing faculty assumptions and behavior on which their self-worth depends).
91. Sparrow & McCabe, *supra* note 2, at 157.
92. SIBLEY & OSTAFICHUK, *supra* note 22, at 6; *see also* Randall, *supra* note 2, at 242-43 (mapping a class session that mixes Socratic exchange with informal temporary group discussion); Cristina D. Lockwood, *Improving Learning in the Law School Classroom by Encouraging Students to Form Communities of Practice*, 20 CLIN. L. REV. 95, 132 (2013) (describing group activities for the large classroom, including panel discussions, knowledge mapping, debates, visual lists, and fishbowl exercises).
93. *See supra* note 16 and accompanying text. Course enrollment has fluctuated to as high as eighty-seven and as low as twenty-four.
94. My sports law course focuses on the operation and practical interplay of these doctrinal areas on the business of professional sports. I also cover sports league structure and governance, the role of sports agents, and, briefly, collegiate sports and sports and torts.
95. PAUL C. WEILER ET AL., SPORTS AND THE LAW: TEXT, CASES, AND PROBLEMS (5th ed. 2015) (as of the sixth edition published in 2019, I am a co-author of this casebook). I supplement readings from this casebook with recent decisions, relevant statutes, and fundamental industry documents, including collective bargaining agreements, governing body charter

time on Socratic dialogue interrupted by mini-lectures, and relying primarily on a final exam to award grades.<sup>96</sup> As a clinician and former legal writing professor, I quickly became dissatisfied with this approach and resolved to introduce experiential teaching practices into my sports law classroom.<sup>97</sup> I sought to address both my students' passivity and their struggle to absorb and contextualize the complex doctrines that sports lawyers regularly encounter. My light-bulb moment came when I heard Barbara Glesner Fines speak on using team-based learning in her professional responsibility course.<sup>98</sup> She posited that teamwork skills are increasingly essential to lawyers as legal specialization and complexity intensify and demand cross-disciplinary collaboration.<sup>99</sup> This phenomenon regularly plays out in the world of sports, where legal solutions routinely depend on bringing together lawyers and other professionals across multiple practice areas and skill sets.<sup>100</sup>

Accordingly, in adapting TBL for my sports law course, I was particularly cognizant of my learning goals that students should be able to understand “the unique relationships among participants in the sports industry” and “the professional role and responsibilities of attorneys in serving sports industry clients, including the ability to engage in multidisciplinary collaboration.”<sup>101</sup> In addition, in selecting among TBL components, I sought to avoid sacrificing course coverage, alleviate administrative burdens through available technology, and address institutional and cultural resistance.<sup>102</sup> For my NYU version of the course, I also prioritized accommodating my co-teacher, Arthur R. Miller.<sup>103</sup>

documents, and league and union rules and regulations.

96. I was on the faculty at New York Law School when I first taught the course.
97. SIBLEY & OSTAFICHUK, *supra* note 22, at 46 (reporting that teachers often switch to TBL because of dissatisfaction with lecturing and classroom emphasis on “covering information”).
98. See generally Glesner Fines, *supra* note 47. Professor Glesner Fines presented a version of this paper at a faculty workshop at New York Law School in 2012.
99. *Id.* at 3. In the second NYLS iteration of my sports law course, I formed the students into teams and required a graded team presentation. I also introduced a blog-writing assignment to engage students more deeply in applying course content. See Jodi S. Balsam, *Law Blogging Engages Students in Writing that Connects Theory to Practice and Develops Professional Identity*, 23 PERSPECTIVES: TEACHING LEGAL RESEARCH & WRITING (Summer 2015).
100. My practice experience before academia included working as a litigation associate at a large New York firm with sports and entertainment clients, and in-house counsel at the National Football League.
101. See sports law course syllabus on file with author.
102. See *supra* notes 84-90 and accompanying text (describing institutional and cultural challenges to implementing TBL).
103. Arthur R. Miller, CBE, is a leading scholar in the field of civil procedure and is co-author with the late Charles Wright of *Federal Practice and Procedure*. He is also a distinguished legal scholar in the areas of civil litigation, copyright, unfair competition, and privacy. Professor Miller joined NYU School of Law from Harvard Law School, where he taught for thirty-

It was a privilege to partner with this master of the Socratic method, who optimizes it to achieve highly productive and active learning.<sup>104</sup> Professor Miller wholeheartedly embraced modified TBL for our sports law course. Nonetheless, we implemented it judiciously, in part because co-teaching with him was a meta-opportunity for me to observe expertly moderated Socratic dialogue.

Three TBL components emerged as most suited to the collective demands of my two law school settings: (1) form students teams that sit and work together all semester; (2) administer unit quizzes to assure student readiness; and (3) spend significant class time on application exercises in which students work in their teams. I also decided to forgo other TBL components, primarily with respect to grading. Each student's grade in my sports law course is based almost entirely on individual quiz scores and final exam performance. The grade factors in team performance only to the extent that contributions of an active and well-functioning team may influence assessment of an individual student's class participation.<sup>105</sup> I address these modifications below, and how they serve both the TBL pedagogy<sup>106</sup> and my concerns and priorities above.<sup>107</sup>

#### *A. Student teams*

Using student teams seemed an especially apt teaching method in a course that examines an industry in which effective teamwork is the wellspring of success. This connection is made clear in the syllabus and first-week announcements, which inform students that they will work in permanent teams that will sit as a group in the classroom throughout the semester. Explicitly orienting the students to this pedagogy overcame their misconceptions about the method and how it "differs from general group work."<sup>108</sup>

In classic TBL, the professor forms the student teams to achieve balance and heterogeneity.<sup>109</sup> I rejected that approach in favor of student team self-selection for three reasons. First, in my experience, the sports law course especially

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six years. At NYU, Professor Miller founded the center for Sports and Society, and served as dean of the Tisch Institute for Sports Management, Media, and Business. A renowned commentator on law and society, he won an Emmy for his work on PBS's *The Constitution: That Delicate Balance*, moderated PBS's *The Fred Friendly Seminars*, and served for two decades as the legal editor for ABC's *Good Morning America*.

104. See BEST PRACTICES, *supra* note 5, at 213-16 (describing the Socratic method's potential efficacy in community formation and collaborative learning); BUILDING ON BEST PRACTICES, *supra* note 5, at 104-05 (same).

105. See Randall, *supra* note 2, at 271 (discussing how to structure courses to use Cooperative Learning to supplement rather than replace other methods).

106. See *supra* note 22 and accompanying text.

107. See *supra* notes 100-04 and accompanying text.

108. Weresh, *supra* note 27, at 53.

109. See *supra* notes 23-30 and accompanying text.

appeals to a subcommunity of students who are relatively homogenous in their interests and experiences.<sup>110</sup> Thus, the teams those students form are not likely to vary that greatly in terms of the assets each student contributes.<sup>111</sup> Second, and relatedly, my sports law students are often well-acquainted from participation in student affinity organizations.<sup>112</sup> Many of them enroll in sports law with like-minded friends, with the intention of studying together. This circumstance risked sharpening any cultural resistance to teacher-formed teams.

Third, in both schools where I teach sports law, a nonrequired course, enrollment usually does not stabilize until the second week of the semester, after the end of the add/drop period. Thus, it is not practical to form teams until the second or third week of the semester, depending on the school.<sup>113</sup> By that time, even among students who did not previously know one another, coalitions have formed as students have had the opportunity to scope out their classmates and understand the demands of the course material. On this basis, I am willing to trust them that they will make sound choices in forming teams. And I give them tools and criteria to optimize that process. The students have completed a questionnaire during the first week that inquires into educational background; relevant employment, volunteer, and athletics experience; and personal interest in and goals for the course. In addition, we discuss in class additional considerations in selecting teammates, including existing acquaintance and the opportunity to get to know someone new who shares an interest in sports. My modified version of TBL further encourages students to reach outside their comfort zone in forming teams, as teamwork is not graded.

One additional variation in forming teams for my sports law course is that my teams number four to five students, not the recommended five to seven.<sup>114</sup>

110. See Weresh, *supra* note 27, at 58 (observing that random sorting of students into teams works in “a relatively homogeneous population”); Mullins, *supra* note 4, at 55 (randomly assigning students to teams because a first-year legal writing class “does not present the type of diversity that a typical undergraduate class presents”).

111. My students fill out a questionnaire at the start of the semester that confirms affinities such as long-term interest in sports as a participant and fan, prior work experience in sports, entertainment, and media, and prior coursework in the doctrinal areas that typically comprise sports law. See *supra* note 95 and accompanying text. One caveat applies here—that students who have taken prior courses in related topics, such as antitrust, labor, or intellectual property, will potentially outperform students who have not taken such courses. See *infra* text accompanying notes 125-26.

112. Many of my Brooklyn Law School students are members of the Brooklyn Entertainment and Sports Law Society or the Intellectual Property Law Association. Similarly, at NYU School of Law, my sports law course attracts members of the Sports Law Society.

113. See *supra* note 93.

114. Michaelsen & Sweet, *supra* note 23, at 10.



While larger teams are thought to provide the “intellectual horsepower” necessary to work through complex, multidimensional application exercises,<sup>115</sup> my modifications to TBL grading and peer assessment recommended a smaller team to enhance accountability and mitigate dysfunctional student teaming behaviors.

Enthusiasm for teamwork in my sports law course builds with the first team assignment<sup>116</sup>—to submit a one-page team roster that includes:

- Team name and mascot, with creativity and humor welcome;
- Team mission statement of one or two sentences expressing the team’s values and goals for the course; and
- Team rules, listing up to five rules or processes the team has identified for its members to work together effectively and accountably.

Sports puns and metaphors abound, with recent team names such as: Rational Bases, the Bad News Bearisters, the Sportsfeasors, and the Goodell Samaritans. Team mission statements often draw on sports aphorisms that accord with active learning, such as the Wayne Gretzky quote, “You miss 100% of the shots you don’t take.”<sup>117</sup> Team rules reveal student appreciation of the importance of collaborative skills, with teams consistently demanding of their members open communication, respect for opposing viewpoints, and fair allocation of work.<sup>118</sup> This warmup assignment contributes both to team bonding and to student openness to an unfamiliar in-class dynamic.<sup>119</sup>

Throughout the semester, I call student teams by their chosen names and invoke their mission statements and rules to stimulate team cohesion and enliven the debriefing of application exercises. Student teams generally stay on task during these exercises, take noticeable satisfaction in responding to challenges and generating solutions, and work more efficiently and productively as the semester wears on.<sup>120</sup>

115. SIBLEY & OSTAFICHUK, *supra* note 22, at 67.

116. See *supra* note 31 and accompanying text; see SIBLEY & OSTAFICHUK, *supra* note 22, at 70 (suggesting giving student teams an opportunity to get to know one another).

117. See *Best Wayne Gretzky Quotes*, SPORTS FEEL GOOD STORIES, <https://www.sportsfeelgoodstories.com/best-wayne-gretzky-quotes/> (last visited March 1, 2019).

118. In the spirit of the course topic, student teams often frame their rules in sports-speak, e.g., “exhibit sportsmanlike conduct,” “always throw the challenge flag and question everything,” “pass the ball and play unselfishly,” “act as team leader according to batting order rotation,” and “give 100% and leave it all out on the field.” Students also have some fun with the rules assignment: “no steroids,” “got to hate Tom Brady,” “no locker room talk,” and “no technical fouls.”

119. See SIBLEY & OSTAFICHUK, *supra* note 22, at 70 (reporting that some TBL teachers ask teams to come up with a team name).

120. *Id.* at 68 (noting that as teams “gel,” they “get better at problem solving”).

### B. Student readiness assurance

The unit quiz is essential to team-based learning because it ensures that the students will complete significant work outside the classroom.<sup>121</sup> In this regard, TBL is an example of “flipped classroom” pedagogy, which requires students to do the advance preparation necessary for productive class time.<sup>122</sup> TBL’s readiness-assurance process means students are “accountable for their initial preparation [and] ready for the activities.”<sup>123</sup> I believed I could accomplish those twin goals even though my sports law unit quizzes eschew the strict TBL approach, in which tests are closed-book, in-class, and taken first individually and then collectively. Instead, once teams are formed, I administer eight or nine quizzes over the semester, which students take outside of class, online, and only once and individually. One caveat: Whichever TBL approach you take, preparing the readiness-assurance tests is assuredly the most significant and time-consuming hurdle.<sup>124</sup>

To more fully describe my modified readiness-assurance process: Eight or nine times during the semester students take a “reading guidance quiz” based on the readings for the coming week.<sup>125</sup> Each quiz poses ten questions—multiple-choice, true/false, or fill-in-the-blank—for which the answers can be found in the assigned readings. The questions are designed to be straightforward and easily solvable from the readings, but not susceptible to guesswork based on skimming the materials or general knowledge. Writing good quiz questions takes time and practice, especially to cover important foundational knowledge necessary for application activities.<sup>126</sup> For sports law, the focus is on extracting from judicial decisions, legislative materials, and industry documents the key concepts, doctrines, rules, and material facts that shape business structures and strategies and determine dispute outcomes.<sup>127</sup>

121. See Weresh, *supra* note 27, at 75.

122. See William R. Slomanson, *Blended Learning: A Flipped Classroom Experiment*, 64 J. LEGAL EDUC. 93, 95 (2014) (defining the “flipped” classroom as one where “(a) the professor’s lecture is delivered at home and (b) the student’s homework is done in class”); see also Alex Berrio Matamoros, *Answering the Call: Flipping the Classroom to Prepare Practice-Ready Attorneys*, 43 CAP. U. L. REV. 113, 116 (2015) (flipping the classroom allows instructors to “dedicate[e] the freed class time to skill-building and active learning opportunities”).

123. SIBLEY & OSTAFICHUK, *supra* note 22, at 74.

124. *Id.* at 89 (“[w]riting good R[eadiness] A[ssurance] P[rocess] questions and Application Activity questions [is] the most difficult aspect of TBL”).

125. Because my sports law enrollment does not stabilize until the end of the add/drop period, see *supra* text accompanying note 112, the first quiz usually takes place in the third week of the semester, with a quiz scheduled almost every week thereafter. To accommodate my busy, hardworking students, who often are also writing journal notes, competing in moot court tournaments, or traveling to job interviews, I allow them to drop their lowest quiz grade from their total quiz score.

126. SIBLEY & OSTAFICHUK, *supra* note 22, at 87-98.

127. See generally Susan M. Case & Beth E. Donahue, *Developing High-Quality Multiple-Choice Questions for Assessment in Legal Education*, 58 J. LEGAL EDUC. 372 (2008).

The sports law quizzes are administered online, using available course-management systems and their assessment tools.<sup>128</sup> In a typical week, the quiz is released to students beginning on Thursday, with responses due by Monday. Within that time frame, students can take as much time as they want to complete the quiz, but they may submit only one set of answers. Each quiz is open-book, but students must affirm an honor pledge that they are taking it independently, and are not giving or receiving aid. Once the student submits quiz answers online, the testing tool automatically grades and reports the score. Students are welcome to discuss quiz questions and outcomes with classmates only after the deadline for taking the quiz has passed.

These modifications to the TBL readiness-assurance process primarily serve as time-saving devices, to avoid diverting class time to testing. As mentioned, course coverage is a concern in sports law because it spans so many disparate doctrinal areas.<sup>129</sup> As the course progresses, students struggle to understand the interplay among these doctrinal areas, necessitating use of class time to scaffold and bridge those gaps. Relatedly, because my sports law course does not dictate any prerequisites, students come to my course with diverse transcripts. Many have taken one or two full-length courses that align with units in my syllabus, but almost none has taken a course in every constituent unit. Thus, I was concerned that students who had previously taken a course in a relevant doctrinal area—for example, antitrust or labor law—would have an unfair advantage in a closed-book quiz. Allowing the students to reference readings and other materials evened the playing field. An open-book test also models real-world law practice, in which lawyers invariably consult sources of law and related reference tools before delivering advice.<sup>130</sup>

Conducting the quiz online also ameliorates many of TBL's administrative burdens.<sup>131</sup> There is no need for printing and collating paper copies of test questions and answer sheets for the individual and collective rounds of test-taking. The online testing tools also perform the functions of automatic grading, reporting of quiz scores to students, generation of score reports, and record management, with minimal human intervention. The score reports come in particularly handy, as they identify the topics that most students

128. NYU's proprietary course site platform includes a "tests & quizzes" tool that allows instructors to create online assessments that it automatically scores, with options to post grades and feedback to students. At Brooklyn, I use TWEN's course site, which offers similar capabilities.

129. See *supra* note 95 and accompanying text.

130. See Paul Maharg, *The Culture of Mnemosyne: Open-Book Assessment and the Theory and Practice of Legal Education*, 6 INT'L J. LEGAL PROF. 219, 224-25 (1999) (describing open-book examinations as "a more efficient way of assessing [law students] according to the principles of practice-oriented learning").

131. See SIBLEY & OSTAFICHUK, *supra* note 22, at 80 (noting that many TBL teachers use their course management system to administer tests outside of class, and no consensus has been reached on whether classroom exercises and discussion suffers); *id.* at 81 (reporting on the use of clickers to collect student responses to readiness assurance tests).

found difficult and pinpoint where they were confused. Score reports are easily translated into a unit-opening mini-lecture that clarifies course concepts necessary for the next stage of TBL. I share each test's aggregate scores with the students to invite discussion of issues that puzzled them. I also borrow from TBL's appeals process to invite students to argue for and defend their answers, awarding credit where it serves fairness and transparency.<sup>132</sup>

My version of TBL does not incorporate team-testing, in which students collectively retake the quiz and thereby engage in "social dialogue and peer teaching" that can "generate a deeper shared understanding" and "establish more positive group norms."<sup>133</sup> I consider this a missed opportunity, and my challenge for future iterations of modified TBL is to find a workaround within the technology solutions available to me to add a team-testing phase.

In sum, students appreciate the discipline imposed on them by the readiness-assurance process and commend it for helping direct their learning. To the extent my sports law class spends time on Socratic dialogue, the readiness-assurance process promotes higher-level classroom discussion and cultivates a community of learners that can optimize the Socratic method.<sup>134</sup>

### *C. Team application activities*

At the heart of TBL are the application activities. In a typical sports law class session, that translates into a thirty-minute or so break from traditional teaching methods to address complex, practice-based legal problems. Students work in teams to apply the concepts and principles from course materials to scenarios of immediacy and significance to the sports industry.<sup>135</sup> Application activities have included:

- Drafting player disciplinary system procedures for a sports league.
- Resolving an intraleague dispute between two club owners.
- Counseling a rookie professional athlete about the provisions of his first playing contract.
- Analyzing whether a new league business practice is a mandatory subject of collective bargaining with the players' union.
- Applying trademark law to a sponsorship dispute.
- Advising a league about a proposed television deal that risks antitrust scrutiny.

For most activities, students receive a written hypothetical or worksheet that I sometimes distribute in advance of class to stimulate thinking and encourage team advance planning. In class, students may refer to relevant cases, statutes,

132. See *supra* note 40 and accompanying text.

133. SIBLEY & OSTAFICHUK, *supra* note 22, at 86.

134. See *supra* note 104.

135. See *supra* notes 42-51 and accompanying text; Sparrow & McCabe, *supra* note 2, at 191 (providing examples of significant problems that could supply application activities).

regulations, and industry documents to support their problem-solving efforts.

My sports law course diverges from classic TBL's four "S's" in structuring the application activities.<sup>136</sup> First, while the problems are *significant*, and all students work on the *same* problem, different teams are often asked to take on different roles in addressing the scenario. For example, when drafting the procedures for a player disciplinary system, one-third of the teams are in role as counsel to the league commissioner's office, one-third are counsel to the players' union, and one-third represent an advocacy group for sports fans. Occasionally, I ask students within each team to take on different roles. For example, in the exercise requiring analysis of a playing contract, each member of a team plays an asymmetrical role—the player, his publicist, his parent, and his lawyer—and the team conducts a counseling session with the player on what specific contract provisions require of the player. Putting student teams and team members in specific, realistic roles models real-life law practice and introduces considerations of professional identity and values.<sup>137</sup> Students need to think about not only the "right answer" but also how that answer would serve the client, other stakeholders in the scenario, the long-term health of the sport, and broader societal good.<sup>138</sup> Team members must explore multiple perspectives and acknowledge cultural differences among the interested parties.

Second, introducing role-playing to the application activities also compensates for my divergence from the other two "S's"—that teams be able to express their solution to a problem with a *specific choice*, and that all teams report *simultaneously*. Role-playing invites disparate solutions that are not conducive to preset, clearly defined answer choices. Preset answers may underestimate the creativity and thoughtfulness of the student teams. If limited by specific choices, teams working in roles may miss opportunities to explore the nuances of relevant law and policy and to engage a broad range of critical thinking and advocacy skills. While classic TBL acknowledges that problems often do not have a right or wrong answer, it insists on preset answers to facilitate quick comparisons among team solutions to the problem.<sup>139</sup> My approach instead accomplishes those comparisons through use of a whiteboard to record and

136. Michaelsen & Sweet, *supra* note 23, at 20.

137. Martin J. Katz, *Teaching Professional Identity in Law School*, 42 *COLO. LAWYER* 45 (Oct. 2013) ("Professional identity is the way a lawyer understands his or her role relative to all of the stakeholders in the legal system."); BEST PRACTICES, *supra* note 5, at 170 ("There is no more effective way to help students understand what it is like to be a lawyer than to have them perform the tasks that lawyers perform . . .").

138. See Ann Juergens & Angela McCaffrey, *Roleplays as Rehearsals for "Doing the Right Thing"—Adding Practice in Professional Values to Moldovan and United States Legal Education*, 28 *WASH. U. J.L. & POL'Y* 141, 163 (2008) (using roleplays in the first-year law school classroom "to introduce themes of lawyers' values"); Lynne L. Dallas, *Limited-Time Simulations in Business Law Classes*, 45 *J. LEGAL EDUC.* 487, 490-91 (1995) (assigning students different roles in a corporations course simulation to explore different viewpoints on the appropriate role of the corporation in society).

139. SIBLEY & OSTAFICHUK, *supra* note 22, at 120.

collate team responses.<sup>140</sup> Similarly, simultaneous reporting is less critical when placing teams in roles because each team necessarily will present distinct responses and justifications. This ameliorates accountability and fairness issues and keeps the discussion lively throughout as students respond to and contest the solutions offered by each assigned perspective.

TBL's application activity stage takes the instructor the furthest out of the lecture hall comfort zone. Once the instructor launches the student teams into the activity, TBL requires a whole new set of classroom management techniques. During the body of an application exercise, I circulate around the classroom to monitor teams for professionalism and engagement.<sup>141</sup> I actively engage with students when they seek me out, but otherwise mostly listen to ensure they are making progress and to provide any necessary clarification.<sup>142</sup> While it may not seem that I am doing much during the team discussion stage, it assures the students that what they are doing is "important and valued."<sup>143</sup> Then, in debriefing the exercise, the instructor must resist the reflex to dominate the discussion. A TBL professor facilitates the discussion to amplify team voices. My most successful application exercises have culminated in students neglecting my presence altogether while they contest their conclusions.<sup>144</sup>

#### D. Striking the balance

The modifications described above to classic TBL have helped transition my doctrinal course to a more student-focused classroom. While startup costs remain significant, administrative burdens are vastly reduced. Institutional resistance has largely been confined to the grading system's difficulty accommodating the mechanics of awarding a grade that weighs both an anonymous final exam and other nonanonymous course components. Student resistance has been minimal, likely the result of course policies that continue to grade students primarily on individual performance, not group work or peer assessments. As for faculty resistance, I am fortunate to teach at two institutions known for their leadership in experiential education, and have encountered only encouragement and curiosity about my teaching methods. For junior faculty at institutions with rigid promotion and retention standards, modified TBL makes sufficient use of the Socratic method and conventional discussion techniques to find acceptance.

140. *Id.* at 131.

141. SIBLEY & OSTAFICHUK, *supra* note 22, at 126, 128.

142. Sparrow & McCabe, *supra* note 2, at 198 (suggesting that the TBL professor listen and talk to teams to "respond to questions, remind students of additional features in the assignment they need to complete, ask questions to deepen their understanding, correct errors, and remind them of the time remaining").

143. SIBLEY & OSTAFICHUK, *supra* note 22, at 126.

144. *Id.* at 127; Sparrow & McCabe, *supra* note 2, at 198-99.

Gains in student learning through modified TBL are admittedly more modest than claimed for the classic version. However, I can report without equivocation that my students are prepared for class. Motivated by the quizzes, they complete the readings in advance of class and grasp the essential concepts necessary for productive classroom conversation. Other dimensions of the classroom experience show improvement, including student capacity for professional role assumption and behavior. In addition, more students regularly participate, and do so at a higher level. Another byproduct of the method has been higher-quality final exam essays.<sup>145</sup> When students have repeatedly practiced issue spotting and rule application, and received immediate feedback on those efforts, exam performance will benefit.

In short, modified TBL strikes the balance for experimenting with collaborative, peer-to-peer learning in my sports law classroom. It has fully engaged my students while deepening their acquisition of course knowledge, skills, and values.

### V. Conclusion

Having made some strides toward team-based learning, I am challenging myself to take the next steps. Fortunately, ample resources exist to support that effort. The Institute for Law Teaching and Learning offers resources for implementing this pedagogy specifically in a law school course, including the following samples:

- Team formation survey
- Team contribution guidelines
- Peer assessment forms
- TBL syllabus language
- Study guide questions
- Application exercises<sup>146</sup>

Also available are videos in which law students simulate typical behavioral issues in a TBL classroom, with strategies for resolving them.<sup>147</sup>

The Team-Based Learning Collaborative hosts a website that provides immensely helpful FAQs (frequently asked questions) about the teaching method.<sup>148</sup> Resources for implementing TBL are available to paying subscribers and for purchase, including explanatory books and guides, modules for

145. See Randall, *supra* note 2, at 202 (comparing final-exam-only assessment of student learning with teaching a student to play the piano by reading the sheet music of great musicians).

146. *Team-Based Learning*, INSTITUTE FOR LAW TEACHING AND LEARNING, <http://lawteaching.org/resources/> (last visited March 1, 2019).

147. *Id.*

148. *Answers to FAQs*, TEAM-BASED LEARNING COLLABORATIVE, <http://www.teambasedlearning.org/answers-to-faqs/> (last visited March 1, 2019).

specific courses, and classroom supplies such as immediate-feedback answer sheets and team voting cards.<sup>149</sup> Other teaching resources include online software for TBL educators.<sup>150</sup>

One last metaphor, again particularly apt for a sports law course, offers insight into the potential even modified TBL offers for law school teaching. The best teaching is a form of coaching, in which the instructor “must plan and implement ‘deliberate practice,’ aimed directly at particular dimensions and details of problem solving.”<sup>151</sup> Teachers as coaches should repeatedly “drill” students in the methods and skills necessary to prepare them for the day when they will take the floor and perform a lawyer’s work.<sup>152</sup> TBL provides a framework and tools for teachers to coach in this way, and for students to be coachable.<sup>153</sup> Collaborative learning methods like TBL enable the teacher to team up with her students to achieve the intellectual and practical ambitions of legal education.

149. *Id.* at <http://www.teambasedlearning.org/more-resources/> (last visited March 1, 2019).

150. *See, e.g.*, InteDashboard™, <https://www.intedashboard.com/>, and OpenTBL™, <http://www.opentbl.com/> (both accessed March 1, 2019).

151. *See Lopez, supra* note 13, at 332-33.

152. *Id.* at 333-34.

153. *See id.* at 334-35.