

# Team-Based Learning: Innovative Pedagogy in Legal Writing

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TEAM-BASED LEARNING (TBL) HAS BEEN USED AROUND THE WORLD in a variety of disciplines, such as medicine, nursing, business, sciences, math, education, and accounting.<sup>1</sup> TBL is a collaborative learning method that follows a sequence of individual work, followed by teamwork, followed by feedback.<sup>2</sup> The key components of TBL are (1) strategically formed, permanent teams, (2) the readiness assurance process, (3) team exercises, and (4) accountability.<sup>3</sup> This Article briefly reviews each of these components and describes how to implement them in a first-year legal writing course. Then, the Article will report on the triumphs and challenges of the TBL model in my own class. Others who are interested in transitioning to TBL should be able to use this Article as a starting place in their transition.

## I. Strategically Formed, Permanent Teams

The first core component of TBL is strategically formed, permanent teams.<sup>4</sup> The purpose of strategic formation is to ensure a diversity of interests

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1. JIM SIBLEY & PETER OSTAFICHUK, GETTING STARTED WITH TEAM-BASED LEARNING 217–20 (2014).

2. JIM SIBLEY & SOPHIE SPIRIDONOFF, TEAM-BASED LEARNING COLLABORATIVE, TBL 101 HANDOUT, *available at* <http://www.teambasedlearning.org/Resources/Documents/TBL%20Handout%20Aug%2016-print%20ready%20no%20branding.pdf> (last visited Mar. 22, 2015) (providing a handout that introduces the main components of TBL).

3. SIBLEY & OSTAFICHUK, *supra* note 1, at 8–9.

4. SIBLEY & SPIRIDONOFF, *supra* note 2.

and abilities across teams.<sup>5</sup> Many professors using TBL administer surveys at the beginning of the semester to assess each student.<sup>6</sup> The surveys typically ask the student's year in school, major, and interest in the class subject.<sup>7</sup> Professors then use those surveys to form diverse five to seven member teams.<sup>8</sup>

The purpose of permanence is to create a repeat-player situation in which the students are regularly accountable to the same set of people.<sup>9</sup> This alleviates the free-rider problems<sup>10</sup> typically associated with group work.<sup>11</sup> Furthermore, as noted below, one of the key components of TBL is accountability.<sup>12</sup> The students evaluate each other throughout the semester. Permanent teams position the students well to give each teammate feedback on another teammate's performance.

In transitioning my class to TBL, I assigned teams at random.<sup>13</sup> I could have reviewed admissions data for my students or administered a survey to form teams strategically. I decided to form teams randomly for two reasons. First, I did not have adequate time to collect and review information in a meaningful way. Like many law professors teaching first-year students, I do not know who will be in my class until a day or two before classes start. Moreover, the amount of content we have to cover precludes me from

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5. See SIBLEY & OSTAFICHUK, *supra* note 1, at 66 (“To get these balanced and diverse teams, we always form the teams for the students.”); Sophie M. Sparrow & Margaret Sova McCabe, *Team-Based Learning in Law*, 18 LEGAL WRITING: J. LEGAL WRITING INST. 153, 196–97 (2012) (“To be able to solve complex significant problems, [t]eams should be comprised of five to seven members and as heterogeneous as possible. Think of this as harnessing the power of five to seven brains, experiences, and perspectives.”); Melissa H. Weresh, *Uncommon Results: The Power of Team-Based Learning in the Legal Writing Classroom*, 19 LEGAL WRITING: J. LEGAL WRITING INST. 49, 56 (2014) (“Another component of TBL is the use of strategically formed, diverse, and permanent teams.”).

6. SIBLEY & OSTAFICHUK, *supra* note 1, at 70–71 (“We then use an online survey to gather some student information that is used to order students in an Excel file, for example. . . . Once we have the student responses, we perform nested sorts in Excel to order the list, and then we simply count off the teams.”). See Weresh, *supra* note 5, at 58 (“Second, I wanted to begin the semester with a quiz on the very first day and therefore had little opportunity to question the students regarding undergraduate degree, years of study, prior work experience, etc. The random grouping method worked quite well, particularly because the students were placed in their groups on the first day of classes, reducing any resistance that may have been presented once student coalitions had been formed.”).

7. SIBLEY & OSTAFICHUK, *supra* note 1, at 71.

8. *Id.*

9. Weresh, *supra* note 5, at 57.

10. My students frequently complain about free riders in group work situations, with a minority of the group members shouldering a majority of the group's work.

11. Weresh, *supra* note 5, at 57.

12. See *infra* Part IV.

13. Notably, Professor Melissa Weresh did the same in using TBL in her first-year legal writing class. Weresh, *supra* note 5, at 58.

putting the class “on hold” while I took appropriate time to review information to make meaningful choices.

Second, even if I had adequate time to review admissions data or survey results, I was not confident that the information would truly facilitate strategic choices. One thing I have learned in teaching legal writing is that it is impossible to predict with any level of certainty a student’s potential abilities in legal writing: legal writing is a completely new skill to all of the students in the class.

Furthermore, I am not convinced that strategic formation is as essential in my class as it might be in a typical undergraduate class. This is because the purpose of strategic formation is to ensure that the teams include a diversity of interest and experience. That, in turn, helps ensure that the teams will progress at about the same rate. Critically, my class does not present the type of diversity that a typical undergraduate class presents because all of my students are first-year law students. To some degree, all of the students want to be in the class: they have chosen to attend law school, and most understand that analysis and writing are fundamental skills that every lawyer needs. In contrast, an undergraduate class likely presents a far wider range of students, from freshmen through seniors, majors and non-majors, and students who are interested and others who are just trying to fill credit hours. Accordingly, the need for strategic formation is likely less pressing in the first-year legal writing class than in the typical undergraduate class.

Although I assigned teams randomly, my class’s teams are permanent. Permanence is particularly relevant to the law student’s learning experience: Practicing lawyers frequently work together in teams on a variety of legal work. Frequently, lawyers, and particularly novice lawyers, do not have control over who will be on their teams. As a result, it is critical that law students have opportunities to learn how to be effective team members.

## **II. The Readiness Assurance Process**

Before the students come to class, they must read selections from our class texts or court cases.<sup>14</sup> Reading alone is not enough: the students must also understand what they are reading.<sup>15</sup> Only after they have a basic

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14. See SIBLEY & OSTAFICHUK, *supra* note 1, at 74 (“Classroom discussions have long been heralded as a way to get your students to really learn the material. But most of us have had the difficult, uncomfortable experience of trying to lead a discussion in a classroom full of unprepared students. . . . Having students come to class prepared is critical in order to have any possibility of deeper classroom conversations and meaningful problem-solving activities.”); Sparrow & McCabe, *supra* note 5, at 182.

15. See SIBLEY & OSTAFICHUK, *supra* note 1, at 77 (“When we have assigned shorter readings, students seem to try not only to complete them but also to actually understand them.”); Sparrow & McCabe, *supra* note 5, at 184–87 (describing the beneficial use of readiness assurance tests to make

understanding of the material can they engage in exercises to apply what they have learned. The readiness assurance process reveals what topics the students understand well enough to apply, and what topics require additional instruction in the classroom.<sup>16</sup>

The typical readiness assurance process is a multiple-choice quiz.<sup>17</sup> The students take the quiz individually first.<sup>18</sup> Then, they take the quiz together as a team.<sup>19</sup> For the team quiz, many instructors use Immediate Feedback Assessment Technique (IF-AT) cards.<sup>20</sup> The cards are designed as scratch-off cards. Teams determine which answer is most likely correct, and they scratch off that answer. If they answered the question correctly, a star appears. If they answered the question incorrectly, they keep working until they reveal the correct answer. Students then score their team quiz.<sup>21</sup> Instructors can assign points on a sliding scale based on the team's number of attempts to reach the correct answer. For example, if the team got the right answer on the first attempt, they might earn five points. If it took two attempts, they might earn four points. If it took three attempts, they might earn three points, and so on.

When teams are finished with the quizzes, the instructor can quickly review the results with the class. The purpose of the review is to determine which topics the students have sufficiently mastered and which topics require additional in-class instruction.<sup>22</sup>

In my experience, the IF-AT quizzes are pure magic! I have never seen students so immediately and actively engaged in in-class group work. Group work no longer took place in hushed tones with one or two students driving the discussion: instead, the class came alive! The students were excited to talk through the problems together. Without any prompting from me, they pulled out their class texts to explain to each other why they reached a particular answer.

Moreover, one of the best features of the IF-AT quizzes is that students can earn points for getting the right answer whenever they get it. On typical

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sure students are truly understanding the material in their reading assignments).

16. SIBLEY & OSTAFICHUK, *supra* note 1, at 86; Weresh, *supra* note 5, at 59.

17. SIBLEY & OSTAFICHUK, *supra* note 1, at 75.

18. *Id.*

19. *Id.*; Weresh, *supra* note 5, at 59.

20. Sparrow & McCabe, *supra* note 5, at 187 (“As students take the readiness- assurance test in their teams, they use Immediate Feedback Assessment Technique (IF-AT) ‘scratch off’ answer sheets.”).

21. The IF-AT cards are available from Epstein Educational Enterprises. *Order IF-AT Forms*, EPSTEIN EDUCATIONAL ENTERPRISES, <http://www.epsteineducation.com/home/order/default.aspx> (last visited Apr. 13, 2015).

22. *See* Weresh, *supra* note 5, at 66–67.

quizzes, students usually earn points only for getting the right answer the first time. Offering a sliding scale of rewards instead of a one-shot deal keeps the students engaged in the learning process through the entirety of each question. For students learning new skills, like legal analysis and writing, the underlying message of sliding-scale scoring is an important one: Not getting it right on the first try is not failure. Rather, with hard work and persistence, they can reach the right answer and reap some reward when they do reach it.

### **III. Team Exercises**

After the class has completed the readiness assurance process and the instructor has followed up with any additional instruction necessary, the class moves on to application exercises.<sup>23</sup> The application exercises give students the opportunity to apply what they have learned, with their professor on hand to answer questions as they arise. The exercises can vary widely. In my class, for example, we have identified and drafted parts of a legal argument, and critiqued samples of writing.

The most significant change since using TBL is student engagement in classwork. In the past, I have incorporated many of the same or similar group activities into my class. Students typically spoke in hushed tones during these activities, with one or two students driving the discussion. With TBL, the students are far more active and engaged in the activities. I credit two things for this enhanced level of engagement: First, the IF-AT quizzes set the tone for in-class activities. The students' engagement in those quizzes naturally carried over to in-class activities. Second, having permanent teams allowed the students to feel more comfortable with their teammates. This increased comfort level made them more likely to speak up even when they were not certain of the correct answer or to ask a question when they were confused.

### **IV. Accountability**

The final core component of TBL is accountability. In order to ensure a student's active engagement in TBL, a student's performance on TBL-related activities and a student's performance as a team member count towards their final grade.<sup>24</sup>

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23. *Id.* at 69 (“Once students have completed the readiness assurance phase, they are ready to proceed to application exercises.”). *See generally* SIBLEY & OSTAFICHUK, *supra* note 1, at 114–42 (discussing various application activities available to professors using TBL).

24. *See generally* SIBLEY & OSTAFICHUK, *supra* note 1, at 145–49 (outlining ways that students can be held accountable for their teamwork, including grading team activities); Weresh, *supra* note 5, at 72 (“Also, for many TBL classrooms, the portion of the grade allocated to TBL is significant.”).

In my class, the students' individual quizzes and the team quizzes count towards their final grade. Additionally, the students evaluate their team members periodically throughout the semester, reporting what they appreciate about and what they request of each teammate.<sup>25</sup> I evaluate both the quality of each student's feedback to his or her teammates, as well as the feedback that the student's teammates give to him or her. I then hold short conferences with each student to discuss the feedback and strategize on ways to improve.

The team feedback process has been a very positive one. Particularly during the first semester of law school, the students really appreciate affirmation from fellow classmates. They also welcome constructive feedback. Significantly, they realize that in law practice, they will frequently work in teams. They view the TBL experience as practice for the real world and want to begin improving now. This way, they feel more prepared to start their careers than without the use of TBL.

## V. Report from the Field: Triumphs and Challenges

Of the many positive aspects of transitioning to TBL, two stand out. First, as indicated above,<sup>26</sup> students are far more engaged in in-class group work. Second, students understand that their team experiences are reflective of the real world of law practice. To that end, they appear committed to transferring the skills they learn about being an effective team member to the actual practice of law.

Thus far, my students have given very positive feedback on TBL. There were four themes to their feedback on their experience. First, students reported that everybody pulled his or her own weight in the group. This is in stark contrast to their experiences with group work as undergraduates, where many of them reported that group members frequently took advantage of the more dedicated students. Second, they appreciated having each other as resources in addition to having the professor as a resource. Hearing concepts explained in different ways helped students develop deeper understanding. Moreover, students reported that the team quizzes with the IF-AT cards enhance their understanding of the course material. In more traditional classroom settings, students might learn that their initial approach was wrong and what the correct approach is; when they work through quizzes together as teams, they understand *why* their approach was wrong and *why* the correct

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25. This was one approach recommended by the Team-Based Learning Collaborative. *Peer Evaluation*, TEAM-BASED LEARNING COLLABORATIVE, <http://www.teambasedlearning.org/page-1032389> (last visited Apr. 13, 2015).

26. See *supra* Part III.

approach is more effective. Third, students recognized that they prepared more thoroughly for class when their team relied on them. Fourth, the students developed a healthier and more constructive attitude toward group work, which they recognized would serve them well in law practice. To that end, they realized that the purpose of the team quizzes and exercises was to reach the correct answer and not to defend their initial choices. This realization made the students more accepting of group work and made them more effective group members. Some students even noted that when they work together as a team, they ultimately selected correct answers that no team member had initially selected on their own.<sup>27</sup>

While TBL has fantastic benefits, it also has its challenges. At the outset, TBL is exceptionally work-intensive, both before and during the semester. As Professors Sparrow and McCabe note, “Professors who want to use Team-Based Learning should be prepared to spend significant amounts of time preparing before the course starts, thereafter should be prepared to design and refine course components during the semester.”<sup>28</sup> I received special funding from the University of North Dakota over the summer to transition to TBL. Without that additional support, the transition would have been very difficult for me to transition.

Moreover, TBL requires actively teaching students how to be an effective team member. While many law school classes involve some type of group work, most professors assume that students already know how to be an effective group member. In fact, being an effective group member is a learned skill.<sup>29</sup> To the extent that law professors incorporate more group work into their classes, they need to dedicate some time to helping the students develop appropriate group work skills, assessing the students’ development of those skills, and giving the students feedback on how to improve. This is especially true when, as with TBL, group work will impact the students’ final grades.

## Conclusion

The transition to TBL has been a worthwhile one. Although it is much

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27. Before attending the conference at Stanford Law School, I asked my students to submit anonymous feedback about their experience with TBL. They were asked the following questions: (1) Was TBL different from group work they have done in the past? (2) If so, how was it different? (3) Had TBL impacted their learning? (4) If so, how? I also invited general comments, and encouraged constructive feedback. I used their feedback to create my presentation at the Western Regional Legal Writing Conference on my class’s transition to using TBL.

28. Sparrow & McCabe, *supra* note 5, at 175.

29. *Cooperative Learning: Students Working in Small Groups*, 10 SPEAKING OF TEACHING 1, 1 (1999), available at <http://web.stanford.edu/dept/CTL/Newsletter/cooperative.pdf>.

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more work-intensive than a traditional approach, I plan to continue using it. The benefits of increased student engagement and understanding, along with the opportunity to develop the skills of being an effective team member, are worth it.