Fast Track Your Mindset: Engineering Confidence and Streamlining Feedback for Full Steam Success in Legal Practice

By DEBORAH L. BORMAN*

STUDENTS FACE TWO OBSTACLES TO SUCCESS in law school and later in legal practice: reduced confidence and an inability to receive feedback. Feeling insecure and having trouble internalizing feedback are interrelated emotional responses that can derail both the legal education experience and a subsequent career in the law.

In two recent books, *The Confidence Code: The Science and Art of Self-Assurance–What Women Should Know*,[1] and *Thanks for the Feedback: The Science and Art of Receiving Feedback Well,*[2] four authors—two journalists and two Harvard Law professors, respectively—delineate remedies to address reduced confidence and organize feedback internally for successful careers and relationships. Relying on the theory of adopting a growth mindset,[3] the authors' suggestions can be adapted to the law school and legal practice settings to provide new pathways to success both during school and later in the legal profession.[4]

I. Mystery on the Confidence Express

Katty Kay and Claire Shipman identify women's lack of self-

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1. KATTY KAY & CLAIRE SHIPMAN, THE CONFIDENCE CODE: THE SCIENCE AND ART OF SELF-ASSURANCE—WHAT WOMEN SHOULD KNOW (2014).

2. DOUGLAS STONE & SHEILA HEEN, THANKS FOR THE FEEDBACK: THE SCIENCE AND ART OF RECEIVING FEEDBACK WELL (2014).

3. *See infra* note 11.

4. *See* CAROL DWECK, MINDSET, THE NEW PSYCHOLOGY OF SUCCESS ix (2007) (discussing the importance of the growth mindset).

assurance in higher education and workplace setting, noting that confidence is both innate and learned.[5] Confidence also shifts over time: studies on confidence reveal that while girls may be very confident in early life, especially in the primary and secondary education setting,[6] women can experience a marked confidence shift in adulthood. In law school, and later in the workplace setting, women find that an obedient and efficient performance is no longer rewarded. Being studious and having the correct answer is not enough; a confident attitude, even despite solid knowledge, provides others (primarily male) advantages in school and later in the workplace.[7] As a result, women may suddenly or gradually find their confidence and motivation diminished.

Women are often curtailed by "confidence busters," such as rumination (overthinking a problem);[8] hesitation (being afraid to speak up for fear of being wrong or of not being perfect);[9] and striving for perfection (inability to complete a project unless it is perfect).[10] Confidence busters are forms of inaction that we see in law students and can be paralyzing in the workplace.

The encouraging news is that confidence is a malleable trait and can be achieved through adapting a "growth mindset."[11] To cultivate confidence we need to employ cognitive behavioral methods to eliminate negative thoughts. Students can actually increase confidence by turning thoughts into action,[12] participating in class, and contributing to discussions. Another way to take action is to work cognitively on responses to feedback.

II. Your Brain, Your Track

Shelia Heen and Douglas Stone explain that the way we receive

5. *See generally* KAY & SHIPMAN, *supra* note 1, at 85–118 (describing the genetic and behavioral reasons that women appear to have less confidence-building opportunities).

6. *See id.* at 87 ("It's actually easier for young girls than young boys to behave well, because [their] brains pick up on emotional cues form an earlier age.").

7. *See id.* at 91 (describing how a natural affinity for competition and building resilience can create an advantageous confidence for men in the "cold world").

8. *Id.* at 103.

9. *Id.* at 19.

10. *Id.* at 106.

11. *See id.* at 128–29 (describing a growth mindset as a requisite ingredient in building confidence and its usefulness in turning failures into learning opportunities).

12. *See id.* at 50 ("*Confidence is the stuff that turns thoughts into action* . . . If confidence is a belief in [one's] success, which then stimulates action, [one] will create more confidence when [one] take[s] that action. And so on and so forth. It keeps accumulating, through hard work, through success, and even through failure.").

feedback depends on how our brains are wired. When we experience negative feelings, like fear and anxiety, our brains show increased activity on the right side.[13] When we experience positive feelings, like hope and happiness, our brain shows increased activity on the left side.[14]

An individual's response to feedback is subject to three wired-in variables. First, the "baseline" is our personal default level of feeling. Our response is above the baseline after receiving good news, and below our baseline after receiving bad news.[15] Second, the "swing" is how far away we move from our baseline after we receive feedback.[16] Third, "sustain and recovery" refers to the duration of time that we endure the swing away from the baseline; how long it takes to recover from bad news.[17] Individuals who have higher happiness baselines are more likely to respond positively to positive feedback than individuals who reported to have low self-confidence.[18] Furthermore, individuals with lower general satisfaction respond more strongly to negative information.[19] The flexible brain changes strategies to adapt to changes in environment.[20]

Research suggests that about 50% of our ability to feel satisfied is wired into our brains at birth.[21] Another 40% can be attributed to how we interpret and respond to what happens to us.[22] The final 10% is driven by our life circumstances—relationship status, health, etc.[23] We have a lot of room to grow in that middle 40%: we can control the way we interpret what happens to us, the meaning we make of events, and the stories we tell ourselves.[24]

13. STONE & HEEN, *supra* note 2, at 154–55.

14. *Id.*

15. *Id.* at 150–51.

16. *See id.* at 151–53 (discussing that natural baselines swing more severely for some people, while others have a narrower range of responses).

17. *See id.* at 153–54 (explaining that recovery refers to the duration it takes to return to your baseline).

18. *See id.* at 154 ("Strong activity on the left side is associated with quicker recovery from upset.").

19. *See id.* at 157 ("But when positive sustain is weak, it's harder to remember what you're doing right, and pessimism seems the more realistic outlook. If you've been low and had trouble recovering, you may doubt your ability to pull yourself up the next time you stumble into a particularly troubling time. This can produce a challenging combination of pessimism and self-doubt.").

20. *Id.*

21. *Id.* at 158.

22. *Id.*

23. *Id.*

24. *Id.*

III. The Runaway Train: Feedback Types and Triggers

Three types of feedback influence our emotional responses to interactive communication: appreciation thanks us; evaluation ranks us; and coaching provides suggestions for improvement. In high stress situations, such as competitive education environments and workplaces, we tend to tune out appreciation and coaching and hear all feedback as evaluation.[25] Think about the comments you make on students papers and exams (or even your own student evaluations): it is typical to "hear" the ten-percent negative comments over the 90% positive comments, to dwell on the negative, and to "swing" down.

Evaluation feedback triggers our emotions in three ways:

> 1. Truth Triggers: Feedback related to us as though it is "the truth," is upsetting by its very *substance*. Truth feedback can be inaccurate—it is often unhelpful and leaves us feeling wronged.[26]
> 2. Relationship Triggers: All feedback is colored by the relationship between the giver and the receiver. We react to the communication based on what we believe about the person offering the feedback.[27] When we receive relationship feedback, we "switchtrack," focusing instead on the person offering the feedback rather than on the actual feedback.[28]
> 3. Identity Triggers: Identity feedback triggers something within ourselves that challenges our confidence levels and makes us feel attacked.[29] Our negative reaction is not caused either by the actual content of the feedback or the person offering the feedback, but something internal or historic in our personality.[30]

IV. Chugging Along and Sorting Our Feelings

If we operate with a fixed mindset, every new situation we encounter challenges our ability to succeed. A fixed mindset can create an inaccurate self-perception and can cause us to give up or settle unhappily into a situation or circumstance that is not productive.[31] But if we realize that we are able to develop our skills, rather than being discouraged by initial trial and failure, we can move beyond the feedback.

When receiving feedback, we need to assess our own feelings:

25. *See id.* at 29–33 (using an example to explain that people in high-stress situations can feel hurt, defensive, and resentful when they hear feedback).

26. *Id.* at 18.

27. *Id.* at 21.

28. *Id.*

29. *Id.* at 23.

30. *Id.*

31. *See* DWECK, *supra* note 4, at 34 (explaining that a person's failure can be an unproductive mindset).

ascertain the meaning of our internal stories about the feedback—how we view ourselves, and how we fear others might view us. We are meaning makers and immediately create a story out of information. The information we hear, however, may not be meant as we receive it—we sometimes hear things that were not said.[32]

V. Parallell and Divergent Baselines

As professors giving feedback on assignments, it is not our responsibility to give feedback according to the student's baseline. The student must identify his own baseline and learn to control his response to feedback.

We do, however, need to identify our *own* baselines in terms of our responses to student evaluations and other evaluating criteria: When we are the ones *giving* the feedback to the students, we know we are offering "constructive criticism," and helpful coaching. Yet, when we are on the *receiving* end of course evaluations, we hear blame: *You did this wrong. You are the problem. You need to change*.[33]

VI. Quick Track Confidence and Feedback Fixes

As students, educators, and practitioners, we can improve how we receive feedback with a few quick fixes:

1. In the face of impending feedback, be prepared for bad news and consider options in advance of receiving the feedback.
2. Consider evaluation feedback as coaching feedback, which is intended to be helpful.
3. *Respond* to feedback rather than *reacting* to the feedback: take a moment (or longer) to think about the intent of the speaker in order to prepare an appropriate response.

If we work toward cultivating a growth mindset, identifying and realizing our ability to learn and adapt, we can increase our confidence levels. With increased confidence we become more adept at receiving feedback—seeing feedback for its true meaning—and, in that way, we stay on track to increase our opportunities for personal success in law school (both as a student and a professor) and in legal practice.

32. *See generally* STONE & HEEN, *supra* note 2, at 99–121 (explaining relationship triggers and "switchtracking").

33. *Id.* at 124.