

IV. A Collaborative Learning Approach To Teaching A Traditional Large Law School Class

For the past two years, I have been experimenting with an approach to teaching a large law school class that addresses many of the problems that I have with traditional methods of law school instruction, as well as with many aspects of the classroom dynamics in a large class. This method appears to result in greater student satisfaction than any other method I have used, does not seem to impair students' comprehension of the material involved, and has renewed my once faltering conviction that a legal education can be offered in a constructive, uplifting manner.

The basic approach is simple. On the first day of class, I have students organize themselves on the basis of friendship into law firms of from two to four students.¹ Each group must pick a name for their firm (the results of which can be very interesting) and turn in the name of their firm, their own names, and their school-based electronic contact information to me.² Thereafter, when I want class participation, I only call on law firms, not individual students.

There are a few simple rules on how this works. I have reasons for each of these rules. If you don't think my reason is a good one, you should delete or modify my rule accordingly.

- I do not announce in advance which firms will be called on. Thus, this method differs

¹Were this approach to be tried in a first-year course, and I think that it should be, some other approach to picking groups might have to be tried. Depending upon the length of your law school's orientation and the opportunity for socialization that it presents, friendship groups might be possible, but it is likely that in many instances it would not be. Random assignments, perhaps within other pre-existing small groups created within first-year sections for other purposes (such as legal research and writing groups) might suffice. So, too, might groups in which you sort students by anticipated career paths (expect a lot of "undecideds"!) and have them pick their firms from within those groups.

²At our school, all students have school e-mail accounts, and I use the information turned in to me to create a class Listserv. This activity, however, is not essential to the subsequent conduct of the class.

significantly from a “panel” approach. I have always been concerned that telling a few students that they will be responsible for particular materials, while improving the quality of class discussions, has the effect of telling the rest of the class, which is the overwhelming majority in most cases, that they will *not* be responsible for those materials. I prefer keeping the pool of potential respondents as large as possible, and mitigate any stress that might be caused by other means.

- A law firm cannot “pass,” unless only one person from the law firm is present in class on the day the firm is called on. If that happens, the firm’s name goes to the top of the stack to be called on at the next session. The “no pass” rule is designed to put minimal, albeit collective, pressure on every law firm to have at least one student ready to go at all times. The “top of the heap” rule discourages gamesmanship, such as strategic absences by all but one firm member if it suspects that it is about due to be called on.³
- If a member of a law firm is comfortable responding to a question upon hearing it, s/he may do so. If none is, they are encouraged—required, really—to consult with one another about what a right answer might be, after which the firm can select a spokesperson to give its response.⁴ This is not considered “cheating.” It is considered “helping out.” This is the key feature of the law firm approach, and it has many very important benefits:

³On the other hand, a person can respond for his or her firm even though no other firm members are present that day. Not entirely tongue-in-cheek, we call such a person a “hero.”

⁴I offer one cautionary note in this regard, an example of the hoary adage, “Be careful of what you asked for. You might just get it.” The first couple of months I used this method, I was surprised by how often students took me up on my “chance to consult before speaking” option. Of course, they were doing exactly what I wanted them to do, but the time involved, even though seldom as long as a minute, seemed much longer, was awkward and unproductive, and often was experienced as somewhat embarrassing by the firm involved. Over time, I have become very good at having a few lines of background information relevant to the issue at hand in reserve to fill in those silences. Development of that skill has markedly improved this process.

- It greatly reduces the tension involved in professor-student interchanges.
- It completely restructures the source of what tension there is, transforming it from a destructive, hierarchical one laden with at least the threat of professorial intimidation or humiliation into a constructive one, based on the desire not to let one's friends down.⁵
- It lets people to be vulnerable within their firms, and to atone for any shortcomings that they might have on a particular day, all without fear of any adverse consequences. A statement like, "I was up all night last night with two sick children. I can't pull my weight today, but I'll make it up to all of you when we're called on again some other day," can be made in complete safety within a firm, and with the assurance that an opportunity for redemption will arise.
- It introduces acts of kindness and mutual support into the learning process.
- It immensely improves the quality of classroom discussion overall. I've never had the problem in my law-firm courses that all of us can recall when we ask a student, paralyzed by fear, a question like, "If those are the facts, what defense do you think X might have?", only to receive an answer like, "Asparagus?".
- If the firm is still perplexed, those seated nearby are encouraged to offer suggestions, either quietly to the firm or to the class as a whole. This, too, is not considered "cheating." It is considered "camaraderie." Very few firms need such assistance, but if they do, once they get it, I return to them for follow-up questions. In all the time I've been doing this, I've never had

⁵It also takes the "sting" out of being perplexed. After all, if two, three, or four people don't know the answer, it must be a hard question. Indeed, in the period of consultation I often realize that the question was not just hard. Rather, it was outright bad, and I re-ask it in a much more intelligible fashion, to the benefit of all concerned.

a firm not recover and do well after being prompted. Once again, acts of mutual support and redemptive second chances to demonstrate competence are introduced into the learning process.

- Responding firm members are required to identify themselves.⁶ I keep track of who responds for a firm. Over the course of a semester, every member of a firm must respond in person at least once, an understanding that I make clear to them at the outset. I've never had a problem enforcing this. Indeed, I've never even had to prompt anyone to take their turn.
- Questions are welcome at any time, from any source. Some I take myself, but others are referred to the firm that has just dealt with the related issue. Generally, they do quite well at answering them. It can be empowering for students to realize that their analysis of the classroom materials has left them perfectly competent to answer the questions posed to their professors.
- There are a number of other more traditional pedagogical objectives that are furthered by the firm approach. For one, a substantially larger portion of the class becomes actively involved in the learning process each class hour, because each person in any given firm that is called on is being asked to contribute to the firm's response, either actively or passively. Thus, calling on six to seven firms per hour covers about four times that many students. In addition, the traditional technique of pitting one student against another in arguing the pros and cons of a given case or policy issue seems to me to work far better with law firms as the protagonists. Several heads really are better than one, as different firm members spark off of

⁶The person giving the initial response for a firm, however, is not required to answer follow-up questions. In my experience, it isn't unusual for two, three, or even more members of a firm to divide up a series of related questions among themselves and discharge everyone's duty to respond personally in a single class period.

their colleagues' arguments, or find themselves able to respond to an opposing point of view that seems to stump an earlier-responding member of their firm.

The "law firm" method is readily adaptable to any traditional course, and to a very wide variety of teaching styles. Only two changes are required: (1) calling on law firms rather than individuals; and (2) being prepared to fill in consultative silences with relevant descriptive or background materials. The benefits, in my experience, have been enormous. I urge all of you to give it a try.