

# AVOIDING COMMON PROBLEMS IN USING TEACHING ASSISTANTS: HARD LESSONS LEARNED FROM PEER TEACHING THEORY AND EXPERIENCE\*

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## INTRODUCTION

A majority of American law schools rely on teaching assistants<sup>1</sup> to help administer first-year legal writing, research, and analysis (LWRA) courses.<sup>2</sup> Specifically, surveys jointly conducted by the Association of Legal Writing Directors (ALWD) and the Legal Writing Institute (LWI) consistently detail the extensive use many LWRA professors make of teaching assistants.<sup>3</sup> Likewise, Julie Cheslik recognized in her article about her 1994 survey on the use of TAs in the typical LWRA course that “[o]ne of the most prevalent uses of peer teachers in the law school setting is the em-

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<sup>1</sup> We define “teaching assistant” in the same way as the annual surveys of the Association of Legal Writing Directors and the Legal Writing Institute: “Teaching assistant means any upper-level student who participates in teaching research or writing, including student tutors.” ALWD & Leg. Writing Inst., *2006 Survey Results* 1 (2006) (available at [http://www.alwd.org/surveys/survey\\_results/2006\\_Survey\\_Results.pdf](http://www.alwd.org/surveys/survey_results/2006_Survey_Results.pdf)) [hereinafter *2006 Survey Results*]. We will use “teaching assistant” and “TA” interchangeably throughout this Article.

<sup>2</sup> See e.g. Julie M. Cheslik, *Teaching Assistants: A Study of Their Use in Law School Research and Writing Programs*, 44 J. Leg. Educ. 394, 394 (1994).

<sup>3</sup> See *infra* text accompanying nn. 11–18. LWI’s first survey of legal writing programs in 1990 provided some information about the use of student assistants, but without much supporting detail. See Jill J. Ramsfield, *Legal Writing in the Twenty-First Century: The First Images: A Survey of Legal Research and Writing Programs*, 1 Leg. Writing 123 (1991). Subsequent LWI surveys (now co-sponsored by ALWD) have proven more useful in this regard, although still not as comprehensive as we might like.

ployment of upper-level law students as teaching assistants in the first-year legal research and writing . . . course.”<sup>4</sup> As one professor observed, “[we] couldn’t do it without the TAs.”<sup>5</sup>

But the efficient use of teaching assistants is not, in our experience, something that is covered on Page One of a new LWRA professor’s “employee manual.” Like so much else in LWRA, managing TAs is a learn-by-doing experience. That means, if our experience is any guide, that mistakes are made—lots of them—and by no means only by teaching assistants. To be sure, inexperienced TAs can go astray in their dealings with students, causing problems that we have sometimes been slow to catch. Often, however, those mistakes stemmed from earlier professorial errors in oversight and guidance—either too much or too little.

Although other legal scholars have identified some of the same problems we will address,<sup>6</sup> they have done so only as part of broader work taking a larger view of TA use. For example, Julie Cheslik’s 1994 survey comprehensively looked at such points as the compensation and selection of teaching assistants, their specific uses, and the perceived costs and benefits of using TAs.<sup>7</sup> Other, more anecdotal articles have described the use of teaching assistants at specific institutions, providing many helpful ideas about how those schools successfully use TAs.<sup>8</sup> Conference presentations have also outlined TA training as part of larger writing-center projects or adjunct-staffed legal writing programs.<sup>9</sup>

Our focus is narrower. We will discuss the crucial and often under-examined relationship between individual professors and their teaching assistants. Part One of this Article will set out a brief history of the evolving use of teaching assistants in LWRA

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<sup>4</sup> Cheslik, *supra* n. 2, at 394.

<sup>5</sup> *Id.* at 412.

<sup>6</sup> Indeed, problems with using student teachers in LWRA programs have been briefly noted in articles dating back almost half a century. See e.g. Stewart Macaulay & Henry G. Manne, *A Low-Cost Legal Writing Program—The Wisconsin Experience*, 11 J. Leg. Educ. 387, 401–402 (1959).

<sup>7</sup> See Cheslik, *supra* n. 2.

<sup>8</sup> E.g. Brooke J. Bowman, *Our Extended Family (Using Teaching Assistants)*, 17 Second Draft (Bull. of Leg. Writing Inst.) 16 (July 2003); Paul Goldstein, *Students as Teachers: An Experiment*, 23 J. Leg. Educ. 465 (1971); Ruth C. Vance, *The Use of Student Teaching Assistants in the Legal Writing Course*, 1 Persps. 4 (1992); Carol Lynn Wallinger, *Our Teaching Assistants Set Us Apart*, 17 Second Draft (Bull. of Leg. Writing Inst.) 16 (July 2003).

<sup>9</sup> See Susan J. Hankin, Presentation, *Training Teaching Assistants by Modeling Teaching Techniques* (Leg. Writing Inst. Conf., Seattle, Wash., July 2004); Alice Perlin & Jennifer Brendel, LWI Conf. Presentation, *Hiring and Training Teachers and Student Assistants for an Effective Adjunct Program* (Seattle, Wash., July 2004).

courses offered by most accredited law schools in the United States, as reflected in the annual ALWD/LWI surveys. Next, we set up a framework for discussing problems (and proposed solutions to those problems) with the use of TAs. Although we generally take the benefits of TAs to be a given, Part Two provides a brief discussion of the benefits of peer teaching as recognized in the literature on the collaborative learning movement in higher education. Following this discussion of the pedagogical theory, we will narrow our focus to touch upon some of the key benefits TAs can offer the first-year course, focusing on those benefits noted by actual professors of LWRA courses at various schools. Part Three is the heart of the Article. There, we address the key ways in which both new and experienced professors can identify, anticipate, and avoid problems that might otherwise prevent the benefits of using TAs from being fully realized.

Finally, in addition to offering an overview of general categories of problems that professors have encountered when using teaching assistants, we will also discuss some specific issues that new LWRA professors might encounter while working with TAs. Moreover, we will describe the steps we have taken to deal with these problems, and we will note which responses were particularly effective. We anticipate that this presentation of typical problems and our proposed solutions will generate a continuing discussion of new ways to deal with such problems.<sup>10</sup>

## **PART ONE: A BRIEF OVERVIEW OF ALWD/LWI SURVEYS ON THE EXTENT OF THE USE OF TEACHING ASSISTANTS IN LWRA COURSES**

ALWD/LWI's annual surveys demonstrate that a majority of law schools rely on teaching assistants in some capacity as part of the required legal writing program, both in and out of the classroom. In 2006, 65% (115 of 177) of schools reported using TAs to

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<sup>10</sup> We have prepared a short set of Appendices that include examples of detailed planning materials for managing TAs. These Appendices are available at the LWI Journal web site, [www.journallegalwritinginstitute.org](http://www.journallegalwritinginstitute.org). We hope that these materials will be useful to new and experienced professors alike, and that the materials will help spark new ideas for reaping the benefits of a well-run teaching assistant program. We provided a similar set of sample TA handouts in conjunction with our presentation at the LWI Conference in Atlanta. This set of handouts can be accessed on the LWI website: Ted Becker & Rachel Croskery-Roberts, *Forewarned Is Forearmed: Avoiding Some Common Problems with Using Upper-Level Students as Teaching Assistants*, <http://www.lwionline.org/publications/bibliographies2006.asp#b> (accessed Aug. 6, 2007).

provide at least some portion of classroom instruction, continuing a slow but generally steady increase since 1999.<sup>11</sup> Nineteen schools use TAs for over one-half of classroom instruction, and an additional fifty-four schools require TAs to provide 25 to 49% of classroom instruction.<sup>12</sup> Moreover, the vast majority of those schools that use teaching assistants—104 of 120 respondents—require TAs to hold office hours during which they are available to answer student questions.<sup>13</sup>

Schools that use teaching assistants in the LWRA program, whether in the classroom or not, allow the TAs to provide guidance to first-year law students in a variety of subjects. Not surprisingly, research and citation top the list, but a good number of schools also use TAs to provide general instruction in both objective and persuasive legal writing.<sup>14</sup> Similarly, TAs are expected to answer questions during office hours about these subjects, as well as questions about specific class assignments and broader questions about the law school experience, such as exam-taking.<sup>15</sup>

Finally, the survey includes limited information about the training provided to TAs to help them most effectively fill their instructional role. On average, schools in the most recent survey offered 10.72 hours per term of training—the fewest number of hours reported in the past seven years.<sup>16</sup> The range of training of-

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<sup>11</sup> See *2006 Survey Results*, *supra* n. 1, at 62. In 1999, the earliest survey available on ALWD's website, 67 of 110 schools (61%) reported using TAs in the classroom. See ALWD & Leg. Writing Inst., *1999 Survey Results* 19 (1999) (available at <http://www.alwd.org/surveys/1999.html>). Results in the intervening years have been similar, dropping to a low of 58% in 2002, and rising slowly since then. See ALWD & Leg. Writing Inst., *2005 Survey Results* 65 (2005) (available at [http://www.alwd.org/surveys/survey\\_results/2005\\_Survey\\_Results.pdf](http://www.alwd.org/surveys/survey_results/2005_Survey_Results.pdf)) [hereinafter *2005 Survey Results*] (showing results from 2002 through 2005).

<sup>12</sup> *2006 Survey Results*, *supra* n. 1, at 62.

<sup>13</sup> *Id.* at 63.

<sup>14</sup> *Id.* at 62.

<sup>15</sup> *Id.* at 63.

<sup>16</sup> *Id.* at 64. In the preceding five years, the results had stayed relatively consistent, hovering around 12 hours, with a one-year rise to 13.32 hours in 2002. See *2005 Survey Results*, *supra* n. 11, at 62. Earlier survey results showed higher numbers of hours. In 1999, the average amount of TA training was 14 hours, increasing to 16 in 2000. ALWD & Leg. Writing Inst., *2000 Survey Results* 39 (2000) (available at <http://www.alwd.org/surveys/2000.html>). These figures are not dramatically lower than those reported in other disciplines. For example, a 2000 survey of psychology graduate TAs reported an average of 22 hours of training. Steven A. Meyers, *Conceptualizing and Promoting Effective TA Training*, in *The Teaching Assistant Training Handbook: How to Prepare TAs for Their Responsibilities* 3, 5 (Loreto R. Prieto & Steven A. Meyers eds., New Forums Press, Inc. 2001) [hereinafter *TA Training Handbook*]. To the extent the ALWD/LWI surveys have identified a slight decline in training, that decline might result from a broader positive development in legal writing. As law schools moved away from program designs that relied heavily (or exclusively) on student instructors or recent law graduates, the formal training provided to such

ferred varies from zero to sixty hours.<sup>17</sup> However, the survey provides no additional information about what this training consists of, such as what subjects it covers, or whether it includes only formal, program-wide training as opposed to guidance provided by individual professors.<sup>18</sup>

## PART TWO: THEORETICAL AND OBSERVED EVIDENCE REGARDING THE BENEFITS OF PEER TEACHING IN THE LWRA CLASSROOM

Both theory and practice suggest that using teaching assistants benefits first-year students, the TAs themselves, and professors. First-year students acquire a firmer grasp of key LWRA concepts; TAs continue developing their understanding of the subject in preparing to teach it; and professors can use their time more efficiently. Although rigorous empirical evidence of these benefits has not yet been established, as noted below the reported benefits of using TAs are almost universally positive.

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neophyte instructors could have been expected to decrease even for those schools that still retained student instructors in a more limited capacity. For example, our school used to rely exclusively on upper-level students to teach legal writing, under the supervision of a non-LWRA faculty member. Student instructors were required to take a seminar that met approximately ten times per semester and that was “devoted primarily to discussion of methods of instruction in, and evaluation of, research, writing, and advocacy.” Donald S. Cohen, *Ensuring an Effective Instructor-Taught Writing and Advocacy Program: How to Teach the Teachers*, 29 J. Leg. Educ. 593, 594 (1978) (describing Michigan’s first-year legal writing course). Full-time professors now teach LWRA at our school, and TAs are no longer required to attend mandatory program-wide training sessions. Instead, training is provided by the individual professors. We assume that Michigan’s experience is similar (although not necessarily identical) to that of many other schools that have transferred responsibility for teaching LWRA to experienced professional faculty rather than students.

<sup>17</sup> *2006 Survey Results*, *supra* n. 1, at 64. As has been the case for the past several years, at least one (and possibly more) school reports that TAs receive no training. *See id.* While we believe some minimal level of training for TAs is necessary, these survey responses are not out of line with other disciplines that also expect graduate TAs to perform effectively without any training. For example, a 1994 study reported that approximately 50% of graduate teaching assistants received no training before beginning their duties, and a similar figure reported receiving no or very limited supervision once their teaching duties began. Loreto R. Prieto, *The Supervision of Teaching Assistants: Theory, Evidence, and Practice*, in *TA Training Handbook*, *supra* n. 16, at 103, 103–104. No doubt, many TAs are able to perform adequately despite limited (or even no) training and supervision, but more of both would undoubtedly further enhance their performance.

<sup>18</sup> *See 2006 Survey Results*, *supra* n. 1, at 64 (asking schools how many hours of training are provided per term for TAs). We encourage ALWD and LWI to consider asking for such information in future surveys.

*A. Peer Teaching and the Collaborative Learning  
Movement in Higher Education*

At our and other law schools, professors—and not only legal writing professors—rely on teaching assistants in numerous ways.<sup>19</sup> In our LWRA courses, we have used TAs to perform various tasks, including (1) reviewing citation format; (2) conducting library tours; (3) holding office hours; (4) helping draft or proof assignments; (5) simulating client interviews or meetings with a senior attorney; (6) presiding over practice oral arguments; and (7) meeting individually with struggling students to provide additional guidance on legal writing and organization. Other legal writing professors report using TAs in similar ways.<sup>20</sup> The list is driven both by the professor's pedagogical goals for his or her class and by the resources available at a given institution.<sup>21</sup> In our case and undoubtedly that of the many other professors who use TAs, the choice to use TAs is made consciously, under the assumption that using them will enable first-year students to more effectively acquire writing and analytical skills. As it turns out, that assumption dovetails nicely with the conclusions reached in broader theoretical assessments of the effectiveness of graduate teaching assistants.

Modern pedagogical theory recognizes the many benefits that teaching assistants can contribute to creating an effective learning

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<sup>19</sup> Various authors have discussed the uses and benefits of teaching assistants in the broader law school curriculum. See e.g. Jay M. Feinman, *Teaching Assistants*, 41 J. Leg. Educ. 269, 269 (1991) (discussing the use of teaching assistants in large first-year law-school classes to “reinforce the usual forms of learning within the large class; to introduce a broadened range of materials, skills, and learning methods; or to transform the large class experience”); Leon E. Trakman, *Law Student Teachers: An Untapped Resource*, 30 J. Leg. Educ. 331 (1979). Because the use of teaching assistants in large law-school lecture courses raises a number of issues not present in the smaller, more individualized LWRA course, we do not address this more generalized use.

<sup>20</sup> For example, in 1992, Ruth C. Vance noted that, at Valparaiso University School of Law, TAs “function[ed] as assistants to the professors and as teachers and counselors to the students . . . [by] help[ing] create writing and research assignments[,] . . . troubleshoot[ing] those assignments, comment[ing] on student papers, and serv[ing] as judges for oral arguments.” Vance, *supra* n. 8, at 4; see also Bowman, *supra* n. 8, at 16 (TAs at Stetson review and comment on papers); Wallinger, *supra* n. 8, at 16 (TAs at Rutgers-Camden assist professors “in preparing materials for the students, and assist[] the students themselves.”).

<sup>21</sup> Because the authors of this Article are fortunate enough to work in a program that offers extensive academic and course planning freedom, we are not required to, and do not use teaching assistants in the same ways. See *infra* n. 67. We address the various possible uses and benefits of teaching assistants based upon the assumption that some professors may choose to (or be obligated to) use TAs in different ways than professors at other institutions.

environment.<sup>22</sup> Although the evidence is largely anecdotal,<sup>23</sup> and we are unaware of any research studies specifically on the use of TAs in American law schools, the general consensus is clear: Peer teaching<sup>24</sup> is considered a “subset of the collaborative learning movement in higher education.”<sup>25</sup> Collaborative learning, in turn, “is a pedagogical style that emphasizes cooperative efforts among students, faculty, and administrators[, benefiting] participants by making them more active as learners and more interactive as teachers.”<sup>26</sup> Specifically, effective peer teaching works on both a cognitive and affective level, for peer teacher and learner alike.<sup>27</sup>

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<sup>22</sup> Much literature exists addressing the use and training of graduate teaching assistants in post-secondary institutions. We found the following four sources particularly helpful: Jody D. Nyquist & Donald H. Wulff, *Working Effectively with Graduate Assistants* (Sage Publications 1996); *The Professional Development of Graduate Teaching Assistants* (Michele Marincovich et al. eds., Anker Publg. Co. 1998) [hereinafter *Professional Development*]; *TA Training Handbook*, *supra* n. 16; and Neal A. Whitman, *Peer Teaching: To Teach Is to Learn Twice* (Assn. for Study Higher Educ. 1988). Of course, numerous differences exist between teaching assistants in law school and other graduate schools. The most important of these is that graduate TAs shoulder a heavier teaching burden. Graduate TAs teach a large percentage of undergraduate courses, between 30 to 40% by some reckonings. Loreto R. Prieto & Steven A. Meyers, *Introduction*, in *TA Training Handbook*, *supra* n. 16, at vii, vii. Moreover, graduate TAs frequently take on teaching responsibilities during their first semester in graduate school and have the opportunity to develop their teaching skills for several years during the course of a lengthy pursuit of a graduate degree. In contrast, law school TAs might have some teaching obligations for limited aspects of a legal writing course, but in general do not have responsibility for the entire course. See *2006 Survey Results*, *supra* n. 1, at 62 (describing that four schools report that TAs are used “exclusively” in the required legal writing course, and an additional three schools use TAs for at least 75% of classroom teaching hours). Further, law school TAs usually serve for shorter periods, because they do not begin their duties until their second year of law school, and thus have no more than two years to devote to an assistantship. (We would love to have our TAs with us for longer periods, but to date none has declined the chance to graduate in favor of remaining a TA.) Still, we see no reason why the broader literature on graduate TAs is not applicable to law school TAs, as long as the occasional differences are kept in mind.

<sup>23</sup> See Whitman, *supra* n. 22, at v.

<sup>24</sup> Peer teaching is not a new concept, although it is often described as such. *Id.* at 1. One researcher traces the concept back to Aristotle. *Id.* (citing Lilya Wagner, *Peer Teaching: Historical Perspectives* 3 (Greenwood Press 1982)). In the United States, peer teaching techniques were popular in secondary schools in the early nineteenth century, but then fell from favor until the 1960s, at least when judged by references in educational literature. See *id.* at 1–2; see also Nancy Van Note Chism, *Preparing Graduate Students to Teach: Past, Present, and Future*, in *Professional Development*, *supra* n. 22, at 1, 2 (noting that the large-scale employment of graduate students as TAs in post-secondary education did not begin until after World War II).

<sup>25</sup> Whitman, *supra* n. 22, at 4.

<sup>26</sup> *Id.* (quoting William R. Whipple, *Collaborative Learning: Recognizing It When We See It*, 40 Am. Assn. Higher Educ. Bull. 3, 3 (1987)). A recent article provides a helpful general discussion of how collaborative learning techniques might be implemented in a LWRA course. See Elizabeth L. Inglehart et al., *From Cooperative Learning to Collaborative Writing in the Legal Writing Classroom*, 9 Leg. Writing 185 (2003).

<sup>27</sup> Technically, upper-level TAs in LWRA classes could also be described as “near-

First, less experienced students benefit from the guidance of their more experienced peers. “[P]eer teaching would not be feasible if there were no peer learning.”<sup>28</sup> Although TAs are separated from first-year students by a year or two of additional law school experience, this gap is small enough that both sets of students generally regard themselves as peers.<sup>29</sup> Peer teachers are believed to benefit fellow students in part precisely because they are peers.<sup>30</sup> Moreover, peer learners benefit from the one-to-one instruction that often characterizes peer teaching, such as when teaching assistants hold office hours or other individual meetings with first-year students.<sup>31</sup> Further, TAs’ limited mastery of the subjects they are called upon to teach may in fact allow them to

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peers”:

When a second- or third-year student acts as a teaching assistant for first-year legal research and writing courses, for example, it is difficult to characterize these teachers as peers of the first-year students in terms of experience or knowledge. The intense socialization and educational training that occurs in the first year (and in the summer after the first year if students enter clerkships) creates a qualitative difference in the experience levels between these students.

Yet in terms of the relationship between these students, there is much that is characteristic of peer relationships. The students are all part of the same educational process and may have the same faculty teaching their separate courses. The second-year student is much more likely to empathize with the first-year student’s learning experience than is a faculty member, an adjunct attorney, or a [law school] graduate. Likewise, the first-year student is more likely to relate to their upper class mentors as “recent survivors” than as junior faculty: that is, with less deference and correspondingly less distance. Because of these connections and the relatively small passage of time in the rank differences, the students are likely to function as peers in the process.

Barbara Glesner Fines, *Peer Teaching: Roles, Relationships & Responsibilities*, in *UMKC Peer Teacher Manual*, <http://www.law.umkc.edu/faculty/profiles/glesnerfines/bgf-ed1.htm> (accessed Aug. 30, 2007) (footnotes omitted); see also Whitman, *supra* n. 22, at 14 (describing TAs as near-peers “in the sense that these peer teachers may be more advanced than their students, but not so far advanced to no longer be considered peers”). To avoid needless hyphenation, we will describe TAs as peers throughout the remainder of this Article.

<sup>28</sup> Whitman, *supra* n. 22, at 9.

<sup>29</sup> See *supra* n. 27; see also Kenneth A. Bruffee, *Two Related Issues in Peer Tutoring: Program Structure and Tutor Training*, 31 *College Composition & Commun.* 76, 77 (1980) (noting that undergraduates tend to view graduate student tutors as surrogate teachers, but that “[u]ndergraduate peer tutors, being more or less equal in age and status with tutees, are more likely to be perceived as ‘something else’—not teachers exactly, but helpers, friends, at best intellectual companions”).

<sup>30</sup> See Diana H.J.M. Dolmans et al., *Trends in Research on the Tutor in Problem-Based Learning: Conclusions and Implications for Educational Practice and Research*, 24 *Med. Teacher* 173, 176 (2002) (noting that student tutors can place themselves in their student tutees’ “way of thinking” and interact with the tutees “at, or right above the tutees’ level of knowledge[,]” as contrasted with faculty tutors who are less able to “understand the nature of the cognitive problems students were faced with in attempting to master the subject matter”); Whitman, *supra* n. 22, at 9.

<sup>31</sup> See Whitman, *supra* n. 22, at 9.



transmit information more effectively to first-year students. Experienced professors sometimes are so familiar with a subject that they unconsciously omit information or procedural steps needed for complete understanding by less-experienced (or completely inexperienced) first-year students.<sup>32</sup> Based on our experience, most TAs have not mastered legal writing and analytical skills to such an extent that they risk skipping explanatory steps, or at least as many steps as a more experienced professor might inadvertently omit.

So, too, do the teaching assistants benefit, by acquiring a more thorough understanding of the subject being taught.<sup>33</sup> First, preparing to teach a subject triggers a series of cognitive processes. When LWRA professors ask a teaching assistant to provide supplemental instruction in subjects like research or citation, the TA must first review the material to be presented.<sup>34</sup> Even when the teaching assistant is familiar with the subject from her first-year experience or summer internship, reviewing the material can help her understand it more thoroughly.<sup>35</sup> Second, the TA must organize the information to be presented into a form best suited for the intended first-year audience, a challenging and time-consuming (but ultimately rewarding) task, even for well-seasoned professors.<sup>36</sup> Third, the processes of reviewing and organizing material might even lead to a partial or complete reformulation of the subject, giving rise to new insights or a more thorough comprehension of the deep structure of the material.<sup>37</sup>

Studies suggest that these cognitive processes result in more complete learning of the subject matter.<sup>38</sup> One researcher has explained that “the process of teaching material . . . motivat[es] . . . students [serving as peer instructors]. The result is more active mental engagement compared to learning aimed simply at passing

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<sup>32</sup> Marilla D. Svinicki, *Creating a Foundation for Instructional Decisions*, in *Professional Development*, *supra* n. 22, at 89, 93. A study of teaching skills for medical residents suggested that “unconsciously competent” medical faculty might have relatively more difficulty teaching a medical procedure to residents, while other residents who have recently learned the procedure could be more effective because “they are ‘consciously competent,’ that is, they still have to think through each step of the procedure, one step at a time.” Whitman, *supra* n. 22, at 9 (quoting Thomas L. Schwenk & Neal Whitman, *Residents as Teachers* (U. Utah Sch. Med. 1984)).

<sup>33</sup> *Id.* at 9.

<sup>34</sup> *See id.* at 5.

<sup>35</sup> *See id.*

<sup>36</sup> *See id.*

<sup>37</sup> *See id.*

<sup>38</sup> *See id.* at 5–7.

an examination.”<sup>39</sup> If “the real test of academic excellence is communicating clearly about matters unknown to others, for example, to fellow students[,]”<sup>40</sup> then TAs who are called upon to teach material to first-year students will have the opportunity to develop and demonstrate their abilities in this crucial area. This skill applies equally in law practice, where young lawyers will also be called upon to clearly convey information to other audiences with an interest but perhaps not much direct knowledge of the subject, such as supervising attorneys or clients.<sup>41</sup>

Peer teaching can also benefit teaching assistants on an affective level. These benefits seem to accrue as a result of the *helper therapy principle*, which posits that people who provide help to others “profit[ ] [themselves] from their role as helper.”<sup>42</sup> By assisting first-year students, TAs may enhance their own self-confidence as well as their tolerance of others.<sup>43</sup> One review of the peer teaching literature suggests that “peer teaching increased [college] tutors’ motivation to learn and self-esteem.”<sup>44</sup> Of course, measuring affective benefits via a peer teacher’s self-assessment is more subjective than measuring cognitive benefits as demonstrated by improved test scores.<sup>45</sup> Still, it seems fairly clear that peer teaching improves not only a teacher’s understanding of the subject, but also enhances the teacher’s intellectual and emotional development.<sup>46</sup>

In sum, the educational literature demonstrates many benefits from the collaborative learning inherent in peer teaching. Peer teachers and peer learners alike enhance their understanding of a subject when peer teaching is used, under supervision, as part of the professor’s overall pedagogical strategy. Although this Article is not intended to convince professors to make use or more use of

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<sup>39</sup> *Id.* at 6 (citing Carl A. Benware & Edward L. Deci, *Quality of Learning with an Active Versus Passive Motivation Set*, 21 *Am. Educ. Research J.* 755 (1984)).

<sup>40</sup> *Id.* at 5 (citing Wagner, *supra* n. 24).

<sup>41</sup> TAs might also obtain cognitive benefits from the actual *process* of teaching, as opposed to *preparing* to teach, although the evidence for this is less conclusive. *See id.* at 6–7.

<sup>42</sup> *Id.* at 7.

<sup>43</sup> *See id.*

<sup>44</sup> *Id.* (citing Barbara Goldschmid & Marcel L. Goldschmid, *Peer Teaching in Higher Education: A Review*, 5 *Higher Educ.* 9 (1976)).

<sup>45</sup> *See id.*

<sup>46</sup> This is certainly consistent with the feedback we have received over the years from our TAs.

teaching assistants, the educational benefits for both TAs and first-year students strike us as a powerful impetus for doing so.

*B. Experiential Advantages of Using Teaching Assistants in an LWRA Course*

Experienced legal writing professors have reported many of the same benefits of using teaching assistants as those described in the theoretical literature. In highlighting the many law school-specific benefits of using teaching assistants, we rely in part on the list compiled in Julie Cheslik's 1994 survey,<sup>47</sup> supplemented with our own observations.<sup>48</sup> As one commentator stated, "[p]ut simply, a teaching assistant's cognitive role is to help students learn better what the teacher wants them to learn, including both substance and skills."<sup>49</sup> TAs can help fulfill this role in at least three ways.

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<sup>47</sup> Cheslik, *supra* n. 2, at 411–412. Like the broader teaching assistant literature, most published discussions of the pros and cons of TAs in law schools are largely anecdotal. In her 1994 article, Cheslik noted that "[a]ny proof of the TA's benefit to students is scarce: no school has measured the effect of TAs on students' skills, knowledge, or grades. Benefits reported are benefits observed or perceived by [LWRA] directors and faculty." *Id.* at 411. Despite this observation, the vast majority of respondents to her survey who stated that they used teaching assistants "profess[ed] great satisfaction with the TAs and [s]aw many benefits." *Id.*

One study of law students in the Netherlands presents some evidence against these observations. In that study, law students who had participated in small-group tutorials led by faculty members "scored significantly higher on a test designed to measure higher order cognitive skills than students guided by a student tutor." J.H.C. Moust et al., *Peer Teaching and Higher Level Cognitive Learning Outcomes in Problem-Based Learning*, 18 *Higher Educ.* 737, 737 (1989); but see S. Moody & J. McCrae, *Cross Year Peer Tutoring with Law Undergraduates*, in *Group and Interactive Learning* 201, 201 (H.C. Foot et al. eds., Computational Mech. Publications 1994) (reporting favorable albeit anecdotal results of using peer tutors in undergraduate law program in Scotland). Other studies have reached contradictory results, showing no difference in student performance when guided by faculty or student tutors. Dolmans et al., *supra* n. 30, at 175. From our perspective, these studies do not actually address the use of TAs in the manner contemplated here: we do not encourage using TAs to substitute for professor-driven instruction, but instead to complement and supplement it. The point is not to contrast the respective pedagogical effectiveness of professor and TA, but instead to combine them.

<sup>48</sup> While we similarly lack more than anecdotal evidence that teaching assistants offer benefits to the first-year student, that anecdotal evidence overwhelmingly indicates that first-year students also find TAs to be helpful. We believe the following comments from two of our students accurately represent the majority of student opinion about our teaching assistants: (1) "[The teaching assistant] was really helpful when I had a question about which cases were binding and which weren't." (2) From a student who struggled all year and made significant improvement through working one on one with a teaching assistant in addition to participating in all the regular class assignments and activities: "[Your teaching assistant] is always willing to meet with me and look over my work even late at night by e-mail [when you don't have office hours]."

<sup>49</sup> Feinman, *supra* n. 19, at 270.

First, teaching assistants can perform an important helper or mentor function.<sup>50</sup> Importantly, if a teaching assistant is used more as a mentor than as a grader, the TA “is likely [to be] seen as the students’ assistant and ally,” and can “help[ ] the students improve their work in preparation for the ultimate grader.”<sup>51</sup> In fact, some students may be afraid to speak directly to the professor (particularly when the student has a complaint), and a teaching assistant may provide the less formal mentoring function that allows a timid student to get the help he or she needs.<sup>52</sup>

Second, the teaching assistant can also serve in an “intermediary” role that benefits both students and the professor.<sup>53</sup> In that role, the teaching assistant can help the professor maintain a finger on the pulse of the class by “report[ing] to their faculty supervisor on student achievement [and progress], student understanding of the material, and student complaints.”<sup>54</sup> When the professor knows what is truly troubling students, the professor can better tailor the course to meet student difficulty head-on. Third, “[t]he TAs . . . represent the faculty to the students.”<sup>55</sup> Thus, the well-supervised and guided teaching assistant “may encourage a student to talk to a teacher, or may advise a student on what is likely to be a faculty viewpoint.”<sup>56</sup>

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<sup>50</sup> Cheslik, *supra* n. 2, at 398.

<sup>51</sup> *Id.*

<sup>52</sup> One commentator explains first-year reluctance to consult professors as follows:

Simply, of the questions which occur to a first year student in undertaking his first research and writing efforts, many may appear to him too trivial to warrant inquiry of a faculty member; further, he may expect that if the faculty member also considers the question to be trivial his evaluation of the student will consequently be lowered. In either case, essential questions are postponed or, more likely, never voiced at all. On these small but often critical matters earlier rapport with a second or third year student can be expected.

Goldstein, *supra* n. 8, at 469. Terrill Pollman has made a similar observation, noting that first-year students needing writing or research help might find it less intimidating to ask another student for help than to approach the professor. Terrill Pollman, *A Writers’ Board and a Student-Run Writing Clinic: Making the Writing Community Visible at Law Schools*, 3 *Leg. Writing* 277, 284 (1997). Of course, there is a counterpoint to this observation. As we have experienced (and Pollman has recognized), some students fail to take advantage of the help of teaching assistants because they fear that visiting a teaching assistant for extra help might demonstrate some sort of weakness on the part of the first-year student. *Id.* at 285. We will briefly discuss suggested ways to help professors anticipate and alleviate the possible stigma of visiting with a teaching assistant for additional help in Section III(F).

<sup>53</sup> Cheslik, *supra* n. 2, at 400.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

These beneficial roles played by TAs have been recognized by other scholars and teachers as well.<sup>57</sup> For example, Terrill Pollman has suggested creating a Writer's Board and a student-run Writing Clinic as ways to "improve legal research and writing training . . . [and to] raise students' confidence in the writing program and in themselves."<sup>58</sup> While the creation of such a clinic is outside the scope of this Article, Pollman discussed numerous benefits of using student teachers in some capacity<sup>59</sup> and recognized that the training of students who would run such a clinic would likely be similar to training of teaching assistants.<sup>60</sup> Thus, we briefly summarize Pollman's list of the benefits of using student teachers. First, Pollman described the benefits for first-year students, observing that upper-division law "[s]tudents can be especially effective teachers,"<sup>61</sup> because they "remember clearly which concepts or skills are likely to cause confusion and distress to first[-]year students."<sup>62</sup>

Second, Pollman noted some of the very real benefits to the teaching assistants themselves.<sup>63</sup> As Pollman stated, "every teacher knows that one of the best ways to learn something is to

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<sup>57</sup> In a recent presentation, Deborah McIntosh, Laurie O'Neal, and Erik Ryberg recognized some of the pros and cons of using teaching assistants. Deborah McIntosh et al., Conf. Presentation & Handout, *Teaching Assistants: Why You Can't Live Without Them and How to Use Them Effectively* (Tucson, Ariz., March 2006). Although the main focus of the presentation handout was a proposal for creating or enhancing a TA program and a sample list of substantive topics to teach the teaching assistants, *id.* at 5–9, the presenters did note some benefits to professors, like (1) an improved attitude of first-year students due to reinforcement of the professor's pedagogical goals by teaching assistants; (2) the opportunity to assess what does and does not work through discussions with TAs who previously took the first-year course; and (3) the ability to hand minor assignments to teaching assistants to provide the professor with more time to do more substantive work. *Id.* at 1. The presenters also briefly noted benefits to first-year students and to the TAs themselves. *Id.* at 2.

<sup>58</sup> Pollman, *supra* n. 52, at 277.

<sup>59</sup> *Id.* at 284–285.

<sup>60</sup> *Id.* at 285 n. 32.

<sup>61</sup> *Id.* at 284 (citing Cheslik, *supra* n. 2).

<sup>62</sup> *Id.* In commenting on the use of teaching assistants in the writing program at Valparaiso, Ruth C. Vance noted that "second-year students are often more effective TAs than third-year students because their own memories of the first year of law school and legal writing are fresh." Vance, *supra* n. 8, at 4; *see also* Feinman, *supra* n. 19, at 277 (opining that second-year students might be more enthusiastic than third-years). In our experience, however, we have detected no "drop-off" in effectiveness between second-year and third-year teaching assistants. Nor do we subscribe to another common lament about third-year performance as graduation looms. Perhaps law students in general do lose focus and interest in their casebook classes as the end of law school approaches, but we have observed no boredom or lack of motivation in our third-year TAs. *See* Jack Achtenburg, *Legal Writing and Research: The Neglected Orphan of the First Year*, 29 U. Miami L. Rev. 218, 254 (1975) (suggesting that serving as TAs might affirmatively help 3Ls avoid "graduation syndrome").

<sup>63</sup> Pollman, *supra* n. 52, at 284.

teach it.”<sup>64</sup> This remark is consistent with our own observations. Teaching assistants get additional opportunities both to write their own materials (in programs where assignment creation is a part of the teaching assistant’s list of responsibilities) and to edit the work of others. Moreover, teaching assistants often get many more opportunities to work individually with a professor than most other law students do. Every year, our teaching assistants report that, in addition to helping first-year students, the TAs themselves feel that they have improved their own research, writing, and analysis skills through the process of teaching others. Teaching assistants have also reported to us that their citation skills improved dramatically, which is not surprising, as we both use TAs extensively to help with citation review.

Finally, in addition to the benefits to students recognized by Pollman, our experience has been that teaching assistants are also a valuable resource for LWRA professors. Using teaching assistants allows us to devote more of our time to achieving the core goals of the LWRA course—preparing our students to succeed in practice, wherever that might be.

In sum, numerous benefits accrue to first-year students from using upper-level teaching assistants, including (1) additional emotional support during the uncertain first year of law school; (2) increased retention of difficult material through reinforcement in one-to-one sessions with teaching assistants; (3) greater student success through individualized instruction and an enhanced understanding of where students are struggling; and (4) increased student satisfaction through the provision of mentors, role models, and individual attention.<sup>65</sup> TAs also benefit, as do the professors themselves. The benefits noted by the respondents to Cheslik’s survey, as well as by other legal writing professors, are consistent with those we have observed in our classroom and in larger explorations of using teaching assistants in undergraduate institutions. These benefits might prove illusory, however, without effective control by the LWRA professor. This, of course, leads us to the main focus of this Article: developing an awareness of the harms

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<sup>64</sup> *Id.*; see also Goldstein, *supra* n. 8, at 468 (observing similar effects upon upper-level students who were required to select research topics for first-year students in an intellectual property seminar, and who were responsible for the substantive accuracy of the memo prepared by first-year students); Trakman, *supra* n. 19, at 340 (“Senior student interviewees repeatedly echoed an axiom: an ideal way to grow to appreciate the intricacies of legal reasoning is through educating others.”).

<sup>65</sup> See Cheslik, *supra* n. 2, at 411.

that could arise when using teaching assistants and planning to alleviate or even eliminate at least some of the most pervasive and damaging problems.

### PART THREE: PROBLEMS ASSOCIATED WITH USING TEACHING ASSISTANTS AND HOW TO AVOID THEM

We begin Part Three by identifying some of the major problems that might arise when using TAs in the first-year LWRA course.<sup>66</sup> The remainder of this Article addresses several of the most difficult of such concerns, including problems associated with (1) selecting good TAs; (2) providing appropriate guidance to TAs; (3) defining the TAs' role to both the assistants themselves and the first-year students they will be assisting; (4) addressing mistakes made by TAs; (5) finding time to supervise TAs; and (6) encouraging first-year students to use the TAs to enhance their experience in the course. We have encountered each of these problems when using teaching assistants, and our successes and failures in overcoming these difficulties are described below. As a caveat, we recognize that there is no single way to manage TAs. Indeed, our individual approaches differ significantly.<sup>67</sup> However, we both share the goal of ensuring that teaching assistants provide maximum benefits to first-year students and to us.

In writing this Article, we are well aware that LWRA programs use TAs in different ways. We are fortunate that our school has sufficient resources to allow us to use many TAs (we regularly

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<sup>66</sup> According to Cheslik, some important potential difficulties include the possibility of TAs providing misinformation or inconsistent information, the likelihood of TA role conflict or confusion, and the possible dangers stemming from a lack of structure in how professors use teaching assistants (which in turn filters down to first-year students). Cheslik, *supra* n. 2, at 412–413; *see also* McIntosh et al., *supra* n. 57. Many of these issues can be subsumed under the more general category of problems stemming from the professor's failure to provide sufficient supervision and guidance. This, in turn, suggests that with proper oversight, a professor can anticipate and avoid many common concerns and respond more effectively to those that do arise.

<sup>67</sup> To briefly illustrate our different approaches, one of us tends to hold more regular group meetings with teaching assistants, while the other relies more on e-mail. Further, one of us prepares a "syllabus" for TAs at the beginning of each semester, setting out deadlines, office hour schedules, and other logistical matters so the TAs can plan their semesters. The other handles administrative matters on a more ad hoc basis via email, using saved messages from past years. Both of us, however, provide extensive written instruction and directions to the teaching assistants for their various assignments, such as citation reviews, practice oral arguments, and client interviews. Some of these materials are included in the Appendices available at the LWI Journal website. *See supra* n. 10.

use between four and six TAs a year), and that we are permitted the flexibility to use TAs in whatever ways we deem best to achieve our educational objectives. That said, we believe our observations in this Part apply regardless of the TA model used by a particular school. For example, in some programs a professor might be limited to (or choose to use) only a single TA. Alternatively, a school might require professors to use a collective pool of TAs. Either way, someone will have to select the TAs, provide guidance and supervision, deal with mistakes by TAs, and handle similar tasks.

Of course, some differences should be taken into account in a program using a much smaller number of TAs or in a program where professors share TAs. Providing guidance and supervision to one or two TAs is a less onerous task than managing a larger group. On the other hand, selecting TAs may be more difficult when the program uses a limited number of TAs, as the professor will need to look for one individual with numerous attributes rather than hiring a well-rounded group. However, we believe that any effective TA program will recognize that capable TAs (even when working solo) can serve in a variety of ways as mentioned in this Article. Therefore, while minor adjustments to our advice might be necessary for a given program, the following discussion should prove relevant for a wide variety of TA program models.

Variations on some of the problems we discuss below could arise in graded programs. At Michigan, LWRA is graded pass/fail, which for the most part frees us from having to worry about justifying in minute detail the grades we award. On the other hand, most LWRA programs award grades that count in students' GPA,<sup>68</sup> and professors at those schools must be more concerned about potential inequities in how much assistance TAs provide to individual first-year students, even if those inequities are more perceived than real. One preliminary remark is necessary regarding how a graded program might compel different thinking about the selection and supervision of TAs. Professors or Program Directors concerned with issues of fairness regarding perceived unequal (or incorrect) TA guidance to individual students may opt to drastically curtail the types of activities in which TAs can participate. Thus, in a program where TAs only perform tasks like cite checking and research for professors, our observations regarding the importance

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<sup>68</sup> One hundred and fifty-eight schools, to be precise. *2006 Survey Results*, *supra* n. 1, at 9.



of selecting TAs who will be good mentors to first-year students are obviously less relevant. On the other hand, other observations may well apply equally in a graded program. Therefore, when appropriate, we discuss below how our suggestions might translate into a graded environment.

### *A. Problems and Solutions in the Selection of Teaching Assistants*

While many problems can and will arise when using teaching assistants in the first-year course, many of the worst problems can be avoided by selecting a highly-qualified and properly-motivated group of teaching assistants.<sup>69</sup> Choosing an ineffective or inappropriate teaching assistant can have lasting negative consequences.<sup>70</sup> First, the first-year students suffer, particularly if the professor does not catch the problems caused by the teaching assistant early on. An ineffective teaching assistant may give confusing or incorrect advice, and it may take much effort to re-teach the misguided first-year students. Moreover, if the first-year students lose faith in one teaching assistant's ability or motivation to do the job well, they may lose faith in all the TAs. Second, a problem TA requires additional supervision. As most in the LWRA field know, time is a precious commodity. It is particularly disquieting to find that time draining away on someone who has been selected to make the professor's job easier. Finally, a teaching assistant who cannot do the work is "dead weight." A professor who relies on more than one teaching assistant may find that the other TAs end up bogged down in the additional work of the nonfunctioning TA.

Because mistakes in the process of selecting teaching assistants may introduce intractable problems into the first-year course, avoiding selection errors in the hiring process is critical. In

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<sup>69</sup> Several professors have discussed considerations to keep in mind when hiring law school teaching assistants. See e.g. Feinman, *supra* n. 19, at 277-278; Vance, *supra* n. 8, at 4-5.

<sup>70</sup> Most of the teaching assistants we have selected have been fantastic, and we have become better at learning how to identify them as we went along, but we have certainly found some TAs less helpful than others. An "ineffective" teaching assistant is one who either makes inadvertent mistakes or simply does not interact well with the professor or the students. The rarer "inappropriate" TA actually refuses to do work that the professor has requested (usually in passive ways like consistently missing deadlines) or deliberately undermines the professor's authority or credibility when speaking with the students. This section will address how to avoid problem teaching assistants by weeding them out in the selection process. Section III(D) will address what to do when TAs who have already been selected make inadvertent or deliberate mistakes.

order to make the selection process effective, though, one must identify the necessary attributes to look for in selecting teaching assistants. Individual schools likely have different minimum GPA requirements and the like, but our focus assumes that any pertinent academic requirements have been satisfied. Moreover, in our experience, hiring an academically gifted student does not guarantee a successful professor-teaching assistant relationship; the role of teaching assistant requires more than a high GPA.<sup>71</sup> While the following discussion of specific attributes to look for may benefit new professors the most, even experienced professors might not have thought all that much about how to select a teaching assistant. In our opinion, several considerations must be addressed when selecting teaching assistants, though each professor may decide to place more weight on a given consideration depending upon how that individual professor utilizes TAs. The key considerations are:

- What other activities does the prospective teaching assistant participate in?
- What is the prospective teaching assistant's personality? Can she relate well to the first-year students?
- Should the prospective teaching assistant be one of the top writers in the class? Can eagerness make up for not being at the top of the LWRA course?
- Do grades in other courses matter?

First, an inherent problem in using student teachers is that students have other important duties beyond serving as our teaching assistants. Students may be serving on law journals, they may be planning to take a particularly heavy course load, or they may be signed up for a clinic. Furthermore, with the rising cost of a le-

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<sup>71</sup> At least one commentator has observed "little correspondence" between the quality of a peer advisor's advice to first-year students and the "legal skill" of that advisor, at least "if legal skill is measured by grades received in law school courses." Goldstein, *supra* n. 8, at 467 (describing anecdotal evidence of using upper-level law students to help teach first-year students in an intellectual property seminar); *see also* Feinman, *supra* n. 19, at 277 (noting that TAs in law school casebook classes "need not be 'A' students; rather, students of ordinary competence will generally have the background and ability to perform well"). A good grade in Contracts or Property is no guarantee a student will be a good teaching assistant. Instead, as discussed below, rather than using GPA as the be-all and end-all of predicting a prospective TA's fitness, we instead assess a student's suitability by looking for demonstrated ability in the core competencies of LWRA.

gal education, more students may be accepting outside employment. Finally, some candidates are married or have children. It is important to identify those outside activities that might make the teaching assistant more effective as well as those that are likely to prevent the TA from realizing his or her full potential. For example, our experience has been that TAs who also participate in moot court or serve on a journal are often particularly effective. They can offer specific advice to students about these organizations, and they gain valuable experience in key skills through participation in these activities. Moot court participants can offer value-added service during the oral argument portion of the first-year course. Journal members are often master cite-checkers. Students who participate in clinics may be able to reinforce the professor's message that practical skills are important. Finally, students who have learned to juggle school as well as family obligations may be able to provide key time management suggestions.

The nature of a student's outside activities is often less important than the flexibility of the student's schedule. For example, a student working a full-time, evening job may not be a particularly effective teaching assistant if the professor expects that TAs hold evening office hours. However, if that same student worked four days a week in the law school library, and was able to either shift her work schedule around or help students while she works in the library, she might serve as an additional (and readily available) resource for teaching research skills.

Finally, one of the easiest ways to assess how a student's outside activities might affect his performance as a TA is simply to ask how the student plans to manage time. Often, participation in numerous law school activities is a sign that the student is truly engaged in the law school experience; this is an asset, not a hindrance. On the other hand, the student must understand that teaching assistant duties need to be high on the student's list of priorities. If this is clear at the outset, a busy student need not and should not fall to the bottom of the list of candidates.<sup>72</sup>

Another vital step in the selection process is to assess the candidate's personality. When choosing from a group of former stu-

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<sup>72</sup> Of course, a professor should not ignore warning signs that a busy student will be unable to make the appropriate time commitment. For example, one of us once tried to schedule an interview with a prospective teaching assistant. The student rejected five suggested meeting times due to prior commitments before finally settling on a time. In that meeting, it became clear to both professor and student that she was unlikely to be able to perform at the level expected of her, due to her busy academic and social calendar.

dents, a professor may already have a general sense of each student's temperament. However, an interview can often reveal how the professor and student will interact when the student's role changes to that of teaching assistant. We cannot stress enough how well a prospective TA's temperament predicts that student's likely success in conveying LWRA guidance to first-year students.<sup>73</sup> If teaching assistants are to serve as mentors, they must possess an outgoing and approachable disposition. Unfortunately, stellar performance in LWRA classes does not necessarily correlate with either an outgoing nature or mentoring ability. Thus, we have sometimes had to pass up a top student for a slightly lower performer with the personal makeup necessary to win over and work with first-year students.<sup>74</sup>

On the other hand, teaching assistants must have demonstrated proficiency in writing, analysis, research, and oral advocacy.<sup>75</sup> To that end, we target the most proficient students who meet our personality requirements. When choosing students based upon performance in LWRA courses, a professor should consider two points. First, first-year students will likely benefit from a group of teaching assistants offering a range of skills. In our experience, it is rare to find one student who is the best at all aspects of LWRA. For example, students who are the best writers may not

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<sup>73</sup> Here, our experience and theory mesh nicely. Pedagogical theory predicts and recognizes the gains students accumulate when interacting with peer tutors. See *supra* text accompanying nn. 28–31. Unfortunately, these theoretical gains will be largely illusory if personality conflicts preclude the TA and first-year student from hitting it off.

<sup>74</sup> Arguably, selecting TAs who are not at the top of the class might lead to increased benefits for both TAs and students in some situations:

[T]he traditional assumption was that tutors should be the “best students” (i.e. those most like the professional teachers). However, very large differentials in ability can prove under-stimulating for the tutor. If tutors are students who are merely average (or even less), both tutor and tutee should find some cognitive challenge in their joint activities. Although tutee gain may not be so great, the aggregate gain of both combined may be greater.

K.J. Topping, *The Effectiveness of Peer Tutoring in Further and Higher Education: A Typology and Review of the Literature*, 32 *Higher Educ.* 321, 323 (1996) (citations omitted). Moreover, to the extent that using TAs to meet with first-year students produces benefits simply by increasing interaction between students and encouraging them to discuss LWRA subjects, it matters little whether a particular TA received the highest grade in the LWRA course. What matters more is that the first-year students with whom that TA meets have the chance to continue developing their familiarity with LWRA concepts. See Scott G. McNall, *Peer Teaching: A Description and Evaluation*, 2 *Teaching Sociology* 133, 138 (1975).

<sup>75</sup> Again, our recommendations here are supported by more theoretical considerations. As noted, TAs may be more effective than professors in transmitting certain concepts because they tend not to unconsciously omit key steps. See *supra* text accompanying n. 32. This obviously assumes, however, that the TAs have a base level of competence and comprehension of the ideas to be conveyed.

be the best oral advocates. If a professor is fortunate enough to be able to select more than one TA, we recommend choosing students who collectively exhibit all the traits the professor values, which could mean selecting one of the best oral advocates even if he has slightly less impressive writing skills. Second, in our view, while individual candidates need not be the very best writers or oral advocates in their class, they each must demonstrate proficiency in citation form, given first-year students' extensive reliance upon TAs for citation review.

Finally, each professor will find different attributes more important than others depending upon the duties assigned to the teaching assistant. For example, if a professor uses TAs to research and draft writing assignments, then creativity, initiative, and the ability to work without constant supervision might factor into a hiring decision. If a professor expects the TAs to prepare and present mini-lectures on citation or other discrete topics, public speaking ability becomes a higher priority. To avoid selection errors, the professor should identify and rank those desired attributes before attempting to choose teaching assistants.<sup>76</sup>

Having identified the most important attributes, the professor can begin selecting TAs. Here, new professors will be at a bit of an initial disadvantage, because they do not have a group of previous students from whom to choose teaching assistants. Therefore, for new professors, an interview is essential, preferably in person but by telephone if necessary. Of course, new professors should review legal writing samples and resumes to get a sense of the candidate's ability, as well as solicit recommendations from a candidate's LWRA professors. But only a meeting with the candidate will really provide a sense of her personality and interest in the position. Experienced professors, of course, will presumably already have obtained a good sense of most of this from observing the student's performance in their course. Even so, returning professors

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<sup>76</sup> Some professors might wish to factor such attributes as race, ethnicity, sex, or other characteristics into the balance. We take no position on that subject here, and the larger questions it raises are beyond the scope of this Article. On the narrower question of whether choosing TAs for such distinctive qualities might alter the mix of benefits that TAs provide, readers might be interested in a recent study of political science undergraduates. That study supports the claim that "women teaching assistants effectively motivate women students[.]" but also concludes that "the gender match between a teaching assistant and a student appears largely irrelevant for student performance." Daniel M. Butler & Ray Christensen, *Mixing and Matching: The Effect on Student Performance of Teaching Assistants of the Same Gender*, 36 PS: Political Sci. & Pol. 781, 781 (2003). We are unaware of any similar studies measuring the potential effects of TAs selected for other characteristics.

probably have not had occasion to screen prospective teaching assistants as part of ordinary class interactions, and might benefit from a more limited interview.

For either new or experienced professors, the initial interview should cover at least two issues: (1) the professor's expectations; and (2) the student's interest in the position and ability to commit the necessary time to the job. First, a prospective candidate cannot assess whether he even wants the job without knowing what the job entails. We both ask a great deal of our TAs. Making that clear in the interview process allows inappropriate candidates to weed themselves out. Moreover, those teaching assistants we ultimately choose have been properly warned at the outset that they will be held to high standards. Second, asking the candidates why they want to be a TA allows the professor to assess whether each candidate truly has an interest in the position as well as whether the candidate actually understands what the job entails. Addressing these issues at the outset can help avoid problems and solidify the relationship between the professor and the teaching assistants.

*B. Providing Appropriate Guidance—How Much Is  
Too Much? Too Little?*

After selecting teaching assistants comes the more difficult task of effectively managing and supervising them. The TA/professor relationship works only with sufficient guidance. In this section, we address how and when professors can best supervise TAs as well as how much direction TAs need.

*1. What Kind of Guidance Is Necessary at the  
Beginning of the School Year?*

Once TAs have been selected, the task of molding them into effective resources for first-year students (and the professor) begins. We sometimes liken the task of supervising TAs to herding cats, a metaphor with surprising applicability to teaching assistants who each have independent educational and professional objectives, some of which might not always be perfectly correlated with the professor's goals. The professor must bear the ultimate responsibility for directing the teaching assistants, and walks a fine line when doing so. On one hand, the professor must guide TAs without being too overbearing; over-supervision is likely to create a group of teaching assistants that lack initiative. On the

other hand, under-supervision has its own set of dangers, particularly because, at least in our experience, TAs have had little prior teaching history and thus cannot fall back on their own experience if questions arise about a task or if problems emerge with a student. Thus, if anything, TAs crave rather than resent professorial guidance.<sup>77</sup> We have never heard TAs complain that we gave them too many instructions about how to accomplish a specific task—but we have occasionally heard the reverse. In the end, our position is to err on the side of providing more rather than less direction to TAs.

When supervising TAs, professors take on a variety of roles, including those of manager, educational model, and mentor.<sup>78</sup> The managerial role includes “personnel duties. You will have to require TAs . . . to meet certain standards of excellence; you will appoint, motivate, coordinate, monitor, and, hopefully infrequently, dismiss your TAs[.]”<sup>79</sup> As an educational model, a professor’s behavior can influence TAs and help them develop their own abilities to convey information to first-year students.<sup>80</sup> Finally, professors can also serve as mentors for TAs.<sup>81</sup> Most of the advice we provide in this section falls within the professor’s managerial role.

As mentioned, a professor should discuss overall expectations with prospective teaching assistants when interviewing them for the position. However, once TAs have been selected, the professor can and should provide a more extensive explanation.<sup>82</sup> The best time to define professor expectations and curricular goals is at the beginning of each semester,<sup>83</sup> with reinforcement as necessary

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<sup>77</sup> Our experience is consistent with findings reported in graduate TA literature. See Meyers, *supra* n. 16, at 10 (describing the results of a cross-disciplinary survey that concluded that TAs associated their most positive teaching experiences with “authoritative instructors” who, among other things, discussed expectations with TAs and offered direction for the TAs’ activities); Prieto, *supra* n. 17, at 118–119 (reporting survey results that “novice GTAs [graduate TAs] desired greater amounts of structure and direction in their supervision than those GTAs with greater amounts of teaching experience[.]” and concluding that “the research to date suggests that novice GTAs have less confidence in their abilities . . . thus necessitating a more task-oriented approach when supervising beginning GTAs”).

<sup>78</sup> Nyquist & Wulff, *supra* n. 22, at 6. For a general survey of several graduate TA supervision models, see Prieto, *supra* n. 17, at 104–106.

<sup>79</sup> Nyquist & Wulff, *supra* n. 22, at 6.

<sup>80</sup> *Id.* at 11–13.

<sup>81</sup> See *id.* at 13–14.

<sup>82</sup> See *id.* at 7 (“Good managers are explicit about what they expect from their employees.”). We do not think of TAs as employees per se, as our program offers course credit rather than compensation for TAs, but the analogy is apt here.

<sup>83</sup> Numerous commentators agree that the earlier a professor meets with TAs at the beginning of the school year, the better. See Feinman, *supra* n. 19, at 278; Nyquist & Wulff,

throughout the year. At a minimum, we recommend guidance to every TA during those meetings in the following areas:

- Overall expectations for the class as a whole;
- The TAs' role as a vital component of the course (again, both as a whole and for individual assignments);
- The goals to be achieved by individual course assignments; and
- Any subjects on which the professor wants to provide a unified message.

Before describing the TAs' role in the professor's "big picture" approach to the LWRA class, the professor needs to identify what that big picture is. This is, of course, a highly subjective question, and we do not presume to tell other professors how they should answer it. We have found it helpful to ask ourselves the following non-exhaustive list of questions: What am I ultimately trying to accomplish in my class? What overall approach to LWRA do I want my first-year students to carry away from the course? What skills do I most want the first-year students to acquire? What other subjects do I want the first-year students to have at least some exposure to? How can I best use my TAs to accomplish these goals? What abilities do the TAs collectively or individually possess that I can put to good use in helping first-year students develop their understanding of LWRA?<sup>84</sup>

After asking these and other questions, and at least tentatively answering them, the professor can then incorporate the responses into the initial discussions with the TAs. For example, discussing the role(s) that TAs are expected to play in the class lets the TAs know where they fit within the big picture. The mentor's role is most important in our eyes, and we explain to the TAs that they will act in this capacity throughout the year. As role models, TAs serve as examples to first-year students that, yes, it is possible (and vital) to learn how to write the discussion section of a

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*supra* n. 22, at 7; Vance, *supra* n. 8, at 5.

<sup>84</sup> We freely admit that when we were new professors, we would have been hard-pressed even to formulate these questions, much less answer them with any specificity or certainty. Nor have our answers to these questions remained fixed. Every year of teaching brings new lessons, and every legal writing publication we read or conference we attend provides new ideas. And so, every summer when the new school year approaches, we find that our answers to these questions have changed from the prior year, sometimes subtly, sometimes more extensively.



memo, find a key legal authority in the library or online, or stand in front of a judge and present a persuasive argument.<sup>85</sup> As mentors, TAs are also available to first-year students as a sounding board for broader questions about law school life, and perhaps even life in general.<sup>86</sup>

Many professors will (as we do) ask TAs to take on multiple roles, which can vary from assignment to assignment. Although TAs will never really remove their mentor hats, on occasion they might effectively act as surrogate professors by leading library tours, conducting research classes, or helping students with citation or writing questions. In this role, they supplement the professor, serving as a separate source of information, guidance, and instruction. In other situations, they might be asked to critique or actually grade first-year work product (subject to review), including citation and research assignments, preliminary oral arguments, or simulated presentations to a senior partner.

Another subject to discuss with TAs at the initial meeting each semester is the purpose underlying each assignment.<sup>87</sup> Once the TAs understand that there is in fact a “method to the mad-

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<sup>85</sup> Here, a professor might need to do a bit of confidence boosting. Some teaching assistants might be insecure about their ability to adequately instruct first-year students about subjects that they themselves knew nothing about only a year before. Other TAs might be worried that they will not be able to provide first-year students with all the guidance the first-year students might want or expect, or be embarrassed that they are not experts in subjects that they have supposedly performed well in. See Jay M. Feinman & Marc Feldman, *Achieving Excellence: Mastery Learning in Legal Education*, 35 J. Leg. Educ. 528, 541 n. 30 (1985); Prieto, *supra* n. 17, at 104 (noting that graduate TAs are often “teach[ing] at the limit of their knowledge as they attempt to disseminate a body of information to their students which they are often just developing themselves”). Reassuring the TAs about their proper role can go a long way towards alleviating such anxiety. After all, the TA is “neither student nor teacher. It is up to the [professor] to convince [TAs] that they do not need to know all the answers; and that what insights they give to first[-]year law students in both legal training and in relationship to ‘learning law school’ are highly valuable.” Achtenberg, *supra* n. 62, at 255.

<sup>86</sup> See Vance, *supra* n. 8, at 4 (describing TAs’ “counselor” role as going “beyond helping students with legal writing and benefit[ing] both the students and the law school by serving as role models and by helping students adjust to law school”). We are fortunate that, to our knowledge, none of our TAs has ever taken advantage of that position to sexually harass or otherwise inappropriately interact with first-year students encountered in the scope of TA duties. The possibility that something along these lines might occur cannot be dismissed out of hand, however. Although a detailed discussion of sexual harassment in education is outside the scope of this Article, professors should clearly establish their expectations in this area early in the semester and convey to the TAs that professional distance is mandatory when working with first-year students.

<sup>87</sup> See Nyquist & Wulff, *supra* n. 22, at 8 (“If you have particular needs or managerial idiosyncrasies that you want TAs . . . to be aware of, those can also be made explicit. It is usually helpful to provide a brief rationale, giving reasons why you choose to manage as you do.”).

ness," it becomes easier for them to see where they fit in—and sometimes to suggest improvements to make it easier to achieve the goals the assignments are designed to meet.<sup>88</sup> TA feedback at these initial meetings (as well as meetings throughout the rest of the year) has proven very useful to us in tweaking assignments (or, on some occasions, making larger revisions to them). TAs have not been shy in describing what worked and what did not in the previous year.<sup>89</sup> This has obvious benefits in improving the professor's teaching of the newest crop of first-year students,<sup>90</sup> and soliciting TA feedback also helps the TAs develop a feeling of "team spirit" from the beginning of the first semester.<sup>91</sup> Equally important, providing TAs with this sort of initial guidance about the professor's approach to the course helps orient them to how they will be used, and gets them thinking about how they can interact with, and best fulfill, their mentoring role for first-year students.

Finally, teaching assistants need up-front guidance in some areas about what to say and what not to say to students. This is a subject we approach with some trepidation. In selecting TAs, one of the things to look for, as mentioned above, is the ability to work independently. TAs generally possess impressive backgrounds, and have proven their ability in the classroom the previous year. We assume most professors have no wish to muzzle them or to tell them exactly what to say to the current group of first-year stu-

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<sup>88</sup> As discussed below, we, of course, provide TAs with more specific guidance about individual assignments as those assignments come up over the course of the year. Discussing each assignment at the initial meeting, however, provides a chance during the fairly quiet first few weeks of the semester to think about and possibly incorporate any suggestions the TAs might make at that point, when the professor still has the time and opportunity to do so.

<sup>89</sup> For example, when a TA responds to a discussion of individual assignments during the initial meeting with something along the lines of "Oh, that's why you asked us to do X when we were 1Ls," that sort of feedback is a powerful hint that a professor needs to do a better job explaining that assignment to the first-year students in the upcoming year.

<sup>90</sup> In this way, supervising teaching assistants is no different in kind from a professor's approach to teaching first-year students, when viewed through the prism of the Classroom Assessment movement. See Gerald F. Hess, *Student Involvement in Improving Law Teaching and Learning*, 67 *UMKC L. Rev.* 343, 344–346 (1998). The Classroom Assessment approach can be broadly defined as "encourag[ing] teachers to gather frequent feedback from their students and to use that information to refocus teaching methods and make learning more effective." *Id.* at 343–344. From the TAs' perspective, a professor's willingness to consider different perspectives about the professor's own teaching style helps encourage the TAs' confidence in their own abilities and points of view. See Nyquist & Wulff, *supra* n. 22, at 14. A professor encouraging TA collaboration in this way is acting more as a mentor than a manager. See *id.*

<sup>91</sup> See Feinman, *supra* n. 19, at 279 (observing that early training sessions can promote camaraderie among TAs and the professor).

dents about the class or individual subjects. On a small number of matters, however, experience suggests that it might become necessary to impose a party line. For example, we expect TAs to support our position that there is value in learning how to conduct book research, and that citation actually matters in practice. TAs need not blindly ape what the professor says on these or other subjects, of course. If a TA worked for an employer that for whatever reason did not emphasize correct citation form, she should certainly feel free to tell students about her experience. Similarly, a TA could tell first-year students that he never went to a library during a summer internship and did most of his research on Westlaw, LexisNexis, or government websites. But TAs should also faithfully report the professor's view on such subjects to the first-year students, and if the situation warrants, remind first-year students that the professor's view controls for purposes of complying with class requirements.<sup>92</sup>

## 2. *What Kind of Guidance Is Appropriate throughout the School Year?*

As the school year progresses, professors will call upon teaching assistants to perform numerous tasks. For each of these tasks, specific instructions are a must. As mentioned, the initial meeting at the beginning of each semester provides an opportunity to tell the TAs about the overall goals of each assignment.<sup>93</sup> However, the

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<sup>92</sup> TAs might need to be reminded of this discussion as the need arises during the rest of the year, or on those rare occasions where new "mandatory party line" subjects come to the professor's attention.

<sup>93</sup> Many programs set aside a full day, or even longer, at the beginning of the school year for intensive new teaching-assistant orientation programs. See e.g. Feinman, *supra* n. 19, at 278 (recommending a "one- or two-day period shortly before the semester begins"); Vance, *supra* n. 8, at 5 (describing a "day-long orientation before classes begin"). Presumably, schools reporting sixty hours of TA training on the ALWD/LWI surveys fall into this category, too. See *supra* nn. 16–17 and accompanying text. Topics addressed at these sessions include reviews of sample student memos and how to revise them, guidelines for holding office hours and student conferences, suggestions about how to teach students without spoon-feeding them, and so on. See Vance, *supra* n. 8, at 5. Experienced professors have offered various exercises that might be implemented during TA training sessions. Sue Liemer, *Being a Beginner Again: A Teacher Training Exercise*, 10 *Persps.* 87 (2002). Still others have suggested using these initial sessions to introduce TAs to the "scholarly literature on group dynamics, interpersonal relationships, and learning theory, particularly on group leadership styles and techniques and the learning theory that guides the course." Feinman, *supra* n. 19, at 278–279. We endorse most of these goals, although we are leery of delving too deep into purely theoretical matters, recognizing that TAs will probably be more interested in practical guidance than more abstract pedagogy. See Sandra Goss Lewis, *Departmental Teaching Assistants' Orientation*, in *TA Training Handbook*, *supra* n. 16, at 25, 26–

initial meeting is not the best time to give specific details regarding what the TAs need to do to get each individual assignment done. Instead, assignment-specific topics are better addressed as they arise during the year. For example, TAs can receive guidance on holding office hours when the time for those office hours approaches in late September. Similarly, a professor need not instruct TAs about reviewing and critiquing student drafts until the due date for those drafts is close at hand. This way, the professor's guidance is fresh in the TAs' minds when they meet with students or sit down to review citations in a stack of student papers.

Although the specifics obviously differ from assignment to assignment (and from professor to professor), a few common, closely related themes track across all TA tasks. First, teaching assistants need to know what type of work product they should generate. If they are reviewing citation, are they expected to correct each mistake, or only the first occurrence of a mistake? If judging preliminary oral arguments, are they expected to comment on the advocates' performances at the end, or simply ask questions during the argument? Second, TAs should be told how much time to commit to the task. Telling TAs how long a task will likely take gives them a sense of whether they are devoting too much or little time to completing it. Further, an accurate estimate of time commitment will allow TAs to plan their schedules. Third, TAs must know the level of quality expected for each assignment. Giving TAs examples of acceptable TA product fends off confusion about what the professor expects from TAs' written work.<sup>94</sup>

Professors can mix and match any number of options to help ensure that TAs know what the professor expects. One of the most important is simply meeting with teaching assistants, whether regularly or more occasionally, as opposed to communicating solely via e-mail. Meetings can be handled in any number of ways. For example, a professor could schedule weekly meetings at the begin-

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27; Michele Marinovich, *Teaching Teaching: The Importance of Courses on Teaching in TA Training Programs*, in *Professional Development*, *supra* n. 22, at 145, 152. Our school does not provide program-wide TA training, and in any event, department-wide training would still need to be supplemented by individual professors to accommodate their specific practices, assignments, and teaching philosophies. See Shirley A. Ronkowski, *The Disciplinary/Departmental Context of TA Training*, in *Professional Development*, *supra* n. 22, at 41, 42.

<sup>94</sup> For example, we give the teaching assistants a copy of a particularly thorough TA-prepared citation review from a previous year, so the current TAs can see the type of citation comments we expect on student papers. TAs might vaguely recall the sorts of comments they received on their papers as first-year students, but they need not rely on memory if they have an example of a high-quality citation review.

ning of the semester, and then cancel them as needed (or, more accurately, as not needed). Alternatively, meetings could be held when necessary throughout the semester rather than scheduled on a weekly, monthly, or other basis. Whichever method a professor adopts, face-to-face meetings are an effective way to keep the TAs “on track,” to respond to any questions they might have without the delays and occasional uncertainties inherent in e-mail, and to ensure that each TA receives the same amount of guidance. These meetings also provide an opportunity to discuss how the first-year students are doing, in general or on specific matters. Finally—and this is by no means a trivial consideration—in our experience meeting with teaching assistants is generally a pleasant interlude in the work day, and TAs enjoy the opportunity to meet with professors and their peers.

Detailed written instructions for specific assignments are a necessary complement to face-to-face meetings. The amount of detail needed depends on the type of assignment and what tasks the TAs are asked to perform. Some types of assignments merit extremely specific guidance, while others are more fluid. As a general rule, those matters that are particularly key to TAs’ role, such as citation reviews or critiques, require more specific guidance.<sup>95</sup> On matters that go to the heart of the TAs’ role in the course, it is best to have a united front, where all TAs are providing similar instruction to the first-year students. Doing so also potentially alleviates student concerns about some students receiving unfair advantages, of particular importance in graded programs. Moreover, specific guidance is especially critical when a TA’s review of student work factors into (or is the sole determinant of) the grade the student receives for that assignment.

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<sup>95</sup> See, for example, the sample instructions we give our TAs for citation reviews in the Appendices at the LWI Journal website. See *supra* n. 10. Readers seeking more formal TA training materials have many options. To some extent, guidance for new LWRA professors can be transferred to TAs, whether on such subjects as effective conferencing and editing, suggesting revisions without rewriting, establishing boundaries between teacher and student, and so on. See e.g. James B. Levy, *Legal Research and Writing Pedagogy—What Every New Teacher Needs to Know*, 8 *Persp.* 103 (2000); Kathleen Elliott Vinson, *New LR&W Teachers Alert! 14 Ways to Avoid Pitfalls in Your First Year of Teaching*, 6 *Persp.* 6 (1997). Of course, other LWRA resources might prove equally beneficial to TAs, though not directed specifically to new professors. We make no attempt here to try to compile a representative sample of useful materials from the large (and ever-growing) universe of helpful LWRA articles. Alternatively, many TA training materials are available on the Internet, although these are usually not law-school focused. A very helpful starting point for law school TAs is the “peer teacher manual” prepared by Barbara Glesner Fines at the University of Missouri-Kansas City School of Law. See *supra* n. 27.

These goals are more easily accomplished if the professor has provided the teaching assistants with explicit instructions about how to handle commonly occurring situations. Further, the time it takes to prepare detailed instructions is particularly well spent if the TAs will be performing the task all year and in subsequent years.<sup>96</sup>

On other matters, however, less specific guidance is needed. For example, when teaching assistants play the role of clients in client interviews, we give them limited background details, and encourage them to make up personal information and other material needed to flesh out the client's story. Similarly, when asking TAs to participate in classes about exams or summer employment, the professor could provide some general guidance about subjects they might want to discuss, but otherwise leave the TAs' presentation up to them.

A professor should resist the temptation to micro-manage, a suggestion perhaps easier made than followed. Too much guidance can bury the TAs in irrelevant detail, and can keep the TAs from knowing what is really important about an assignment and what is less so.<sup>97</sup> Moreover, given that TAs are selected in part for their individual initiative, they will likely lose any incentive to act independently if the professor is constantly looking over their shoulders. Indeed, the TAs might perceive over-management as a lack of respect or trust, which in turn might become a self-fulfilling

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<sup>96</sup> By contrast, spending an excessive amount of time creating extensive instructional materials or otherwise providing detailed guidance for a "one shot" type of assignment—especially one that the professor suspects she will not be repeating in the future—might not be the best use of the professor's time, especially in the middle of conference season or with a stack of pretrial briefs on the professor's desk. There is certainly room for difference of opinion on this subject, however. For example, one of us expects teaching assistants to become familiar with the substantive details of research and writing assignments and meets extensively with the TAs to answer any questions they might have about those assignments so that the TAs are fully prepared to respond to first-year students' questions during office hours. The other of us has concluded that the TAs will never be as familiar with the substance of the assignment as the professor, and thus gives them only a brief overview of the underlying substantive law, with instructions to "punt" any substantive questions they might receive from first-year students to the professor.

<sup>97</sup> A common example of this, at least in our experience, is citation reviewing or critiquing. We each provide our TAs with lists of common citation errors to use as a "cheat sheet" when conducting citation reviews. Such a cheat sheet can have the tendency to grow in length from year to year, as different problems pop up, until what was intended as a one- or two-page guide metamorphoses into something nearly as long as the citation manual itself. In such a situation, TAs might no longer be sure what to focus on: big problems, like failing to include pinpoint cites or forgetting to identify the court or year of an opinion, or more esoteric minutiae, such as whether the period in *id.* should be italicized. Ruthless editing of the cheat sheet is the order of the day at that point.

prophecy, or might lead the TAs to discourage first-year students from serving as TAs in the next year.<sup>98</sup> Finally, professors are already busy enough with class preparation, grading, student conferences, and scholarship. Adding to that workload by preparing excessive written instructions for everything TAs are asked to do, covering every possible contingency or first-year question no matter how unlikely, is not something we recommend.

*C. Defining Teaching Assistants' Roles to  
the Students They Help*

Another problem associated with use of teaching assistants arises when first-year students do not know the role that TAs play in the professor's approach toward the class. Are the teaching assistants just glorified cite checkers? Are they independent sources of information and guidance, or are they a mouthpiece for the professor's party line? Just as TAs' performance improves when they know what the professor expects of them,<sup>99</sup> so, too, do first-year students benefit when the professor does not "hide the ball," whether concerning TA usage or any other aspect of the class. As pertinent here, when first-year students know the professor's expectations for the TAs, the students are less inclined to use TAs in quantitative or qualitative ways unintended by the professor. Thus, we advise letting first-year students know very early in the first semester that TAs play an important role in the course, and that students should take every opportunity to go to them with questions. As we tell our students, the teaching assistants have been through a year of LWRA, and have done well at it. The TAs are familiar with us; they know our general approach and course objectives as well as our preferences and pet peeves. They are not, however, experts in LWRA or the substantive law of a particular writing assignment. Thus, first-year students are made aware that the teaching assistants can provide them with valuable guidance and direction, and the teaching assistants help us achieve our goals for the first-year students by keeping them informed and on

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<sup>98</sup> See Cohen, *supra* n. 16, at 596 ("The less initiative one permits instructors to exercise in developing their programs and specific assignments the less likely it is that the program will continue in the future to attract instructors with creative minds and ideas.").

<sup>99</sup> See *supra* nn. 77–81 and accompanying text.

track—but students also know not to expect more from the teaching assistants than we do ourselves.<sup>100</sup>

For example, if a professor believes that he should be the exclusive (or at least the best) source of information about an issue, tell first-year students explicitly. First-year students could be advised that substantive questions about how to analyze a specific case for purposes of a memo or brief assignment are best directed to the professor, not the TAs, even if the professor also requires the TAs to be familiar with the substantive legal questions presented by the assignment.<sup>101</sup> On other matters, students should be told that reasonable minds might well disagree. For example, experienced attorneys know that citation manuals do not answer all questions and are not always models of clarity. Students do not know this, however, and might be surprised if one TA offers citation guidance on an unclear issue that differs from another TA's suggestions, or the professor's, or the students' own interpretation of the manual. We tell the students to expect such occasional differences of opinion and emphasize that such disputes will be par for the course in everyday legal practice.

Finally, it might prove advisable to establish some boundaries between first-year students and TAs. Sometimes, getting students to use TAs as a resource can be like pulling teeth,<sup>102</sup> but on other occasions students might go too far in the other direction. One benefit of TAs is that they will likely be accessible to students during the evening or weekend when the professor is less likely to be available. Such access might come via formal office hours, random encounters in the hallway or library, or e-mail. This does not mean, however, that students should come to view TAs as a twenty-four-hour convenience store of legal insight; that TAs should review multiple drafts of a memo or find time to flyspeck a brief shortly before the 5:00 p.m. submission deadline; or that TAs should put aside their own academic or other obligations to respond immediately to every student question. Leaving aside the

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<sup>100</sup> This was put very nicely in Feinman & Feldman, *supra* n. 85, at 541 n. 30; see also Pollman, *supra* n. 52, at 285 (noting that student teachers "must gather, analyze, and organize their own experiences"). A professor who explains why and how TAs are used might also preempt possible student misapprehension that the professor is shirking responsibility by delegating important instructional duties to the TAs.

<sup>101</sup> At any rate, TAs are unlikely to recognize the validity of a nuanced and novel argument not covered by the professor's instructions. Therefore, even if TAs do provide substantive guidance about specific assignments, they should still be instructed about when consulting the professor is necessary.

<sup>102</sup> See *infra* sec. III(F).



demands this makes on TAs, over-eager students who take advantage of a TA's desire to help might also raise questions of fairness, particularly in graded LWRA courses, if others believe that the student is receiving improper assistance on assignments. Discussing the limits students should observe when dealing with TAs will likely help lessen the likelihood of such problems arising, and in any event provide advance warning of the expectations first-year students will be required to satisfy.

*D. When Teaching Assistants Make Mistakes (Or—Gasp!—  
The Professor Makes the Mistake)*

Even with careful planning, not all problems can be anticipated. Three examples come immediately to mind from our experience:

- A TA, certain she knows the citation rules, “corrects” something on a batch of papers, when the first-year students were correct to begin with. What’s worse, the TA also attaches written (and somewhat snippy) comments at the end of the papers that the first-year students should never have made such a basic mistake. Upon reviewing the TA’s comments, the professor notices the error.
- Late one night, a professor thankfully finishes grading the last open memo, having promised the first-year students to return the papers the next day. Checking e-mail reveals a message from a TA that due to unexpected commitments, he will not be able to return his batch of cite reviews to the first-year students at the agreed-upon time. The TA has had difficulties meeting deadlines on other occasions as well.
- A TA suggests during guided library tours that learning book research is nothing but a “hazing ritual,” and that nobody uses books in the real world. Confused first-year students later ask the professor why they are required to find cases and statutes in books if they will never be asked to do so in practice.

The question that arises once a problem comes to the professor’s attention is how best to resolve it. Following Harry Truman’s

credo that “The Buck Stops Here,”<sup>103</sup> professors are ultimately responsible for the smooth and efficient operation of their classes. If mistakes happen (whether the professor causes the mistakes or not), the professor must take responsibility for them. When problems do arise—and they will—the professor should be concerned both with alleviating potential first-year confusion and correcting the problem so that it does not occur again.<sup>104</sup> The way the professor goes about addressing these issues in turn affects the professor’s credibility.

### **1. Good Faith Mistakes**

Even the best teaching assistants will occasionally simply get something wrong. When a TA’s guidance is incorrect, the primary concern becomes fixing that mistake without shattering the students’ faith in that TA, or maybe all teaching assistants—or even the professor. In doing so, the professor must clarify the incorrect advice while not confusing the first-year students still further. Several options are available in such situations. The first is simply discussing the matter with the affected student(s) and providing the correct advice along with any necessary additional explanation. Another option is to have the TA contact the students to clarify the mistake.<sup>105</sup> If the problem is more widespread or merits broader attention, a professor might decide to address it via an e-mail to the entire class, or perhaps even discuss the matter during

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<sup>103</sup> See e.g. Alan Axelrod, *When the Buck Stops with You: Harry S Truman on Leadership* xv (Portfolio 2004).

<sup>104</sup> Of course, mistakes are a bigger problem in a graded program where flawed advice could conceivably harm a student’s grade. As previously mentioned, one way to handle this concern is to seriously curtail the type of advice the professor allows TAs to give. A second protective measure is to make the limitations on TA advice clear at the outset. This measure can prevent TAs from providing too much guidance (or bad guidance) that might or might not dovetail with the advice the professor would have given. Another important way to decrease the likelihood that TAs will disseminate bad advice is to provide “answer keys” of sorts for assignments graded by TAs (these are also quite effective in non-graded programs). For example, a professor can create a list of common citation problems and corrections for all major assignments. If all TAs are working from the same list, unfair or incorrect advice is much less likely to reach the first-year students. When all else fails, though, a professor might have to revisit a score on an assignment if that score reflects the use of bad TA advice. This situation is much less likely to occur, however, if the appropriate steps are taken to train and supervise TAs.

<sup>105</sup> TAs sometimes do this on their own (or offer to do so). We have both received unsolicited e-mails from TAs confessing that they inadvertently told students something during office hours that was incorrect and that they had already e-mailed the students involved to give them the proper advice.

class. Of course, in doing so, aspersions should not be cast on the individual TA. Instead, a professor could say something like “some questions have been raised about Issue X,” without naming any names. Or, although we do not often do this, a professor might decide to let the matter slide, ignoring the problem if it is sufficiently minor and limited to a single student or small group.<sup>106</sup>

A professor confronted with a TA’s mistake also wants to ensure that the problem does not arise again. Sometimes, the problem is of the professor’s own making, a result of giving the TA insufficient guidance. Other times, however, the problem is purely on the TA’s end. Meeting privately and non-accusatorily with the TA to discuss the matter is the best way of discovering why expectations have not been met. Once the problem has been diagnosed, the professor should clarify the instructions to the affected TA, providing additional guidance or re-training if necessary. The professor might also take the opportunity to meet with other TAs to clarify expectations, particularly if the issue is likely to arise again. Equally important, the professor should take note of the issue for future assignments and future years. Perhaps revisions to the instructions for that task are in order to clarify what the TAs are expected to do for that assignment.

Sometimes, TAs make mistakes that do not confuse first-year students but that still can affect the professor’s credibility. The “late papers” scenario mentioned above is a case in point. Another problem we have encountered is a TA forgetting to attend office hours or an oral argument where he was scheduled to serve as timekeeper. In both situations, it might appear to the first-year students that the professor has lost control of the TAs or is not organized enough to manage them efficiently. The appropriate response should depend on whether first-year students know about the issue. If the TA confesses missing office hours, but no first-year student has complained, there is no reason to call the first-year students’ attention to the matter. Handle the matter internally.<sup>107</sup>

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<sup>106</sup> Every professor will have a different threshold of questions minor enough to ignore. One example that comes to mind is a TA’s insistence during cite reviews of the first draft of the closed memo that some students had erroneously underlined the space in *see e.g.* (using Bluebook format). With all due respect to the TA’s zealotry, at that stage in the first semester most LWRA professors will likely be pleased to see any evidence, no matter how slight, that first-year students have actually opened the citation manual, much less applied it correctly to minor points. Thus, although the TA’s guidance to this individual student was indisputably wrong, a professor might well decide to hold off on correcting it until later in the semester, and then only if the problem arises again.

<sup>107</sup> Similarly, if a TA-timekeeper missed an oral argument, a professor could simply

If first-year students have noticed the problem—such as the students who undoubtedly noticed that they did not receive their cite reviews with their graded papers—the best response is to acknowledge the delay without further explanation. For example, in the late-papers scenario, a professor could send an e-mail to affected students (not to the entire class), explaining that the cite reviews are delayed and telling them when to expect them. In the interim, the professor could contact the TA with a stern message and a new deadline.<sup>108</sup> Should the TA fail to meet that new deadline, further steps are obviously necessary; these steps should be clear to the TA from the outset.

## ***2. The Rare and Unfortunate Deliberate Mistake, or Recurring Problems***

Thankfully, we have seldom encountered situations where a TA intentionally represents an approach to a topic that is very different from, or even diametrically opposed to, ours.<sup>109</sup> It has happened to us upon occasion; however, the “library tour gone bad” scenario above is no figment of our imagination. A professor’s credibility as teacher and role model is particularly at risk in this situation. By intentionally taking a position that undercuts the professor, the TA calls into question the professor’s teaching not only on that topic, but on other topics as well. First-year students might legitimately wonder, “On what other subjects are we not learning how the real world works?” Obviously, in this type of situation, it is vital to repair the professor’s credibility so that the professor can continue to effectively guide the first-year students through the difficult task of mastering fundamental LWRA skills.

Thus, while it is usually key to maintain the credibility of teaching assistants with the first-year students, the professor’s

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explain to the first-year advocates that unforeseen scheduling problems had arisen, without providing additional detail. In our experience, TAs have never missed more than one scheduled meeting and are mortified when the matter is brought to their attention. Obviously, if the problem is a recurring one, the professor is confronted with more difficult choices, as discussed in the following section.

<sup>108</sup> Mistakes can sometimes bring about a teaching moment. In this situation, a professor could emphasize the need for more advance notice of the TA’s inability to meet the deadline, as opposed to the night before the papers were due. This is a lesson with obvious applicability to the deadlines the TA will face in practice.

<sup>109</sup> It appears we share this positive experience with others. See Feinman, *supra* n. 19, at 280 (“It is extremely unlikely that a TA will perform so badly that the professor must remove him or her from the position during the semester.”).

credibility is more important. When a TA purposefully (even if without malice<sup>110</sup>) contradicts the professor, the need to maintain the TA's credibility fades away. In such circumstances, a frank conversation with both the first-year class and the offending TA is likely to solve the problem. First, the professor should meet with the TA to discuss the situation. At such a meeting, the professor might choose to (1) explain the facts as he or she knows them, and why the professor has concluded the TA's behavior was unacceptable; (2) ask the TA for an explanation of the behavior; and (3) advise the TA that the misinformation provided to the first-year students will need to be corrected.<sup>111</sup>

Once that information is on the table, the professor can then set out the TA's options. Here, it might be helpful to engage the TA in a brainstorming session to help determine additional tasks to perform; the TA is likely to find the punishment more palatable if he has a say in the outcome. In fact, the TA might learn something from the experience. For example, a TA providing misinformation about the prevalence of book research might well believe what she says. In such a situation, discussion with the TA or the assignment of targeted research projects requiring the use of books could help change the TA's views on book research. If the professor's trust in the TA has been damaged enough, it might prove necessary, as it did in this case, to strip the TA of all duties involving contact with first-year students, instead assigning additional tasks like research and cite-checking. Other options include advising the TA that he or she would not be permitted to return the next semester or year as a TA. In extreme situations, a professor could explain that any additional improper behavior (however minor) would result in a failing grade or dismissal from the TA program.

Moreover, when a serious bit of misinformation has been passed along to the first-year students, class time will likely prove

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<sup>110</sup> In all fairness to the TA who prompted this example, she thought she was doing the first-year students a favor based upon her limited summer internship experience. As previously mentioned, we encourage our TAs to give first-year students the benefit of their (admittedly limited) experience and opinions about all matters connected with the course. See *supra* nn. 91–92 and accompanying text. Sometimes, however—and this was definitely one of those times—encouraging TAs to speak their minds without some professorial guidance leads to undesirable results. This incident led directly to our emphasis on ensuring that TAs know at the very beginning of the relationship that we expect them to adhere to a party line on some subjects, and what those subjects are. See *id.*

<sup>111</sup> It is possible, of course, that a TA might attempt to deny that the accusations were true. If so, and assuming that this denial is not credible, the professor has no choice but to explain that the truth is the only way to avoid whatever the professor believes is the most serious sanction available.

to be the best forum for righting the ship. For example, in addressing the case of the bad library tour, the class could be advised (without naming names) that although some students might believe that book research was not useful, the professor does not share that view. This presents the students with a choice: (1) follow the advice of a fellow student with only a summer internship as legal experience; or (2) follow the advice of a former practicing attorney and current law professor. Moreover, mentioning this incident in class will allow the professor to reiterate earlier discussions about the benefits and drawbacks of computer research versus book research, and perhaps even provide (as it did in our case) a useful way of reinforcing points about effective legal research.

In sum, regardless of how well TAs are trained and supervised, problems will occur. How those problems are handled will determine the way the first-year students and TAs view the professor and the LWRA course.

#### *E. Finding Time to Supervise*

The successful use of TAs is an often neglected part of the class preparation process, but this neglect is understandable. If new LWRA professors are anything like we were when we began teaching, they will likely find they have more than enough tasks to fill a work week just trying to get a handle on class preparation and teaching LWRA for the first time. A new professor might well rationally decide to devote limited summer time to preparing assignments or lecture notes for the upcoming year. However, once the semester starts, the whirlwind schedule of grading and conferences often precludes any opportunity to take the time to (1) adequately keep teaching assistants informed of the professor's expectations; or (2) assign appropriate amounts of work to each TA. When this happens, a teaching assistant program can languish as an unused or improperly used resource. Therefore, particularly in the early stages of a professor's career, thinking about these matters (and providing the necessary guidance and instruction to TAs) is essential to avoiding problems in the future.<sup>112</sup>

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<sup>112</sup> Of course, a professor could rationally decide that the demands of supervising TAs are simply too high, given the many other obligations that busy LWRA professors have to satisfy, and so choose to not use TAs at all or to use them only in a very limited capacity. We would disagree with such a decision, but can understand how a professor might reach it. We certainly do not mean to downplay the costs to a professor's time of setting up or super-

In fact, while we certainly do not need to tell experienced professors in our field that this is a very time-consuming profession, our experience has been that, even for more seasoned professors, attention to the issue of using teaching assistants most effectively often slips far down on the priority list. We have learned the hard way that preparing TAs is not, in fact, less important than preparing assignments and developing a syllabus.<sup>113</sup> Therefore, we have developed techniques that have allowed us to effectively manage a large group of teaching assistants<sup>114</sup> while still creating a curriculum that provides our first-year students with the constant attention they need to develop necessary skills.

One of the most important suggestions is to begin preparing teaching assistant materials during the summer, when free time is most likely to be available.<sup>115</sup> While new teachers may be quite busy even during the summer, this is without a doubt the time when both new and experienced teachers are most likely to be able to develop materials without interruption. Based on our experience, this pays large dividends down the road, because the instructions prepared for TAs can generally be reused with few modifications in subsequent years. Another suggestion (in schools where this is allowed) is to save the task of developing individual problems and assignments from scratch until the second or third year of teaching. If a new LWRA professor can use or modify problems created by more experienced professors, the new professor will have more time to devote to creating and maintaining a successful teaching assistant program for that professor's individual class.

Another time-saving technique is to identify in advance what role the teaching assistants will be expected to play in administering each assignment, and then consider whether materials need to be prepared to adequately prepare the TAs to play their part. For an assignment in which TAs will merely serve as cite checkers, the professor might prepare grading checklists in advance to avoid

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vising a TA program as a whole, or for an individual class. The goal, however, is that any increase in short-term demands on a professor's time and resources will be set off against reduced costs in the long term and more than compensated for by increased pedagogical effectiveness. See Topping, *supra* n. 74, at 325.

<sup>113</sup> Importantly, our experience is that mismanaged teaching assistants actually take much more time to work with in the long run. Mismanaged teaching assistants make more mistakes, and fixing those mistakes is a time-consuming and often embarrassing process.

<sup>114</sup> Both of us regularly select up to six teaching assistants each year to help with a class of forty-five to fifty students.

<sup>115</sup> We recognize that in some law schools, LWRA professors are called upon to teach year-round, and thus will not have as much "downtime" available to prepare for upcoming semesters.

having to do so during the semester. On the other hand, if teaching assistants will be holding office hours to provide substantive guidance on a particular assignment, it will likely be necessary to meet with the TAs in person to discuss the substantive analysis of the problem the TAs will be helping the first-year students with. We recommend reviewing the syllabus as soon as a rough draft is ready and penciling in those times when meetings with TAs will be necessary, as well as times in which it is impossible to do so (during conference periods, for example). Other matters that can be considered in advance include when TAs should be available to visit class, meet with students, grade assignments, or hold office hours. In the middle of a busy semester, it is difficult to juggle everything. It is easy to forget to e-mail TAs about a given task unless the professor has prepared a schedule of sorts in advance. If teaching assistants are not asked until the last minute to meet to find out about the professor's expectations for a particular assignment, the professor might well discover that he does not really have the time to devote to providing proper guidance, or that the TAs are unavailable.

Finally, one of the most difficult aspects of supervising TAs is the fact that the professor is not simply dealing with her own busy schedule. Rather, each teaching assistant is likely to have a host of other responsibilities (courses, journal work, job interviews, and the like) around which the professor will have to plan. We suggest developing a master schedule that includes the following information: (1) the first-year students' class schedules; (2) the professor's office hours; and (3) the TAs' class schedules. If all this material is included on a weekly schedule, the professor can quickly see which TAs are available at any given time. This is invaluable information, particularly when an unexpected need for the help of a teaching assistant arises.

In sum, our most important advice is to start planning all aspects of the course as early as possible and to place the managing of teaching assistants in a higher position on the list of priorities. Nothing is more disheartening to a professor or to the teaching assistants than a program that makes such ineffective use of TAs that it was not really worth hiring them in the first place.

#### *F. Getting Students to Use Teaching Assistants*

One final problem associated with the use of teaching assistants in the first-year class is simply getting the first-year stu-



dents to use the resource. Of course, this is not an issue if TAs are primarily used for checking citations or doing research. However, some professors might choose (as we do) to use TAs more broadly and allow them to serve as effective mentors for the first-year students, thus tracking the lessons of educational theory discussed earlier. TAs help achieve this goal by reinforcing the skills taught in class through (1) answering questions about specific skills or assignments; and (2) meeting individually with students who are struggling in one area or another. These potential benefits will come to nothing, however, if students who could be helped by TAs fail to take advantage of their availability.

As the literature suggests, some first-year students are more inclined to ask questions of a teaching assistant than a professor.<sup>116</sup> But sometimes first-year students are hesitant to ask anybody for help, even TAs.<sup>117</sup> In our experience, first-year students hesitate to use the services of the teaching assistants for two reasons. First, students who are generally doing well in the LWRA class may believe that they have no use for additional help. Second, students (both those who are struggling and those who are not) may be afraid that meeting with a TA will send a message to their fellow students that they cannot perform the work without such help. In the competitive environment of most law schools, this is a stigma most students strongly wish to avoid. Both obstacles can be overcome, however, by directly confronting the concerns of first-year students when explaining the TAs' role.

First, we recommend setting aside a short amount of time in the beginning of the semester and inviting the TAs to come to class. As discussed above, the professor can then explain in very clear terms the role that teaching assistants play in the overall course structure. To encourage the first-year students to look on TAs as a valuable resource, the professor might discuss anecdotal evidence of positive student experiences with teaching assistants from prior years. It is particularly helpful to tell first-year students that both accomplished students and struggling students have found TAs to be good mentors and reinforcers of basic skills.

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<sup>116</sup> See Goldstein, *supra* n. 8, at 469; Topping, *supra* n. 74, at 325 (reporting results of a study that concluded "students felt peer tutors were better than staff tutors at understanding their problems, were more interested in their lives and personalities, and were less authoritarian, yet more focused on assessment").

<sup>117</sup> Of course, a professor could make it mandatory to meet with TAs. Even then, students will likely benefit more if the professor is able to persuade students that teaching assistants are a vital component to the learning process, as discussed below. See *infra* n. 121 and accompanying text.

The professor could also highlight the availability of teaching assistants at odd hours (late evenings by e-mail, for example).<sup>118</sup> Our experience has been that simply telling the students that teaching assistants can be beneficial dramatically increases their use. Moreover, feedback from prior students confirms that the initial introduction to the TAs makes it less daunting for the students to contact them, as the students do not feel they are contacting a “stranger.”

Unfortunately, the students who are struggling are less likely to voluntarily visit a teaching assistant for additional help, as those students may fear that extra individualized attention will signal to fellow students that the struggling student is not as capable as his or her classmates. This problem is often best addressed during a conference with the student. Depending on the type of problem a student is having, we have suggested or even required the student to work with a TA on skills such as small-scale organization, targeted research skills deficiencies, or citation problems.<sup>119</sup> During the meeting with the student, the professor can remind the student that there are advantages to working with a TA, that many students have worked individually with a teaching assistant, and that most have found the experience quite beneficial. If the professor has more than one TA, the first-year student can be asked which TA he would prefer to work with, and whether he would like to have the TA e-mail him to set up an appointment.

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<sup>118</sup> As mentioned in Section III(C), the professor should ensure that students are aware of the limits on TA availability.

<sup>119</sup> Requiring students to meet with TAs is not cost-free. First, the professor must consider whether some sort of penalty will be imposed if the student does not attend a TA meeting, and what that penalty should be. We have never had a student refuse to meet with a TA, but certainly such a situation could arise. This could be especially problematic in pass/fail LWRA courses (like ours), where students' incentives to perform to the limits of their ability can conflict with the demands on their time raised by graded casebook classes. To us, threatening to fail a student simply for failing to meet with a TA is excessive, and, in any event, is not particularly credible. Moreover, deducting a point or two from a student's assignment or class participation grade might not effectively motivate a student whose work is already not living up to expectations or who has made the choice to “punt” LWRA in order to devote more time to graded casebook courses.

Second, the student/TA dynamic changes when the student is forced to meet with a TA. The student might well only attend such a meeting reluctantly, which in turn will likely reduce the meeting's effectiveness. Further, students may view the TA less as a peer or mentor, and more as a surrogate for the authoritarian professor who required the meeting in the first place. See Bruffee, *supra* n. 29, at 76 (“In required tutoring, the tutor's relationship with tutees is almost exactly the same as a teacher's. Required tutoring is not an alternative to classroom learning. Required tutoring is an extension of classroom learning.”). These considerations do not deter us from requiring students to meet with TAs when necessary, but they do counsel some caution before deciding to do so.

Our experience is that a first-year student is much more likely to follow through and use the help offered by a TA if the TA makes the initial contact. Finally, if it becomes necessary to require a student to work with a TA, follow-up will be essential. After making sure the student actually met with a TA, the professor can then ask whether the student found the experience helpful, and if not, why. If necessary, the professor could encourage or require a second meeting with a TA, or assign the student a new TA.

One final way to ensure the use of TAs by all students is to constantly remind the first-year students of the TAs' existence. For example, any time TAs have office hours, the professor should remind students in class and by e-mail. Whether speaking to the class as a whole or to individual students, the professor's goal is to encourage first-year students to find a TA that they can work well with and to develop a relationship with that TA.

In sum, the easiest way to get first-year students to use TAs is to encourage them to do so. Letting them know it is common practice takes away any possible stigma. When students see the TAs as a normal, integral part of the first-year LWRA class, many students will happily use the resource.

## CONCLUSION

We trust that our reasons for writing this Article have not been misinterpreted. By discussing the problems that can sometimes occur when using teaching assistants, we do not mean to suggest that the relationship between professor and TA is little more than trouble waiting to happen. Our relationship with our TAs is one of the most rewarding aspects of our jobs. Our teaching assistants bring a refreshing blend of zeal, idealism, intelligence, and youth, all of which help us immeasurably in fulfilling the *raison d'être* of our profession: teaching first-year law students how to succeed in practice. The literature on pedagogical theory surveyed in this Article confirms what we already knew from experience: First-year students learn more, and more efficiently and effectively, when TAs serve as a bridge between professor and first-year student.<sup>120</sup> Thus, we heartily affirm the quote that leads off this Article: We "couldn't do it without" our TAs.<sup>121</sup>

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<sup>120</sup> See *supra* pt. II.

<sup>121</sup> See *supra* n. 5 and accompanying text.

But as practicing attorneys and law professors know all too well, nothing ever works perfectly. Glitches are inevitable, some minor, some more important. Preparation goes a long way toward ensuring that any issues that do arise with TAs fall within the former category. Based on our experience, the potential concerns we have identified in this Article can be minimized with a little extra advance effort by the professor. By explaining to the teaching assistants exactly what the professor wants them to accomplish, providing them with sufficient instruction to allow them to carry out their duties, and being available to answer questions or otherwise solicit feedback about whether the TAs are achieving the desired goals, professors can best ensure that the TAs live up to expectations. Professors have any number of ways to provide suitable guidance to TAs, whether through extensive written instructions or e-mail exchanges; regular meetings to discuss assignments, expectations, and TA questions; occasional group meetings for important assignments; or any combination thereof. On occasion, of course, problems will arise, and the professor's credibility might be on the line as a result. Such a situation demands a quick response that both alleviates potential first-year confusion and clarifies how the TAs are expected to perform. Doing so will help maintain a smooth relationship between professor, first-year students, and TAs. Our hope is that this Article has provided a roadmap to effective realization of the numerous benefits TAs can offer the LWRA curriculum—those benefits recognized in theory and borne out in practice.

# Essay

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