

RAISING THE BAR

EVIDENCE-BASED THINKING ABOUT THE BAR EXAM

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FROM THE DIRECTOR

For many, the professional status of being an attorney (or physician, professor, or engineer) enables a life with minimal challenges to one's private existence. In fact, many of us may have pursued the law as a means of achieving a quality of life better than that of our parents or family of origin. In our daily engagement, professional status casts a shadow over all our interactions. One might notice this through the change of posture in an acquaintance when disclosing that you are an attorney, or in the innate confidence that emerges when challenging circumstances arise. When the total benefits of our station exceed the economic gains, does this mean that we ought to provide service beyond our daily work?

Medieval attorneys and doctors were deemed to be part of the *profession libérale*. These were professionals trained in the liberal arts – a curriculum named for the Latin *liberalis* (free) and *artes* (a trained skill). The liberal in liberal arts did not refer to our modern political binary, a contrast with “conservative,” but instead signaled a broader way of thinking – a contrast to a life of subjugation for the untrained. Being trained in the liberal arts transformed an individual into a free thinker and simultaneously offered a broader understanding of the world, marking an individual as a free member of society.

With that membership came a duty to engage in the same transformational process – the project of freeing others' thinking. Medieval professionals held a duty to free, or liberate, the subjugated minds of those around them. They were bound to engage and

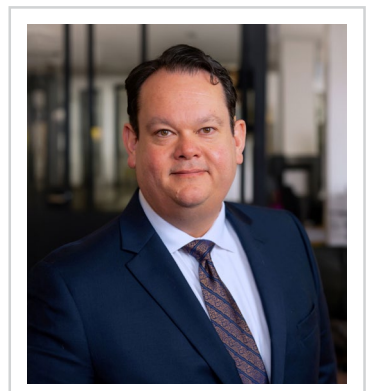
improve society in their formal duties and informal interactions. Indeed, the intense training in the liberal arts and the law served as the consideration for assuming a life-long role as a professional.

Today, as many of us benefit from a professional status that shields us from many challenges and discomforts of society, I hope you might consider those without these protections. How might your professional status benefit those without status? As you consider ways to leverage your law license to liberate others from their loads, I encourage you to consider how you might join us in achieving a targeted version of this goal. AccessLex Institute® is committed to increasing access to the legal profession, from admission to law school to admission to the bar. We focus our work on today's law students navigating a world unlike the one in which we received our legal training or acquired our license to practice. Whether learning more about the [LexScholars program](#), applying for the professional development opportunity of the [PLEDGE program](#), or joining our [Module Building Teams](#) to equip current law students for a new, practice-based, bar exam, I hope that you will reach out and engage on any of these fronts as a trained attorney. In this way, I look forward to all of us going medieval as attorneys and learned professionals.



Joel Chanvisanuruk, M.P.A., J.D.

Senior Director, Programs for Academic and Bar Success
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DISTINGUISHED COMMENTARY

Emotional Intelligence, Belonging, and Critical Thinking

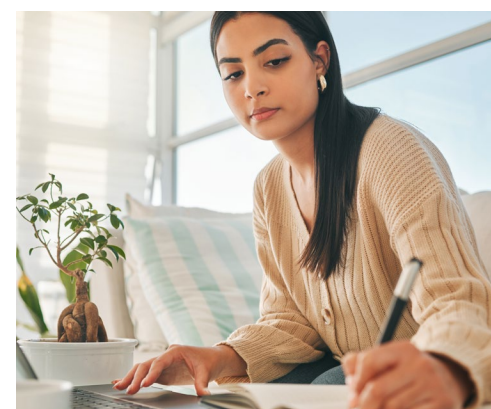
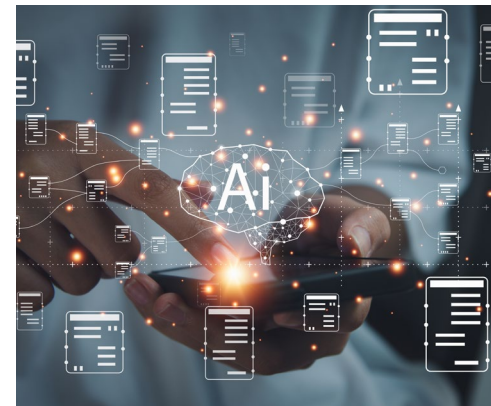
Camesha Little is an Assistant Professor of Law at University of Detroit Mercy School of Law.

In today's rapidly evolving legal landscape, the integration of generative AI, such as ChatGPT, is transforming the way legal professionals work. While AI offers numerous benefits, it also presents challenges to the legal profession, particularly in the realm of social, humanistic, and critical thinking skills. As legal educators prepare new lawyers to thrive within a changing legal landscape, we face the urgent challenge of fostering practitioner well-being and inclusivity.

We desperately need to cultivate and prioritize reflective thinking and writing while training legal practitioners. It is paramount that legal practitioners retain social, humanistic, and critical thinking skills.

The ABA requires law schools to incorporate professional identity training to equip students with self-awareness, self-regulation, empathy, and other humanistic skills. The current law school curriculum often falls short in fostering these skills. Traditional legal instruction often prioritizes strict conformity to doctrinal knowledge, potentially stripping learners of their authenticity and unique perspectives.

There is also a mandate from the ABA for law schools to maintain a commitment to diversity and inclusion. This mandate explicitly includes creating inclusive law school learning spaces, which can combat a hostile learning environment that neglects the humanistic aspects of legal practice. Many law schools have been working to create spaces of belonging and develop strategies that promote inclusion in the law school environment. This work continues to be imperative because the legal profession continues to struggle to provide access to justice for all people in our communities and to diversify the legal profession. To address these gaps, legal education must be reimaged.



By integrating reflective thinking and writing practices into doctrinal classrooms, we can foster a holistic approach that not only builds legal expertise but also nurtures the emotional intelligence and professional identity development essential for thriving in the modern legal landscape.

Reflective thinking and writing techniques can support the development of emotional intelligence by enhancing both self-awareness and social awareness. Additionally, journaling can help law students clarify their values, identities, and beliefs while simultaneously fostering a sense of belonging and inclusion within the legal community.

There are several benefits of using reflective thinking and writing techniques. By documenting their experiences, challenges, and growth, students can gain insights into their professional development and connect with others who share similar paths.

Reflective thinking and writing can take many forms, including journaling, self-reflection prompts, and group discussions. By providing students with opportunities to reflect on their experiences, we can help them develop the human skills necessary for success in the modern legal world.

Integrating reflective thinking and writing into legal education is an investment in the future of the legal profession. By cultivating human skills alongside technical proficiency, we can shape a new generation of lawyers who are not only knowledgeable but also compassionate, resilient, and committed to serving the needs of their clients and society.

RESEARCH SPOTLIGHT

Mistakes Fuel Learning: Utilizing Mistakes as Tools in the Law School Classroom

Elissa Jacob is the Assistant Director of Academic Success at South Texas College of Law. This piece is a summary of her article, [Mistaken About Mistakes: Error Analysis as an Untapped Tool for Law School Success](#), 45 Pace Law Review (forthcoming 2024).

Our understanding of the brain and how it learns is constantly evolving and progressing. Other educational systems have slowly begun to acknowledge that once-heralded educational practices do not compute with what we now understand about the science of learning. Unfortunately, law schools are often among the last to adopt helpful new teaching practices.

Accordingly, this article advocates for legal educators to benefit from research on how the brain learns from mistakes. Historically, American educators have conveyed the idea that mistakes endanger learning and are to be avoided at all costs. However, new studies have shown students can learn exponentially more from error-guided learning than error-avoidant learning. This article proposes new approaches towards handling mistakes in law school that are supported by this better understanding of the brain. First, this article explains how the brain learns from mistakes. Then, it proposes a three-step model to most effectively help students learn from mistakes: establishing healthy mindsets towards mistakes, selecting specific errors to learn from, and delivering carefully crafted feedback interactively.

Biologically, mistakes hack learning. When we make (and realize) our mistakes, our bodies release adrenaline and withhold dopamine. The increased adrenaline and our brain's disappointment in not receiving expected dopamine help to cement the event of making the mistake in our mind, resulting in better memory of the concept. These chemical reactions to errors explain why making mistakes and correcting them result in longer retention than merely being exposed to right answers.



The first step in applying this concept in the legal classroom is to promote healthy mindsets regarding errors. This article delves into the many psychological, cultural, and educational reasons why students tend to ignore their own failures instead of reaping their many potential learning benefits. To combat these barriers, educators must promote a growth mindset, a belief that abilities can be improved, over a fixed mindset, a belief that mistakes are innate and unchangeable. This article further provides studies and insight on why a growth mindset is crucial for both students and their professors. Likewise, the article also gives practical suggestions on when in the semester legal educators should discuss mistake making and what language they should use when doing so.

The next step is to carefully guide the error process. Some mistakes are more beneficial to the learning process than others. One example of this is that research shows students learn significantly more from their own mistakes than from analyzing simulated errors or peer grading. Likewise, research also supports the idea that we should allow our students to attempt problem solving on their own before demonstrating the correct way to apply concepts they have studied. Along with describing several other examples of superior error strategies, this article also illustrates how to guide these specific kinds of errors in class discussions, teaching essay writing, and working through multiple-choice questions.

The last step in the process is to provide carefully constructed interactive feedback. An uncorrected mistake holds no benefit. Frustratingly, students rarely adequately interact with feedback. Not only do they oftentimes fail to read it altogether, but also often do so in a cursory way without working to determine the underlying cause of the mistake and how to avoid making it again. This article gives examples of activities to facilitate interactive feedback and walks through the five components of what it should address.

While education, and legal education in particular, has much progress to make in utilizing scientific developments, the science of learning from mistakes is one area that is ripe for implementation in the law school setting. The human brain is designed to learn and benefit from mistakes. Through adjusting mindsets towards mistakes, strategically focusing on certain types of errors, and interactive purposeful feedback, legal educators can tap into the hidden potential of mistakes.

ORGANIZATION UPDATE

Helix Bar Review's In-School Programming

Allie Robbins is the Managing Director of Institutional Partnerships for Helix Bar Review by AccessLexSM.

On the heels of developing a new model for bar review, Helix Bar Review by AccessLexSM also developed academic and bar support programming for use prior to graduation. All our programming is skills-focused and centered on helping students succeed in law school and on the bar exam. Our goal is to help students become self-regulated learners who continue to use their metacognitive skills throughout their legal career (because we know that lawyers are lifelong learners).

Helix began offering in-school programming to law schools during the 2022–23 academic year, and we've significantly expanded our offerings each year since then to include courses and resources for law students at every step of the law school journey, from pre-law through graduation. All our in-school programming offerings are developed and supported by the Helix Academic Programs and Partnerships Team, each of whom have worked several years in academic and bar support roles in law schools. Consequently, everything we do is designed through an academic support lens with best pedagogical practices in mind.



The centerpiece of our in-school programming resources is the final semester pre-bar course, and it is a great example of what makes our in-school programming so effective. Like all of Helix's in-school programming, the pre-bar course is customizable. This lets us work with each school to meet their specific needs. For some, we run the class entirely asynchronously. For others, we provide the structure, scaffolding, learning and practice materials, and grading support – so law schools can focus on in-person instruction and in-the-moment feedback. No matter how we work with a school, our goal is to support existing academic and bar support programs and educators. They know their students best, and those relationships are integral to their students' bar success.

The aim of all our in-school programming is to help students develop a strategic approach to studying and exam-writing. The pre-bar course further helps students develop a strategic approach to each type of question they will encounter on their particular bar exam – whether UBE, California, Florida, or NextGen. We use some of the most frequently tested doctrine to teach and practice test-taking and self-regulated learning skills, while also supporting students with tools to develop a realistic study plan and to actively engage with the material to internalize and memorize it for ready access during the bar exam. We do this through spaced repetition, interleaving, and continuous practice and reflection. Each week requires students to read outlines, watch videos, complete practice questions, and engage in reflection that is both backward and forward-looking.

We know the transition from studying in law school to studying for the bar can be difficult for many students. After just (or just barely) getting comfortable learning from cases and Socratic dialogue, students must switch to learning from videos, outlines, and practice questions. This transition can be frustrating and overwhelming – but one better completed while still in law school, so students can build confidence and lay a foundation of skills critical to bar success before starting bar study in earnest.

To that end, the core of our pre-bar course is practice questions. Law students typically view practice questions as a last-ditch predictive tool for answering the question that's



always top of mind: “How will I do on the exam?” Helix programming realigns and recalibrates how practice fits into their study plan, teaching law students to view doing practice tests (and review of the answers) as a highly effective method of learning what they need to learn to pass the bar exam. We all know – but they don’t, yet – that every essay, performance test, or set of multiple-choice questions they do provides them with critical information they need to continue to improve throughout bar study and to consistently perform on the bar exam. By doing the work of the pre-bar course, they can see for themselves how powerful practice questions are – and are more likely to continue that work during post-grad bar study.

Because we understand the high value of practicing each component of the bar exam, we require students to reflect on every practice set they do. In that process, students examine what they learned about (1) doctrine, (2) their test-taking strengths and weaknesses, (3) how bar examiners test various material, and (4) what specific action steps they will take, when they approach the next set of practice questions, to improve their performance. Students also complete self-assessment logs, with pointed prompts designed to help them critically assess the questions they just completed and to line out the specific action steps they’ll take to improve on future sets. Finally, we ask students to respond to weekly journal prompts designed to help them constantly connect what they are currently doing with what they’ve done before, and then connect both with what they will do next. We want students to always be looking – and moving – forward.

The feedback we provide is likewise designed to keep students moving forward. We grade on a three-point scale: below passing, near passing, and within passing range.¹ This lets students get a quick snapshot of how close or how far they are from writing a passing essay or performance test, without getting too caught up in a specific number. From our prior experience supporting bar takers in our own law schools, we know that students often get stuck on specific “grades” – whether that’s on a 100-point or six-point scale, or anything in between, especially as compared to the scores their friends received on the same essay or performance test.

¹ For our California courses, we grade on a 4-point scale: not passing, nearly passing, passing, and above passing.

Instead, we want students to focus on the actual feedback. So, we structure the feedback into three categories: the substance of the assignment, the structure of their writing, and tips for moving forward. The substance section may discuss facts that they missed, or exceptions they forgot. We often provide the most comments in the structure section, as we know that the bar examiners grade quickly, and answers need to be clear and well-organized to earn sufficient points. Finally, the moving forward section provides students with some suggestions for the next time they approach an essay or performance test.

This approach to feedback – along with every facet of our in-school programming – is designed to further our goal to help students develop a growth mindset. We know people learn better when they approach new challenges with a growth mindset – and we also know law school tends to exacerbate students’ fixed mindsets. Adopting and developing a growth mindset prior to graduation lets students build the confidence to risk making mistakes – and the habit of looking for and applying the lesson learned from each mistake – so they are better equipped to fully embrace the practice opportunities that are integral to successful bar study after graduation.

We’ve already seen concrete evidence this approach is resonating with students in the arena most important to all of us: bar exam success. We helped one school increase their bar passage rate by nine percent by using our materials and grading services as part of their two-credit 3L pre-bar course, as well as by providing additional grading during the bar study period. Another school’s students who completed a one-credit MBE course passed the bar at a rate of 93%, outperforming the school’s overall pass rate. Yet another school, also using a two-credit iteration of our pre-bar course, posted the highest bar pass rate in their state – a full nine percentage points above the state average. We are extremely proud of these results and look forward to working with more law schools in the future.



CONFERENCE CORNER

- [Association of American Law Schools Annual Meeting](#) (January 7-11)
- [American Educational Research Association Annual Meeting](#) (April 23-27)
- [Conference on Clinical Legal Education](#) (April 26-29)
- [Association of Academic Support Educators Annual Conference](#) (May 21-22)
- [American Association of Law Libraries Annual Meeting](#) (July 19-22)

Please email [**RTB@accesslex.org**](mailto:RTB@accesslex.org) about upcoming bar-related conferences.

PUBLICATIONS AND POSTS

- Steven Foster & Nachman N. Gutowski, [*Breaking the Cycle: Rethinking Bar Exam Scoring and Portability for NextGen Examinees*](#) (2024).
- National Conference of Bar Examiners, [*NextGen Research Brief: Field Test*](#) (2024).
- Jacquelyn Petzold & Meera E. Deo, [*Increasing Law Student Belonging: Student Services Professionals as Cultural Navigators*](#) (2024).
- Karen Sloan, [*No Bar Exam? Utah Considers It*](#), Reuters (Nov. 5, 2024).

Please email [**RTB@accesslex.org**](mailto:RTB@accesslex.org) with recent and forthcoming bar-related publications, posts, and podcasts to be included in future issues of *Raising the Bar*.

RESOURCES FOR LEGAL EDUCATORS AND LAW STUDENTS

Research and Data

- [AccessLex Resource Collections](#)
- [Analytix by AccessLex®](#)
- [Legal Education Data Deck](#)

Student Resources

- [AccessLex® Law School Scholarship Databank](#)
- [AccessLex® Student Loan Calculator](#)
- [MAX by AccessLex®](#)

Please email RTB@accesslex.org with information about resources for faculty and students in your jurisdiction.

Research Fellowships, Grants, and Partnerships

- [AccessLex Bar Success Intervention Grant Program](#)
- [AccessLex Bar Success Research Grant Program](#)
- [American Association of Law Libraries \(AALL\)](#)
- [Bar Exam Success Analyses Program](#)
- [Professionals in Legal Education Developing Greater Equity \(PLEDGE\) Initiative](#)

ASP and Bar Success Resources

- [ABA Bar Information for Applicants with Disabilities](#)
- [AccessLex Building Bar Skills Modules](#)
- [CALI Lessons](#)
- [JDEdge by AccessLex®](#)
- [NCBE Bar Admission Guide](#)
- [NCBE Bar Exam Fundamentals for Legal Educators](#)
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Joel Chanvisanuruk, Senior Editor

Fletcher Hiigel, Managing Editor

Rob Hunter, Staff Editor



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