

Expert Learning  
for  
Law Students



# Expert Learning for Law Students

SECOND EDITION

Michael Hunter Schwartz

WASHBURN UNIVERSITY SCHOOL OF LAW

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# Preface

For years, law professors, law schools and even the Law School Admissions Council (the creators of that bane of every aspiring law student's life, the LSAT) have known that a student's LSAT score and undergraduate grades do not really tell you whether the student will succeed in law school. Some law students who have high LSAT scores and excellent undergraduate grades fail out of law school. Some law students who have lower LSAT scores and lower undergraduate grades graduate at or near the top of their law school classes. And some students who study incredibly hard still do poorly in law school. If one were to look only at the entrance credentials and effort level of these groups of students, one might be baffled by these outcomes. Looking at how these students studied and learned law, however, clears up the confusion.

The successful students studied differently. Not harder, but differently. The successful students were, as we will see, "Expert Learners." Ask any law professor and she will tell you—we can spot expert law students from miles away. Some students just seem to be better at being law students. These expert learners approach their law studies with confidence, resourcefulness, diligence and planning. They are in control of their own learning, figuring out for themselves what they need to do to learn law. They know when they understand and know when they need help, and they even prepare better for meetings with their professors and ask better questions. They do better in law school than their peers, seem to have an easier time of it, and enjoy the experience more.

We law professors can cite countless examples of students who were either much better or much worse at being law students than their peers. We know that the students who are better at being law students do better in law school, and we even can describe the characteristics typical of the better students. The fact that we know all of this, however, has been largely irrelevant over the 110-year history of legal education. It's as if we all had agreed that expert law students are simply born that way and that students cannot be taught to be experts.

Meanwhile, the rest of the educational world has been investigating expert learning. In fields as diverse as medical education, graduate statistics education, undergraduate education and even K–12 education, researchers have been discovering not only that expert learning skills predict student outcomes, but also that students can be successfully taught to be expert learners. As a result, instructional programs designed to teach students to be expert learners have popped up in colleges, graduate programs, undergraduate schools, and high schools. Legal education, however, has entirely ignored this important research—until now.

Until Summer 2001, I was like every other law professor in this country. I enjoyed the expert law students. I tried to tell all my students to do what I perceived the expert students to be doing and had no success whatsoever in getting the novices to act like ex-

perts. In Summer 2001, I was granted a leave of absence from my teaching obligations and was given the resources to figure out what makes the expert students expert, whether novices can be taught to be experts, and how to teach the novices to be experts.

This textbook and the accompanying workbook are the result. This project, in many ways, has a singular message to you, its readers: you can be an expert learner of the law!

The text is organized into two parts. Part I provides background information about law school, about how humans learn and about expert learning. It then explains how to perform each aspect of expert learning and helps students become experts in their own learning preferences. Part II focuses on specific learning strategies needed by new law students.

You may want to re-read certain chapters in Part II of this book once you have started law school. For example, Chapters 12 and 13, dealing with strategies for organizing and memorizing, will be helpful once you have attended a few classes and need to begin making sense of all the new material you are learning. Likewise, Chapters 14 through 17 will ease your transition into writing law school exams and papers but may be most meaningful to you once classes have started.

All of the chapters conclude with a list of references you may find helpful and a set of reflection questions designed to help you make what you are learning become a part of who you are and develop the high-level self-reflection skills that expert learners possess. The reflection questions are reproduced in the workbook with space for you to respond. By responding to the questions you will gain the particular insights possible only when you are forced to put your thoughts in writing. Beginning with the skills addressed in Chapter 5, the workbook has exercises that you can do on your own to begin developing your expert learning skills. Those exercises are organized and numbered by chapter. For example, the exercises relating to Chapter 5 are labeled 5-1, 5-2, 5-3, etc.

Readers familiar with the first edition of this book will notice that the core ideas developed in the book have not changed. At the same time, writing a second edition allows an author to try to improve upon the first edition. Accordingly, the second edition reflects the following changes:

- The edition corrects typos and other, similar errors in the first edition about which I remain embarrassed to this day.
- The edition places greater emphasis on each student personalizing the strategy suggestions in the book by adapting the suggested strategies to address the student's learning style, personality type, and, most importantly, the student's results in law school and evaluation of the causes of those results.
- The edition includes additional materials designed to help students deal with law school stress and reflecting the insights for ameliorating that stress developed within the Humanizing Legal Education movement.
- The edition includes additional materials on time management and on avoiding procrastination.
- The edition contains revisions to the discussion on case reading to reflect recent research.
- The edition adds a short, new section on using color as a memorization tool.
- The edition includes a revised discussion of how to apply rules to facts and how to apply and distinguish cases.

I hope readers perceive these changes as improvements and welcome feedback either way.

Of course, no preface is without a thank you or two. I therefore wish to thank my wife, Dr. Stacey Hunter Schwartz, for pointing me in the right direction and giving me

the support I have needed to get there, my daughters, Kendra and Samantha, for being the amazing humans they are, and my deans at Western State University College of Law, Maryann Jones and James Hogg, for the opportunity to blaze a trail where none existed. I also appreciate the opportunities I have had, at Western State and now at Washburn University School of Law, to develop programs based on the ideas in this book. Finally, I owe a thank you to the many readers who provided suggestions, edits and helpful comments during the process, including Professor Gerry Hess of Gonzaga University School of Law, Professor Vernellia Randall of Dayton University College of Law, the following former colleagues at Western State, Professors Carole Buckner, Glenn Koppel, Constance Hood, Susan Keller, Niccol Kording, Paula Manning, Kevin Mohr, Brent Romney and Greg Sergienko, and my research assistant at Washburn, Karin Tollefson.

Michael Hunter Schwartz, April 2003, May 2008