I. ABSTRACT

In the rough and changing landscape of the legal job market, legal employers have called on law schools to prepare “practice ready” attorneys—newly minted members of the bar with better honed practical skills than the first year lawyers of the past. The increasing emphasis on legal skills sheds light on an interesting paradox within legal education; in legal skills courses—those that best lend themselves to active learning experiences— instructors frequently fill valuable classroom time with passive lectures to convey the related theory and best practices. Recently, several legal skills instructors have adopted a flipped classroom model to remedy this paradox by using commonplace technology to make concise lecture videos available online for students to view on their own time, creating additional classroom time for active skills development under the supervision of an experienced instructor.

This Article presents an assessment of the literature and limited empirical studies on the effectiveness of using a flipped classroom model in higher education courses. After discussing the pedagogical and learning benefits of flipped classrooms, it then advocates for at least the partial implementation of a flipped classroom model in legal skills courses to create more opportunities for active learning with the expectation of similar increases in student performance that have appeared in other areas of higher education.

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2 See discussion infra Part III.A.
II. INTRODUCTION

“Rightsizing.”3 “New normal.”4 “Market correction.”5 “Practice ready.”6 Buzzwords abound in news stories about the changing landscapes of the legal profession, its job market, and legal education since the economic downturn in 2008; few buzzwords are more popular than “new normal” and “practice ready.”7 While the fuzziness of the “new normal” is beginning to sharpen, there has never been any ambiguity in the call for law schools to produce more practice-ready attorneys. Law firms and other legal employers no longer want to spend the time and money to teach new lawyers the fundamental skills of law practice.8 Instead, they are calling on law schools to place a greater emphasis on teaching law students how to be lawyers, not just how to think like lawyers.9 Law schools are

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7 See, e.g., Fleischer, supra note 4; Neil, supra note 1.
answering the call, and across the nation schools are expanding their offering of legal skills courses and beginning to place greater emphasis on skills development.\(^\text{10}\)

Overhauling a school’s curriculum to introduce intensive small group instruction on writing, research, and lawyering skills,\(^\text{11}\) or requiring participation in a clinic\(^\text{12}\)—both curricular “innovations” some schools have practiced for decades\(^\text{13}\)—indicates that not only are law schools giving students more options to prepare for practice by voluntarily taking elective skills courses, but also many law faculties are realizing that skills instruction must be more fully embedded in the law school experience.

In all the discussion of preparing practice-ready graduates, little mention has been made of the ways in which these legal skills courses are being taught. Any U.S. lawyer can tell you that legal writing and research instruction usually involves in-class lectures and out-of-class writing or research assignments.\(^\text{14}\) Similarly, other lawyering skills courses may contain lengthy lectures, although some part of the class time is saved for role-playing or participatory exercises.\(^\text{15}\) However, ask a law student how they would like these courses to operate and you will likely hear that, ideally, the expert instructors would spend as much time as possible giving them personal attention or small-group coaching in order to guide them through their skills development. Such guidance is similar to the

\(^{10}\) See Fleischer, supra note 4.

\(^{11}\) See Brian Kelley, Law School Launches New Program, WM. & MARY L. SCH. (Jan. 9, 2013), http://www.wm.edu/news/stories/2013/law-school-launches-new-program123.php (announcing William & Mary Law School’s new Legal Practice Program, designed to introduce students to lawyering skills in their first and second years).


\(^{13}\) See Curriculum & Course Descriptions, CITY U. N.Y. SCH. L., http://www.law.cuny.edu/academics/courses/curriculum.html (last visited Oct. 3, 2014) (describing CUNY School of Law’s lawyering skills program and clinical requirement that has been in place since the school’s founding in 1983). See also Barbara L. Bezdek, The CUNY Law Program: Integration of Doctrine, Practice, & Theory in the Preparation of Lawyers, 9 J. OF PROF. LEGAL EDUC. 59, 60, 63, 66–68 (discussing the early clinic and concentration programs).

\(^{14}\) See discussion infra Part III.C.

personalized attention that experienced attorneys give to new hires to help
them learn necessary skills on the job. But on-the-job legal training
ordinarily lacks the depth of understanding achieved by assigning readings,
delivering lectures, and engaging in group discussions.

Until the advent of online learning, the lecture, discussion, and
coaching components all required face-to-face interactions between
students and instructors, usually during class time or office hours. Many
law professors have already moved some of these components online,
requiring students to engage in discussions through forums on the course
website or evaluating their students’ oral advocacy, negotiation, or client
counseling skills by commenting on digital video recordings created by
students. Through the use of existing technologies such as screen
recording software, YouTube, and online learning management systems
like Blackboard or TWEN, legal skills instructors have begun
experimenting with a “flipped classroom” model to move the delivery of
lecture materials online, dedicating the freed class time to skill-building
and active learning opportunities.

The desired result of any legal skills course is to aid law students in the
development of strong skills through understanding, practice, and mastery

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16 Gerald F. Hess, Principle 3: Good Practice Encourages Active Learning, 49 J. LEGAL
EDUC. 401, 413 (1999).
17 Rachel M. Zahorsky, Drexel University’s Law School Takes Practical Training
Online and Nationwide with its LawMeets Course, A.B.A. J., Jan. 2013, at 28. The
LawMeets platform that “allows users to [video record] themselves acting out responses to
various client-based legal scenarios” with the videos “reviewed on the Web and voted on by
other participants.” Id. Afterward, “an expert video response is unlocked, providing the
correct analysis by a professor or practicing lawyer.” Id. See also MediaNotes for
(MediaNotes is “a video-annotation tool that lets learners and mentors mark up videos with
tags and notes to identify strengths and areas of improvements”).
18 See Aaron Dewald, Blending the First-Year Legal Classroom, LAW SCH. ED TECH
(Dec. 18, 2012, 10:00 AM), http://law schooledtech.classcaster.net/2012/12/18/blending-
the-first-year-classroom/; Sdemaine, Flipping the Classroom for IL Legal Research
Angela Upchurch, Optimizing the Law School Classroom Through the “Flipped”
Classroom Model, 20 LAW TCHR. 58, 61 (2013). See also BLACKBOARD,
19 See Upchurch, supra note 18, at 60.
of that skill.\textsuperscript{20} Adopting a flipped classroom approach allows lawyering skills faculty to maximize the degree of in-depth instruction, the amount of practice students do under the instructor’s guidance, and the number of opportunities for students to engage in learning activities in the classroom.\textsuperscript{21}

Flipped classrooms may be considered the new trend in education,\textsuperscript{22} but the approach has the potential to create much needed in-class time for faculty to work with students on developing the practice skills they are now expected to have upon graduation.\textsuperscript{23} Because it is a new teaching tool, faculty may be skeptical to adopt it without first knowing it has worked successfully in a similar setting. Part III of this Article explains the flipped classroom pedagogy, recounts the CUNY School of Law library faculty’s experience with flipping their first-year legal research course, and discusses the findings of the limited literature on the use of a flipped classroom model by early adopters in non-legal higher education because articles reporting on law school flipped classrooms are just beginning to appear.\textsuperscript{24} Part IV focuses on the pedagogical and learning benefits that have been found by these adopters and suggests ways in which instructors can take advantage of these benefits,\textsuperscript{25} while Part V explores how legal skills instructors can take advantage of these benefits to enhance the active learning experiences available to students and better prepare them to be practice-ready attorneys upon graduation.\textsuperscript{26} Part VI addresses some concerns that faculty who are considering adopting this model may have, provides guidance on how to approach flipping a legal skills course, and suggests some instructional material and active learning experiences that legal skills faculty can introduce when flipping particular types of courses.\textsuperscript{27}


\textsuperscript{21} See Upchurch, supra note 18, at 59–60.


\textsuperscript{23} See Silecchia, supra note 20, at 251.

\textsuperscript{24} See discussion infra Part III.

\textsuperscript{25} See discussion infra Part IV.

\textsuperscript{26} See discussion infra Part V.

\textsuperscript{27} See discussion infra Part VI.
III. THE USE OF FLIPPED CLASSROOM IN HIGHER EDUCATION

A. How the Flipped Classroom Works

A flipped classroom, sometimes referred to as an “inverted classroom”28 or “flipped learning,”29 has two defining features: (1) students independently engage with new instructional material before a class session at a time and place of their choosing, ordinarily via the Internet,30 and (2) classroom time is primarily spent working on active learning experiences or projects, often in small groups, with the instructor available to provide guidance and answer questions.31 A popular approach to flipping the classroom is to stream online lecture videos for students to view before class, along with other preparation.32 Instead of lecture videos, some instructors use audio podcasts to flip their classes33 and may provide PowerPoint slides for students to view while listening. Other faculty embed audio clips into PowerPoint files that play each time a new slide is displayed and then post these files to the class website.34

In class, the time that was dedicated to lecturing is instead spent briefly recapping the material to ensure student understanding, followed by working on the skills exercises that traditionally were homework but are now done under the supervision of the instructor—hence “flipping” when and where the lecture and homework occur.35 In those legal skills courses where homework exercises are not ordinarily assigned, instructors can introduce new practical skills development activities or increase the time devoted to in-class skill building.

31 Id. See also JONATHAN BERGMANN & AARON SAMS, FLIP YOUR CLASSROOM: REACH EVERY STUDENT IN EVERY CLASS EVERY DAY 14–16 (Jeff V. Bokan et al. eds., 2012).
34 See, e.g., Lage et al., supra note 28, at 33.
In order to keep students’ attention, most adopters of the flipped classroom model agree that instructors should keep videos short. Research has shown that in a typical presentation, audience members’ attention lasts an average of fifteen minutes or less. Some classroom flippers suggest keeping videos shorter than ten minutes each, and attention experts agree. Shortening a lecture to under ten minutes sounds challenging, but instructors may be surprised to find how many minor points from the readings are redundantly included in lectures. As human brain development expert Dr. John Medina explains, “[r]elating too much information, with not enough time devoted to connecting the dots” is the most common communications mistake. If a lecture cannot be reduced to fewer than ten minutes, the topics can be separated into multiple shorter videos.

As for creating the videos, some instructors choose to use a video camera or lecture capture system to record lectures delivered in a classroom. A more popular approach is to use screen-casting software to record a PowerPoint presentation as it appears on a computer screen while the instructor or another narrator reads a script as a voiceover. Many instructors require students to complete an online quiz or participate in an online discussion before coming to class, to ensure students are watching the online videos and doing the assigned reading.

The in-class component of a flipped classroom can take on many forms depending on the learning objectives for that segment of the course.

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36 See Sarah Zappe et al., “Flipping” the Classroom to Explore Active Learning in a Large Undergraduate Course, AM. SOC’Y FOR ENGINEERING EDUC. (2009).
38 See BERGMANN & SAMS, supra note 31, at 44. See also Upchurch, supra note 18, at 62.
39 See MEDINA, supra note 37, at 120.
40 Id. at 119.
41 See Upchurch, supra note 18, at 62.
42 See id. at 61.
43 See Jacqueline E. McLaughlin et al., Pharmacy Student Engagement, Performance, and Perception in a Flipped Satellite Classroom, 77 AM. J. PHARMACEUTICAL EDUC., no. 9, 2013, at 2 [hereinafter Pharmacy Student Engagement].
44 See BERGMANN & SAMS, supra note 31, at 38. See also Upchurch, supra note 18, at 59.
45 See Christopher Papadopoulos & Aidsa Santiago Roman, Implementing An Inverted Classroom Model in Engineering Statistics: Initial Results, AM. SOC’Y FOR ENGINEERING EDUC. (2010); Zappe et al., supra note 36; Upchurch, supra note 18, at 59.
Ordinarily, instructors begin their class by asking students for any questions about the material discussed in the videos and readings. Answering questions sometimes involves instructors launching into mini-lectures that review the specific material being asked about. Other classroom flippers begin with a short review of the content covered in the videos and readings, briefly highlighting major points. Some instructors then choose to give a brief quiz, usually answered with clickers or another type of classroom response system, to confirm student understanding and identify any topics that multiple students do not understand.

Adopters of the flipped classroom model find that the greatest pedagogical and learning benefits come in the next portion of the class, containing some form of active learning experience. Most often, students work either alone or in small groups on exercises like those traditionally done for homework. Other popular uses of classroom time include students working in small groups on projects, instructors leading the

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46 See Lage et al., supra note 28, at 33. See also Papadopoulos & Roman, supra note 45, at 7; Catherine A. Lemmer, A View from the Flip Side: Using the “Inverted Classroom” to Enhance the Legal Information Literacy of the International LL.M. Student, 105 LAW LIBR. J. 461, 489 (2013).

47 BERGMANN & SAMS, supra note 31, at 25; Lage et al., supra note 28, at 33.

48 See Papadopoulos & Roman, supra note 45. See also Lemmer, supra note 46, at 489.


50 See Lage et al., supra note 28, at 36. See also Lemmer supra note 46, at 489; Cindy Guyer, Experiential Learning: Context and Connections for Legal Research—A Case Study, 32 LEGAL REFERENCES SERVICES Q. 161, 177 (2013); Pharmacy Student Engagement, supra note 43, at 7.


entire class in a discussion of the material,\textsuperscript{53} individual students preparing and delivering presentations,\textsuperscript{54} or small groups engaging in extemporaneous debates against each other.\textsuperscript{55} All of these activities take place under the supervision of the instructor, who is available to answer students’ questions, provide clarification, and observe and correct errors or misunderstandings before they become ingrained in the students’ minds.\textsuperscript{56}

\textit{B. The Rise of the Flipped Classroom}

The growth in popularity of the flipped classroom approach is attributed to two high school chemistry teachers in Colorado: Jonathan Bergmann and Aaron Sams.\textsuperscript{57} The two began recording online video versions of their lectures in 2007 for students who were missing class because of sports and activities.\textsuperscript{58} Their students responded well to the online videos and they soon realized that they could assign the videos as homework and have the students work on exercises, assignments, and labs during class time.\textsuperscript{59} As talk of their approach spread, many school districts became interested in this technique.\textsuperscript{60} Soon it caught on throughout K-12 education,\textsuperscript{61} eventually spreading into college classroom.\textsuperscript{62}

Although the popularity of flipped classroom is attributed to Bergmann and Sams,\textsuperscript{63} reports of college instructors using teaching techniques that would now be considered flipping a classroom appeared over a decade ago, though the idea did not catch on.\textsuperscript{64} In the late 1990s, a pair of Miami University (Ohio) economics professors, Maureen Lage and Glenn Platt,
adopted a novel “inverted classroom” approach where their VHS videotaped lectures were assigned to students to watch in the campus labs. Alternatively, students could download narrated PowerPoint presentations from the Internet. Lage and Platt then began class by asking students for any questions about the material and questions were addressed by giving an impromptu mini-lecture to explain those concepts again. The professors and students spent the remainder of the class time working through economics experiments or labs to demonstrate or reinforce the concepts that were covered in the lecture videos. These active learning experiences were followed by worksheets or review questions that students discussed in small groups. If one were to substitute online videos for VHS videos, Lage and Platt’s course mirrors the general approach taken by today’s adopters of the flipped classroom model. This indicates that Lage and Platt were ahead of their time, and perhaps the true originators of the flipped classroom model.

Since 2006, the flipped classroom model has been adopted in university engineering, math, and pharmacy courses, among many others. In recent years, law school courses have begun taking advantage of this approach to change the way certain classes, including contracts, legal research, and clinic seminars, are taught. Flipping law school classrooms has allowed faculty to free in-class time for longer and more probing discussions of the material, small group exercises, and developing and practicing brief oral arguments. The growing excitement surrounding flipped classroom in higher education, despite the lack of empirical studies showing the benefits to students’ learning or academic

65 Id. at 32–33.
66 Id.
67 Id. at 33.
68 Id.
69 Id.
70 See Thomas & Philpot, supra note 51.
71 See, e.g., Strayer, supra note 52, at 65.
72 See, e.g., Pharmacy Student Engagement, supra note 43, at 2.
73 See, e.g., Dewald, supra note 18.
74 See, e.g., Guyer, supra note 50, at 161–62, 171.
76 Dewald, supra note 18.
77 Id.
78 Pistone, supra note 75.
performance, may make it seem like a fad. However, now that many university and law school faculty have attempted classroom flipping and shared their experiences in academic journals, professional publications, at conferences, and on blogs, instructors can learn about the reactions students and adopters have to this approach.

C. Flipping 1L Legal Research at CUNY School of Law

At the City University of New York (CUNY) School of Law, all first-year law students are required to take a two-credit legal research course in their first semester. While one library faculty member teaches each student cohort, the teaching librarians collaborate on their syllabus, lessons, and some course material to ensure that all students receive similar instruction. Traditionally, the faculty spent the majority of its in-class time lecturing on varied legal information topics, including the legislative process, the documents produced in the enactment of statutes, and where those documents are published. The final fifteen to twenty minutes of a two-hour class of were spent demonstrating how to conduct the research to locate those documents online and in print. Students were then sent home with a set of research exercises to complete before the next class that took the average student over one hour to complete. While most students turned in completed assignments every week, some students who struggled with the material submitted incomplete assignments because they gave up while working on them on their own.

In the fall of 2012, the seven legal research faculty began flipping parts of the course in order to place a greater emphasis on the students’ skills development in class. By the fall of 2013, all course sessions were flipped, except for the first class meeting. In order to flip all course sessions, the faculty first reviewed the existing syllabus to identify the material to be converted from in-class lecture to online videos. Next, they brainstormed how the two hours of in-class meeting time would be used in the absence of lectures. The team settled on a loose structure of first reviewing the material from the videos and readings in whatever manner the instructor preferred, followed by demonstrations on how to conduct online and hard copy legal research for a topic. Then, the students worked on in-class exercises, choosing either to work in groups or alone. Some faculty chose to deliver mini-lectures at the start of class as a review, others chose to use

79 See Dewald, supra note 18; Guyer, supra note 50; Pistone, supra note 75.

multiple-choice questions to test student understanding and initiate class discussion of the topics, and some chose to use a mixture of the two.

The faculty divided the syllabus into topics and then worked in pairs to prepare lecture videos, draft review questions, and revise exercises for in-class use for their given topics to share with the team. Although every instructor chose to use all the videos created, some chose to write their own review questions or in-class exercises.

The pairs strived to keep the videos concise. The team decided to create screencast videos to replace their lectures instead of recording live lectures in a classroom. After trialing different software programs, they selected Camtasia for capturing and editing their videos. Many pairs began their process by looking at lecture slides they had used in previous years and identifying what superfluous content could be removed from the lectures. The library faculty agreed that they would try to use more images and less text in their presentation slides, resulting in most of the pairs needing to rework the majority of their presentations. Nearly all of the videos ended up being under seven minutes in length, although a few topics had to be divided into more than one video.

The library faculty chose to post their videos to YouTube as unlisted, meaning that only individuals with the URL would be able to locate them. They also decided to use TED-Ed to distribute the videos to students because the platform allowed them to place the multiple-choice review questions on the same page as an embedded video, allowing students to answer questions as they watched.

In keeping with their desire to place an emphasis on students’ skill building, about ninety minutes of each class were dedicated to students completing research exercises either in small groups or individually. For the instructors, those ninety minutes were spent walking among the students, answering questions and clarifying research strategies.

The process of flipping the entire course was very time-consuming for the faculty. The greatest change in preparing for the course was the recording and editing of videos. Most instructors had to learn new software, get comfortable with using a headset microphone, and let go of the desire to make perfectly produced videos. The drafting of review questions and exercises was not new, but the way in which they were used was new to both the instructors and the students. Students responded well to the flipped format, and they especially liked the ability to review videos when studying for the midterm and writing the final research exam. Including review questions with the videos on TED-Ed allowed the instructors to make sure students were watching the videos, and it also helped them gauge students’ understanding of the material. Instructors
appreciated being able to interact more with students, monitor their understanding throughout the semester as they worked to develop their research skills, and ensure that the students were learning good research habits while working on exercises in the classroom.

The many positive experiences of the legal research faculty at CUNY School of Law and the students in their classrooms are not unique among adult learners in higher education and the faculty who teach them. While flipping the classroom is a very new approach in law schools, many college courses have been flipped in the past several years. Some attempts at flipping were developed as studies to evaluate the response to the approach and its effectiveness in aiding students’ learning, resulting in accounts of such attempts appearing in academic journals and newsletters.

D. Student Responses to Flipped Classroom

I came into this course fully expecting to hate it. I was not excited about having to watch lectures on my own time and then still go to class and talk about the same stuff. But with the instructor's promise that if we put in the work and did what was outlined in the syllabus that we would succeed in the course, I gave it my best. I can honestly say I left every class session feeling like I knew more than when I walked in and I was thinking about the concepts presented in new and unique ways that I would not have been in a traditional lecture style course.

Reactions like this are not unusual when a flipped classroom is first attempted. Across academic disciplines, post-secondary students have responded positively to the adoption of a flipped classroom in their courses. Through the collection of anecdotal, end-of-semester survey information, faculty have found that students preferred the flipped format
to a traditional classroom format,\(^85\) in part because of a perception that
with the flipped classroom they learned more\(^86\) and formed better study
habits.\(^87\) Students felt that having access to the instructor in the room
helped them better understand the material,\(^88\) and they enjoyed working in
groups.\(^89\) In addition to the expected viewing before class, many students
watched the videos more than once to review the course material before
exams\(^90\) and appreciated being able to watch the lectures at their own
pace.\(^91\) Some students did feel the course took up considerably more time
than if it were taught in a traditional manner,\(^92\) possibly to the detriment of
their performance in other courses, although in some instances students felt
that the time they spent was worthwhile.\(^93\)

Because the adoption of the flipped classroom model in higher
education is rather new, little empirical research has been conducted on the
effect of this approach on students’ academic performance and their
attitudes toward a flipped course and its material. At the UNC Eshelman
School of Pharmacy, an empirical study was conducted as part of the
experimental flipping of a basic pharmaceutics course.\(^94\) Students, like the
one quoted above, were surveyed before the beginning of the course and
then again at the end using questionnaires designed to collect relevant
quantitative data.\(^95\) The vast majority of students, 82\%, reported watching
all of the online lecture videos for the course while most of the remaining
students missed five or fewer of the twenty-five videos assigned that

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\(^85\) Lage et al., supra note 28, at 35; Papadopoulos & Roman, supra note 45, at 19;
Dewald, supra note 18.

\(^86\) Lage et al., supra note 28, at 35; Papadopoulos & Roman, supra note 45. See also
Zappe et al., supra note 36.

\(^87\) Papadopoulos & Roman, supra note 45. See also Moravec et al., supra note 51, at
478.

\(^88\) Zappe et al., supra note 36; Foertsch et al., supra note 53, at 272.

\(^89\) Lage et al., supra note 28, at 35; Foertsch et al., supra note 53, at 272. See
BERGMANN & SAMS, supra note 31, at 27; Papadopoulos & Roman, supra note 45.

\(^90\) See Dewald, supra note 18; Zappe et al., supra note 36; Moravec et al., supra note
51, at 478.

\(^91\) Foertsch et al., supra note 53, at 271; BERGMANN & SAMS, supra note 31, at 24–25.

\(^92\) See Lage et al., supra note 28, at 35; Papadopoulos & Roman, supra note 45;
Supplemental Digital Content for McLaughlin, supra note 83, at 6.

\(^93\) Papadopoulos & Roman, supra note 45.

\(^94\) Robinson Meyer, The Post-Lecture Classroom: How Will Students Fare?, ATLANTIC
(Sept. 13, 2013, 1:11 PM), http://www.theatlantic.com/technology/archive/2013/09/the-
post-lecture-classroom-how-will-students-fare/279663/.

\(^95\) The Flipped Classroom, supra note 53, 239–40.
semester. Students also responded positively to their flipped classroom experience, with more than 93% agreeing that the model promoted understanding and application of key concepts. An even greater amount of students reported leaving the course feeling confident in their ability to apply the skills emphasized throughout the class. In looking at student performance, the students performed 5.1% better on the same final exam than previous students who were taught in a traditional manner. Instructors of an introductory biology course at University of California, Irvine, found a similar statistically-significant improvement in student performance on exam questions when they flipped part of the material from three lectures.

By surveying the pharmacy students at the beginning of the semester, before exposure to the flipped classroom, and then again at the end of the flipped course, the UNC instructors observed a change in students’ attitudes toward the value of lectures, classroom discussions, and in-class learning activities. After experiencing the flipped classroom, survey responses showed a significant increase in the students’ beliefs that video lectures enhanced their learning compared to their earlier assessment of how well traditional lectures helped them learn. By the end of the semester, the students found themselves participating in classroom discussions more frequently and developing an appreciation for the benefits these discussions have on their learning. Survey responses also showed that students valued the inclusion of active learning experiences in the classroom more at the end of the semester than they did before their flipped classroom experience. Despite their initial apprehension toward the unfamiliar flipped classroom model, the students eventually acknowledged the value they saw in the approach and the benefits it had on their learning.

Students were also asked to select up to three ways the online videos progressed their learning, and 90% agreed that the videos “helped [them] prepare for each class session,” with the majority of students also selecting

96 Id. at 240.
97 Id.
98 Id.
99 Meyer, supra note 94.
100 Moravec et al., supra note 51, at 477.
101 The Flipped Classroom, supra note 53, at 240.
102 Id.
103 Id.
104 Supplemental Digital Content for McLaughlin, supra note 83, at 4.
that the videos “allowed [them] to learn at [their] own pace.”"\textsuperscript{105} Tied for third place were students’ assertions that the online videos “helped [them] prepare for the exams” and “improved [their] overall learning.”\textsuperscript{106} Given students’ positive impressions that the flipped classroom model enhanced their learning, it is no surprise that by the end of the semester, 84.6\% of students said they preferred the flipped classroom model to the traditional lecture format, even after starting out the semester with nearly 73\% of students favoring the traditional approach.\textsuperscript{107}

Another empirical study was conducted involving undergraduates spanning three class meetings in an Introduction to Statistics course.\textsuperscript{108} When initiating the class flip, the faculty followed the common suggestion of flipping only a few classes at first.\textsuperscript{109} Instead of using online videos, the instructor, Jeremy Strayer, put a fifty-five-minute video lecture on reserve in the library covering all the material for that chapter.\textsuperscript{110} During class time, students worked in small groups on a project.\textsuperscript{111} Strayer also taught a second section of the same course using the traditional lecture-centered approach, allowing it to serve as a control group for the study.\textsuperscript{112} Students in both sections completed a survey to measure their confidence in completing problems based on the skills learned in the chapter.\textsuperscript{113} Strayer then interviewed three students from the section that was flipped and compared the grades from both sections on the exam that tested the material for that chapter.\textsuperscript{114} Statistical analysis of the survey showed that students in the traditional lecture-centered class had a higher level of confidence and also performed better on the exam than those who had experienced the three flipped class sessions.\textsuperscript{115} Strayer attributed this

\textsuperscript{105} The Flipped Classroom, supra note 53, at 240 (indicating 58\% selected “allowed me to learn at my own pace”).
\textsuperscript{106} Id. (stating 47.3\% of students selected “helped me prepare for the exams” and “improved my overall learning”).
\textsuperscript{107} Id. (at the beginning of the course, 72.7\% of students said they preferred the traditional approach to teaching the course).
\textsuperscript{108} Strayer, supra note 52, at 3.
\textsuperscript{109} See Moravec et al., supra note 51, at 480.
\textsuperscript{110} Strayer, supra note 52, at 9.
\textsuperscript{111} Id.
\textsuperscript{112} Id. at 8.
\textsuperscript{113} Id. at 9
\textsuperscript{114} Id.
\textsuperscript{115} Strayer, supra note 52, at 9–10.
result to students needing time to adjust when first exposed to a flipped classroom.\textsuperscript{116}

The following year, Strayer decided to continue teaching one section in the traditional manner while flipping the other section for the entire semester by implementing an online intelligent tutor system.\textsuperscript{117} This system used artificial intelligence to create custom learning experiences that students engaged in outside of class based on their progress and understanding.\textsuperscript{118} In class, they worked on active learning experiences either alone or with peers of their own choosing.\textsuperscript{119} Strayer used the College and University Classroom Environment Inventory\textsuperscript{120} to assess student perceptions of their learning environment. He found that, compared to students in the lecture-centered section, students in the flipped classroom preferred the innovative and cooperative learning environment that the flipped classroom provided.\textsuperscript{121} Students in the flipped section were more willing to participate in class, collaborate with their peers, and explain concepts to one another.\textsuperscript{122} Those students also indicated that they became more aware of how they were learning because of the flipped classroom experience.\textsuperscript{123} This is, perhaps, due to having to adjust to a new learning approach that was different than the lecture-centered format they had experienced their entire educational career.

\textbf{E. Faculty Responses to Flipped Classroom}

\begin{quote}
I flipped my class yesterday. And I think it worked! . . . I have taught a class on persuasive lawyering . . . before and this one seemed different; it was better. Instead of my talking at the students about the foundations of persuasive argument, by flipping the classroom my students could learn the foundational information before coming to class. That opened up the class for an activity in which the
\end{quote}

\begin{footnotesize}
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  \item \textsuperscript{116} Id. at 12.
  \item \textsuperscript{117} Jeremy F. Strayer, \textit{How Learning in an Inverted Classroom Influences Cooperation, Innovation and Task Orientation}, 15 \textit{LEARNING ENV’T RES.} 171, 173–74 (2012) [hereinafter \textit{Inverted Classroom}].
  \item \textsuperscript{118} Id.
  \item \textsuperscript{119} Id.
  \item \textsuperscript{120} See Barry J. Fraser & David F. Treagust, \textit{Validity and Use of an Instrument for Assessing Classroom Psychosocial Environment in Higher Education}, 15 \textit{HIGHER EDUC.} 37, 52 (1986).
  \item \textsuperscript{121} \textit{Inverted Classroom}, supra note 117, at 180.
  \item \textsuperscript{122} Id. at 188.
  \item \textsuperscript{123} See id. at 191.
\end{itemize}
\end{footnotesize}
students could actually try it out . . . By getting the students out of their chairs, we could provide feedback to the students on their posture and stance and how body language can enhance or detracted from the persuasiveness of an argument.124

Professor Michele Pistone’s positive and passionate reaction to her first attempt at flipping her classroom is typical of early adopters in higher education. After teaching in a traditional lecture-centered format, instructors were pleased to see students more motivated to learn and do the assigned work in the flipped classroom.125 Faculty found that the increased degree of interaction with students in class not only helped them get to know their students better, but also made students more comfortable asking questions of their instructor—an indication that they now found their teacher more approachable.126 Instructors also valued the opportunity to monitor an individual student’s understanding of the material and the ability to identify struggling students early in the course.127 This allows instructors to offer additional one-on-one instruction to struggling students before these difficulties impact those students’ grades.

Adopters noted that one of the greatest benefits of flipping was the ability to appeal to students’ different learning styles.128 In addition, digital natives129 make up the vast majority of students in higher education, born into a world where they have always had access to the Internet. They primarily consume information via digital content, making it easier for them to adapt to receiving instruction online.130 Also, one adopter conducted a non-empirical survey to discover that female students expressed greater satisfaction with the active learning experiences than male students. That adopter also observed that many instructors perceived

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124 Pistone, supra note 75 (Michele Pistone is the Director of the Clinic for Asylum, Refugee, and Emigrant Services at Villanova University School of Law and a Professor of Law.).
125 See Lage et al., supra note 28, at 36–37. See also BERGMANN & SAMS, supra note 31, at 16; Guyer, supra note 50, at 177.
126 See Lage et al., supra note 28, at 37. See also BERGMANN & SAMS, supra note 31, at 26; Lemmer, supra note 46, at 489; The Flipped Classroom, supra note 53, at 241.
127 See Lage et al., supra note 28, at 37.
128 See id. at 39. See also BERGMANN & SAMS, supra note 31, at 23; Lemmer, supra note 46, at 485; The Flipped Classroom, supra note 53, at 237; Zappe et al., supra note 36.
130 BERGMANN & SAMS, supra note 31, at 20–21.
female students to be more engaged in class than their peers in traditional classrooms.\footnote{Lage et al., supra note 28, at 41.}

Rarely is a first-time experiment carried out without some unexpected challenges. Almost universally, the instructors found adopting a flipped classroom model fairly time consuming.\footnote{See id. at 37–38. See also Bergmann & Sams, supra note 31, at 43; The Flipped Classroom, supra note 53, at 239; Moravec et al., supra note 51, at 480; Papadopoulos & Roman, supra note 45; Lemmer, supra note 46, at 489; Dewald, supra note 18.} Between preparing the lectures several weeks or months in advance, learning new technologies for recording and editing videos, posting those videos online, writing post-video quizzes and in-class review questions, and coming up with in-class exercises or other activities,\footnote{Bergmann & Sams, supra note 31, at 10, 42–43; Lemmer, supra note 46, at 489–90.} flipping the classroom almost always involved additional hours of class preparation time. However, in most cases the material does not change from one year to the next, so instructors have the option of reusing lecture videos, quizzes, and successful review activities with only a few changes from year to year.\footnote{See Moravec et. al., supra note 51, at 480; The Flipped Classroom, supra note 53, at 239.} Also, class preparation time before each session is reduced because of all the preparation done beforehand.\footnote{See Lage et al., supra note 28, at 39. See also Papadopoulos & Roman, supra note 45.}

The generally positive responses from students and their instructors, along with the repeated assertions that these adopters will continue to expand active learning opportunities by teaching their courses in a flipped manner,\footnote{See Bergmann & Sams, supra note 31, at 10. See also Moravec, supra note 51, at 479; Thomas & Philpot, supra note 51, at 11; Zappe et al., supra note 36; Guyer, supra note 50, at 178; The Flipped Classroom, supra note 53, at 20.} indicate that this pedagogical tool is here to stay.

IV. PEDAGOGICAL ASPECTS AND BENEFITS OF THE FLIPPED CLASSROOM

Flipping my classroom also made me a better teacher. I no longer have to “teach to the middle” . . . . I also have the luxury of giving [struggling students] individualized attention if needed, although many eventually fully grasp the material by discussing it with their peers while working through the exercises together in small groups.
Those students who once turned in incomplete assignments because they gave up on their homework out of confusion or frustration now ask their peers or me questions the moment they get confused, turn in completed assignments, get full credit, and likely perform better in the course overall. My office hours are busier than ever because most of my students stop by to chat or ask reference questions, even after finishing the course. The most rewarding outcome for me as an instructor is seeing my students show a greater interest in becoming strong legal researchers than any group I taught in a traditional manner.137

In a lecture-centered course, instruction only occurs in the classroom.138 Students complete exercises outside of class to reinforce what they learned and assess their understanding, and readings are assigned to introduce new material.139 Even in skills courses where some time is dedicated to skills development activities, the teaching stops when class is over.

The Greek roots of the word “pedagogy,” (päis) paid meaning “child” and (ágō) agogus meaning “leading,” combine to express the idea of “leading the child.”140 By adopting the flipped classroom pedagogy, faculty can extend their instruction outside of class. As a result, they are able to lead their students with both their video lectures and their in-class activities. By flipping, legal skills faculty not only create more time for active learning opportunities in the classroom, but also increase the amount of time they get to teach and lead students through legal skills development and make students practice-ready.141

It seems that in discussions and news coverage of the flipped classroom model, the greatest attention is placed on the online lecture

137 Alex Berrio Matamoros, How Flipping the Classroom Made My Students Better Legal Researchers and Me a Better Teacher, 20 THE LAW TEACHER, no. 2, Spring 2014, at 18.
138 See Moravec et al., supra note 51, at 473; Zappe et al., supra note 36.
139 See Mangan supra note 62, at B18.
141 See Lemmer, supra note 46, at 491.
videos. This innovative leveraging of technology enhances the lecture pedagogy in various ways, discussed below, by putting students in control of how they experience and use lectures. Even so, it only replicates the traditional passive lecture-centered approach. As stated earlier, adopters find that the greatest benefits come from the activities professors use to engage students in class. The forms of these activities vary based on the skills focus of the course and how the instructor believes those skills can be best developed.

Aside from the involved process of creating online lecture videos and accompanying review questions, faculty may also need to learn new pedagogies to take advantage of the time freed up by online lectures. In considering new teaching techniques, instructors should focus on four key elements: (1) understanding principles of active learning; (2) designing exercises to appeal to a wide range of learning styles; (3) introducing differentiated instruction; and (4) taking advantage of increased student-teacher interaction.

A. Pause, Rewind, Review: Putting Students in Control

Mention of the traditional lecture-centered classroom invokes memories of years as a student, sitting in a classroom as the instructor lectures on and on while you passively receive information and take notes. Numerous studies have found passive lecturing to be an ineffective teaching approach because it only involves the transmission of information from the teacher to the student without requiring the student to do more than memorize. Nonetheless, it remains a popular format for teaching in all tiers of education. Law schools are no exception; while some law faculty may argue that the Socratic approach does not involve any

142 See Rosenberg, supra note 30. See also Strauss, supra note 32; Berrett, supra note 33; Young, supra note 62; Mangan, supra note 62.

143 See discussion supra Part III.E.

144 See Berrett, supra note 33.


passive lecturing and the Socratic Method is an effective active learning technique, professors rarely execute the “pure” Socratic Method. Lecturing has taken on a prominent role in the law school classroom.

Imagine asking your professor to stop class and take time out of that day’s lecture to review, in detail, a concept introduced two weeks ago because you are only now beginning to fully understand it. If you are brave enough to ask, no professor can spare ten minutes of limited classroom time to redeliver the relevant portion of the past lecture. The best outcome you can expect is being told to ask during office hours where you will abashedly admit that it has taken you two weeks to grasp the concept well enough to make sense of what was said in the lecture. Or you may just skip going to office hours altogether to avoid the embarrassment.

Because lecture videos are made available online in most flipped classroom courses, students are put in control of the pace of the instruction they receive and can choose to view the lectures more than once. Professors remain responsible for instruction and the conveyance of information students need to learn. Even video lectures remain passive transmission of information despite any efforts the instructor makes to create visually stimulating presentations for visual learners.

Students can choose to pause and take notes, rewind if they missed something or were not clear on what the professor said, or watch a video more than once to ensure early understanding. In effect, students can choose to “attend” their professor’s lecture several times, something not possible in a traditional lecture-centered classroom.

Aside from the convenience of being able to watch lectures at whatever time they choose, the flexibility allows students to watch at a time that may be more conducive to learning. For example, students who may have trouble paying attention to a lecture at 9 a.m. may instead watch the lecture at a time when they are not struggling to stay awake. Yes, they still need to attend the 9 a.m. class, but they arrive having already watched the lecture at a time when they were more alert, completed review questions online to assess their understanding, and will be engaged in active learning experiences in class.

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148 Sonsteng, supra note 145, at 325.
150 Friedland, supra note 146, at 27. See also Orin S. Kerr, The Decline of the Socratic Method at Harvard, 78 Neb. L. Rev. 113, 123 (1999); Sonsteng, supra note 145, at 390.
151 BERGMANN & SAMS, supra note 31, at 24.
152 Id.; Pharmacy Student Engagement, supra note 43, at 2.
153 See Foertsch et al., supra note 53, at 271.
Students can also use the videos to review the material at any point in time. Returning to the earlier example, if a student does not begin to fully understand a concept until two weeks after a lecture, the student can simply watch the part of the lecture where that concept was discussed instead of having to ask the professor to repeat all of that information in office hours. After watching the video, the student can still attend office hours if there are additional questions. Students in flipped courses may also use lecture videos as study aids, watching them again while studying for exams. With this as an option, instructors who conduct review sessions before exams can instruct students to watch the videos that discuss the topics they have general questions about before the review session and then bring more specific questions to the review session for the professor to address.

B. Active, Collaborative, and Cooperative Learning

Some may think that professors enjoy lecturing because the focus is on them imparting their knowledge and wisdom upon students who hang on their every word, making them a “sage on the stage.” The largest pedagogical shift in abandoning the lecture-centered approach for the flipped classroom model is moving the focus of class time from the professor’s lectures to the work being done by students. As part of this shift, professors spend most of their in-class time working with students to apply what they are learning and further develop their skills, becoming a “guide on the side.” The positive response adopters have to flipping the classroom shows that they are embracing the role of guide in a new classroom dynamic centered on active learning in order to motivate students to explore the material more thoroughly, provide guidance when needed, and give immediate feedback.

In contrast to ineffective lecturing, active learning experiences garner positive responses from post-secondary students, produce higher levels of

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154 Id. at 271 (indicating 67% of students re-watched lecture videos to study for exams); BERGMANN & SAMS, supra note 31, at 4.
157 Id.
158 See id. at 34.
159 See Zappe et al., supra note 36.
160 See Hess, supra note 16, at 413.
student satisfaction with a course, increase student participation, lead to
deeper understanding of the material, and improve grades. Active
learning can be broadly defined as “any instructional method that engages
students in the learning process . . . . [A]ctive learning requires students to
do meaningful learning activities and think about what they are doing.”

There are six major characteristics associated with active learning:

1. Students are involved in more than passive listening.
2. Students are engaged in activities (e.g., reading, discussing, writing).
3. There is less emphasis placed on information transmission and more emphasis placed on developing student skills.
4. There is greater emphasis placed on the exploration of attitudes and values.
5. Student motivation is increased (especially for adult learners).
6. Students can receive immediate feedback from their instructor.

Because active learning encompasses any teaching activity that is not
the passive transmission of information to students, categorizing active
learning by types of activities is helpful. Discussing course material as a
class or in small groups, writing essays or drafting court filings, presenting
in front of the classroom, and practicing legal skills through actual client
contact or through simulations are all examples of active learning
opportunities already offered in law schools. While most legal skills
courses already include some form of active learning in the classroom,
as instructors turned to the flipped classroom to be able to increase the

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165 See BONWELL & EISON, supra note 164, at 18–19.
166 Hess, supra note 16, at 402.
167 See id.
amount of active learning engagement in a course, it is helpful to understand some of the instructional theories surrounding active learning.

Students can engage in active learning on their own, as commonly occurs in legal skills courses where skills development is dependent upon students completing homework assignments.\textsuperscript{168} However, when active learning is moved from outside the classroom to inside, an opportunity arises for students to work together on their shared skills development. “Collaborative learning” describes in-class activities that put students together to work toward a common goal or final product,\textsuperscript{169} such as working on a group project where each student receives the same grade. “Cooperative learning” also involves students working together, but each student is assessed individually.\textsuperscript{170} For example, students working on a group project will be individually assessed by the degree of their contribution to the group’s work and the opinions of other group members expressed through evaluations. Then, the instructor will assign each student a grade based on both the group’s final product and all the information gathered about each individual student’s contribution. This complex example of cooperative learning is offered in contrast to the earlier collaborative learning example, but a simpler example of cooperative learning is dividing students into groups to workshop drafts of their term papers on different topics.

While students generally respond well to cooperative learning activities,\textsuperscript{171} the absence of individual accountability within a collaborative learning group can interfere with students’ learning.\textsuperscript{172} Given that law students are known to be competitive about grades,\textsuperscript{173} faculty may want to take this into consideration and structure in-class group work as cooperative learning activities to ensure students are graded on their individual contributions or achievements. Students may be more open to

\textsuperscript{168} See Prince, supra note 163, at 223.


\textsuperscript{170} See Zimmerman, supra note 169, at 961; Prince, supra note 163, at 223.

\textsuperscript{171} See CERI B. DEAN ET AL., CLASSROOM INSTRUCTION THAT WORKS: RESEARCH-BASED STRATEGIES FOR INCREASING STUDENT ACHIEVEMENT 37 (2d ed. 2012) (in cooperative learning activities, one student’s performance on an activity does not affect the other students’ chance of earning a good grade).

\textsuperscript{172} Id.

embracing the flipped classroom model if they know they will still be graded in the same way as before. However, introducing collaboratively-graded team activities in a course may be an opportunity for an instructor to instill in students an appreciation for collaborative work, especially when considering that, in practice, attorneys who work together on a case or client matter are often evaluated on the outcome achieved by the group, not the individual contributions of each member. In such situations, legal skills faculty have an opportunity to not only guide students in developing particular lawyering skills they are being taught, but also prepare them for the routine expectations and challenges of practicing law.

Active learning pedagogy is, of course, not a new concept in legal education, because it is already being incorporated frequently in legal skills courses and clinics. By adopting a flipped classroom model in a legal skills course, the instructor creates more opportunities for active learning and shifts the focus away from the sage on the stage, placing it where it belongs, on the activities that are preparing students for practice.

C. Appealing to Different Learning Styles

By the time most students reach law school, they have survived at least sixteen years of learning in a classroom and usually know how they learn best. They must have performed well enough in college and on the LSAT to earn entry, with one key to their success being their ability to adapt their learning, review, and study within their learning styles.

“[L]earning styles are those cognitive, affective, and psychological behaviors that indicate how learners interact with and respond to the learning environment and how they perceive, process, store, and recall what they are attempting to learn.” Numerous models for learning exist, sprouting from theories proposed by academics in the fields of education, psychology, sociology, business, and management. Each model focuses on one or several human characteristics that affect how they best learn.

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177 Jacobson, supra note 175, at 142.
178 Id.
180 Jacobson, supra note 175, at 145–46.
spanning from preferred sensory stimulation for learning\textsuperscript{181} to how they prefer to be taught,\textsuperscript{182} how they best process information,\textsuperscript{183} and how their personalities impact their learning.\textsuperscript{184}

One widely known instructional preference model is the visual, auditory, reading–writing, and kinesthetic learning styles model, commonly referred to as the “VARK.”\textsuperscript{185} This model separates learning styles based on each student’s preferred learning modality the sensory pathway to absorbing information.\textsuperscript{186} Visual learners best absorb information presented to them visible physical objects.\textsuperscript{187} Such a learning style is virtually ignored in the lecture-centered classroom that heavily favors auditory learners who understand best by listening.\textsuperscript{188} Law school may be appealing to reading–writing learners who are best at processing verbal information present in readings or text on PowerPoint slides. Kinesthetic learners absorb information best when interacting with it in a tangible way,\textsuperscript{189} such as the writing and practical exercises absent in a lecture-centered classroom.

The flipped classroom model brings greater balance to how a course may appeal to all four VARK learning styles. A video lecture that includes mostly images, not just text read by the narrator, appeals both to auditory and visual learners.\textsuperscript{190} The reading–writing learners continue to be satisfied with readings continuously assigned.\textsuperscript{191} However, the biggest change occurs in the classroom. The kinesthetic learner now goes from being virtually ignored to being heavily stimulated by activities in the classroom. The instructor can create in-class activities that also appeal to the other types of learners by including small group discussion, various multimedia experiences, and textual handouts. Also, because flipping frees the majority of in-class time for activities created by the instructor,\textsuperscript{192} last minutes changes can be made to how in-class time is spent to ensure balance between all learning styles.

\textsuperscript{181} COFFIELD ET AL., supra note 179, at 13.
\textsuperscript{182} Id. at 137.
\textsuperscript{183} Jacobson, supra note 175, at 157.
\textsuperscript{184} See COFFIELD ET AL., supra note 179, at 47–48.
\textsuperscript{185} See Jacobson, supra note 175, at 150–51.
\textsuperscript{186} Id.
\textsuperscript{187} Id. at 152. See COFFIELD ET AL., supra note 179, at 13.
\textsuperscript{188} Jacobson, supra note 175, at 151.
\textsuperscript{189} Id. at 155.
\textsuperscript{190} See id. at 152–53, 155. See also COFFIELD ET AL., supra note 179, at 13.
\textsuperscript{191} Jacobson, supra note 175, at 151.
\textsuperscript{192} See supra Part IV.B.
Dr. Lynn Curry, a recognized expert on learning styles, uses the metaphor of peeling an onion to describe the many layers of learning and cognitive styles. At the surface lies a student’s instructional preference, factoring in the learning environment and how information is conveyed. The cognitive Grasha–Riechmann Learning Style Scales focus on instructional preferences and include six learning styles in three pairings: avoidant or participative, competitive or collaborative, and dependent or independent. Avoidant students lack enthusiasm for learning and often achieve low grades, making it unlikely they would want to go to law school. Because law students tend to be participative and accepting of their duty to learn the avoidant/participative pairing will not be further discussed.

Competitive students are motivated by performing better than their peers and prefer class activities where they receive recognition for their superior achievements. In contrast, collaborative students enjoy working in groups with their peers and learn best by sharing their thoughts. Dependent students require detailed instructions from the professor on how to do the work and what exactly is expected, while independent students prefer to work alone, at their own pace, so they can take time to reflect on the material as they learn it.

Competitive students prefer the lecture-centered model because they can dominate at answering professor’s questions and be recognized by the instructor for their achievements in front of their classmates. Dependent students also prefer the traditional approach because the professor gives detailed explanations in a lecture and may provide structured outlines of the material, resulting in as little ambiguity as possible about what material

to learn. A completely lecture-centered class, where there is no time left for discussion, ignores the learning preferences of the collaborative learner because the focus is wholly toward the sage on the stage. A traditional lecture approach also disadvantages independent students because the professor determines the pace of the instruction and may not allow time for independent students to reflect as they learn.

Collaborative students would prefer a flipped classroom where they interact with their peers and share their ideas in engaging discussions. However, this does not mean that competitive, independent students cannot be accommodated in a flipped classroom. Including cooperative learning activities where students are graded separately may motivate competitive students to try to perform better than the peers in their group. To better accommodate independent learners, instructors can sometimes make working in groups optional to give independent learners the choice to work alone. While a traditional model leaves collaborative and independent learners unsatisfied, the flipped classroom gives instructors the opportunity to accommodate all four learning styles because of the flexibility of rotating between many different in-class activities instead of only being able to spend class time passively lecturing.

Returning to Curry’s metaphor, deep at the core of the learning-styles onion lies a student’s cognitive personality traits which determine whether a learner will naturally organize newly acquired information into many discrete parts or first examine all the information as a whole. Among the first to theorize cognitive learning styles, psychologist Herman Witkin introduced the most influential model used today to categorizing learners by their personality traits, identifying learners as either field dependent or field independent. “Field” here refers to the context surrounding the information. The idiom “see the forest for the trees” provides a convenient framing device for Witkin’s model. A learner focused on the forest as a whole is field dependent and easily gets distracted by the

204 Id.
205 Id.
206 Id.
207 See id.
208 See id.
209 Id. at 26.
211 COFFIELD ET AL., supra note 179, at 37.
212 See id. at 37–38.
surrounding context, while one focused on the trees without being
distracted by the surroundings is field independent.213  Field dependent
learners use the context surrounding the information to make sense of it
generally without creating their own structure, pick up well on social cues,
and prefer the company of others, but they may have difficulty identifying
specific concepts and need others to define goals for them.214  On the other
hand, field independent learners create structures to organize information,
process it more efficiently, and set their own goals.215  However, these
learners may also struggle with putting narrow topics into the context of
the whole course and are socially detached.216

With the flipped classroom approach, instructors can create lecture
videos that use a numbered outline to highlight the narrow concepts to be
covered throughout. In the presentation, all of the slides for a specific
topic can be labeled with the number corresponding to that topic on the
outline so students know how slides are grouped together. Instructors can
also place an additional slide after each set of slides for one topic with just
the number and description of the next topic to clearly designate the
transition. After the last topic, the outline can appear again while the
professor briefly reviews what was covered in that video. Afterward, the
professor can explain where the specific concepts from that lecture fall
within the broad structure of the whole course for the benefit of field
independent students. The outline in the video also serves as field
independent students’ organizational structure for processing the
information in the lecture, saving them from having to come up with a
structure on their own. Inside the classroom, faculty can reintroduce and
review the outline and reiterate the topic placement within the structure of
the course.

Faculty can design active learning experiences to accommodate both
field dependent and field independent learners. Group exercises expose
students to the opposite learning style because small groups will likely
include a mix of both styles.217  In the groups, field independent students
engage their field dependent counterparts in discussions to better

213 See id. at 38–39.
214 Lori Mestre & Beth S. Woodard, Accommodating Diverse Learning Styles in an
Online Environment, 46 Reference & User Services Q. 27, 28 (2006); Jacobson, supra
note 175, at 161.
215 Jacobson, supra note 175, at 161; Mestre & Woodard, supra note 214, at 28.
216 Mestre & Woodard, supra note 214, at 28.
217 See Jacobson, supra note 175, at 154.
understand how topics fits into the overarching context of the course. Similarly, field dependent students look to their counterparts for clarification on specific topics they may not have focused on earlier. Group work also satisfies field dependent students’ preference for social interaction.

D. No Longer “Teaching to the Middle”: Differentiated Instruction

Traditional lecture-centered courses take a “one-size-fits-all” approach to how students are taught and assessed, despite differences in each student’s learning styles and understanding of the material. Instead of creating a classroom environment that supports the learning needs of all students, professors in a traditional classroom resign themselves to lecturing in a way that will help the greatest number of students understand the material. With more average students in a class than advanced or struggling students, professors must prepare a lecture that an average student can follow and understand. In doing so, the professor all but guarantees that the advanced students will find the lecture too basic and end up bored rather than engaged.

At the same time, struggling students may have trouble keeping up with the lecture’s pace, eventually falling behind and no longer understanding what the professor is talking about. They may even stop listening because the professor lost them, leaving them feeling discouraged about whether they will learn the material and do well in the course. The lecture-centered approach forces instructors to “teach to the middle” and ignore the strongest and weakest students’ educational needs in the process.

Just by moving lectures outside of the classroom and onto the Internet, flipped classroom adopters dramatically alter the effectiveness of lecturing as an instructional tool. By putting students in control of when, where, and how they view a video, the instruction delivered in the lecture is personalized to each student’s learning styles and degree of understanding. This type of personalization is impossible in a traditional lecture-centered format.

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218 See Mestre & Woodard, supra note 214, at 28.
219 See id.
220 See id.
221 BERGMANN & SAMS, supra note 31, at 18.
222 See id.
223 See id.
Professors who capitalize on the flexibility of the flipped classroom model will improve many students’ odds of getting a good grade and developing strong skills in that course. A professor who adds learning style accommodations or gives students control of their personal lecture experience has adopted a “differentiated instruction” approach to teaching and learning, although they may not be aware of it. Differentiated instruction is a pedagogical philosophy “based on the premise that instructional approaches should vary and be adapted in relation to individual and diverse students in classrooms.” To successfully implement differentiated instruction, professors must be flexible about how the information they teach is presented and adjust how the course is run to meet the students’ learning needs.

Legal skills instructors who flip their classroom can begin accommodating the educational needs of the strongest and weakest students, expanding the scope of their differentiated instruction. The professor still designs the condensed video lecture with the average students in mind, but he or she knows that advanced students will likely watch a lecture video once, understand the material, and answer the online quiz questions easily. The professor may even create a few additional questions or activities specifically designed to challenge the advanced students if the in-class skills development involves students working alone, such as in legal research. As for the struggling students, the professor knows that if they have trouble keeping up with the pace, they can rewind any portion of the lecture and review it several times until they understand the concept. In class, the instructor is always available to answer questions and can dedicate some time to each struggling student to ensure they understand the material.

V. LEVERAGING FLIPPED CLASSROOM TO PREPARE PRACTICE-READY ATTORNEYS

By adopting flipped classroom pedagogy, legal skills instructors can take advantage of the benefits of active learning through collaborative and cooperative learning activities. These instructors can accommodate students of all learning styles by mixing different in-class activities to appeal to different types of learners. With planning, legal skills faculty can differentiate their instruction and activities to improve the degree of all

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224 See Tracey Hall, Nicole Strangman & Anne Meyer, Differentiated Instruction and Implications for UDL Implementation 2 (2003).
225 Id.
226 Id.
students’ engagement with the material. Below are suggestions for how to approach flipping a classroom for the first time, followed by examples of how the benefits of a flipped classroom will manifest themselves in different legal skills courses.

A. Suggestions for First Time Flippers

The process of preparing and reviewing online videos and in-class exercises is time consuming. While it may seem like an intimidating task, the process of flipping a classroom can be managed by setting aside enough time and engaging in some advanced planning. Not every class session lends itself to flipping, and a first-time flipper may want to identify just a few sessions to flip in a course. It is important to then identify the instructional goals of flipping each session. Aside from replacing sometimes lengthy lectures with concise online videos and checking students’ understanding of the material with review questions, instructors should remember that increasing student engagement in the classroom through discussions and activities is central to flipping a classroom.

Once instructional goals have been identified, faculty should outline what portion of instruction can be moved from the classroom to an online format and what portion should occur in the classroom. Online multiple choice review questions, short answer essay prompts, or discussion forum posts that accompany the lecture videos allow for increased student engagement with the material immediately after first being introduced to it. Instructors should also consider creating additional online content to supplement the material covered in lecture videos. Suggestions appear below for supplemental videos that an instructor may create to provide additional guidance to students in their skills development.

In legal skills courses, there may be times where an experienced professor knows that delivering a lecture in class may be preferred over creating an online video. This may be because the material presented in that lecture uniformly confuses students or because students regularly interrupt the professor to ask questions about that material. In those instances, it may be more beneficial to deliver the lecture in class and prevent student confusion, even if some active learning opportunities need to be sacrificed. Because complex topics can unexpectedly cause confusion among students in any legal skills course, it is best to avoid flipping a course the first time it is taught unless a professor is confident that many students will not be confused when learning the material. If an instructor is considering flipping a course at some point in the future, it may be helpful to reflect after each live class session whether the material taught that day would lend itself well to being recorded as an online video.
and what in-class activities might have improved students’ skills development that day had time permitted it.

The outlining and planning process continues with deciding how classroom time will be used. Beginning with a brief review of the lecture allows for students to reengage with the material before applying what has been learned in later activities. Review can take the form of a mini-lecture recapping the major points of the online content or an eclectic class discussion about the material. A series of multiple-choice questions that highlight major points can be used for review, followed by a brief discussion of why the right answer is correct. The same multiple-choice questions used online can be reused in this review format. Review approaches may vary from one session to the next to appeal to students’ different learning styles and degrees of understanding. For example, topics that have traditionally been difficult for students to understand may be best reviewed using a mini-lecture and discussion, while topics that students tend to grasp more easily may best be suited for multiple-choice questions followed by class discussion.

The final step in outlining is to brainstorm in-class active learning experiences for skills development. Some suggestions for in-class activities in particular legal skills courses are presented below.

Once outlining is completed, instructors can begin creating the content for the class session based on the outline. When preparing video lectures, striving for conciseness and attempting to appeal to different learning styles through a mixture of images, text, and audio should be in the forefront of the instructor’s mind. Video lectures may take different formats; one popular format is recording PowerPoint or other presentation software slides appearing on screen while the instructor narrates the lecture as an off-screen voiceover, while other flippers record themselves delivering the lecture in an empty classroom. The former requires the use of screencasting software such as Camtasia, Snagit, Jing, ScreenFlow, and many others. Several of these software programs offer trial versions so potential users can test out the features before purchasing. Installing

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227 See Upchurch, supra note 18, at 59.
a few different trial versions and recording short test videos may be a helpful way to determine what software is most comfortable for a particular user.

Instead of using the built-in microphone available with most computers, an external microphone or a headset can improve the sound quality of the recording. Querying a favorite search engine for “computer microphone reviews” should lead to reviews of microphones currently on the market.

Some first-time flippers invest a great deal of time recording, re-recording, and heavily editing their lectures, attempting to make them near perfect, production-quality videos. Keeping in mind that live lectures are rarely delivered perfectly, instructors new to the flipped classroom may benefit from letting go of the desire to produce perfect videos. Students are accustomed to watching unedited or minimally edited videos online and may not notice small noises or flaws in a video that might stand out to the instructor. Scripting or outlining the narration of a video may help instructors reduce errors. Many software programs allow users to pause the recording, which is helpful when needing to collect one’s thoughts or prepare for the next slide. Screencasting software also allows for sound editing so that an entire take is not ruined when one mistake is made.

Once a video is ready to upload, the instructor must decide how to make the video available to students. Learning management systems, such as The West Education Network (TWEN), Lexis Web Courses, Blackboard, Moodle, Sakai, and Canvas, can be used to publish videos to only those students enrolled in a course. A law school’s information technology department or educational technology staff should be able to advise instructors on the best option for their course. YouTube or Vimeo are also options for publishing videos. These free streaming video services allow instructors to make their videos public, private to a particular list of viewers, or unlisted so that the videos do not appear in search results and can only be accessed by someone with the direct link to the videos.

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231 See, e.g., Dewald, supra note 18.
232 See BERGMANN & SAMS, supra note 31, at 43.
233 Id.
234 See Upchurch, supra note 18, at 61.
235 Id.
236 Id.
When selecting a video publishing option, instructors should consider whether that publishing tool contains a feature to include review questions along with the video. Most learning management systems offer built-in quiz tools and discussion forums.237 Another option is TED-Ed, a free platform that allows anyone to flip a video posted on YouTube and add multiple-choice, short answer, or essay questions to accompany that video.238

Once an instructor determines whether a chosen video publishing tool supports embedding review questions, the questions can be drafted. Afterward, the possible in-class activities resulting from earlier brainstorming can be fully written out or prepared. At this stage, an instructor may want to plan out how much time will be spent during class on review, discussion, and other activities. In instances where students are working on activities and the instructor is moving from group to group, the classroom may sometimes seem chaotic. Pre-determining how to spend classroom time may help ensure that all the instructional goals for that session are met.

B. Legal Research and Writing

In addition to concise lecture videos, legal research and writing instructors may want to create short video clips that delve into certain topics that may not be fully explored in the original video. For example, to accompany a lecture on statutory research that merely mentions that a bill number can be used to explore the legislative history of an enacted statute, a supplemental video that walks the viewer through the legislative history research process can be made available to students in the event that they would like guidance on how to conduct such research. The instructor may be able to find already-existing, published videos on YouTube or other online streaming services that can be used as supplemental videos for their course.

Instructors can also create video tutorials for students to reference when working on writing and research tasks on their own. For example, a video of an instructor critiquing a sample memo’s discussion section and making suggestions for improvements may be helpful to students during the writing process. Similarly, a video on how to use FDsys239 to update a

237 See, e.g., Lemmer, supra note 46, at 490.
239 FEDERAL DIGITAL SYSTEM (FDsys), www.gpo.gov/help/ (last visited Oct. 4, 2014) (FDsys provides free online access to official publications from all three branches of the (continued)
federal regulation can clear up any confusion a student may have while completing a take-home research exam.

Most research exercises traditionally assigned as homework can easily be converted into solo or group in-class exercises. Traditional outside-of-class writing exercises may not translate as easily to in-class work, but some students may find having the instructor available to answer questions advantageous as they work alone on their writing in class. Instructors can also divide students into small groups to edit and critique one another’s writing or discuss how they approached their writing. Students can also work in small groups to brainstorm the next steps in analyzing the legal issue at hand.

In addition to working on in-class exercises, instructors can use the newly freed time to invite students to use the computer and projector at the front of the room to demonstrate their approach to a research problem using online legal research platforms. Setting aside some time to invite a panel of attorneys to discuss the type of legal research and writing they do in practice may give students a sense of how important the skills they learn truly are.

C. Trial Practice and Oral Advocacy

Many instructors in trial practice or oral advocacy courses already allocate a large portion of in-class time to students practicing the skills they are learning while the instructor offers a critique. However, the instructor ordinarily dedicates some classroom time to lecturing on or demonstrating foundational concepts of oral advocacy, trial work, and best practices for effectively and persuasively advocating for a client. All of these talks delivered by a professor with minimal student interaction can be recorded as videos for a flipped classroom. Such videos have the dual benefit of freeing up in-class time and giving students examples of well-executed arguments to watch while they develop their oral advocacy skills.

Flipping a classroom also allows the instructor to introduce additional content to a course through videos on topics that were not previously covered in the course. For example, instructors may want to make videos demonstrating poor execution of oral advocacy skills that include the

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241 See id.
professor’s critique of what went wrong in the video so that students may learn some common mistakes to avoid. If the instructor would prefer not to act in each video, students or other volunteers can be recruited as actors. Alternatively, clips from real or fictional trials can be used. Professors can also invite practicing attorneys and judges to be interviewed on camera, giving the students advice on common mistakes to avoid and ways to improve the persuasiveness and delivery of their arguments. While some judges and attorneys may not have the time to visit a class for a guest lecture, they may be able to spare time for an interview in their office. If additional content is added, instructors should be mindful of the burden viewing many new videos will have on a student’s time.

Students can use the freed classroom time for additional practicing, allowing for more instructor feedback on student skill building. The time can also be used for discussions about what techniques each student prefers and why, either in small groups or with the entire class. Some of the practicing that students would ordinarily do with teammates outside of class can instead be done in class with the professor nearby to answer questions or provide useful suggestions.

D. Interviewing, Counseling, and Alternative Dispute Resolution

Like instructors in trial practice and oral advocacy courses, those teaching courses focused on client interviewing and counseling (or the various forms of alternative dispute resolution) can leverage the flipped classroom approach to replace lectures and also present best practices and critiques of common mistakes. Online videos of practitioners sharing tips and advice could be used to supplement the existing material in these courses.

In addition, instructors could recruit students or volunteer actors to record brief videos of themselves as clients explaining the facts of their case and assign those videos to students to view and prepare an interview plan. The next class meeting could then begin with a whole-class or small-group discussion of those questions and plans. While the facts of the case could be conveyed as text on paper or a computer screen, watching videos of actors playing clients would appeal to visual and auditory learners in the course and may be more interesting to all students compared to simply reading the facts.

The increased in-class time could be spent on additional practice, including small group exercises. The time could also be used for guest lectures or new exercises that the instructor could not fit in a course taught in the traditional manner.
VI. Conclusion

In response to legal employers’ call to prepare practice ready attorneys, legal skills faculty can turn to the flipped classroom pedagogy as a new tool to increase the amount of time spent working with students in class on active learning experiences designed to enhance their legal skills development. While “flipped classroom” may seem like a hot buzzword among instructors at all levels of education,\(^{242}\) the approach can bring many pedagogical and learning benefits to legal skills courses and experiential legal programs.

Despite the potential time consuming aspects of adopting the approach,\(^{243}\) faculty and students in higher education have embraced this pedagogy because it enables a focus shift in the classroom away from an instructor’s passive lecturing, placing the emphasis on students’ skills development.\(^{244}\) While flipping a classroom may seem like a dramatic educational change when compared to the traditional lecture-centered approach, today’s law students are predominately digital natives who easily adapt to the pedagogy because they are accustomed to receiving most of their information digitally.\(^{245}\)

Flipped classrooms put students in control of when, where, and how often they can “attend” a professor’s video lectures and allows for immediate review of the material following the viewing of the lecture. Instructors remain responsible for teaching course material through video lectures and in-class review and discussion, reinforcing students’ understanding before engaging in active learning experiences with their peers and the professor. The active learning that occurs in the classroom can be tailored to accommodate students’ different learning styles if instructors vary the types of experiences they create for class sessions. The increased emphasis on active learning also provides opportunities for students to work together, preparing them to collaborate with attorney colleagues on client matters once they begin to practice law. As law schools work to expand the amount of skills development offered in their curriculum, the flipped classroom pedagogy may become an invaluable tool in making the best use of the time that law school professors and experiential learning faculty have with their students.

\(^{242}\) See, e.g., Joakim, supra note 22.

\(^{243}\) See, e.g., Dewald, supra note 18.

\(^{244}\) See, e.g., Lemmer, supra note 46, at 490.

\(^{245}\) See Palfrey & Gasser, supra note 129, at 240.