

Helping Students Regain Confidence in Executive Functioning Skills for Subsequent Bar Exam Attempts

Chelsea M. Baldwin

Assistant Professor in
Residence & Director of
Academic Success
Programs
*University of Nevada, Las
Vegas – William S. Boyd
School of Law*

‘Tis the season, for those of us in late reporting jurisdictions, to be meeting with students that failed the July bar exam and discussing strategies for preparing for the February bar exam. Beyond the disappointment, anger, resignation, and sometimes shame many of these students express, is also some self-doubt. While some students genuinely doubt whether they have the intellectual capacity to pass the bar exam, many of the students experiencing self-doubt are expressing concerns about their ability to utilize their executive functioning skills consistently and for a long enough duration to complete the balance of quality and quantity of work required on the bar exam. I frequently hear statements along the lines, “I just get overwhelmed and then I binge on Netflix instead of studying.” Or, “I don’t know how to memorize this much stuff and solve problems from memory.” Or, “I feel like I don’t know

what I’m doing, and I don’t even know what I should be doing.”

To paraphrase Diamond & Ling’s 2016 meta-analysis, executive functioning is a family of three interrelated core skills that serve as the foundation for other higher-order skills essential to bar exam and law practice success. The core skills are inhibitory control, working memory, and cognitive flexibility. These, in turn, are foundations for reasoning, problem-solving, and planning. Broadly speaking, inhibitory control is the ability to resist urges to behave one way in favor of behaving in a wiser fashion. Working memory is the ability to hold some information in mind while performing one or more mental operations. And cognitive flexibility is the ability to adjust to changing demands or priorities or look at something in different ways or from different perspectives.

The meta-analysis mentioned above looked at a body of research and determined that the core skills of inhibitory control, working memory, and cognitive flexibility are malleable, and they can both be learned and extinguished at many points across the

human lifespan. But, there are some known constraints on the effectiveness of these interventions. The transferability of particular executive functioning skills is narrow, so meaningful increases in executive functioning will require broad and varied types of practice in numerous different skills. Additionally, the amount of time spent practicing different executive functioning tasks affects the magnitude of a person’s improvement. Moreover, improvement due to interventions is significantly impacted by the way the activity is presented and conducted by a facilitator. For observable growth in executive functioning to occur, the practice must be challenging and in the zone of proximal development, i.e., beyond a person’s current abilities to perform but achievable with some support and guidance. Of particular relevance to our students is that stress, loneliness, and poor physical health all decrease measures of executive functioning.

Law school and preparing for the bar exam are experiences that include elevated levels of stress, loneliness, and sometimes, poor physical health, so it

“While some students genuinely doubt whether they have the intellectual capacity to pass the bar exam, many of the students experiencing self-doubt are expressing concerns about their ability to utilize their executive functioning skills consistently and for a long enough duration to complete the balance of quality and quantity of work required on the bar exam.”

“Law school and preparing for the bar exam are experiences that include elevated levels of stress, loneliness, and sometimes, poor physical health, so it comes as no surprise that some students upon failing an administration of the exam are questioning their willpower, memory, and general human competence.”

comes as no surprise that some students upon failing an administration of the exam are questioning their willpower, memory, and general human competence. I have several conversations with students in this group that seem to be helpful for addressing this family of concerns.

The first of these conversations involves a visual aid of sorts to provide support for cognitive flexibility when approaching the sheer volume of tasks and activities that are part and parcel of studying for the bar exam and to provide reminders of upcoming breaks from studying to aide inhibitory control. While the student and I are talking about the various situational and life constraints that student will be juggling in addition to bar preparation for the next attempt, I begin folding a blank sheet of paper into an 8X4 grid. I ask the student what day of the week they like to start with and then label the columns accordingly. From that point, we talk about individual circadian rhythms, e.g. “night owl” or “morning lark,” and whether their best quality productivity tends to occur in the morning, afternoon, or evening. The three rows are then labeled “high energy,” “medium energy,” and “low energy” according to that student’s particular preferences. Then some of the cells are marked out because they are already spoken for with employment, nonnegotiable family obligations, etc.

For a morning-lark student with a 9-5 job, the grid might look like this before we start plugging in bar preparation activities:

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
High Energy		Work	Work	Work	Work	Work	
Medium Energy		Work	Work	Work	Work	Work	
Low Energy						Family & Friends	

For a night owl student with a weekend job, the grid might look like this:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Low Energy	Work				Work	Work	Work
Medium Energy					Work	Work	Work
High Energy				Family & Friends	Work	Work	Work

Then we talk about assorted strategies to maximize the quality of preparation they can do with the energy they have left over after their unmovable obligations are handled. Part of this conversation includes what types of study tasks can be done best with different energy levels and which types of study tasks will best address that student’s perceived weaknesses from the first attempt. We also discuss building periodic rest breaks and rewards into the schedule. It is easier to resist Netflix at 2 o’clock on a Thursday afternoon when you know you are going to dinner with friends Friday evening than it is to resist when you think you will not get to watch television again for another eight weeks.

The second of these conversations for renewing executive functioning is about creating efficiencies by grouping various subjects together so that the load on working memory has a clear purpose and some of the cognitive flexibility the student may have ceded to a commercial bar prep provider is reclaimed. Nevada is a community property state, so it just makes good sense to treat family law (domestic relations), community property, and wills,

trusts, and estates as a package of material instead of three different subjects. Once students have permission to increase the efficiency of their studies, and a model showing one potential option, they seem to regain some flexibility in setting priorities and adapting to the challenges of the day.

The third of these conversations does not neatly correspond with the executive functioning categories and instead serves as necessary foundational information for strategic deployment of cognitive flexibility. The student and I talk about beginning each study session with self-testing and elaborative study strategies rather than consumption strategies such as watching a lecture or reading an outline. I encourage students to start the first day of a subject's review with a blank piece of paper and do their best to recreate an issue-based attack sheet from when they took that final exam in law school; then to fill in the rules to the best of their memory; then to do a set of Multi-state Bar Exam questions (MBEs) or an essay. Afterwards, they add whatever

was triggered by the problem(s) to their study aid. Then they can use the model answers and answer explanations to make corrections to the budding outline. Finally, they can go to the lecture notes or outline and add the missing sections/issues to the outline. At that point, they put it away until the next day, and they come back and begin by trying to fill in the rules for the issues that were missed the previous day.

In subsequent meetings, the student and I will evaluate how the approach and processes are working and, where necessary, brainstorm alternatives for pieces that are not working. I use my coaching to support the student's executive functioning, and through that support, empower them to reclaim that part of their skill set and identity as problem-solvers. Reclaiming that concept of self helps reduce stress, mitigate some of the loneliness of bar prep, and sometimes, provides time for some self-care to maintain physical health.

References:

Adele Diamond & Daphne S. Ling, *Conclusions About Interventions, Programs, and Approaches for Improving Executive Functions That Appear Justified and Those That, Despite Much Hype, Do Not*, 18 DEVELOPMENTAL COGNITIVE NEUROSCIENCE 34 (2016).

Alix Spiegel, *Old-Fashioned Play Builds Serious Skills*, NPR: Morning Edition (February 21, 2008), <https://www.npr.org/templates/story/story.php?storyId=19212514>.

Louis N. Schulze, *Using Science to Build Better Learners: One School's Successful Efforts to Raise Its Bar Passage Rates in an Era of Decline*, 12 FLA. INT'L U. L. REV. (forthcoming 2017).

WANDA TEMM, *CLEARING THE LAST HURDLE: MAPPING SUCCESS ON THE BAR EXAM* (2015).

Zone of Proximal Development, Wikipedia, https://en.wikipedia.org/wiki/Zone_of_proximal_development (last visited January 8, 2018).

“Reclaiming that concept of self helps reduce stress, mitigate some of the loneliness of bar prep, and sometimes, provides time for some self-care to maintain physical health.”

A PUBLICATION OF THE
AALS SECTION ON
ACADEMIC SUPPORT

INSIDE THIS ISSUE:

- Academic Advising in Law Schools* **2**
Catherine Martin Christopher & M. Alexander Pearl
- Advising 2.0: Helping Students Achieve Academic Success through Meaningful Academic Advising* **6**
Alicia Jackson
- Familiarity Increases Attendance* **9**
Megan Kreminski
- The Power of Being Nosey* **11**
Allie Robbins
- Cognitive Load Theory and Learning the Law: How and Why Minority Students Struggle in Law School* **13**
Natasha N. Varyani
- Millennials, Deliberate Learning, Motivation and Resilience* **16**
Kimberly R. Kass
- Helping Students Regain Confidence in Executive Functioning Skills for Subsequent Bar Exam Attempts* **19**
Chelsea M. Baldwin
- The Loss of True Grit or an Inside Look at Retaking the Bar Exam* **22**
Heidi Ramos-Zimmerman
- Dealing with the Emotional Toll of Not Passing the Bar Exam* **24**
Jamie A. Kleppetsch
- Two Minutes of Zen* **25**
Chad Noreuil

The Learning Curve

WINTER / SPRING 2018

Letter from the Editors

The editors of the Learning Curve are pleased to announce the Winter/Spring 2018 edition. The Winter often brings with it the excitement of the holidays and the anticipated beginning of a New Year. For some in academic support, the Winter offers a small break from teaching and meeting with students. For others, it may be consumed with grading and preparing students for the bar exam. Regardless of your obligations, we hope Winter gives you an opportunity to rejuvenate, even if briefly, to gear up for the Spring semester.

Once Spring begins, many in Academic Support start retooling. Therefore, this edition focuses on themes of academic advising, counseling, and troubleshooting the performance issues our students' experience. We hope this will assist in that retooling.

In this edition, you will find articles that provide guidance for advising our students through more formalized academic advising programs: one assists us in considering four issues in developing the program,

such as considering the goals for these programs. The other asks us to consider how a professional law school academic adviser can be beneficial for our students.

There are also articles that provide advice for how we can work with our students directly. One encourages us to consider how we can increase attendance at academic support events by becoming more familiar to our students using methods such as attending student events. Another encourages us to adjust our teaching methods for the Millennial student by engaging students in deliberate learning and in building grit for motivation and resilience. Further, we are asked to consider if we can be "nosey" or more inquisitive about the lives of our students to be more supportive. We are also informed about how understanding cognitive load theory can help us assist our students in succeeding, in addition to understanding obstacles and how they can be transformed into opportunities for growth.

We are also given advice on how to support our repeat

bar takers. One encourages us to consider how grit can explain why our students do or do not pass the bar exam and how understanding grit can assist us in working with repeaters. Another gives us tools for helping repeat bar takers to build their executive functions, thus enabling them to better memorize and work efficiently. We also learn how we can assist repeat bar takers with the emotional toll of failing the bar exam.

Finally, we are given advice on how we can help our students gain perspective by taking two minutes of Zen.

As we transition from Winter to Spring, we hope these articles will invigorate your advising, counseling, and troubleshooting with your students so they too may experience a fresh start.

DeShun Harris
Executive Editor,
The Learning Curve