

Fostering Receptiveness to Feedback

By Sammy M. Mansour

When I ask my former 1L legal writing students about their summer jobs, the most common responses in the past few years have expanded from only addressing the type of work they performed to also addressing the type of feedback they received. Students who regularly received feedback tend to view their summer jobs as more meaningful to their development as lawyers. While listening to them speak positively about feedback, I cannot help but smile when thinking back to the dread and alarm that characterized so many of their reactions the first time I commented on their legal writing at the start of their 1L years. Specifically, their shift from perceiving feedback as a personal critique to seeing it as an integral part of strengthening their legal practice skills demonstrates their growth and promise as future attorneys.

In teaching legal writing over the past decade, I have noticed that students who are receptive to feedback have consistently performed better than those who view feedback defensively or with apprehension. Being defensive or nervous about feedback is completely understandable, particularly for law students and new attorneys. The direct manner in which attorneys provide each other feedback is intrinsic to producing effective legal work. So, too, is incorporating

that feedback into the final product. But these same features of legal practice serve as a barrier to law students and new attorneys developing their legal practice skills. Rather than wait and hope for law students and new attorneys to become comfortable with receiving feedback on their work, law professors and supervising attorneys can and should help them recognize that receiving feedback is not just a way to strengthen legal practice skills but is also its own skill.¹

Benefits of recognizing receptiveness to feedback as a skill

By recognizing receptiveness to feedback as a skill, those providing feedback and those receiving it can benefit in several ways. At its most basic level, receptiveness to feedback improves lawyers' work.² Openness to feedback allows lawyers and those training to become lawyers to focus positively on their duties to provide effective counsel to their clients rather than negatively on their own performance. Oral argument moots provide a good example of the type of blunt feedback attorneys provide to their peers and students, many of whom find themselves especially vulnerable at the podium. If oralists are told their arguments lack a linear progression, for example, those who understand that the problem lies in

their non-linear arguments rather than their own thinking are more likely to focus on strengthening their arguments to better serve their clients.³ In contrast, those who interpret feedback as a personal comment are less likely to convert it into concrete steps to improve their performance.⁴

In addition to serving clients better, receptiveness to feedback creates better working and learning environments in the office and in the classroom. Like much legal work, providing feedback can be costly and time consuming, so it is imperative that those receiving feedback value the information and know how to respond to it efficiently and effectively. When attorneys or law students act defensively in the face of feedback, they are essentially using up a finite resource in a way that serves neither their own professional development nor their clients. In contrast, those who demonstrate an appreciation for feedback both in their professional conduct and in strengthening their work product are more likely to succeed at becoming better lawyers and more valuable colleagues or employees. It is not difficult to understand why a supervisor would prefer to assign work to junior attorneys who are more concerned about strengthening their work product in an efficient manner than defensively justifying what they produced. In fact, during the past few years, a growing number of employers conducting

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reference checks for my students have specifically asked me how students handle feedback, both in terms of substance and professionalism.

The culture of feedback

Recognizing the importance of receptiveness to feedback is necessary, but certainly not sufficient, for feedback to have the desired effect of improving a new attorney's performance. The manner by which feedback is provided and sought is just as important.⁵ Law students and new attorneys must first understand the culture of legal workplaces in general. Supervisors and professors should communicate common features of the culture surrounding feedback in legal practice, such as attorneys' readiness to discard and rewrite drafts.

For example, during the early stages of the 1L legal writing course I teach, students regularly believe they have done something wrong when they need to rewrite drafts. I explain that not only are students learning something new and difficult—communicating legal analysis in a way that legal audiences typically expect—but that effective legal writers are not wedded to drafts, and even the most experienced legal writers regularly produce outlines and multiple drafts. In addition to explaining this reality, I use other methods to get the message across, such as showing students colleagues' comments on my own work or by sharing advice from attorneys and judges discussing how they use outlines and drafts.⁶ Some of these methods are difficult to replicate in an office setting, but other steps, such as senior attorneys sharing comments they have provided or received at the onset of a new job can go a long way in terms of setting expectations and introducing the workplace culture.

Understanding the feedback process

Similarly, understanding the feedback process and how it is shaped by the demands of legal practice can also promote receptiveness. Those receiving feedback can improve receptiveness by treating it as a matter-of-fact aspect of practicing law and not inferring a negative tone. The latter

misperception frequently results from students' and new attorneys' unfamiliarity with the motivations of those providing feedback. For example, when I meet with students to discuss my written feedback, I am frequently surprised by how some students misperceive certain direct or blunt comments. A straightforward comment that page numbers are missing and should be added—but lacking the word “please”—can be perceived as angry, which is not an emotion that pagination and similar mistakes in my students' work for hypothetical clients actually evoke in me or other readers. The students least likely to mistakenly perceive a negative tone are those who interpret feedback in the light of the time required to return feedback on dozens of assignments within a short timeframe. They also understand the tradeoffs involved between feedback about form (which can often be straightforward and simple) and substance (which often requires an extended explanation).

This consideration is even more important in the workplace, where students and new attorneys need to understand the limits and value of their colleagues' and supervisors' time. An attorney's primary responsibility is to serve his or her clients—not to educate new attorneys or student interns like a professor. Those providing feedback can help drive this point home by being transparent about their own feedback process, as well as the process in their offices or chambers. Simply stating how much time they have or how much it costs to review a document can play a big role. Likewise, allowing and encouraging access to previous forms of feedback or providing examples can further understanding of a specific workplace culture.

Depersonalizing feedback

A major obstacle to feedback receptiveness is that law students and new attorneys understandably personalize critiques of their work. So it should be equally understandable that small measures by a supervisor to depersonalize feedback can increase receptiveness and make feedback more effective. Experienced attorneys already understand how small-scale framing can influence their audiences. The same considerations

apply when providing feedback. For example, an easy measure is framing feedback to be about the work rather than the person and thus maintaining the focus on serving clients. Avoiding the second person by switching the phrasing of a comment from “your argument” to “this argument” helps maintain the focus on the argument rather than the author. Likewise, if the point of meeting with a junior attorney is to discuss a client matter rather than review the attorney's performance, supervisors will find their time much better spent focusing on that matter as opposed to focusing on the junior attorney's shortcomings.

Those receiving feedback have an even greater role to play. Even if they are unhappy having their work taken apart, they should avoid vocalizing it in their responses and instead maintain their focus on better serving their clients. Students and junior attorneys have little to gain by deflecting blame on their supervisors or colleagues, explaining why they approached their work in a certain manner if they no longer think it was correct, or making sweeping statements about not understanding the feedback. They have much more to gain by engaging with the comments, such as by separating substantive from stylistic feedback and outlining their next steps at incorporating suggestions, and only then following up with questions. Of course, being receptive to feedback is not the same as accepting all feedback. Being receptive to feedback means the recipient is open to seriously considering others' input rather than reflexively defending their work and discarding the professional experience of others.

Creating opportunities for feedback

Lastly, and most obviously, the more opportunities new attorneys and law students have to receive *and* provide feedback, the more likely they are to increase their receptiveness to feedback. Supervisors with varying time limits and interests in providing meaningful feedback frequently find it more efficient to incorporate their own feedback directly into their supervisees' work. In such cases, incorporating some of the methods mentioned above is not an option.

This does not mean that new attorneys and law students have no recourse. Rather, they can be more proactive in drawing lessons from how a supervisor responded to their initial work product. For example, if a supervisor rewrites a document, the drafter can compare both versions to consider why changes were made. In fact, this approach extends to providing feedback, not just receiving it. Offering to provide feedback to peers is not just a way to be a good colleague, but also a way to learn from others and follow up with questions about peers' methods.⁷ When supervisors and professors are more deliberate in identifying receptiveness to feedback as its own skill, it only makes sense that students and new attorneys become more proactive and deliberate in both seeking and giving feedback.

Conclusion

As a professor whose job is to teach and train students, I know enough about the competing demands placed on practicing attorneys to avoid simply telling them they should provide more feedback or lecture them about how to do so. But my teaching experience is consistent with the many calls I receive from legal employers asking about my students' ability to respond effectively to criticism. Receptiveness to feedback is such a pronounced positive trait that students who cultivate it learn more efficiently, and employers value it as an important soft skill for potential hires and junior attorneys. And as I hope this article demonstrates, the limited effort needed for students and attorneys to develop this skill is greatly outweighed by the many benefits of doing so. ■

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ENDNOTES

1. See generally Stone & Heen, *Thanks for the Feedback: The Science and Art of Receiving Feedback* (New York: Viking Press, 2014).
2. *Id.*
3. See, e.g., Garner, *A Message to Law Students: Effective Writing Takes a Lifelong Commitment*, 85 Mich B J 52, 53 (September 2006) ("And the more you undergo frank criticism from readers of all types, the more you'll learn to account for readers' reactions while you write. But if your ego is so delicate that you resent learning that readers can't figure out what you mean, or are distracted by how you put your ideas, your writing probably will be intolerable.").
4. *Id.* See also Jackman & Strober, *Fear of Feedback*, 81 Harv Bus Rev 101 (2003), available at <<https://hbr.org/2003/04/fear-of-feedback>> [<https://perma.cc/J8PC-52TJ>]. All websites cited in this article were accessed July 24, 2019.
5. While this brief article focuses primarily on increasing receptiveness to feedback, there are many articles and studies on how to provide effective feedback in both classroom and office. See, e.g., Enquist, *Critiquing and Evaluating Law Students' Writing: Advice from Thirty-Five Experts*, 22 Seattle U L Rev 1119, 1149-1150 (1999), available at <https://www.lwionline.org/sites/default/files/2016-08/Experts_Enquist_0.pdf> [<https://perma.cc/L7QU-RHED>]; Gionfriddo, Barnett & Blum, *A Methodology for Mentoring Writing in Law Practice: Using Textual Clues to Provide Effective and Efficient Feedback*, 27 Quinnipiac L Rev 171 (2009), available at <https://www.lwionline.org/sites/default/files/2016-08/Mentoring_Gionfriddo.pdf> [<https://perma.cc/KE9E-D2GB>]; and Rose, *Lawyers as Teachers—The Art of Supervision*, 21 Law Prac Mgt 28, 35 (1995), available at <<http://classic.austlii.edu.au/au/journals/LegEdDig/1996/24.html>> [<https://perma.cc/UE39-VVWG>].
6. See, e.g., Justice Stephen G. Breyer, 13 *Scribes* J Legal Writing 145, 151 (2010), available at <<https://legaltimes.typepad.com/files/garner-transcripts-1.pdf>> [<https://perma.cc/DE5Q-T4E5>] ("So I start, and I write a draft, and I show it to people and get a lot of criticisms and write more drafts, and write it over and over and over and over until eventually I have something that I'm reasonably satisfied with.").
7. See also Davis, *Designing and Using Peer Review in a First-Year Legal Research and Writing Course*, 9 Legal Writing: J Legal Writing Inst 1, 18 (2003), available at <https://www.lwionline.org/sites/default/files/2016-08/Peer%20Review_Davis.pdf> [<https://perma.cc/8RB3-UG5T>].

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