

Collaborative Course Design: Not My Course, Not Their Course, but Our Course

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Some aspects of legal education are settled. A primary responsibility for all law school teachers is to design the courses they teach. Teachers' course design efforts are reflected in the syllabi students receive on the first day of class. Those syllabi often articulate course goals, required and recommended materials, expectations teachers have for their students, reading assignments, class policies, teaching and learning methods, and a grading scheme.¹ Teachers make all those decisions as they craft the syllabus. Right?

Maybe not. Recent empirical research on legal education reveals that law schools can improve students' motivation and performance by giving students significant input into their own education.² Those empirical results are consistent with current higher education literature on learner-centered teaching.³ Does this mean that teachers should share with students the responsibility to design the course and the syllabus?

This article answers "yes," for some teachers, some students, and some courses. Part I synthesizes the empirical research in legal education and learning theory in higher education that support an increased role for students in decisions involving their own education. Part II summarizes the literature on the purposes and contents of effective syllabi. Part III describes examples of student participation in course design in graduate, undergraduate, and legal education. Part IV analyzes the types of courses and students appropriate for collaborative course design, details the process for involving students in decisions on the key

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1. See Darlene V. Habanek, *An Examination of the Integrity of the Syllabus*, 53 C. TEACHING 62, 62-64 (2005); Ken Matejka & Lance B. Kurke, *Designing a Great Syllabus*, 42 C. TEACHING 115, 115-17 (1994); Jay Parkes & Mary B. Harris, *The Purpose of a Syllabus*, 50 C. TEACHING 55, 55-59 (2002).

2. See Kennon M. Sheldon & Lawrence S. Krieger, *Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory*, 33 PERSONALITY & SOC. PSYCHOL. BULL. 883 (2007) [hereinafter *Understanding Negative Effects*]; Kennon M. Sheldon & Lawrence S. Krieger, *Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being*, 22 BEHAV. SCI. & L., 261, 280-83 (2004) [hereinafter *Evaluating Changes*].

3. See generally KEN BAIN, WHAT THE BEST COLLEGE TEACHERS DO (2004); MARYELLEN WEIMER, LEARNER-CENTERED TEACHING (2002).

components of the syllabus, and reports the results of shared design efforts in ten law school courses.

I. SELF-DETERMINATION THEORY AND LEARNER-CENTERED TEACHING

Impressive empirical research by psychologist Kennon Sheldon and law professor Lawrence Krieger establishes the important role that student autonomy and control play in students' motivation, well-being, and performance in law school.⁴ Sheldon and Krieger's conclusions find support in two recent works on teaching and learning in higher education, Ken Bain's *What the Best College Teacher's Do* and Maryellen Weimer's *Learner-Centered Teaching*.

A. *Self-Determination Theory and Student Autonomy in Law School*

Sheldon and Krieger have conducted two longitudinal empirical studies applying self-determination theory to legal education.⁵ Self-determination theory addresses the causes and effects of intrinsic and extrinsic motivation.⁶

Intrinsic motivation leads people to engage in an activity because it furthers their interests, values, or enjoyment.⁷ Extrinsic motivation, on the other hand, is a means to an end, leading people to engage in behavior to receive a reward or avoid a detriment.⁸ Extrinsic motivation can become internalized when people believe in the rationale behind the behavior and, therefore, feel that the behavior is their own choice, even if they do not particularly enjoy the activity.⁹ Intrinsic motivation and internalized extrinsic motivation are associated with well-being and good performance.¹⁰ However, extrinsic motivation based on external pressure or internal compunctions, such as fear or guilt, is associated with negative well-being and performance.¹¹

In their longitudinal empirical study published in 2004, Sheldon and Krieger demonstrated that students experienced significant declines in well-being and increases in depression during law school.¹² Students' deterioration in well-being was accompanied by decreases in intrinsic

4. See *Understanding Negative Effects*, *supra* note 2, at 883; *Evaluating Changes*, *supra* note 2, at 266-68.

5. The first study was conducted at two law schools from 2000 through 2002. *Evaluating Changes*, *supra* note 2, at 276-77. The second study, also conducted at two law schools, took place from 2001 to 2005. *Understanding Negative Effects*, *supra* note 2, at 887.

6. *Evaluating Changes*, *supra* note 2, at 263.

7. *Id.* at 263-64.

8. *Id.*

9. *Id.* at 263.

10. *Id.* at 264.

11. *Id.*

12. *Id.* at 280. Sheldon and Krieger's findings are in line with substantial literature evidencing the negative effects of law school on students. See *id.* at 261-63.

motivation and increases in extrinsic motivation. In particular, over the course of law school, students were less motivated to pursue their goals out of personal interest or enjoyment and more motivated to please or impress others.¹³

In their second longitudinal empirical study, published in 2007, Sheldon and Krieger focused on autonomy support, which affects intrinsic motivation.¹⁴ According to self-determination theory, autonomy support has three features: (1) *choice*—supervisors or leaders provide subordinates with as much choice as possible; (2) *rationale*—leaders explain the situation when they cannot provide choices to the subordinates; and (3) *perspective*—supervisors demonstrate that they care about the points of view of the subordinates.¹⁵ When leaders provide autonomy support, subordinates' intrinsic motivation and internalization of extrinsic motivation are enhanced.¹⁶ However, when supervisors ignore the views of subordinates and fail to provide choice and rationales, subordinates' intrinsic motivation and internalization are undermined.¹⁷

Sheldon and Krieger surveyed students at two law schools regarding their perceptions of the level of autonomy support the faculty provided. At one school, students perceived the faculty “to be more focused on student concerns and to provide more choices and more meaningful rationales for mandatory rules and requirements.”¹⁸ Students at the other school believed the faculty was “more controlling and insensitive to their perspectives.”¹⁹ Students at the school with higher autonomy support experienced a significantly greater sense of well-being, higher-graded performance in law school, and more intrinsic motivation to pursue their legal career.²⁰

B. Learner-Centered Teaching in Higher Education

Students' intrinsic motivation, engagement, and control of their own education are at the heart of recent books by Bain and Weimer on effective, learner-centered teaching. Weimer's *Learner Centered Teaching* arose out of her review of the vast literature on student learn-

13. *Id.* at 281.

14. *Understanding Negative Effects*, *supra* note 2, at 884.

15. *Id.*

16. *Id.*

17. *Id.*

18. *Id.* at 893.

19. *Id.*

20. *Id.* at 894. The students at the school with higher autonomy support also outperformed the students from the other school on the multi-state portion of the bar exam. *Id.* at 891. The bar exam results support the hypothesis that even after controlling for Law School Admission Test (LSAT) scores and undergraduate grade point average (UGPA), students at the school with higher autonomy support learned more than the students at the other school. *Id.* at 891.

ing in higher education.²¹ Bain's *What the Best College Teachers Do* is based on his analysis of the principles and practices exhibited by more than sixty of the "best" teachers at two dozen institutions.²² Some of these educators taught undergraduates, some taught graduate students, and two were law school teachers.²³ The "best" teachers succeeded "in helping their students learn in ways that made a sustained, substantial, and positive influence on how those students think, act, and feel."²⁴

The first unifying principle that Bain identified from the practices of the "best" teachers he studied is that they try to create a natural, critical learning environment in which students can learn most effectively.²⁵ Students are most likely to experience sustained, substantial, positive learning (1) when they are trying to answer questions and solve problems that they find intrinsically interesting and important, (2) in a challenging and supportive environment in which they have control over their own education, (3) in collaboration with other learners, (4) where their work will be fairly evaluated, and (5) after having the opportunity to practice and get feedback.²⁶ Bain makes clear, however, that the best teaching, which leads to the most effective learning, is not the result of a set of practices, but is more subtle:

I cannot stress enough the simple yet powerful notion that the key to understanding the best teaching can be found not in particular practices or rules but in the *attitudes* of the teachers, in their *faith* in their students' abilities to achieve, in their *willingness* to take their students seriously . . . , and in their *commitment* to let all policies and practices flow from central learning objectives and from a mutual respect and agreement between students and teachers.²⁷

While Bain derives teaching and learning principles from the practices of excellent teachers, Weimer identifies elements of learner-centered teaching from the literature on learning. The first feature of learner-centered teaching that Weimer explores is the balance of power between teachers and students.²⁸ Theory and research on self-regulated learners conclude that students' motivation, confidence, and enthusiasm

21. See WEIMER, *supra* note 3, at 6-8. Although Weimer's book contains her vision of a learner-centered teacher, based in part of her review of the higher education literature on teaching and learning, she makes clear that she is not attempting to summarize or harmonize that extensive body of work. *Id.* at 6. For those interested in sampling that literature more deeply, Weimer includes an extensive list of articles and books on teaching and learning. *Id.* at 233-42.

22. See BAIN, *supra* note 3, at 4.

23. *Id.*

24. *Id.* at 5.

25. *Id.* at 99. Bain identified seven unifying principles: (1) create a natural, critical learning environment, (2) get their attention and keep it, (3) start with the students rather than the discipline, (4) seek commitments, (5) help students learn outside of class, (6) engage students in disciplinary thinking, and (7) create diverse learning experiences. *Id.* at 99-116.

26. *Id.* at 109.

27. *Id.* at 78-79.

28. WEIMER, *supra* note 3, at 23-45. From her review of the literature, Weimer identifies five aspects of learner-centered teaching: (1) balance of power, (2) role of content, (3) role of the teacher, (4) responsibility for learning, and (5) evaluation purpose and processes. *Id.* at 8-17.

are adversely affected when teachers control most aspects of the educational process.²⁹ In most courses, teachers make all of the important design decisions including the content that will be covered, the pace of the course, the amount of time devoted to each topic, the types of assignments, deadlines, attendance and other classroom policies, the learning activities, and the evaluation and grading scheme.³⁰

In learner-centered environments, teachers share power with students by involving them in decisions about their own education.³¹ Students can participate in some or all of the course design decisions listed above. Power sharing can benefit students, their learning, teachers, and the teaching and learning environment.³² For many students, involvement in course design decisions increases their level of engagement and motivation to work hard.³³ Teachers benefit from the collaborative, rather than adversarial, relationship with students that power sharing can engender.³⁴ Students and teachers share ownership of the course and the responsibility for creating an effective teaching and learning environment.³⁵

Sharing power with students is not a panacea—as Weimer puts it, “Instructional nirvana does not descend.”³⁶ Not every student will be engaged and motivated through involvement in course design decisions.³⁷ Some students resist taking on design responsibility, which they view as the teacher’s role.³⁸ Other students are uncomfortable beginning a course with uncertainty as to the rules, policies, and expectations that will govern the course.³⁹ Consequently, the extent to which teachers should share power with students depends in part on whether students have the intellectual maturity and level of development necessary for them to take on significant responsibility as self-directed learners.⁴⁰

Weimer bases her assessment of students’ readiness to engage in learner-centered education on the work of Gerald Grow, who created a detailed model of how learners develop.⁴¹ Grow has proposed a four-

29. *Id.* at 23.

30. *Id.* at 23-24.

31. *Id.* at 28.

32. *Id.* at 30.

33. *Id.* at 30-31. The benefits to students from participation in course design is consistent with adult learning theory—*andragogy*—which presumes that adults prefer self-direction in determining the goals of their own education and that adults’ most powerful motivations are intrinsic. Jovita M. Ross-Gordon, *Adult Learners in the Classroom*, 102 *NEW DIRECTIONS FOR STUDENT SERVICES* 43, 43-44 (2003).

34. WEIMER, *supra* note 3, at 31, 168-71.

35. *Id.* at 31.

36. *Id.*

37. *Id.*

38. *Id.* at 150-52.

39. *See id.*

40. *Id.* at 43.

41. *See id.* at 168-71.

stage model of the development of adults as self-directed learners.⁴² Grow defines “self-directed learning” as the “degree of choice that learners have within an instructional situation.”⁴³ Grow’s model is based on several assumptions: that a goal of higher education is to produce self-directed, lifelong learners; that self-direction can be taught; and that a student can be self-directed in one subject but not in another.⁴⁴ Grow’s stages of self-directed learners have significant implications for learner-centered teaching.

Stage 1: Learners of Low Self-Direction. Dependent learners expect their education to be teacher-centered.⁴⁵ They respond best to teachers who have mastery of the subject, articulate clear objectives for the course, set high expectations, and design rigorous assignments.⁴⁶ Dependent learners look to teachers to provide clear direction and make the important design decisions in the course.⁴⁷ All learners may become temporarily dependent when encountering a new topic.⁴⁸

Stage 2: Learners of Moderate Self-Direction. Interested learners respond to teachers’ enthusiasm and motivation.⁴⁹ They want to know the rationale behind teachers’ course-design decisions and assignments.⁵⁰ They can be swept up in teachers’ passions for the course, especially when teachers tie the subject to students’ interests.⁵¹ Interested learners can achieve lofty standards and once motivated will continue to learn on their own.⁵²

Stage 3: Learners of Intermediate Self-Direction. These participant learners see themselves as participants in their own education.⁵³ They will explore a subject on their own and with a guide.⁵⁴ Participant learners are ready to begin collaborating with teachers and other students in identifying course goals and designing learning activities and

42. Gerald O. Grow, *Teaching Learners to Be Self-Directed*, 41 ADULT EDUC. Q. 125, 126 (1991). Grow calls his model Staged Self-Directed Learning. *Id.*

43. *Id.* at 128.

44. *Id.* at 127. Grow bases his model on other assumptions as well, including that there is more than one way to teach well and that there is nothing inherently wrong with being a dependent learner, either temporarily or permanently in some subjects. *Id.*

45. *Id.* at 129-31.

46. *Id.*

47. *Id.*

48. *Id.* at 129. Dependent learners are not “bad” students. They can be excellent students who are systematic and thorough, becoming masters of a specific area. “Examples of Stage 1 teaching include formal lectures emphasizing subject matter, structured drills, highly specific assignments . . . and intensive individual tutoring.” *Id.* at 131.

49. *Id.* at 131-33.

50. *Id.*

51. *Id.*

52. *Id.* at 131-32. “Examples of Stage 2 teaching include a lecturer as inspiring performer, . . . teacher-led discussion, demonstration by an expert followed by guided practice, structured projects with predictable outcomes, close supervision, ample encouraging feedback, [and a] highly interactive computerized drill” *Id.* at 132.

53. *Id.* at 133-34.

54. *Id.*

evaluation schemes.⁵⁵

Stage 4: Learners of High Self-Direction. Self-directed learners are willing and able to take responsibility for their own learning.⁵⁶ They can set their own goals and standards, gather materials, design activities to pursue their goals, provide feedback to other students, and participate in the evaluation of learning.⁵⁷ Although they can learn from any teacher, self-directed learners thrive in an environment of autonomy.⁵⁸

In summary, Bain, Weimer, and Grow extol the benefits of student involvement in their own education. Participation in course design can enhance students' motivation and learning. However, the appropriate extent of students' engagement in course design depends on their maturity and level of development.

II. COMPONENTS OF EFFECTIVE SYLLABI

Course design decisions, whether made by teachers alone or with students, are reflected in course syllabi. Sections III and IV explore teacher and student collaboration in the design of the course and the creation of syllabi. The current discussion lays the groundwork for those sections by identifying the purposes and components of effective syllabi. Successful syllabi can memorialize design decisions, form a contract between students and teachers, communicate important information, and establish a tone for the course. Course design decisions include five components: (1) Goals—articulating the knowledge, skills, and values students should learn in the course; (2) Materials—finding appropriate texts and electronic resources; (3) Assignments—identifying readings and projects to be completed in and out of class; (4) Methods—choosing teaching and learning approaches; and (5) Evaluation—determining the grading scheme, including exams, quizzes, papers, and participation.⁵⁹ Those decisions should be detailed in the syllabus so that teachers and students can rely on them throughout the course.⁶⁰

55. *Id.* “Stage 3 learners can be assigned to work in groups on open-ended but carefully-designed projects. Written criteria, learning contracts, and evaluation checklists help learners monitor their own progress.” *Id.* at 134.

56. *Id.* at 134-36.

57. *Id.*

58. *Id.* at 134-35. “Examples of Stage 4 are internships, term projects, independent study, . . . dissertation, [and] student-directed discussion with teacher involvement as invited . . .” *Id.* at 135. Michael Hunter Schwartz, a leading author on teaching and learning in legal education, identifies many other characteristics and practices of self-regulated learners in law school, including: they do not merely set goals but set mastery learning goals; they know their strengths and weaknesses as learners; they do not recognize the relationship between their goals and the wide variety of strategies they might apply to achieve their goals; they self-monitor for attention and comprehension while engaged in learning; and they self-evaluate their learning processes, remaining open to insights about their learning processes that will help them continuously improve as learners. See MICHAEL HUNTER SCHWARTZ, *EXPERT LEARNING FOR LAW STUDENTS* 27-28, 31 (2005).

59. GERALD F. HESS & STEVEN FRIEDLAND, *TECHNIQUES FOR TEACHING LAW* 13, 22-27 (1999).

60. See Habanek, *supra* note 1, at 62. Many students feel overextended and use the syllabus to

Additionally, the syllabus should serve as a contract between teacher and students, which delineates their respective responsibilities and guides their behavior during the course.⁶¹ All of the course design decisions described above are part of the contract.⁶² A comprehensive syllabus will address expectations, policies, and timing.⁶³ Expectations concerning students' roles and responsibilities include preparation, participation, effort, respect for teacher and students, contribution to an effective learning environment, and collaboration with students and the teacher.⁶⁴ Expectations about the teacher's role and responsibilities encompass preparation, expertise, effort, respect for students, organization, leadership, feedback to students, and fairness in grading.⁶⁵ Policies address attendance, preparation, academic honesty, missed deadlines, beginning and ending class on time, and grading components and weight.⁶⁶ Timing includes a course calendar with reading assignments and due dates for other assignments.⁶⁷ An effective syllabus also communicates important information about the course, the teacher, advice for success in the course, and resources for students.⁶⁸

Further, the syllabus should provide motivation to students and set a tone for the course. The syllabus is often the first contact students have with the teacher—it leaves a lasting impression.⁶⁹ A syllabus that is clear, organized, thoughtful, comprehensive, and engaging conveys to students a model of professional thinking and performance. Conversely, a syllabus that is sloppy, disjointed, incomplete, and misleading communicates a lack of competence, respect, and professionalism.⁷⁰ The syllabus can aid student learning when teachers include a description of their philosophy on teaching, learning, and the course.⁷¹ Likewise, the teacher can further student understanding by providing a rationale for the assignments, the teaching and learning methods chosen, and the

manage their study time and allocate their efforts to the most important aspects of the course. Jeanne M. Slattery & Janet F. Carlson, *Preparing an Effective Syllabus: Current Best Practices*, 53 C. TEACHING 159, 160 (2005).

61. Parkes & Harris, *supra* note 1, at 55.

62. See Mategka & Kurke, *supra* note 1, at 115.

63. See Parkes & Harris, *supra* note 1, at 56.

64. See Habanek, *supra* note 1, at 62.

65. See *id.* at 63.

66. See Parkes & Harris, *supra* note 1, at 56; Slattery & Carlson, *supra* note 60, at 160-61.

67. See Parkes & Harris, *supra* note 1, at 56; Slattery & Carlson, *supra* note 60, at 160.

68. See Parkes & Harris, *supra* note 1, at 57-58. Course information includes name, number, location, dates, times, credits, web page, and a description of topics the course covers. Teacher information includes name, office location and hours, phone, email address, and web page. Advice to help students succeed in the course includes common pitfalls, study strategies, time management skills, tips for performing well on exams and other assessments. References to resources for students, includes tutors, library services, academic support centers, and study aids, such as books, tapes, charts, flashcards, and websites.

69. Habanek, *supra* note 1, at 63.

70. See Parkes & Harris, *supra* note 1, at 58.

71. *Id.*

evaluation scheme for the course.⁷² A syllabus can motivate students when the teacher conveys enthusiasm for the course and a commitment to the success of each student.⁷³

III. COLLABORATING WITH STUDENTS TO DESIGN A COURSE

Self-determination theory, intrinsic motivation, autonomy support, and learner-centered teaching suggest that students and teachers will benefit when they collaborate in designing a course. Students could participate in any of the components of course design such as goals, materials, assignments, teaching/learning methods, and grading scheme,⁷⁴ or in other significant elements that go into an effective syllabus—expectations for students and teachers, course policies, or a calendar.⁷⁵ Depending on the nature of the course, the interest of the teacher, and the students' level of self-direction, it may be appropriate for students and teachers to collaborate in one, some, or all of the course design and syllabus decisions. Examples of collaborative course design appear in the literature on higher education and legal education.

A. *Collaborative Course Design in Higher Education*

College teachers collaborate with students in decisions involving selected aspects of course design such as course policy, content, or grading, and in construction of the entire syllabus. Weimer has her students establish the participation policy in her public speaking course.⁷⁶ In small groups, students discuss what types of student contributions should count for participation credit.⁷⁷ Based on the consensus students reach in their groups, Weimer drafts a policy that the students discuss in the next class.⁷⁸ After making appropriate revisions arising out of that discussion, Weimer and the students adopt a final version of the policy.⁷⁹ Weimer reports that some students initially doubt that Weimer will actually allow the students to adopt a participation policy.⁸⁰ Once the policy is adopted, however, the quality and quantity of student participation in the course is enhanced.⁸¹

Weimer describes a continuum of student involvement in decisions

72. Slattery & Carlson, *supra* note 60, at 162.

73. See Habanek, *supra* note 1, at 63; Slattery & Carlson, *supra* note 60, at 159-60. However, a syllabus that is cold, confrontational, and punitive can dampen students' motivation and lead them to believe that the teacher expects them to fail. Slattery & Carlson, *supra* note 60, at 160.

74. See WEIMER, *supra* note 3, at 23-24.

75. See *supra* notes 59-67 and accompanying text.

76. WEIMER, *supra* note 3, at 34.

77. *Id.*

78. *Id.* at 34-35.

79. *Id.* at 35.

80. *Id.*

81. See *id.* at 36-37.

about course content.⁸² In many courses, teachers allow students to write papers and make presentations on topics they choose.⁸³ Some teachers allow students to decide what topics should be covered during review sessions.⁸⁴ Other teachers expect students to work on understanding content by studying the text outside of class and allow the students to identify at the beginning of each class the topics that need clarification, thus setting the agenda.⁸⁵ Finally, Weimer proposes a graduate level elective in which the teacher presents a long list of potential topics for the course and students choose by consensus the topics that the course will actually cover.⁸⁶

Teachers can invite student input into the development of the grading scheme for the course. For example, in an introductory sociology class, the teacher distributed a draft syllabus on the first day, which included a course schedule and reading assignments, but had no grading scheme.⁸⁷ Students' first homework assignment was to design an evaluation scheme, including the types and timing of the graded assignments.⁸⁸ In the next class, the teacher and students reached a consensus on the grading scheme for the course.⁸⁹ The students' feedback on the process of designing the evaluation scheme was very positive and the teacher reported a high level of student investment in learning the course content and performing well on graded assignments.⁹⁰

Some teachers involve students in most or all of the course design elements of the syllabus. For example, in graduate-level education courses, Dan G. Holt and Colleen Willard-Holt provided masters-level students with a list of competencies that the courses must address and let students decide whether to follow a teacher-created syllabus or to decide for themselves the course schedule, assignments, teaching and learning methods, and grading criteria.⁹¹ Students chose to collaborate with the teacher to construct the syllabus in two of the courses.⁹² In these two courses, students felt more ownership and investment, worked harder, devoted more time to the course, completed more research, and had feelings of camaraderie and accomplishment.⁹³ In a doctoral-level

82. *Id.* at 38.

83. *Id.* at 37.

84. *Id.* at 38.

85. *Id.* at 38-39.

86. *Id.* at 39.

87. Suzanne S. Hudd, *Syllabus Under Construction: Involving Students in the Creation of Class Assignments*, 31 TEACHING SOC. 195, 197 (2003).

88. *Id.*

89. *Id.* at 197-98.

90. *Id.* at 199-200.

91. Dan G. Holt & Colleen Willard-Holt, *Efficacy of Student-Selected Curricula 4-6* (April 18-22, 1995) (unpublished manuscript, on file with author). The paper was presented at the Annual Meeting of the American Educational Research Association.

92. *Id.* at 6-8.

93. *Id.* at 10-12.

course, Teaching Mass Communications in College, the teacher reported similar positive effects after sharing responsibility with students for choosing course objectives, topics, policies, readings, assignments, and evaluation scheme.⁹⁴

Johnson describes a process he used in many courses for collaborating with students on all aspects of syllabus design.⁹⁵ On the first day of class, students interview one another about what they most want to learn in the course.⁹⁶ Johnson records the results, distributes a draft syllabus, and invites students to propose revisions to any part of it based on their own learning needs and the results of the interviews.⁹⁷ Students comment on the course goals, content, teaching and learning methods, assignments, and the evaluation scheme.⁹⁸ He then revises the syllabus incorporating many of the students' suggestions.⁹⁹ Johnson reports that students feel a sense of ownership in the course resulting from the collaborative design process. "They see that I respect them as learners, that I trust them and their judgment. There is a higher level of motivation."¹⁰⁰

Although much of the higher education literature extols the virtues of a collaborative approach to course design and syllabus construction, it also recognizes the potential risks. Some students believe it is the professor's job to decide the course objectives, content, assignments, and evaluation scheme before the first class meeting.¹⁰¹ Other students may resent the use of class time to engage in course design rather than to cover course content.¹⁰² Some students may be uncomfortable with the uncertainty that can arise during the first few classes while the syllabus is under construction and other students may believe that the syllabus is open for negotiation throughout the course. To minimize these closure concerns, it is important for the teacher to emphasize that the collaborative design decisions made at the beginning of the course are final, so that students and teachers can rely on them for the rest of the course.¹⁰³ Finally, as noted in section I.B., Weimer cautions that teachers have the responsibility to ensure that they share control and decision-making with students only to the extent that students are sufficiently mature to exercise good judgment about their own education.¹⁰⁴

94. Pai-Lin Chen et. al., *Pedagogy Under Construction: Learning to Teach Collaboratively*, JOURNALISM & MASS COMM. EDUCATOR 25, 30, 33-35 (2001).

95. Philip E. Johnson, *Getting Students to Read the Syllabus: Another Approach*, 14 TEACHING PROFESSOR 1, 1-2 (2000).

96. *Id.*

97. *Id.*

98. *Id.*

99. *Id.*

100. *Id.* at 2.

101. See Chen, *supra* note 94, at 30; Hudd, *supra* note 87, at 199.

102. Hudd, *supra* note 87, at 199.

103. *Id.*

104. See *supra* note 40 and accompanying text.

B. Collaborative Course Design in Legal Education

Several examples of collaborative course design appear in the legal education literature. Susan Sturm and Lani Guinier share power with students in their Critical Perspectives seminar by collaborating with them to identify course goals and to plan class sessions.¹⁰⁵ In her Law and Literature seminar, Teree Foster met with students before the course began so students could help structure the syllabus and could participate in choosing the readings.¹⁰⁶ Collaborative course design in law school is not limited to seminars. David Dominguez and his ninety students constructed a syllabus in the first sessions of a required Public Interest Law course.¹⁰⁷ They achieved consensus on their expectations for the course, “field projects, the selection of texts, the format for class discussion, and alternative methods for testing and grading.”¹⁰⁸

The most extensive analysis of student participation in course design in legal education involved learning contracts for a clinical course.¹⁰⁹ Teachers at Georgetown’s Center for Applied Legal Studies had their clinical students articulate their goals for learning practical skills—interviewing, negotiation, etc.—and for professional development—creativity, assertiveness, cooperation.¹¹⁰ Students also commented on and proposed changes to a detailed description in the draft contract of the roles and responsibilities of clinical students.¹¹¹ Jane Aiken, David Koplov, Lisa Lerman, J.P. Ogilvy, and Philip Schrag synthesize the benefits of learning contracts from the higher education literature and from their experience in the law school clinic, including: (1) allowing teachers to tailor courses to meet the students’ educational goals; (2) motivating students to accept responsibility for their own learning and to commit themselves to the course; (3) increasing study time and improving test scores; and (4) changing the balance of power between students and teacher to be more collaborative and less hierarchical.¹¹² In short, “[s]tudents who think critically about what and how

105. Susan Sturm & Lani Guinier, *Learning from Conflict: Reflections on Teaching About Race and Gender*, 53 J. LEGAL EDUC. 515, 525 (2003). The authors describe their experiences involving students in course design at Cornell University, Columbia Law School, Harvard Law School, and the University of Pennsylvania School of Law. *See id. passim*.

106. Teree E. Foster, *But is it Law? Using Literature to Penetrate Societal Representations of Women*, 43 J. LEGAL EDUC. 133, 141 (1993). The author describes her Law and Literature Seminar at the University of Oklahoma College of Law. *Id.*

107. David Dominguez, *Negotiating Demands for Justice: Public Interest Law As a Problem Solving Dialogue*, 15 IN THE PUB. INT. 1, 10 (1997). The author describes his Public Interest Law course at Brigham Young University Law School. *Id. passim*.

108. *Id.*

109. Jane H. Aiken et al., *The Learning Contract in Legal Education*, 44 MD. L. REV. 1047 (1985).

110. *Id.* at 1063-65. Students can choose goals from a list in the draft contract or can identify goals not on the list. *Id.* at 1064-65.

111. *Id.* at 1067.

112. *Id.* at 1049, 1087. The authors also identify as a benefit of learning contracts that the students can set their own pace of learning. *Id.* at 1049.

they are learning, and who take responsibility for the quality of their own education, may enjoy greater satisfaction because they have more control over their experience.”¹¹³

Aiken and her colleagues acknowledge that in a law school class with a large enrollment, negotiating individual learning contracts with each student is not practical.¹¹⁴ However, they argue that many of the benefits of learning contracts can be realized in traditional law school courses if teachers are explicit about their rationale for selecting goals and methods, and if they involve students in decision-making.¹¹⁵ Paul Bateman analogizes the syllabus to a learning contract and endorses the idea of student participation in course design in traditional law school courses.¹¹⁶

IV. TEACHER AND STUDENT COLLABORATION IN SYLLABUS CONSTRUCTION IN LAW SCHOOL

Over the last dozen years, I have collaborated with students to construct the syllabus in ten law school courses. Below I describe the types of courses suitable for collaborative design, the process for involving students in decisions on the key components of the syllabus, and the results of those efforts.

A. Courses and Students Appropriate for Collaborative Syllabus Design

My assessment of students' level of development in Grow's model of self-directed learners guides my decisions about whether and to what extent to involve students in syllabus construction.¹¹⁷ Law school is a completely new educational experience for almost all beginning students. They start their legal education as dependent learners who look to their teachers to make initial course design decisions.¹¹⁸ Consequently, although I teach first-semester, first-year students every year, I have never involved them in syllabus construction.¹¹⁹

113. *Id.* at 1049.

114. *Id.* at 1085.

115. *Id.* at 1085-88.

116. Paul Bateman, *Toward Diversity in Teaching Methods in Law Schools: Five Suggestions from the Back Row*, 17 QUINNIPIAC L. REV. 397, 421-24 (1997).

117. See *supra* notes 48-55 and accompanying text for a discussion of Grow's four-stage model of self-directed learners.

118. See *supra* note 48 and accompanying text for a description of dependent learners.

119. First-year, first-semester students are quite capable and interested in contributing their course design ideas after they experience several weeks of law school. Involving first-semester students in their own education through classroom assessment activities such as minute papers, teacher-designed feedback forms, and student advisory groups can have significant benefits for teachers and students. See Gerald F. Hess, *Student Involvement in Improving Law Teaching and Learning*, 67 UMKC L. REV. 343, 344-46, 352-61 (1998). For a summary of the principles underlying classroom assessment and descriptions of ten classroom assessment techniques appropriate for law school, see HESS & FRIEDLAND, *supra* note 59, at 261-83.

Many second-semester, first-year students become interested learners. They are motivated by understanding the teachers' rationale behind initial design decisions, but do not expect to play a role in making syllabus decisions.¹²⁰ Some second-semester, first-year students become participant learners who are ready to collaborate in syllabus design.¹²¹ One of my collaborative syllabus design experiences was in the second semester of a first-year required Civil Procedure course, with an enrollment of twenty-five students.

Many upper-level students are participant learners and a few have become self-directed learners. Hence, most upper-level students are able and willing to collaborate in course design decisions with the teacher at the beginning of the course.¹²² One of my syllabus construction experiences was in a Legal Education Seminar with an enrollment of sixteen students. My eight other experiences were in upper-level elective courses with enrollments of ten to sixty students.¹²³

B. Process for Collaborative Syllabus Design

Although the precise details of the collaborative syllabus design process have varied a bit from course to course, I have used the same basic method for each course. My first step is to write a draft syllabus before the course begins. I complete the General Information,¹²⁴ Materials,¹²⁵ Schedule,¹²⁶ and Course Guide¹²⁷ portions of the syllabus and do

120. See *supra* note 52 and accompanying text for a description of interested learners.

121. See *supra* note 55 and accompanying text for a description of participant learners.

122. See *supra* note 58 and accompanying text for a description of self-directed learners.

123. The upper-level elective courses included Environmental Law (four times) with enrollments of twelve to thirty-eight students, International Environmental Law (three times) with enrollments from ten to twenty-two students, and Remedies with an enrollment of fifty to sixty students.

124. General Information includes office location, phone, email address, office hours, and my faculty assistant's name, location, phone, and email address.

125. Materials typically consist of required texts, course web page, CALI exercises, videos, and documents such as pleadings and motions for Civil Procedure and environmental impact statements and permits for Environmental Law. Materials may also include references to supplementary resources for students, such as hornbooks, exam books, and websites.

126. In most courses, the Schedule consists of the topics or subject matter for each week of the semester. In International Environmental Law the schedule covers the first half of the course. Near the halfway point of the course, students choose the topics, material, and classroom exercises for the second half of the course when each student facilitates a portion of a class.

127. The Course Guide contains the reading assignments, problems, exercises, and questions for each unit of the course. For example, this is a unit in Environmental Law dealing with the Clean Water Act:

Jurisdictional Reach of the CWA

Material. Text 599-616; CWA 502(7); Supplement. 28 (33 C.F.R. 328.3)

Questions.

- a. Detail the statutory analysis the Court employs in
 - United States v. Riverside Bayview Homes, Inc.*
 - SWANCC v. U.S. Army Corps of Engineers*
 - Rapanos v. United States*
- b. Advise a client about the legality of each subsection of 33 C.F.R. 328.3.
 - Which sections are clearly within CWA jurisdiction? Why?
 - Which sections clearly exceed the Corps power to exert CWA jurisdiction? Why? Which sections are you unsure about? Why?

not invite students to help design them.

The rest of the draft syllabus solicits student input via a section entitled Course Design, which begins with a statement such as, “We will spend much of the first class session engaging in course design. We will make collaborative decisions regarding course goals, teaching and learning methods, student roles and responsibilities, teacher role and responsibilities, and evaluation scheme.” The draft then contains a prompting, open-ended question for each of those course design elements followed by a couple inches of white space. In some courses, my ideas for each element accompany the prompts. By adjusting the prompts and accompanying text, I can expand or contract the amount of responsibility students will have in the design process. So in elective courses with primarily third-year students, the prompts may stand alone, while in required second-semester, first-year courses, the prompts may be accompanied by more of my ideas and direction.

The “Goals” section of my draft syllabi contain a prompt such as, “What do you hope to get out of the course? What content and skills do you hope to learn?” In some courses, a list of my goals is absent from the draft syllabus and all course goals are generated in the syllabus construction process. In other courses, the draft syllabus contains goals I think are important¹²⁸ and the course design process generates addi-

c. Optional. CALI lesson: Clean Water Act Jurisdiction.

This is a unit in Civil Procedure II dealing with jury selection:

Selection of Jurors

Material. Text 500-523; F.R.C.P. 47, 48; 28 U.S.C. 1870; Supplement 48-51 (Problems: Selecting a Jury)

Questions.

1. Define the following terms in jury selection: Venire, voir dire, challenge for cause; peremptory challenge.
2. Prepare to debate the decision in *J.E.B. v. Alabama*. What are the justifications for the decision? What are its costs? In this regard, consider Questions 1, 2, 5, 7 and 8 on pages C520-523.
3. Do Problem: Selecting a Jury at S 48-51.

128. For example, the draft syllabus for Environmental Law in Spring 2007 contained this list of goals:

- A. Teacher and students will have an enjoyable and challenging learning experience.
- B. Content. Students will learn the overview and most important details of the following (we may have to choose to do less than all of these):
 1. Environmental Law Perspectives (personal, ecological, economic, philosophical, historical, risk)
 2. Administrative agency actions and judicial review
 3. National Environmental Policy Act
 4. Clean Water Act
 5. Endangered Species Act
 6. Clean Air Act
 7. Resource Conservation and Recovery Act
 8. Comprehensive Environmental Response, Compensation, and Liability Act
- C. Skills. Students will:
 1. Refine statutory analysis skills through standard of review, statutory language, statutory purpose and policy, overall statutory scheme, legislative history, regulations applying the statute, cases interpreting the statute.
 2. Analyze problems involving environmental law in real life.
 3. Develop presentation and facilitation skills relevant to working with environmental law issues in real life.

tional goals students have for the course.

A typical prompt under the "Teaching and Learning Methods" heading is, "What methods should we use to achieve the goals of the course?" Usually this prompt stands alone. If I wish to provide more direction, I include a parenthetical after the prompt with a list of potential methods, such as, "class discussion, teacher presentation, group work, student presentations, field trip, videotapes, simulation, writing exercises, and other suggestions."

In the "Role and Responsibility" sections, I never include more than the bare prompts. I want students to think about these issues and bring their ideas to the table without my influence. When addressing student roles, a typical prompt is "What do you expect of yourself and your fellow students?" The prompt regarding the teacher's role would ask the students, "What do you expect of me?"

In the "Evaluation" section, I always include more than the prompt. Because I feel very strongly that a scheme for assessment of student performance must be valid and reliable, I always include a statement of evaluation principles in the draft syllabus. For example, "The evaluation scheme should have these characteristics: Multiple—more than one performance is graded; Varied—more than one kind of evaluation method is used; and Fair—the directions and criteria are clear." The statement of evaluation principles is followed either by an open-ended prompt or my proposal for an evaluation system. An example of an open-ended evaluation prompt is, "What evaluation method should we use to assess student performance (tests, papers, problems, presentations, participation, other)?" An example of a proposal prompt is, "See the next page for a proposed evaluation system. Do you have suggestions for changes in the proposal?"¹²⁹

129. This is a proposal from Environmental Law.

Your grade will be based on your performance in the following areas (each student will allocate percentages among the first two areas below):

1. Paper (30%-50%). The purpose of the paper is to assess your ability to critically analyze a real-world situation based on the content and skills you learned in this course. You must choose a subject related to the coverage of this course. The paper cannot exceed 8 pages, double spaced.
2. Exam (30%-50%). The purpose of the exam is to assess your knowledge of the course content. The final will be a three-hour open book exam. The format will be primarily multiple-choice. It will cover the entire course.
3. Participation (20%) Successful completion of all of the following would the full 20% for this portion of the grade. Successful completion of less than all of the following would earn a lower percentage, based on my judgment.
 - (a) Prepare for, attend, and be actively involved in all class sessions
 - (b) Facilitate portions of class sessions
 - (c) Complete several 1-2 page writing/research assignments from a menu of assignments throughout the semester, such as finding and reviewing Environmental Law resources and documents (websites, CALI exercises, emission limits, permits, guidance), making a public comment on a proposed rule, critiquing Environmental Law statutes, and reflecting on a filed trip or interview.

I email the draft syllabus to my students several days before our first class session. Their primary assignment for that class is to read the syllabus and respond to each of the prompts. In most courses I ask students to bring their responses to our first class, although I have also had students respond to the prompts via an online survey before that class.

We devote most of the first session of the course to collaborative syllabus design. I briefly explain my reasons for asking students to participate in course design decisions: I value their input, respect their ideas, want the course to meet their needs, and hope to motivate them to be engaged throughout the course and committed to working hard to make the course a success. We then engage in brainstorming and discussion of their ideas in response to each of the prompts. If the students responded to the prompts via a survey before class, I summarize the results to start the discussion of each prompt. During the discussion, I play several roles. As a facilitator, I try to ensure that all of the students contribute, attempt to clarify comments, and memorialize the students' ideas on the board. When appropriate, I summarize the discussion and state the consensus we reach on any issue. As a participant, I add some ideas during the discussion. As the teacher, I respond to student questions about my rationale for ideas I included in the draft syllabus. I ask a student to take notes, including everything written on the board.

The brainstorming and discussion take from thirty to fifty minutes during our first class, depending on how much direction I have provided on the draft syllabus. For example, the discussion on evaluation is relatively short if I include a proposed evaluation scheme in the draft syllabus, and relatively long if I do not. Typically, we reach consensus on most of the syllabus design issues, although it is common to have an issue or two unresolved after the first class.

In preparation for the second class, I revise the syllabus. I draft the goals, methods, roles, responsibilities, and evaluation scheme based on my synthesis of the notes from our brainstorming and discussion session. I propose solutions to any of the unresolved issues. I email the revised syllabus to the students before our second class and ask them to read it and to be prepared to raise concerns or adopt the syllabus in our second class. At the beginning of our second class, we spend five to ten minutes discussing the revised syllabus, make necessary revisions, and then

This is a proposal from Civil Procedure II.

Your grade in the course will be based on the total number of points you earn this semester. Points will be awarded for a variety of written assignments and exams (part essay, part multiple choice).

Graded Performances:

<u>Due Date</u>	<u>Assignment</u>	<u>Points</u>
February	Graphic	10
March	Practice Exam	10
Ongoing	Litigation Simulation	30
May	Final Exam	280

adopt the final syllabus for the course. To complete the process, I post the final syllabus on the course web page.

C. Results of Collaborative Syllabus Design

The total time in the classroom devoted to syllabus construction is between forty and sixty minutes. That modest investment in class time pays substantial dividends. Many students actively engage in the course design process by volunteering their ideas. Other students are quiet but interested. All students are respectful of the views of other students. Consequently, the syllabus design process during our first class helps establish an active and collaborative classroom environment for the course. Further, the decisions we make on each element of syllabus construction lead to a more effective course than the one I would design on my own.

Goals. Students usually articulate three types of goals: understanding the major doctrines of the area of law, skills, and application of the course to real life and to the bar exam for some subjects. For example, students in Civil Procedure II generated a list of goals including a more complete understanding of the civil litigation process, using civil procedure to help clients in real life, oral and written argument skills, drafting skills, statutory and case analysis skills, and passing the Civil Procedure section of the bar exam. If I feel that particular goals are important to the course, I include them in the draft syllabus or contribute them during the syllabus construction process in our first class. For example, in International Environmental Law, I contribute a goal that students would not propose on their own—the lawyer’s role as teacher in interacting with other lawyers, clients, and policy makers.¹³⁰

Students often propose a goal or two that I had not considered and had not planned to pursue in the course. For example, in International Environmental Law, students included goals dealing with research skills and career paths in this area of law. Although I do not have much expertise related to those goals, it was easy to find others who could address those areas in class or in an optional session outside of class. Thus, the collaborative syllabus construction process results in course goals that reflect students’ interests, my views, and our shared understanding about what we will try to accomplish in the course.

Teaching and Learning Methods. During the brainstorming session, students create a list of active and passive methods which typically includes large group discussions, Socratic dialogues, small group exercises, lectures, writings, simulations, visual aids, guest speakers, and a field trip. Our discussion of these methods leads to several favorable

130. See *supra* note 128 for a list of goals I include in the draft syllabus in Environmental Law.

outcomes. I believe deeply in the value of variety in teaching and learning methods. As students listen to one another's comments about the strengths and weaknesses of various methods, they see first-hand that students learn best in different ways. Further, the discussion often helps students understand the relationship between course goals and methods—that we should use teaching and learning methods appropriate to achieve the course goals. Finally, during the discussion, I solicit students' assistance for some methods. If, for example, students are interested in speakers or field trips, we usually agree that students will be responsible for researching and proposing them.

Student Roles and Responsibilities. In this portion of the draft syllabus construction, students consistently achieve quick consensus on most of their expectations of themselves and their classmates. These expectations include preparing well for each class, actively participating in class, and providing mutual respect and support. Of course, these are the basic expectations that I would list on my own. But the fact that students articulate these responsibilities has the advantage of making them intrinsic rather than extrinsic standards and makes students accountable to one another. I usually add my expectation that students will “work hard to achieve the course goals,” which students readily accept. Often, students surprise me with at least one additional responsibility that is well suited for the course. For example, in International Environmental Law, the students added “keep an open mind” and in Civil Procedure II, students agreed to “act as if students' performance in this class determined the outcome of someone's life.”

Teacher Roles and Responsibilities. Students also agree quickly on their expectations of my role and responsibilities. A typical list includes that I be knowledgeable and well prepared for class; facilitate discussion and student engagement; treat students respectfully; articulate clear, high expectations; show passion for the course; provide accurate feedback to students in class and on writing assignments; and be patient, open, and accessible. Further, I add my own commitment to “work hard to achieve the goals of the course.” The students' list is consistent with the literature on the characteristics of effective teachers¹³¹ and I would have all of these expectations for myself. However, when students generate this list of teacher responsibilities and I commit to them during the syllabus construction process, we begin building an environment of mutual respect and high expectations.

Evaluation Scheme. The discussion of the evaluation scheme for

131. See, e.g., HESS & FRIEDLAND, *supra* note 59, at 12-18 (discussing ZELDA F. GAMSON ET AL., *APPLYING THE SEVEN PRINCIPLES FOR GOOD PRACTICE IN UNDERGRADUATE EDUCATION* (1991); JOSEPH LOWMAN, *MASTERING THE TECHNIQUES OF TEACHING* (1995); and MARYELLEN WEIMER, *IMPROVING YOUR CLASSROOM TEACHING* (1993)).

the course is often spirited because many students have strong opinions about, and preferences for, types of evaluation methods. Even when I include a proposed evaluation scheme in the draft syllabus, students ask probing questions about the proposal and make suggestions for significant changes. Ultimately, the students and I reach a consensus that always involves two or three of the following—exams, papers, participation. Exams could be midterm, final, or both and consist of essay and multiple-choice questions. Papers could include one-page reviews of a web page or document, two-page pleadings or motions, or twenty-page research papers. Participation may consist of active daily involvement in the classroom, postings to the course web page, simulations outside of class such as oral argument or negotiation, presentations in class, and interviews or field trips outside of class. The particular evaluation scheme that we adopt varies depending on the nature and goals of the course. This aspect of syllabus construction can convince students that they are playing a significant role in the design of their own education. However, it is particularly important for my students and me to achieve clarity and finality in the design of the evaluation scheme in the first or second class, because uncertainty in this area creates lots of anxiety for some students.

V. CONCLUSION

Collaborative course design has substantial potential benefits for law teachers and students, but it is not for everyone. Many outstanding legal educators will never construct a syllabus with their students at the beginning of a course. I am confident that those teachers will continue to meet Bain's definition of excellence by "helping their students learn in ways that made a sustained, substantial, and positive influence on how those students think, act, and feel."¹³²

For law teachers interested in tailoring their practices to reflect research on student autonomy and learner-centered environments, collaborative course design holds lots of promise. In the process of working with students in syllabus construction, teachers further all three aspects of autonomy support: (1) providing choice to students in important aspects of their own education, (2) articulating the rationale behind course design decisions, and (3) considering student perspectives on key aspects of the syllabus.¹³³ The collaborative course design process seeks to maximize students' intrinsic motivation, which is associated with student well-being and performance.¹³⁴ Further, student involvement in

132. See *supra* note 24 and accompanying text.

133. See *supra* notes 14-20 and accompanying text regarding autonomy support.

134. See *supra* notes 5-13 and accompanying text regarding the causes and effects of intrinsic motivation.

2008]

Collaborative Course Design

387

syllabus construction can help create what Bain calls a “critical learning environment”—students are designing a course in collaboration with other learners, the course includes students’ goals and interests, and the students participate in developing a fair evaluation system.¹³⁵ By sharing power with students who are ready to participate in the design of their own education, teachers are realizing one aspect of Weimer’s vision of “learner-centered teaching.”¹³⁶ Syllabus construction with students helps the teacher set a tone for the course of mutual respect, commitment, engagement, and collaboration. Ultimately, collaborative course design can affect how students and teachers approach the course at a fundamental level—not as the teachers’ course, not as the students’ course, but as their shared course.

135. See *supra* notes 25-27 and accompanying text regarding critical learning environments.

136. See *supra* notes 28-40 and accompanying text regarding learner-centered teaching.