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Article

***223** THERE IS A METHOD(OLOGY) TO THIS MADNESS: A REVIEW AND ANALYSIS OF FEEDBACK IN THE CLINICAL PROCESS

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Introduction

From its earliest days, the clinical legal education movement distinguished itself from its pedagogical cousin in the traditional law school classroom in not relying, unlike the latter, on the use of the Langdellian reworking of the Socratic method. [FN1] While the latter approach to teaching law has remained dominant in the last half century, it proved poorly suited to the teaching of legal skills, which clinical education emphasizes. [FN2] As a consequence, clinical teachers had to develop approaches better suited to the specific goal that clinical education targets - the development of qualified practicing lawyers. The elaboration of new teaching techniques thus constituted a central part of the innovation of the clinical education movement. [FN3] As they were developed, these techniques became *224 generally designated "experiential learning methods." [FN4] With refinement extending through more than three decades of application, the techniques have metamorphosed into a fully evolved theory of legal education. [FN5] While experiential learning is the framework of the clinical teaching method, the traditional method hinges on the process of supervision. [FN6] In addition, simulation, role play, student lawyer/real client contacts, and professional responsibility problems are all used as the clinical teacher closely engages the students. Finally, the engagement includes opportunities for critique, evaluation, reflection, and feedback. [FN7]

The clinical literature has addressed a number of issues that arise in the process of clinical supervision, [FN8] but few recent commentators have given much attention to the process of giving and receiving effective feedback, the purpose of which is to meaningfully advance students' learning process. This article proposes that feedback - a multifaceted technique that has received considerable analysis in studies of behavioral psychology, industrial and personnel relations, and group process - is of singular importance to nearly every aspect of clinical teaching. It, therefore, deserves a reassessment as a teaching technique in the law clinic. Part I of this article examines the genesis and evolution of feedback as a concept in the physical sciences. Part I also reviews early inquiries about how the mind works and how learning takes place; these inquiries formed the theoretical basis *225 for modern feedback practice. Part I further traces how feedback became a tool in clinical education.

Part II explores three psychological models of how and why feedback changes recipients' consciousness so as to enable their production of more effective work. Part II also explores feedback's place in concepts and constructs of

human interaction. The theories discussed in Part II help explain how we react to the stimuli referred to as feedback and how the components of the feedback process are subdivided, classified, and analyzed for their specific impact on our decisional and task-related behavior. Finally, Part III reviews different types of feedback, the different methods of delivering effective feedback, and the manner in which a feedback message can be tailored to individual student personality types or situations to meet different educational goals.

Feedback, or student performance critique, has been a feature of clinical education from the earliest days of the modern clinical movement. This simple process of giving students information about their performance on a particular task with the goal of redirecting and improving their efforts on future similar tasks was, at its inception, a revolutionary departure from the norms of legal education and quickly became a central component of the clinical method of teaching. [FN9] Despite the longevity of using this process, feedback has received little specific attention in the clinical literature. [FN10] This lack of attention may be due to the importance of - or greater commentator interest in - other themes and techniques in clinical education. However, it may derive from an assumption that feedback as an educational device is a relatively simple process that has changed little since the early days of clinical legal education and therefore does not warrant the kind of detailed inquiry and exposition lavished on other aspects of clinical education. [FN11]

This article questions that assumption and explores how feedback - in addition to being central to the teaching repertoire of all clinical teachers - is an often *226 used, but not always well understood, process. The complexity of the process resides in the fact that a feedback message engages a broad range of cognitive responses in the recipient along with a number of often complex personality variables. [FN12] In other words, the success or lack of success of feedback can be better understood, and its process refined, if the psychological dynamics that underline its function are made explicit. [FN13]

In this regard, the considerable literature in clinical and behavioral psychology, industrial psychology, personnel management, and human relations studies resonates with conceptual parallels to the law school clinical experience. Research in these areas offers insights and refinements that can enhance our understanding and use of feedback in the law school clinical setting. [FN14] This article explores the specific ways in which this practice of feedback, which has been used extensively in employment settings, best translates in the legal clinics. More understanding of feedback as a theory and practice may not only improve the quality of teaching in clinics, but, as with other clinical methods, it may also migrate into the traditional classroom and contribute to the pedagogical evolution taking place there.

1. Feedback and the Clinical Experience

While there is some disagreement about when and where clinical methods in legal education were first employed, most of the literature points to the late 1960s as the beginning of the "modern" clinical movement. [FN15] As clinics were designed and replicated at various law schools, clinical teachers began to develop and share with one another the techniques that made for effective teaching and learning in an experiential learning setting. In doing so, they both borrowed and departed from the teaching methods of the traditional law school classroom. One technique that showed up early in this evolutionary process sprung from the idea that *227 students who were learning the skills to practice law would learn more effectively if exposed to consistent and detailed critique, or feedback. [FN16] In breaking away from the traditional Socratic method and focusing on the learning process of acquiring the skills to become a lawyer, early clinicians had to create a learning/teaching methodology as they went along. [FN17] Although the idea of teaching law students actually to practice law was not new, a new challenge and goal faced the early clinics: how were the clinicians to establish a carefully articulated pedagogy that would achieve more than an imitation of the mentoring that occurred at many law firms. [FN18] As the concept of clinical legal education developed momentum, a clinical movement emerged. The movement took on the simultaneous tasks of creating clinics and developing the theory and methodology necessary for their operation and expansion in the legal education

community.

A. Origins of Feedback

Recent literature on feedback has focused on feedback as an aspect of interpersonal relations. [FN19] In fact, however, feedback as both a theory and a method finds its origins in systems of engineering, [FN20] where feedback functioned to specify and control structural relations among variables. [FN21] The origin of feedback thus contained both a philosophical and a mathematical dimension; it was part of an effort directed at unraveling how the human mind worked and how to extend human thought processes into the construction and operation of machines. [FN22] Creators of the feedback technique wished no less than to develop a model of reasoning that would go beyond categorical thinking. Indeed, they aimed to capture what was described as characteristic of the “thinking of the ancient world.” [FN23] The early theorists of knowledge acquisition were pondering the central question of how we think or how the mind operates in the thinking and learning process - a subject that continues to occupy modern psychological inquiry. In their early paradigms, the theorists sought to approach the process of thinking and learning through the study of logic. They based the study of the mind on the *228 conception that knowledge acquisition is a material phenomena. [FN24] Knowledge would increase as the mind acquired finer and finer subcategories of information. [FN25] Knowledge - and therefore learning - would proceed in a linear fashion and increase in the mind much in the same way that bricks are added to a wall.

Early theorists did not consider feedback, which merely would be an interruption in this orderly, linear learning process, a factor. Their early theories did not yet conceptualize a “feedback loop,” or a return of information on the learning process to its original source. Early theorists saw thinking as the process of adding one more piece of information to the content that already existed. [FN26] However, the advent of quadratic mathematical equations challenged this theory as such equations allowed the examination of events occurring along a mathematical continuum that accounted for infinitely more relationships of cause and effect than a simple linear progression could. [FN27] New algebraic insights exposed the arbitrary notion of fixed categories of knowledge and introduced ideas that models of categorical thinking could not accommodate. [FN28] Further advances in mathematics finally laid to rest the notion that the relationship between thinking and learning was best described through a model of causality. [FN29]

Sophisticated mathematical models drew attention to feedback as a factor in what caused humans to think a certain way and to act accordingly. [FN30] Feedback was conceptually - in its simplest terms - an intervention in a linear progression that would affect the behavior or direction of the learning process. [FN31] While this simplistic concept of feedback contains the idea that the purpose of feedback is to alter a process, [FN32] the question that continued to arise was why and how this concept operates to affect behavior. [FN33] Mathematical physicists explored this question by first demonstrating that the concept of causality serves no useful purpose in algebraic equations where relationships exist among many variables, contrary to the assumptions of linear logic. [FN34] Any number of variables can be a cause and any number of variables can be an effect. The result is that “causes” are simply those variables that produce change in other variables and that are *229 themselves susceptible to manipulation. [FN35] The work of the mathematical physicists placed this concept of causality into a “dynamic theory” of interdependent events, which became one of the principles of analytical geometry and calculus. [FN36] The equations that express this idea were inherently unstable, but gave rise to a physical law that shows how “their rates of change are interrelated in a process.” [FN37]

The mathematical concept of feedback at first may seem to have little bearing on the feedback relationships that occur in an interpersonal setting, such as that between faculty and students. Variations of the mathematical concepts, however, are now familiar to most clinicians and have entered the conceptual framework for feedback research in the field of behavioral psychology. [FN38] Interdependent variables are what we might call the multiple causes for behavior that we observe in our students. As such, our search for a simple causal point for the behavior that we are

trying to affect and also for a single causal point for intervention through feedback may be, as the mathematicians describe, “an irrelevant question” because feedback is a dynamic process and a single cause with a single effect is rare. Finally, if we see feedback as an act that produces change in some other specific variable, or as the “embodiment of a self-enhancing process,” then we are in agreement with the mathematicians in seeking a way to draw attention away from irrelevant or misleading issues and redirect it toward essential foci for accomplishing a task. [FN39] The goal of a mathematician is to capture in an abstract equation a principle or description of a complex interactive process. For the clinical teacher, it is to develop an intervention into a multilayered process of acquiring the knowledge and skill that students need to begin and carry forward the task of legal representation. The relevant question is not “What variable is the ‘real’ cause?” but rather, “What variables are most accessible to intervention?” [FN40] As such, the conclusions reached by mathematical theorists may not be so different from the analytical process used by clinicians in our own search for multivariable intervention. [FN41] The driving force in mathematics and physics that advanced this analytic process was the discovery of the positive feedback loop. This theory advanced the idea that thinking and learning are systems susceptible to intervention and can produce more desirable results in an ongoing process of improvement. [FN42]

*230 Feedback received its first practical application in the field of mechanical engineering. [FN43] There, feedback was described as a regulating device to alter - in a set and predictable way - a system that was designed to carry out a particular function according to a set pattern. [FN44] The seventeenth century saw the first application of feedback in a mechanical context with the invention of a stove damper mechanism. [FN45] Much later, clinical psychologists and behavioral theorists would apply this concept to their own theories of supervision and predict that knowledge of the results of one's efforts is a form of feedback that operates quite similarly to the stove damper mechanism. [FN46]

By the late nineteenth century the emerging electronics industry employed the mechanics of feedback to develop the principles of positive and negative feedback. [FN47] Positive feedback is the energy input that pushes a system toward oscillation, or the point of instability. [FN48] But in mathematics and engineering parlance, negative feedback reduces the excessive force that produces oscillation in the first place. [FN49] Positive and negative feedback are simply opposite forces acting to rectify one another. Optimal performance occurs at the point of equilibrium. [FN50]

The application of the concept of feedback in engineering stimulated further research in industrial and clinical psychology. [FN51] Social scientists were searching for *231 a systemic approach to equilibrium that would optimize the performance. While optimal performance in a lawyering task can never be described with the same precision as it might in mathematics or physics, clinicians have developed methods of instruction where the goal is to carefully apply each element of a task in a manner calculated to move a process forward to a predetermined goal. [FN52] While it is not necessary in current clinical practice to examine the degree to which mathematical models of feedback are reproduced, it is useful to understand its roots in other disciplines - such as mechanical theory and logic - and the degree to which these provide a reference point for the discussion of the place of feedback in clinical legal education.

B. Feedback and Humanistic Psychology

As the clinical movement evolved, its theory and pedagogy lent credence to the conceptualization of law as a service profession. [FN53] Indeed, legal clinics purposefully looked to other service professions, especially those dependent on close interdependent relations, for approaches and techniques that could be adapted to lawyer-client relationships and teacher-student interactions. [FN54] The fields of psychology and psychotherapy proved particularly helpful, [FN55] especially on the matter of the effective use of feedback.

The principles underlying experiential learning, group dynamics, and feedback methodology had already received a great deal of attention from behavioral psychologists when the clinical movement began. [\[FN56\]](#) Several theories of “experiential learning” that they advanced in the decade preceding the clinical movement came to significantly influence the early goals of clinical education. [\[FN57\]](#) At the heart of *232 these theories was the desire to see learning become a more dynamic and open-ended process. Earlier learning theories, which emphasized the role of external conditioning in the process, had characterized the learner as a recipient of various stimulants provided by the teacher. [\[FN58\]](#) The teacher in this context controls most of the input variables in the learning environment. Social control or socialization formed a dominant theme in this model. [\[FN59\]](#) The student/learner was analogized to a black box into which knowledge and information were poured. [\[FN60\]](#) This model did not need a sophisticated theory of feedback because, like the mechanical engineering examples discussed earlier, [\[FN61\]](#) the only relevant feedback was outcome data, which provided important information to teachers, instead of to students. Attitudes, values, and other subjective factors were considered irrelevant to the design and operation of an effective learning environment, since the only relevant feedback in this system was simply the end result. [\[FN62\]](#)

The above strict behaviorist model of stimulus-response learning came to be criticized, however, for failing to account for an ability to filter external stimuli and integrate them in variable ways into responses. [\[FN63\]](#) The critics believed that learning was a far more complex phenomena than the strict behaviorist theory described and advanced. Cognitive theories of how learning takes place attempted, instead, to account for the complexity of the learning process by focusing on “intra organismatic” variables, described as the learners' ability to set their own goals and to choose a collaborative environment more conducive to that process rather than follow a predetermined scenario. [\[FN64\]](#) In other words, the cognitive model freed the learner from the more rigid confines of the behaviorist model by offering a more independent and dynamic theory of learning. [\[FN65\]](#)

*233 The field of group dynamics developed simultaneously with cognitive learning theory and offered its own insights and practical recommendations on the subject of feedback. [\[FN66\]](#) It created the device of the T (training) group, which was a practical learning environment in which cognitive learning theory could be tested and applied. [\[FN67\]](#) In the behaviorist model, the learner covertly or unconsciously accepts the goals of the teacher. Conversely, the cognitive school saw the need to move incrementally from this dependent learner paradigm so that independent goal setting actually could occur in the learning process. It also sought to alter the process whereby a response pattern is preset and the learner simply is socialized into a dependent mode of learning. [\[FN68\]](#) T groups studied the contrast between unilateral inculcation - that is, a teacher-set learning goals environment - and interdependent goal setting that resulted from a combination of collaborative and individual efforts. T groups sought to establish a theory that took into account the learners' ability to utilize their own sensory and emotional inputs to enhance their learning process. [\[FN69\]](#) They found that the more dependence - conscious or unconscious - that existed in a classroom, the less the students were aware of stimuli introduced by someone other than the teacher/authority figure. [\[FN70\]](#) The T group experimenters also discovered that to implement collaborative learning, educators would not only require a new framework in which to operate, but they would have to abandon the deeply rooted behaviorist patterns ingrained in the structure of the American educational process, particularly in the primary and secondary school years. [\[FN71\]](#)

The interdependent theory of learning incorporated a specific approach to feedback, which helped transform the learning process from a behaviorist model to emphasizing collaboration and problem solving. [\[FN72\]](#) The humanistic psychology of Carl Rogers informed the humanistic approach. Carl Roger's humanistic psychology also stimulated the law and the humanism movement in legal education, with its emphasis on the interpersonal dynamics of the learning process. [\[FN73\]](#) Humanistic psychology, as well as the law and humanism movement, intersected with the early clinical movement in legal education and lent strong backing for the feedback technique. [\[FN74\]](#)

The synchronicity of these events was not merely fortuitous. Each field in its own way was looking for a more effective way to train its ranks. It is from these parallel cross-currents that feedback emerges as a feature of an

evolving pedagogy of clinical education.

C. Feedback and the Clinical Process

Like other service professions, the early legal clinics owed a great deal to the theoretical approach of Carl Rogers. [\[FN75\]](#) Drawing from experience with clients in therapy, clinicians proclaimed that Rogers's effective clinical learning proceeded first and foremost from the relationship established between the teacher and the student. [\[FN76\]](#) In addition, as law school clinics expanded, clinical teachers further ***235** concluded that the theory and application played a key role in the unique setting of the law clinic. [\[FN77\]](#)

Indeed, early chronicles of the clinical method clearly recognized the centrality of feedback to the clinical teaching process. [\[FN78\]](#) The literature referred to feedback as including, but extending beyond, the casual conversations that occur between supervisors and students over some aspect of a case. [\[FN79\]](#) Feedback also involved decidedly more than the after-class discussions at the podium, which are common in most law schools. While all interactions between supervisors and students, including casual discussions, constitute opportunities for learning - and teachers should be keenly aware of them all - feedback relates to a more complex process marked by a well-defined theoretical foundation and a set of nuanced applications. [\[FN80\]](#)

***236** Theoretically, clinicians found similarities between their role as supervisors of students grappling with the complexities of learning to become a lawyer and the “helper” role found in Carl Rogers's model. [\[FN81\]](#) This Rogers-derived model of the supervisor constituted a departure from the conventional view of the law professor and demanded a wholly new pedagogy. Feedback emerged as a technique in that pedagogy. It was seen as essential to the clinical process and, at the same time, as a way of avoiding certain pitfalls implicit in the relationship between student and teacher. [\[FN82\]](#) Feedback in the clinical setting is thus best understood in the context of its foundational purpose. The use and application of feedback, in turn, varies with the particular and changing dynamic between any one teacher-and-student and also the specific situation being addressed. It is considerably more than just a forum for providing information. [\[FN83\]](#)

Notwithstanding the variations, however, a consensus emerged early among clinicians on the most salient features of the feedback process. [\[FN84\]](#) To begin with, they generally agreed that good feedback should be honest so as to safeguard the teacher-student relationship. [\[FN85\]](#) Next, they believed that feedback should be specific and individualized. [\[FN86\]](#) Other desirable features of the feedback process include timeliness, [\[FN87\]](#) the student's willingness to receive feedback, [\[FN88\]](#) the use of ***237** objective criteria in the feedback/critique process, and its focus on directly observed behavior. [\[FN89\]](#) Finally, the entire feedback process should be nonjudgmental and focused on behavior relevant to the lawyering task being performed. [\[FN90\]](#)

Secondary tenets of good feedback practices have also been developed to further guide the teacher on when, where, and how to give effective feedback. These urge teachers to focus on

- 1) the professional lawyering tasks upon which the student teacher “team” is focusing on behalf of the client;
- 2) the educational purposes of the specific interaction;
- 3) the setting of the interaction (i.e., the physical location, the identity of the participants);
- 4) the form of teaching (formal sessions, scheduled, unscheduled, “spontaneous,” brief lengthy, etc.);
- 5) the sophistication of the student's knowledge. [\[FN91\]](#)

***238** Part III examines these tenets, as well as other elements of the clinical model for feedback and evaluates them in the context of the work that has occurred in the social sciences.

II. Psychological Theories of the Feedback Process

While feedback research began almost one hundred years ago, the subject has attracted renewed attention from social scientists. [FN92] The business community has prompted much of this research because it constantly is concerned about whether supervisory feedback makes a difference in the quality and quantity of employee output. [FN93] Initially, it was widely held in the fields of psychology, organizational theory, and group process work that feedback always had a positive impact on performance. [FN94] However, later studies concluded that feedback not only failed to linearly correlate to performance improvement, but also certain types of feedback - or feedback offered in particular environments - too often actually could impede performance. [FN95] As a result, psychologists began to pursue a number of theories that would offer a more reliable and effective basis for predicting the impact of feedback. This part of the article outlines three of those theories: feedback intervention theory; cognitive feedback theory; and social judgment theory.

A. Feedback Intervention Theory

In time, theorists developed feedback intervention theory (FIT) to explain the inconsistent effects of feedback on performance. It offered researchers and consultants insight into how to construct more consistent and effective methods of feedback delivery. [FN96] FIT begins with the premise that effective feedback occurs when the recipient's attention is focussed at the midpoint of a hierarchical set of cognitive levels, or consciousness fields. [FN97] At the top of this hierarchical model is the awareness of self - that is, self-image or ego - and at the bottom *239 is the specific task the recipient is performing. [FN98] The midpoint in this paradigm is referred to as the focal task, or the area where task motivation best coalesces. [FN99]

FIT identified two areas of our cognitive process that accounted for the inconsistencies in earlier applications of feedback. One was the nature or characteristics of the feedback message; the other was the degree to which our self-image is engaged by the feedback. [FN100] It concluded that the feedback message needed to minimize signals pertaining to self-image and, instead, draw the recipient's attention to the task at hand. It also found that cognitive processing, personality differences, affective responses, leadership styles, and incomplete or incorrect information all act to distort the feedback message and the response to it. [FN101] Most importantly, each of these elements in the feedback message can be altered to improve the overall process. [FN102]

FIT thus drew researchers' attention to three variables that generally determine whether feedback intervention will achieve optimal results: the cues or characteristics of the feedback message; [FN103] the nature of the task; [FN104] and situational and/or personality variables. [FN105] The feedback cue is the triggering device in the message that determines where recipients will focus their attention. If the message directs too much attention to the self - or goals closely intertwined with the self - it will reduce the effect of the intervention. [FN106] For example, studies have shown that certain grading practices can actually debilitate, rather than enhance, student performance because they focus too much attention on the ego and too little on the elements of performance that produced the grades. [FN107] Other studies found that computerized feedback messages could be more effective in changing certain behavior than verbal feedback because they did not engage the recipient at the ego level. [FN108] Their impersonal - or, in that case, nonpersonal - quality was their virtue. [FN109]

*240 In sum, any feedback that threatens the self, whether the intervention is positive or negative, can impede performance because the focus of the feedback is on the ego. [FN110] On the other hand, feedback interventions that direct recipients' attention to the motivational level of their consciousness should improve performance. Feedback that directs attention to the cognitive learning process should also improve performance. [FN111] The most effective feedback message is one that clarifies recipients' erroneous hypotheses. [FN112] FIT proponents also found that supervisors' interventions in goal setting augmented positive performance and, indeed, produced the highest positive correlation between feedback and improved performance of all the variables studied. [FN113] The discussion of how to apply FIT to a law school clinic is taken up in Part III. In the meantime, other related theories on effective feedback delivery merit review.

B. Cognitive Feedback Theory

Cognitive feedback theory offers a psychological model of how individuals make judgments in uncertain environments and also provides a measurement of the extent to which cognitive feedback improves that process. [FN114] In fact, cognitive feedback theory is the matrix from which FIT emerged. Similar to FIT, cognitive feedback theory is an abstract model of the process by which individuals process information in the course of decision making and of how they respond to various interventions. [FN115] At its origins, cognitive feedback theory sought to improve the earlier outcome-based feedback models that had been the focus of earlier feedback research. [FN116] The key element in this theory was the relationship between a person's perception in the course of decision making and the environment in which the decision was made. [FN117] The goal of the theory was *241 to help people become more aware of their judgment strategizing and to improve them by comparing what they do to an optimal model of decision making. [FN118]

Cognitive feedback theories measure the difference between old optimal models of decision making via the use of a multiple cue probability lens model (MCPL), which represents the decisional process as well as the relative values that individuals assign to the elements that go into their decision making. [FN119] MCPL is *242 is an abstract model and assumes that the actual content of the task being performed is irrelevant to the validity of cognitive feedback theory. [FN120] The cognitive feedback theory identifies three variables that are relevant to its analysis: knowledge; [FN121] control; [FN122] and achievement. [FN123] The theory seeks to upgrade performance by manipulating one or more of these variables.

The practical value of the cognitive feedback paradigm is largely enjoyed by consultants who use the paradigm to assist decision makers in obtaining statistical data on their decisional processes. The mathematical correlations produced by the model form the basis for recipients' "cognitive feedback" in regard to their decision-making process and allow them to evaluate their outcomes against various standards prevalent in the field. [FN124] The main drawback of the approach is that most applications have focused on carefully controlled and somewhat limited decision-making environments. While the model is theoretically applicable to almost any type of decisional process, researchers have yet to show its actual utility in the complex processes of decision making that constitute typical real world experiences. [FN125] Nevertheless, cognitive feedback theory represents a significant advancement in feedback research.

**243 C. Social Judgment Theory*

Social judgment theory (SJT) is a variation on cognitive feedback theory and constitutes yet another effort to move the model from the laboratory into a work environment. SJT differs from cognitive feedback theory in that the latter focuses on measuring our cognitive perceptions and reactions against an ideal model or normative standard [FN126] and SJT looks at the degree to which our actual judgment corresponds to our perceptions of what we are doing. [FN127] SJT gathers information on individuals' prior sets of decisions and creates a model to predict how they are likely to act in the future if they continue to weigh the elements in their decision-making process in the same way they did in the past. [FN128] Self-perception is the key element in these equations because it is assumed that individuals tend to unconsciously reproduce past perceptions in future decisions, even though these may be objectively inconsistent with what they intend to do. [FN129] The basic assumption in this theory is that once individuals learn a task, the major challenge they face in making future decisions is reconciling what they already know with what they need to know. [FN130]

The medical profession has applied SJT with some encouraging success in measuring the accuracy of physicians' judgments and has helped explain why the accuracy was either higher or lower than expected. [FN131] Under

cognitive feedback theory, a hypothetical doctor could receive a model of her decisions as compared with a general standard in the profession. [\[FN132\]](#) SJT diverges slightly from the cognitive model in that feedback is provided on the basis of a probability analysis that is drawn from a study of the decision maker's own data - in this example, the doctor's decisions culled from actual clinical cases. [\[FN133\]](#) SJT thus allows greater flexibility in definitions of success or positive achievement.

Several studies showed that SJT's probability feedback increased the accuracy of the diagnoses of doctors who received it as compared to those who received only cognitive feedback. [\[FN134\]](#) While this method for calibrating decisions has ^{*244} proved useful in several medical studies, it has been applied only in simulated environments. [\[FN135\]](#) Despite this limitation, SJT has proven to be scientifically accurate and a valuable teaching/learning tool. SJT studies also have shown that there is wide variation in how information is used and how strategies are formed. More importantly, it has provided medical educators with information on a form of feedback that can improve accuracy in diagnosis. [\[FN136\]](#)

III. The Application of Scientific Feedback Theories to the Law School Clinical Setting

The uniqueness of the law school clinical setting presents a number of challenges to any direct application of feedback theory from behavioral psychology. Most laboratory and field studies on feedback have been directed toward improving employee performance or advancing theory. [\[FN137\]](#) While the improvement of performance certainly is one of the many goals of a law clinic, such clinics must make some adjustments to the strict productivity measurements used in the workplace before the same conceptual framework that frames the employee setting can frame clinical performance. Nonetheless, the basic underlying framework at issue remains useful in a law school clinic and helps clinical teachers learn how to benefit from the use of the feedback device once adjustments are made.

A critical particularity of law school clinics is that, first and foremost, they are experiential learning environments. [\[FN138\]](#) Although clinics share the typical employer's goal of increasing quality - and to some extent productivity - unlike the typical law firm, clinics are not driven by the need to measure their effectiveness by the amount of client business they accumulate and do not base student performance evaluations on billable hours.

The typical volume of cases in a clinic is, by design, significantly less than a comparably staffed law office. Cases, furthermore, often are screened for their educational value or to insure that underserved populations are provided with legal services. [\[FN139\]](#) Even allowing for different supervisory styles and/or performance goals, clinicians fully accept the fact that all students inevitably will make mistakes in the process of learning the variety of legal skills necessary in the ^{*245} clinical experience. With the exception of those errors that potentially violate the Code of Professional Responsibility [\[FN140\]](#) or expose a client to an unacceptable level of risk, most clinical supervisors embrace the experiential learning maxim that making mistakes and learning from them is essential to the process of becoming a life-long learner and a reflective practitioner. [\[FN141\]](#) Supervision in a clinic is aptly described as guiding or mentoring, teaching, nurturing, and helping students to explore the process of becoming a lawyer. The "job description" of a clinical law teacher, in other words, would probably read quite differently from that of the average middle-management supervisor. [\[FN142\]](#) The law school clinic is also a laboratory that, by design, accepts a broader range of performance variations than most products-oriented employment settings. [\[FN143\]](#) Under these circumstances, feedback in a clinic will differ in purpose and style from that used in the average office workplace. A clinic, however, does bear some similarity to a training program in a traditional employment setting where training or feedback is typically given to both management and employees. [\[FN144\]](#)

As stated earlier, some of the early descriptions in the clinical literature on effective feedback methods were substantiated by scientific evidence drawn from workplace and laboratory studies. [\[FN145\]](#) To effectively utilize the

information derived from feedback research, it may be useful to translate some of the general concepts from the literature into a visual form. The following diagram is a representation of some of the central ideas and themes of the dynamics of feedback and the key interacting elements within them.

***246** While it is generally accepted that feedback is an essential process for improving behavior, the effective use of feedback depends on an individual's ability to understand the process and to structure it in ways that will most likely achieve the results intended. [\[FN146\]](#) Feedback typically emanates from a source, relates to the achievement of a goal, and formulates into a "message" designed to affect and modify behavior in ways that will improve performance on a particular task. [\[FN147\]](#) ***247** This seemingly linear model is, in fact, exceedingly dynamic in its actual operation and requires an examination of its component parts if it is to be effectively applied.

Figure 1. [\[FN148\]](#)

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A. The Feedback Provider

In nearly all feedback situations there are three elements. First, there is the provider of feedback, which psychological literature refers to as the "source." [\[FN149\]](#) While the source of feedback in most settings is usually a supervisor, behavioral psychologists also include among feedback sources the task being performed and the general environment in which it takes place. [\[FN150\]](#) While supervisors tend to take these elements for granted, they do provide feedback to the individuals performing the task; under certain circumstances, or for certain personality types, this type of feedback can be very significant. [\[FN151\]](#)

A second element in the feedback process is the feedback "message." Messages carry different characteristics, each of which may affect the feedback process. Sometimes supervisors may be unaware of the elements imbedded in their feedback message, while at other times the type of message they send is quite explicit by design. For example, supervisors usually make conscious decisions to provide positive or negative feedback. [\[FN152\]](#) This message character, or cue, can have a critical effect on how recipients receive the feedback and also can vary the manner in which the message is delivered. [\[FN153\]](#)

Finally, there is the feedback recipient. The purpose of the feedback is to alter the recipient's present or future behavior in relation to their efforts on the task. While early learning theorists ignored the personality characteristics of learners as critical elements in their feedback process, more recent studies have demonstrated that certain psychological traits of recipients that interact with the source and the message may dramatically affect how the message is perceived and therefore what effect it has on recipient behavior. [\[FN154\]](#)

***248** In the clinical setting, teachers constitute the predominant - though not exclusive - source of feedback to students. [\[FN155\]](#) However, to further understand the dynamics of feedback, it is useful to divide the feedback source into two basic components, each having influential sub-elements that affect how feedback is perceived. One of these components is the task or the environment in which the task is performed. The task and the environment generate a flow of information during the simple act of performing the task that affects the recipient's perception of the feedback message. This flow of feedback input requires no human intervention and can be described as a "closed feedback loop." [\[FN156\]](#) The actor engages in an activity and constantly makes self-correcting judgments relative to the goal or purpose of the activity. This is the classic "learning by doing" feedback. When the generated feedback is inherent in the task, it is called "augmented feedback." [\[FN157\]](#) This term indicates that the feedback emanates from the dynamics of "doing" the task, rather than any static quality in the task itself. [\[FN158\]](#)

A useful example of augmented feedback can be found in an average client interview. All the information acquired by the student in conducting the interview creates a closed feedback loop. That is, in an effective interview, a student must carefully listen to the client and register and evaluate the unspoken meanings in their tone of voice, body language, or hesitancy or eagerness in response to a question. While not inherent in the task itself, a skillful interviewer will generate this form of feedback and become aware of the feedback signals and how to utilize them.

Since all feedback information, including that generated solely from the task, is filtered through the individual recipient, some of its most salient features will interact with the latter's personality and, as that occurs, some degree of filtering will take place. Elements of the student's personal judgment, experience, level of self-confidence, and biases all influence how feedback is utilized toward the completion of a task consistent with its goals. [FN159] Since these aspects of personality are not completely open to short-term manipulation, their most relevant features need to be viewed as intrinsic traits of feedback recipients. Two aspects of the feedback process are generic to all signals from a feedback source, whether human or task-based. First, the basic function of feedback is to motivate - that is, to affect and alter the consciousness of the feedback recipient. Second, its function is to direct or redirect recipients' behavior. [FN160] Task-generated feedback relies mainly on recipients' own independent reactions to stimulate motivation. [FN161] Interaction between the supervisor and the recipients, on the other hand, creates a dynamic *249 process that opens up the feedback loop and allows for impact on both the recipients' willingness and ability to change their behavior. [FN162]

The second component of the "source" of feedback, then, is a human intervention, most commonly from a supervisor, but also potentially from peers, co-workers, or others engaged in the work environment. A critical factor influencing the effectiveness of the feedback process in this context is that of bias or recipients' perception of bias. There are many different types of biases; each bias serves as a lens through which individuals view and experience a phenomena. Teachers often have ideas about their students and their abilities that are not based on any fact, such as objective measurements of past performances on tasks relevant to their clinical setting. Two obvious biases prevalent in American culture that are potentially extremely disruptive to the feedback process concern perceptions of race and gender. [FN163] While a full discussion of the many issues concerning race and gender in the clinical process is beyond the scope of this article, feedback research has uncovered important data on these particular biases that are relevant to clinical teaching.

B. Bias and the Feedback Source

A tragic result of the degree to which racial bias exists in our society is its potential for - and actual - distortion of communication processes. [FN164] Most people, perhaps, sift through everyday events for meaning. Women and members of minority groups, in addition, are burdened with the need to filter these experiences for evidence of actual or perceived discrimination. [FN165] This filtering *250 process, while hardly scientific in operation, nevertheless usually results from years of personal experience, during which modes of perceptions have accumulated and solidified and thus trigger awareness of present discriminatory behavior. [FN166] Several researchers have concluded in consequence that minority group members tend to attribute negative feedback to discrimination. [FN167] If this hypothesis is true, the importance of maintaining an atmosphere of trust and mutual respect in interracial and intergender settings becomes manifest. Certainly, if a teacher in a clinic senses that students suspect she is prejudiced, she will likely become unable to deliver honest, useful feedback. [FN168] However, the studies identifying minority suspicion about bias and feedback, while empirically supported, focused on negative feedback directed to members of a racial minority group in a condition called attributional ambiguity. [FN169] This ambiguity programmed into negative feedback, by design, allows recipients to conclude one of two things: that the feedback was based on discrimination directed toward them; or, alternatively, that it was related to their actual performance. [FN170] Responses to this particular feedback design led researchers to conclude that minorities associate negative feedback with bias. [FN171] The researchers failed to contemplate that the recipients' perceptions of the feedback message, particularly negative feedback, could be a result of the distorted atmosphere of interracial interactions in

our culture, as much as the result of the feedback provided. [\[FN172\]](#) This certainly does not say that biases never can be related to the actual beliefs and behavior of a teacher. In any event, in the feedback experience perception figures as an important and dynamic factor in determining how recipients process and react to the feedback message. [\[FN173\]](#)

Earlier studies had found that minority students not only did not link negative feedback to teacher bias, but also that when there was significant evidence of bias, their tendency was to minimize its presence. [\[FN174\]](#) Researchers tested a group of Black students for individualizing perceptions of bias associated with negative *251 feedback received on a performance test and then followed up with tests that measured the individual's self-esteem. [\[FN175\]](#) Researchers were curious about data suggesting that minorities did not associate negative feedback with bias since doing so would enable them to externalize their failure and thus protect their self-esteem. [\[FN176\]](#) The researchers gave the Black students a test and told them that it measured certain reasoning skills that would predict future employment options. [\[FN177\]](#) After receiving negative feedback on the tests - in this case a failing grade in prominent red ink across their paper - they were told that there were possibilities that the evaluator, who was identified as white, was biased. They were then asked the degree to which they believed discrimination may have affected the result. They answered by choosing along a scale that indicated the degree that discrimination influenced the feedback. [\[FN178\]](#) The results showed a consistent pattern on the part of the students to minimize personal discrimination across the spectrum, up to the point of a 100% chance that the evaluator was biased. [\[FN179\]](#) Unlike the earlier studies, this study did not find that minorities associated negative feedback with discrimination. [\[FN180\]](#) By minimizing the perception of discrimination, the test subjects demonstrated a persistent tendency to deny the presence of discrimination. Immediately following the negative feedback, these same subjects tested high on the scale measuring their sense of self-esteem on personal performance control. [\[FN181\]](#) These results thus showed that the students preferred admitting personal failure while retaining a sense of personal agency rather than accepting social rejection as a member of a stigmatized group. [\[FN182\]](#)

A prior study that formed the basis for this work had measured the responses of women in a similar experiment. [\[FN183\]](#) It revealed that women's internalized reactions to negative feedback and perceptions of discrimination were in some ways more *252 striking than the reactions of Asians and Blacks on subsequent studies. [\[FN184\]](#) The experiment was structured similar to the study of racial minorities, utilizing a standard scale to measure the degree of discriminatory influence in negative feedback. [\[FN185\]](#) The results demonstrated that women showed a strong tendency to minimize their personal experience with discrimination and instead attribute their failure to their own answers. [\[FN186\]](#) What was most revealing from this study was that the women were as reluctant to attribute their test results to discrimination in the 75% likely category, as in the 25% category. [\[FN187\]](#) This suggested an unusually strong tendency to downplay perceptions of discrimination, even in the face of strong evidence pointing towards its presence. It also pointed to their tendency to internalize failure, even when the likelihood of discrimination from a clearly external factor, was substantial. [\[FN188\]](#) This pattern also correlated with their low self-esteem scores; for example, the women did not expect to do well, a factor that is consistent with low self-esteem scores. [\[FN189\]](#)

When the same experiment was conducted on Asians, the results were similar. [\[FN190\]](#) While Blacks minimized the possibility of discrimination, Asians did it even more so and showed a greater tendency to blame themselves for their failure than to point to an external agent. [\[FN191\]](#) In contrast, Blacks showed a lower tendency to minimize discrimination than Asians, a fact probably reflecting the historical Black/White axis of much of our society's racial conflict. [\[FN192\]](#) The researchers also found that the more that Blacks and Asians minimized discrimination, the higher they scored on tests measuring perceived performance control and perceived social control. [\[FN193\]](#) This finding supported researchers' original hypothesis that denying discrimination would protect the ego but not the other hypothesis that blaming others would also protect the ego. Black and Asian test subjects apparently wanted to believe that they would be judged fairly on their efforts and that they could control how others would treat them through their behavior. [\[FN194\]](#) This belief - and the need to protect self-esteem - was so strong that it overrode the more "objective" data, showing a significant to substantial likelihood of bias influencing their negative feedback.

[\[FN195\]](#)

While these studies may be encouraging to teachers who have wondered if minority students perceived negative feedback as bias, they also raise some discouraging possibilities. Although these studies focused on bias and perceptions associated with negative feedback, they suggest that the tendency of subjects to *253 deny bias may extend to areas of clinical work that lie outside the domain of feedback. [\[FN196\]](#) That is, the tendency to deny the presence of discrimination could extend to peers, court personnel, judges, opponents, and the employment setting. While this reaction may be psychologically beneficial in its ego and self-esteem protective function, it could disarm minority students if and when they are faced with starker discrimination and their own inability to confront it. [\[FN197\]](#)

Nevertheless, as stated earlier, these results are encouraging in one respect. Women and minorities do not appear to approach negative feedback with any more preconception than any other students. In other words, perceptions of gender or racial bias normally should not inhibit teachers in the feedback process. [\[FN198\]](#) All the same, clinical teachers should be aware and cautious of the general tendency of minority students and women students to deny the presence of bias, particularly as it affects them personally. This article will discuss a number of strategies that may be useful in raising this issue without having it skew the student-teacher relationship or dominate a clinic's already crowded agenda.

C. Positive Bias and the Feedback Source

A version of discrimination that could also occur in a clinical setting is bias in favor of, rather than against, minorities. [\[FN199\]](#) To test for this form of bias, researchers designed an experiment where white students at an undergraduate institution were asked to review and comment on a poorly written essay specifically designed for the study. When they were informed that a Black student had written the essay, the student evaluators reduced their negative feedback as compared to when they were told that a white student had written it. [\[FN200\]](#) In an effort to further isolate the *254 influence of race on the reviewers' perceptions, the students were asked to give feedback on both content and grammar. They believed that content may be influenced by a number of subjective factors, lending itself more to variable evaluation, whereas grammar is more susceptible to objective evaluation. [\[FN201\]](#) Consistently, however, the white reviewers gave more favorable comments on both content and grammar if the author of the essay was identified as Black than they gave to them if identified as white. While these results confirmed the researchers' suspicion of a favorable bias toward minorities, the study was unable to project or predict the potential extent of this behavior. [\[FN202\]](#)

Out-group polarization studies have found that out-group members are subject to both positive and negative evaluation distortions, skewing perceptions of successes and failures. [\[FN203\]](#) Shifting standards theory research has found that evaluations about stereotyped groups are often calibrated to preconceived beliefs about that group. [\[FN204\]](#) If there is a perception about Blacks as a group having lower abilities, the evaluators' standards may go down to match this perception. [\[FN205\]](#) Other factors that may have influenced the whites' response include "the wish to display egalitarian values to others or to themselves, or the desire to reflect a norm as kind or sympathetic." [\[FN206\]](#) Feedback to members of a minority group may also provoke "feelings of generalized awkwardness, or discomforting ambivalence" in the white reviewers. [\[FN207\]](#) Whites, for example, may mask their underlying unease about judging the work of a Black student with overly positive comments. [\[FN208\]](#)

Although the white evaluators in this test may have been legitimately concerned about their own group images and the social consequences associated with them, the results of this experiment raise further serious concerns about Black students and their perception of the value and validity of the feedback process. [\[FN209\]](#) Inflated praise, whether from a peer or a teacher, can dissuade Black students from expending a greater effort toward higher achievement. [\[FN210\]](#) It may discourage the recipients from seeking academic assistance even when that is exactly

what is needed. [\[FN211\]](#) False praise, or skewed feedback, may also lead Black students to distrust positive feedback, even when it is fully deserved. [\[FN212\]](#) This reaction in turn *255 can negatively affect self-esteem. [\[FN213\]](#) Finally, biased feedback in favor of minorities may convey the message that positive feedback is mostly an expression of a racial concern and not a useful measure of one's achievement or ability, thereby undermining one of the primary utilitarian features of feedback. [\[FN214\]](#) The study also found that if a Black student receives positively skewed, or lowered standards feedback, they likely responded with some degree of disengagement from the feedback process and with less motivation to engage in their work. [\[FN215\]](#) If the performance disengagement and diminished motivation persist and become chronic over time, it can undermine school achievement well beyond the area of the skewed feedback. [\[FN216\]](#)

The lessons from these studies of bias in the clinical feedback process are clear yet complex. When a lack of response to a feedback message occurs across interracial or intergender boundaries, it is prudent for the feedback giver to systematically review the message and the source for elements that might have created distortion. It is equally important to realize that, because of the dynamic nature of the feedback process, a number of factors more germane to the recipient may have affected perception of the feedback message and limited its impact. [\[FN217\]](#) Good feedback technique is certainly one way of minimizing these distortions. Being specific, focusing feedback on events that the teacher has personally observed, being objective and willing to discuss the feedback with students and openly elicit their responses to what the teacher has said, all improve the delivery of the feedback message and reduce distortion. [\[FN218\]](#) While regularly scheduled feedback is desirable, teachers, on the other hand, should not avoid spontaneous feedback even though by nature it is less thought out. A further consideration for teachers is to keep in mind that though it is not specific to bias issues, they should be careful of the public nature of their spontaneous comments. [\[FN219\]](#) Delivering *256 feedback relatively close to the event being discussed so that details remain fresh in the student's mind is also important in limiting distortion. [\[FN220\]](#)

Perceptions of bias are neither uncommon nor unfounded in many law schools. [\[FN221\]](#) Open conflicts over admissions policies, the inclusion or exclusion of minorities from law review or moot court boards, questions over the availability of prestigious employment opportunities, all may contribute to the competitive atmosphere of a law school and to the perception that minority students cannot perform at the same level as their white peers. [\[FN222\]](#) Psychological research has demonstrated that when this occurs a tense racial climate typically subtly interjects itself into the feedback process, which may give rise to skewed positive feedback, false praise, lowered expectations, or outright bias. [\[FN223\]](#) If this occurs, students are likely to experience negative consequences. [\[FN224\]](#)

Signs of withdrawal by minority students may signal that this climate exists in the law school. It may also indicate that some personal experience of the individual minority student has affected her law school experience, impacting her ability to experience feedback, even when delivered correctly. There is no simple prescription for addressing these problems. However, clinical teachers might consider periodically taking the racial and gender pulse of their law school through informal discussions with minority, white, and female students. Becoming aware of the psychological perceptions that flow from certain types of "racial" and "gendered" *257 interactions permits teachers to be better prepared for a response tailored to what may be appropriate to a particular individual or situation. Finally, feedback sessions designed in part to facilitate the release of students' feelings, including their perceptions of bias, may lead to honest dialog about their experiences in their clinics, including the experience of feedback.

Responding to the perception, or reality, of gender bias is an equally complex issue. While women are considerably more numerous in law schools today than ever before, [\[FN225\]](#) several psychological studies have found that gender discrimination remains a very real issue and women's responses to the perception of discrimination may be affected by the conditioning that occurs before law school, as well as events that take place during law school. [\[FN226\]](#) Clinics, which offer an opportunity for small classes and close interaction with faculty members, could benefit from open discussions about these issues, either formally as part of the orientation or introduction to the clinic, or informally between faculty and small groups of students. [\[FN227\]](#) If these events are to take place, clinical

faculty will have to play a role facilitating the effort. Minority and women students may go through law school with few, if any, opportunities for these discussions, particularly with faculty who also have the responsibility for their close supervision and grading. Even small *258 efforts to acknowledge and empathize with the complexities that minorities and women experience in sorting out when and whether discrimination occurs can go a long way toward improving their receptivity to feedback generally and negative feedback in particular. [FN228] While these efforts should not resemble therapy sessions, they can nevertheless contribute to an atmosphere of trust and reliability between teachers and students that is a critical element in maintaining the effectiveness of the feedback process. [FN229]

D. The Feedback Message: Its Structure and Content

Feedback messages contain features that significantly impact the dynamics of the process. [FN230] It is, thus, useful to review some of the more common of these features and examine their effect on the process. Several features or characteristics of a good feedback message have been staples of clinical teaching for a number of years. [FN231] Indeed, some of those subjects listed below should be familiar to all clinicians while others, particularly those drawn from psychological studies, might offer refreshing insights.

1. Timeliness

It is generally accepted in clinics that feedback be timely. [FN232] Timeliness means that the delivery of the feedback be as close as possible to the performance being observed so that the events at issue remain fresh in the minds of both the teacher and the recipient. [FN233] Recent studies, however, suggest that timeliness may also be seen as a function of a teacher's particular learning goals rather than as an intrinsic *259 and unchanging characteristic of all effective feedback. [FN234] A pervasive goal in the clinical setting is for students to reflect on their work in order to become self-directed learners. [FN235] Feedback studies have found that while delayed feedback can cause difficulty in initially learning a task, it may actually enhance the ability of recipients to transfer the skill learned to new problems. [FN236] This finding on transferability supports a pedagogical goal of emphasizing reflection: the development of an ability to look back over one's behavior, learn from that experience, and transfer lessons therefrom to new and different situations. [FN237]

A theory that supports the careful use of delayed feedback is cognitive hypothesis testing. [FN238] According to this theory, active learners are participants who test one hypothesis after another on a task until they reach the correct solution. A delay of feedback thus gives recipients more time to think about the tasks. In addition, such recipients are more likely to transfer what they learn to new tasks. [FN239] While timely feedback is an important aspect of effective supervision, it can be varied to reflect the learning goals associated with a particular task and not be mechanically seen as essential in all situations. [FN240]

Therefore, the most important variables to consider in deciding to delay feedback are the goals associated with the task and the number and types of activities that might occur between initial performance and feedback. [FN241] If the goal is for students to learn a complex concept or task, some delay might be helpful. If however, students' attention will be directed to too many different tasks in the interval, these may distant their memory, particularly regarding details and render delayed feedback ineffective.

2. Specificity

Studies have found that specificity strengthens the feedback message; however, this factor has attracted little research. [FN242] Nevertheless, one can infer from feedback intervention theory (FIT) that specificity strengthens the message when it strikes the appropriate balance between task focus and ego focus so as to reduce affective re-

sponses to feedback. [\[FN243\]](#) Limiting the scope of feedback also helps keep the feedback message objective. The specificity of a message increases the *260 probability that its recipient will be able to focus on its intended meaning. Learning theory, in any event, holds that the acquisition of knowledge proceeds in incremental steps. [\[FN244\]](#) Offering too much feedback, as far as scope is concerned, may simply induce cognitive overload and diminished retention. [\[FN245\]](#) Specificity, while narrowing the cognitive response, also has the related effect of increasing recipients' perception of the credibility and trustworthiness of the feedback source. [\[FN246\]](#)

3. Goal Orientation

Keeping feedback focused on the task or performance being assessed - and not on the person - is closely related to the long-held view that feedback should be nonjudgmental. [\[FN247\]](#) Periodic reiteration of the task's goal, then, enhances the utility of feedback. [\[FN248\]](#) Goals are the guideposts that funnel students' energies in a particular direction. They also serve as progress markers that measure the relative degree of success achieved in any effort. Feedback researchers have discovered that goal-setting by itself, while not technically an aspect of feedback, will lead to improved performance. [\[FN249\]](#) When goal-setting is combined with feedback, results multiply. [\[FN250\]](#) The importance of honesty, relevance, and a nonthreatening delivery, while related to both the content and style of the feedback message, are additional factors of recipient feedback perception. These elements will be discussed in conjunction with personality types in light of their corresponding effect on receptivity to the feedback message.

4. Being Nonjudgmental

Although early clinical literature often referred to feedback as evaluation or critique, feedback researchers have explored why evaluation and judgmental feedback can be counterproductive. [\[FN251\]](#) Correlatively, researchers have discovered the benefits that praise confers on the feedback process. [\[FN252\]](#) A major reason for *261 some evaluative feedback ineffectiveness is that it contains noncontingent or noncontextual qualities. [\[FN253\]](#) Unfortunately, many students experience this type of feedback as a result of most law school grading practices before they even arrive in a clinic. A grade based on a single final exam is noncontextual because the feedback contained in the grade is only peripherally related to specific aspects of a student's performance and thus offers little diagnostic value in accounting for their success or failure. [\[FN254\]](#) Indeed, students' psychological reaction to end-of-semester exams has been called an intellectual evaluative threat. While pressure to perform can lead to greater effort, its negative effects can also counteract the benefit of performance. [\[FN255\]](#) Although evaluative feedback generally, and grades in particular, contrast the recipient's performance to those of others, they fail as quality feedback because they do not provide a particular context for the evaluation. [\[FN256\]](#) Judgmental feedback without a reference context of performance and/or goals creates attributional uncertainty in the recipients. When this occurs, "[t]he logical link between performance and the factors underlying that performance is lost, so the individual is at a loss to decide the cause of the performance outcome." [\[FN257\]](#) The effect of this uncertainty can lead to less persistence on future tasks. [\[FN258\]](#)

5. Praise

While judgmental feedback should be avoided, praise - a feature of positive feedback - may be delivered if tailored to clear learning goals. A message containing praise actually involves several different elements that have been measured in feedback research. Each has the potential to modify the content of the praise and some may even lead to negative rather than positive results. Generalized praise, while well intended, may simply cause confusion and be of little value as feedback. Telling a student that they "wrote an excellent memo" may reduce their grade anxiety, but it fails to provide them with the kind of information useful in diagnosing their success or failure and planning for future work in a meaningful way.

Controlling or directive praise, while usually offered as a form of encouragement, should be avoided as well. [\[FN259\]](#) Controlling praise is characterized by conditional statements such as “if you continue to perform like you did on the last simulation you are likely to do quite well in the course.” The controlling contingency is the *262 student’s past performance, not what the student is currently doing. [\[FN260\]](#) While past performance can be a valuable reference point, this comment again leaves students on their own to figure out what specific aspect of their past performance they should seek to repeat. Since the directive component of this praise tells students to mind their future performance, it may only increase performance pressure and anxiety. [\[FN261\]](#) The effect of conditional or controlling praise is to lower students intrinsic motivation as well as their sense of competence. [\[FN262\]](#)

Conversely, informational praise can be productive where it enhances motivation and competence. [\[FN263\]](#) Informational praise eliminates contingencies and focuses on the task the recipient has performed. An example of informational praise is, “Your motion papers were very good. You modified the motion from the form book and ordered the facts in a way that really underscored our legal argument.” This praise tells the student what was good and why. Person-based praise, like any overly personalized feedback, also has its limitations. While comments like “[t]hat’s the best practical report you’ve produced this term” may be well intended, they are psychologically classified as “ideographic” because they shift the focus to the individual without reference to general standards or specific behaviors associated with the work. [\[FN264\]](#) These comments can also subtly increase future performance expectations. [\[FN265\]](#) In contrast, task-based praise is “nomothetic” because it draws on a sampling of cases for the student to use as a reference point. [\[FN266\]](#) For example, a comment like “from the three hearings that we have had so far, your objections to the opponent’s documentary evidence were the most effective” demonstrates a focus on performance relative to some normative standard of the prior hearings.

*263 While flaws in delivering praise will not totally undermine the intent of the feedback message, particularly in the law school setting where students are conditioned early to get along with little or no feedback, they can lead to misunderstandings and ineffective communication and alter the intended message by a matter of degrees. Slight feedback flaws when giving praise might be particularly easy to overlook in a law school clinic that has an established culture and practice of giving feedback where invariably more, rather than less, feedback is given. If, however, a student manifests the psychological characteristics of a “self-worth protective” type, distorted messages of praise will have a greater impact, even when the message is only slightly flawed. [\[FN267\]](#)

Self-worth protective students are characterized by erratic performance. At times they do well and at other times they underachieve on academic work of equal complexity. [\[FN268\]](#) These students are particularly susceptible to the negative impact of judgmental feedback. They also need more assistance in understanding their successes and more reinforcement after them. Unlike high self-esteem students, they are not as adept at internalizing success, and so flaws in praise feedback cause them greater confusion than other students. [\[FN269\]](#) For this group especially, too much praise on relatively easy tasks is interpreted as a lack of confidence in their ability. [\[FN270\]](#) Similarly, praise for an incorrect answer - or overly effusive praise relative to actual achievement - is associated with condescension and a low estimate of their ability. [\[FN271\]](#)

One way to maximize the true intent behind praise is to offer it as part of the goal of reducing performance anxiety. While this will be especially helpful for self-worth protective students, it will benefit other students as well. A teacher can reduce anxiety by focusing on specific actions worthy of praise, rather than on broad competencies or skills. Effective praise can be task-based and person-tailored. A teacher could start by giving students a reference point for their expected performance so that their successes or failures can be situated on and addressed to *264 that point. For example, the teacher could offer the following praise: “We knew our goal was to get our client to open up and share more information with us. You did a great job when you realized she wanted to talk and set aside your prepared questions and just listened.” Praise should help the student focus on the elements that explain a good performance outcome. [\[FN272\]](#) This approach, however, is as important with successful tasks as with unsuccessful ones. While it is important for the tone of feedback messages to be overall positive, it should not ignore negative

feedback that might be necessary to rectify behavior modification. [\[FN273\]](#) This approach, while helpful to most students, will be particularly helpful for those who are self-worth protective.

E. Types of Feedback Messages

A useful technique for improving the message component of feedback is to carefully structure specific learning goals for the feedback session. Different types of feedback can be employed to achieve different goals.

1. Informational Feedback

If one goal is to reduce a student's anxiety, directed informational feedback - which is designed to give students a quantity of information above and beyond what they already know - might be effective. [\[FN274\]](#) Cybernetics theory has described this feedback as particularly useful because it reduces anxiety by reducing or eliminating the competing explanations for a particular behavior. [\[FN275\]](#) It explains why things happened the way they did. Informational feedback is also usually well received because it does not impose any immediate performance demands on recipients. [\[FN276\]](#) While this form of feedback may be used sparingly in situations where the teacher's goal is for students to uncover information and sort out its relevance on their own, when employed it can be very effective in influencing performance. This may be particularly true in clinical tasks that emphasize autonomy and creativity. [\[FN277\]](#) *265 Delivering feedback in an informational style, even coupled with other feedback messages, reemphasizes instruction as the teacher's primary goal. [\[FN278\]](#)

In contrast, a controlling style that is overly directive can limit students' perception of their options and reduce their creativity. [\[FN279\]](#) While a teacher's exertion of a greater degree of control may under certain circumstances be a valid goal, it may also sacrifice valuable student learning in exchange for the achievement of a specific and immediate goal. Informational feedback is usually perceived as helpful, instructive, understanding, and supportive. [\[FN280\]](#) In contrast, a controlling style of feedback delivery is associated with feelings of inhibition and restraint. [\[FN281\]](#) Positive feedback delivered in an informational style has been shown to best stimulate creativity. [\[FN282\]](#) Recipients of this type of message are left feeling that they are in control of their choices and are being guided and supported in perusing them. [\[FN283\]](#) As a result, they feel freer to experiment, take risks, make mistakes, and learn how to move forward.

2. Instructive Feedback

Instructive feedback is closely related to informational feedback. The two may in fact be seen as variants of one another, though somewhat different goals are associated with each. The basic goal of informational feedback is to provide information beyond what was offered in an initial class presentation or assignment. [\[FN284\]](#) It quantitatively adds to what students already know. The goal of instructive feedback, however, is to encourage and guide growth without particular focus on past performance or specific knowledge. [\[FN285\]](#) It is a more qualitative style of intervention. While effective instruction may at times require new information, the latter is not always necessary to the instructive feedback process. Three variations of instructive feedback that illustrate this point are: expansion feedback; parallel feedback; and novel feedback. [\[FN286\]](#)

*266 When employing expansion feedback, the goal is to expand the parameters of the feedback session. In many clinics, teachers ask students to develop a feedback agenda to provide a focus for the feedback session and to insure that the teacher addresses those issues that are of specific concern to the students. The agenda also insures that students have thought about the feedback process and are open and receptive to feedback. Expansion feedback seizes on the opportunity to address related topics that might conceptually increase the scope of the students' learning beyond the focus of their initial feedback agenda.

Parallel feedback involves finding a different form of stimulus that elicits a response similar to that necessary for the original task. [\[FN287\]](#) If a student is drafting a memo or brief and is having difficulty with the application of a particular case, the use of parallel feedback might shift the focus of the feedback session to a different case, possibly one covered in class. Discussing that case might then trigger for students new ideas or a deeper understanding of “parallel” concepts that are useful for solving their original case dilemma. A thoughtful and accomplished Socratic dialogue can be an effective form for delivering parallel feedback. Role plays can also be an effective tool for this form of feedback.

Finally, novel feedback, as the term implies, is a kind of conceptual synapse that makes a connection to concepts or skills that may be unrelated to the original feedback topic but are triggered by the receptivity and curiosity of particular students. These opportunities for learning and mutual exchange should not be overlooked even if the topics for novel feedback are not on the teacher' or students' agenda. Discussions about the legal system, particular types of practice, social justice issues, or the myriad dimensions of becoming a lawyer can all be very rich subjects for novel feedback. [\[FN288\]](#)

While each of the variations of the feedback message has distinct characteristics that reflect the underlying goal of the particular feedback, they should not be seen in isolation from the dynamics of the entire process. For example, a well-crafted feedback message from a source that is suspect may have less impact on behavior than flawed feedback from a source perceived as honest and reliable. [\[FN289\]](#) All the same, despite the complexity and interdependent qualities inherent in the feedback process, each variation emphasizes different components and the skillful and purposeful manipulations of these can have a dramatic effect on students' reception to and utilization of feedback.

**267 F. The Feedback Recipient: Personality Issues and Their Impact on Receptivity*

Virtually all of our behavior is affected by our personality. [\[FN290\]](#) Information from any feedback message, whether internally generated by the task, the environment, or externally generated from supervisor intervention, gets filtered through the universe of factors that make up our personality and self-concept. [\[FN291\]](#) Self-perception comprises a window through which social perceptions are formed. Both thus mediate students' perceptions of and reactions to a feedback message. [\[FN292\]](#) This is not to say that teachers should classify students into distinct psychological types. Rather, they need to recognize patterns in their interventions so that they may make adjustments in the feedback process to achieve better communication and to improve performance.

Feedback researchers have found a general tendency for recipients to selectively interpret a feedback stimulus as consistent with their own self-orientation. [\[FN293\]](#) What students tell themselves about their performance is usually received with a degree of acceptance at the level of the ego, regardless of the accuracy of the message or whether it is positive or negative. [\[FN294\]](#) This powerful mechanism of the self-concept tends to be relatively stable under most circumstances and is for the most part resistant to change. [\[FN295\]](#) If portions of an externally generated feedback disconfirms aspects of students' self-concept, they tend to selectively minimize those portions of the message. [\[FN296\]](#) All persons share in this tendency to view self-confirming *268 feedback as more informative, compelling, and trustworthy than feedback that contradicts self-image. [\[FN297\]](#) When structuring a hypothesis during an investigation, individuals tend to be drawn first to evidence that confirms their initial ideas, rather than that which seems disconfirming. Individuals' recall of information also follows this pattern. [\[FN298\]](#) Indeed, persons with negative self-images will even actively seek out negative feedback because it is so confirmatory, even though the psychological cost of doing so is high. [\[FN299\]](#) Persons who follow this pattern are seeking to balance the emotionally unpleasant experience of receiving negative feedback with the uncertainty reducing experience of the cognitive congruence of a negative message. [\[FN300\]](#) Researchers believe that this tendency of individuals to confirm their self-image for the part of the human thought process is not generated by any one particular personality. [\[FN301\]](#)

One study tested these conclusions and found that when listening to verbal evaluations, test subjects demonstrated a consistent tendency to recall the confirming aspects of the feedback message more than the disconfirming ones. [\[FN302\]](#)

Because of these tendencies, it should not be surprising that when students seek feedback, they often have to struggle with two competing impulses. One is their desire to feel competent. [\[FN303\]](#) Students need feedback to develop their sense of competence and to access a way of measuring their sense of personal control over events in their lives. The degree to which an adequate level of competence is achieved and a sense of self-control is maintained in turn affects their motivation to persevere with a difficult task or expend greater effort to improve performance. [\[FN304\]](#) Clinical teachers see this theory in operation in students who limit their feedback agendas to only those items that they feel confident about, assiduously avoiding prospects of disconfirming messages.

***269** The other impulse confronting students is the need to protect their ego, maintain self-esteem, and make a favorable impression. [\[FN305\]](#) Thus, one impulse seeks to limit and control a feedback intervention while the other actively seeks it out. The effects of these intersecting and sometimes competing impulses have been reviewed by studies that have found that, not surprisingly, most people seek and desire positive feedback. Positive feedback can increase self-esteem and reinforce one's sense of control. [\[FN306\]](#) Negative feedback, while often essential to the learning process, is the more difficult element in the process because it engages more elements of students' personality, particularly those that seek to avoid the unpleasant and often disconfirming effects of negative feedback. [\[FN307\]](#)

As teachers consider how to plan for or modify their feedback with these characteristics in mind, they need to recognize that these general tendencies in perception and behavior are further modified by other personality traits. These traits are not the subjects of feedback research but are part of participants' larger personality make up. While feedback research has isolated and determined the relevance of certain traits, teachers must remember that they deal with the whole student.

Another personality element that bears a close relationship to one's feedback response is the need for individuals to sense personal control over their environment. Feedback research has isolated two aspects of this trait by measuring test subjects for their preference for internal control stimulus versus external control stimulus. [\[FN308\]](#) While these traits classify general types and do not refer to all individuals, persons who score high in their preference for an internal locus of control tend to favor task and environmental feedback. [\[FN309\]](#) Because of their self-discipline and their stronger impulse to control the pace of their interactions, they manage their need for control quite efficiently from task feedback. External locus of control types reinforce their preference by seeking feedback from an external source, preferably a teacher. [\[FN310\]](#) While the differences between these two types in a clinical setting might be less pronounced than in the laboratory studies where they were observed, teachers might experience externals as more enthusiastic about a planned feedback session, more engaged and interactive, but also more needy of attention and reassurance. Internals might appear more interactively reserved but still fully engaged with the details of their assignment. Neither response suggests anything about the students' competence or actual performance potential, but only their preferred manner of receiving and ***270** reacting to feedback. To the extent that teachers can respond to that preference, the comprehension level of their feedback may be higher, recalled more easily, and applied more effectively.

Similar to the internal control types, students who score high in self-esteem studies tend to be independent and prefer opportunities for autonomy in their work. [\[FN311\]](#) They are quite fulfilled by the feedback they receive directly from the task they are performing. They tend to be adept at hypothesis testing and enjoy the process of trial and discovery. [\[FN312\]](#) Students who scored low in the self-esteem studies rely more on their relationship with an external source of power or authority for feedback messages about their work. They need reassurance but prefer it from their teacher, rather than from the self-discovery process of performing their task. Supervisory feedback plays

an important role in improving their motivation; even though they may be just as talented as high self-esteem types, these students prefer regular reinforcing feedback to stay focused and engaged with their task. [FN313] High self-esteem students respond more favorably to positive feedback and experience less negative effect from negative feedback than do students who are lower in self-esteem. [FN314] One belief is that high self-esteem persons pay more attention to positive feedback, possibly because of its self-reinforcing quality, and as a result of their higher attention level, they become more responsive to the feedback cues and transfer that information more readily to their task. [FN315] The difference in the reactions of these two groups is merely a reflection of how they each interpret success or failure. [FN316] High self-esteem persons are buoyed by success, but not defeated by failure. While they seek to protect their ego, they are less affected by negative results. On the other hand, low self-esteem persons tend to believe that their success is not really due to their efforts and, therefore, a disappointing performance for them is a self-fulfilling prophecy. As a result, high self-esteem types may be more responsive and enthusiastic if feedback sessions begin with positive comments and praise, and stay on this positive reinforcing theme as long as it is educationally warranted. Low self-esteem types also need praise but benefit more if consistent reinforcement engage their motivation; and negative feedback, where warranted, should be carefully worded to avoid discouragement.

***271** Subjects who tested high for social anxiety were also found to filter feedback messages through that personality trait. [FN317] Those high in social anxiety tend to enter feedback sessions expecting negative feedback more than those who scored lower on that scale. [FN318] The strength of this filtering process was further revealed when the subjects in a test were measured for social anxiety after they all received the same feedback following a test. Those high and moderately high in social anxiety perceived the feedback as more negative than those who scored lower on the scale, even though the wording and delivery of the feedback were exactly the same. [FN319] Similarly, subjects who tested high in public self-consciousness were more likely to actively seek feedback. [FN320] This trait is reflected in people who demonstrate a great deal of concern about their presentation and what others think of them. [FN321] They do not simply react to feedback. They seek it out because they need to know what their teacher thinks about them. They also seek feedback that will enable them to make adjustments to their public image. “How am I doing” will be heard early and often from students with this trait.

Interestingly, it was first suspected that high self-esteem types would be the most active and persistent feedback seekers, but they were not, [FN322] particularly when the sites for feedback were in a public or quasi public venue. [FN323] High self-esteem types, in other words, while displaying confidence, also seek to protect their ego and preserve their self-image. Because public feedback venues increase the risks to the ego, high self-esteem types avoid the interactions despite their otherwise high level of confidence. [FN324] The most frequent feedback seekers in one study were simply those who had set, or were given goals, and were experiencing strong doubts about attaining them. [FN325] While all feedback seekers tend to lower their estimates of their performance before a feedback session, low self-esteem types typically estimate an even lower performance level before feedback than their high self-esteem counterparts. Both groups seek to avoid disappointment and preserve their ego, but consistent with their different self-images, low self-esteem types tend to believe that they have achieved even less than they in fact did. [FN326]

***272** The value of these studies about personality traits and feedback responses depends on teachers' ability to apply their findings in interacting with students. The studies call for teachers to adjust feedback techniques to the particular learning goals and students. They certainly do not suggest that teachers attempt to regularly classify our students according to these traits. [FN327] Clinical teachers are not psychologists and law students do not come to a clinic experience expecting to be analyzed. What teachers can do is simply make conservative, cautious estimates of the effect that personality has on feedback receptivity, based on our own observations, training, and experience with the student that occurs in the course of supervision. Each student brings their own individual need state to a clinic, and the personality issues that affect receptivity to feedback are never single causative factors. Since they are part of the overall dynamic between source, message, and recipient, teachers need not think of personality traits as essential information to decide how best to deliver effective feedback. Nevertheless, within this context of honoring student

individuality, some generalizations seem both warranted and useful.

G. Feedback and Motivation

Feedback can convey different types of affective information to the recipient. [\[FN328\]](#) The three general categories of affective importance to the feedback recipient are: maintaining a sense of competence; maintaining a sense of control; and believing that their efforts will result in extrinsic rewards or positive results. [\[FN329\]](#) When these three elements are met, intrinsic motivation will remain high, and a student or employee will maintain a strong level of task commitment. Keeping or improving the effect of competence, and therefore a higher motivational level, is more likely if the feedback encounter begins with a positive message. [\[FN330\]](#) While there are differences in how individual students may interpret positive messages, their predominant effect is to stimulate the ego and to resonate with those aspects of self-perception that are striving to feel good about their prospects for becoming good lawyers. [\[FN331\]](#) This is not to ***273** suggest that deficiencies in performance need to be sugar-coated or ignored. However, since we always have a choice in how and where we start the feedback process, beginning with a positive message will strike a more self-affirming note for the student than starting with criticism. In addition to observing the technique of specificity previously discussed, teachers should consider adding some degree of complexity to a positive feedback message. Complexity, along with the right amount of detail has been found to engage more cognitive attention that complements its affective result and will add valuable context to any message of praise. [\[FN332\]](#)

Teachers should learn not to overdo it. Too much feedback, whether positive or negative, can generate cognitive overload and a decreased perception in the student of teacher confidence in their ability and a corresponding decrease in their own perceptions of control. [\[FN333\]](#) If the task needs a lot of reworking, the teacher should consider breaking it up into smaller components and provide feedback as each one is accomplished. Teachers should not be reluctant to offer praise, but make sure it is linked to specific components of the task. Otherwise, it may convey the unintended message that the student is a nice person, but is less than adequately competent.

Students will engage more with controlled guidance than praise alone. [\[FN334\]](#) Praise can be an important element of positive feedback. However, while it is important to recognize student achievement, the feedback should also set a new and higher goal for a continuing effort. Teachers should respect the student's need for autonomy and for new information or direction. Although this advice raises larger issues of supervisory style and experiential pedagogy, some balance in this range of choice might be achieved by insuring that each feedback encounter provide at least some informational feedback to the student, while listening carefully for cues to provide expansion or novel feedback. Providing information is never in contradiction with the self-discovery goals of experiential learning. There are usually many opportunities to preserve the balance of each.

Teachers should be willing to carefully listen to students' assessment of their performance. While it may typically be more negative than positive, it may contain revelations about their perceptions that can be very instructive for feedback message adjustments on the part of the teacher. Anxiety, frustration, high or low levels of self-confidence are all valid reasons for modifying an instructor's feedback message. Teachers should remember, however, that good feedback is not therapy. The purpose of responding to these traits is to improve the communication in our teaching and motivate our students.

Before asking for a student to conduct a self-critique, the teacher might first discuss goals and standards concerning the task with the student. A self-evaluation without regard to clearly articulated standards from the teacher is bound to exaggerate any number of personality feedback filters, especially those involving self-image, anxiety levels, self-esteem, and levels of confidence. This simple adjustment provides the student with a context that diminishes, at least to some extent, the powerful influence ***274** of self-image perceptions. Finally, if negative feedback is necessary, structure the message carefully. Teachers should remember that while negative feedback is a powerful

stimulus for change and does generate mindful information processing, on an emotional level it can undermine a student's belief in his or her competence and can threaten his or her sense of control. By combining negative feedback with informational feedback and guidance, teachers can minimize the engagement of personality effects and redirect the student's efforts in a positive direction. [\[FN335\]](#)

H. Other Guides to Effective Feedback

Goal orientation is an important feature of effective feedback. This suggests that teachers should develop learning goals for each student and each feedback session. Some studies have found that teachers can be more effective feedback providers if they can develop a conceptual framework for good feedback for their own use and work to apply it to each student feedback encounter. This mental road map can be particularly useful when giving spontaneous feedback, but it is also helpful for planning sessions that occur as part of the regular schedule in the clinic. [\[FN336\]](#)

The outline below has been adapted to capture a feedback framework and has been modified to reflect some of the issues more common to a clinical teaching environment. [\[FN337\]](#) This model begins by dividing the principle categories of feedback according to their authoritative or facilitative function. [\[FN338\]](#) These categories, although simplistic, are meant to be descriptive of a process whose most important feature is adherence to the underlying value of what it means to use person centered values to support students toward their full potential. [\[FN339\]](#) They also reiterate that the most effective feedback occurs when a teacher learns to move freely along the spectrum from authoritative to facilitative according to the individual being supervised and the circumstances of the intervention. [\[FN340\]](#) The key to effective utilization of this model is goal setting by teachers in their feedback interventions and self-awareness of those goals throughout the feedback process. [\[FN341\]](#)

An authoritative intervention is represented at the more controlling end of the feedback spectrum. It is a more directive style. It is based on the teacher's place in the hierarchy of the relationship. It seeks to raise the student's consciousness in a learning context, but in its most extreme form, it may simply involve taking charge of a task related to a case. [\[FN342\]](#) In the alternative, a teacher may exercise varying *275 degrees of skill and authority to help a student who seems at an impasse and where client interests might become compromised. While direct intervention is an unusual choice for teachers to make, the underlying value in even this intervention should still be aimed at enabling the student to grow. [\[FN343\]](#)

Facilitative feedback is a less directive and more limited exercise of the teacher's power. Its goal is to be enabling, supportive, and empowering. It seeks to give much more deference to student autonomy. Its focus is to release inhibitions to learning, energize more self-directed learning, affirm self-worth, and enhance student autonomy. [\[FN344\]](#) Neither the authoritative, nor the facilitative, approach to feedback represent exclusive categories. Both are merely descriptions of the range of choices along a spectrum representing the underlying goals behind a feedback intervention. Both ends of this spectrum are driven by the overall goal to increase the autonomous power of students in the learning process. To effectively use the outline below, teachers should become proficient with the different types of feedback that it describes. They should also learn to be flexible and be keenly aware of which feedback practice they are using and why. They should also be open to feedback on their feedback and be creative in shifting the balance of power from the teacher to the student. [\[FN345\]](#) The key to this outline is remembering that if your intention or goal is clear, then your feedback has a much better chance of being clear. [\[FN346\]](#)

I. Authoritative Feedback Interventions [\[FN347\]](#)

1. *Prescriptive goals:* Requiring, directing, advising, suggesting, recommending. Cautions: Avoid if possible, "must" or "should" language, or a benevolent takeover of the task.

2. *Informative goals*: Increase units of knowledge relative to the students' needs, guide, overcome self-doubt, correct erroneous hypothesis, carefully give nonconfirming feedback. Cautions: Do not overteach; do not use superior knowledge oppressively; avoid undermining student confidence and autonomy.

3. *Confronting goals*: Consciousness-raising about any aspect of the teacher-student relationship or task, point out learning inhibitions, examine personality traits relevant to effective behavior, deliver a wake up call. Cautions: Be careful with any personality issue; stay focused on behavior, not person; do not overdo feedback; be timely; do not push anxiety into paralysis; structure the negative message carefully.

J. Facilitative Feedback Interventions [\[FN348\]](#)

1. *Cathartic goals*: respond to emotional learning/performance issues, allow for discharge of emotions, redirect energy productively, offer alternative view of reality, *276 acknowledge validity of feelings, guide in emotional management. Cautions: Do not go too far, feedback is not psychotherapy, do not go too deep, stay task focused, do not stay too long in one emotional place, empowerment means moving forward.

2. *Catalytic goals*: Creative problem solving, self-discovery, understanding students' own processes, discovering an erroneous hypothesis, exploring other options. Cautions: Do not under-teach, even the best students need guidance; do not shift too much power too soon, allow time for learning to unfold. Avoid mixing cathartic with catalytic goals in the same intervention; mixed messages can lead to miscommunication.

3. *Supportive Goals*: Affirm students' self-worth, recognize relevant experience and personal qualities, offer positive feedback/praise, acknowledge productive behavior, do not take a student's sense of accomplishment for granted, utilize empathy, honesty, be aware of self-esteem issues, remember to check racial/gender pulse of law school, the clinic, and the individual student. Cautions: Avoid overmixing praise and criticism in same intervention; do not increase performance pressure unrealistically. Avoid creating unrealistic expectations. Never patronize.

These six categories of intervention and their descriptions are not presented in any preferred order. They are meant as flexible cues that can assist teachers in developing the level of self-awareness that can help maximize the learning opportunities in every student encounter. The points of caution are simply very brief distillations of the feedback research that has been previously discussed.

The acceptance of feedback, the desire to respond, and manifesting one's intentions into behavioral change, like other elements of feedback, has been the subject of several studies. [\[FN349\]](#) The research has concluded that these elements in the feedback process are dynamically interdependent with the recipient's sense of competence, sense of personal control, and belief that he or she will experience some extrinsic reward. [\[FN350\]](#) Feedback is essential for a student to measure his or her sense of competence. [\[FN351\]](#) Applying the six category intervention model discussed above can aid teachers in their efforts to deliver consistent, quality feedback. Furthermore, if the six category cautions are observed, students are more likely to retain a sense of personal control of their work, even in situations where significant guidance may be necessary. While clinical teachers, like all professors, possess the power of the grade, for most clinical students gaining experience by performing in the role of a lawyer, rather than merely studying the law, is a valuable reward in itself. Competence, both real and perceived, is an extrinsic reward of considerable weight that is gained and enhanced through the feedback process. [\[FN352\]](#) While the importance of grades from a student's perspective should never be discounted, for most students the reward of learning their future profession will supply ample motivation for diligence and perseverance in the work of the clinic.

*277 *K. Credibility*

Credibility is a characteristic that most clinical teachers possess and maintain throughout their relationship with their students. Since credibility is based in large part on the teacher's expertise and knowledge, clinical teachers are seen by their students as being experienced and adept at their craft. [\[FN353\]](#) This is especially true in a comparative sense because students begin their clinic experience as complete neophytes. While the credibility of feedback is in part a reflection of the credibility of the teacher, it can also be achieved by displaying specific knowledge of the behavior being critiqued, and committing the time necessary for each individual student. These practices have been central to clinical teaching methods from its earliest days. As a result, it is likely that most teachers are thoroughly familiar with the importance of, and methods of maintaining, credibility in a teacher-student relationship. [\[FN354\]](#) The qualities of credibility and trust emerge and are experienced by students in the course of their relationship with their teacher, and when they are present in the overall conduct of the messenger, it invariably improves receptivity to the message.

Another factor that can improve or diminish credibility is the degree of empathy that a teacher is able to convey through his or her feedback. [\[FN355\]](#) Empathy adds a dimension of trust to a relationship, as well as to a feedback exchange. [\[FN356\]](#) The sensitivity that naturally flows from empathy is an important aspect of implementing any feedback goals. Demonstrating through words and actions that I can "help you with these problems" creates honesty, and trust, and emphasizes the problem-solving and teaching goals of feedback. [\[FN357\]](#)

L. Feedback and the Age of the Recipient

Finally, a student's age can be a factor in how feedback is received. Feedback researchers have found younger workers more receptive to feedback than their older counterparts. [\[FN358\]](#) However, most of these studies would seem to have little bearing on law school clinics, since in the workplace, age tends to correlate with experience, and these studies found older workers were either skeptical of the expertise and knowledge level of their managers, or were so used to receiving little or no feedback that they had built up a natural distrust of the process. [\[FN359\]](#) Despite the fact that some students may have experience working in law office settings prior to joining a clinic, it is unlikely that any would have had primary responsibility for a client; therefore, any specific experience of older students and its attendant reticence for feedback, in most circumstances, should not be an issue in most clinics. [\[FN360\]](#)

***278 Conclusion**

For nearly the last one hundred years feedback researchers have been trying to discover the exact combination of factors to create the optimal feedback message. Armed with this new knowledge, managers and supervisors would be prepared to address the age old problem of enhancing communication, particularly across barriers of power and authority that have historically been the focal point of conflict and misunderstanding. Despite their efforts and thousands of studies, the inescapable conclusion is that effective feedback is by far more process than product.

The clinical legal education movement fortunately was developing at a time when new theories in feedback delivery were emerging, and by adopting basic feedback theories and practices from humanistic psychology, the clinical process established itself on very solid ground that has shifted little in the past thirty years. But, even good foundations are fertile ground for new growth. With the renewed interest in feedback by a new cadre of behavioral psychologists, they have developed new theories that have added considerable texture, nuance, breadth, and depth to what we already know about the feedback process. While some of the work of the early behaviorists is either too narrow or too abstract to affect current methods of clinical feedback, other works hold promise for expanding the repertoire of clinical teaching. Seeing the process from the perspective of source, message, and recipient offers new options for improving feedback techniques. Understanding the emotional linkages to the feedback process increases our sensitivity to its impact on our students and empowers us to manipulate that process in ways that will be benefi-

cial to us and them. Finally, the law school clinic may provide productive opportunities for cross disciplinary research on feedback and decision-making processes in the future. While clinics provide new and unique challenges to the adaptation of social judgment theory *279 and cognitive feedback research, they also constitute rich territory for further exploration. Just as we now know considerably more than we did two decades ago about the cognitive process of giving and receiving effective feedback, in the future we may learn more about how students and lawyers translate those messages into decisions that eventually impact their clients, the legal system, and the profession.

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[FN1]. See PHILIP G. SCHRAG & MICHAEL MELTSNER, REFLECTIONS ON CLINICAL LEGAL EDUCATION 19 (1998) (chapter titled “Report from a CLEPR Colony”).

The new clinical teachers found little disagreement either among themselves or between themselves and their more established colleagues on most of the basic questions arising out of clinical legal education. To be sure there was some consensus over the broadest outline of clinical teaching. It would be analogous in some way to the last two years in medical education. It would get the students out of the lecture room and involve them with real clients.

Id.; see also George S. Grossman, *Clinical Legal Education: History and Diagnosis*, 26 J. LEG. EDUC. 162, 193 (1974) (“In legal education, where the case Socratic method has been so entrenched that questions of pedagogy have received little attention, clinical educators have brought about an exhilarating renewal of interest in basic questions of teaching methodology.”).

[FN2]. See Gary Bellow & Earl Johnson, *Reflections on the University of Southern California Clinical Semester*, 44 S. CAL. L. REV. 644, 686 (1971) (“Our experience with students in a clinical setting suggests that the immersion in case analysis in their first two years in law school may have produced a number of troubling phenomena.”). Bellow and Johnson describe these deficiencies of the traditional curriculum as: first, being too focused on abstract arguments; second, lacking context or standards on which to base judgments; third, relaying little understanding of the role of a lawyer; and fourth, lacking reflective ability about the work of a lawyer. See *id.* at 686-87.

[FN3]. See Anthony G. Amsterdam, *Clinical Education - A 21st Century Approach*, 34 J. LEG. EDUC. 612, 614 (1984) (describing three strengths of the clinical method of instruction as ends means thinking, skills hypothesis formulation and testing in general acquisition, and decision making in situations where options involve differing and often uncertain degrees of risk and promise different results). Amsterdam further describes the clinical approach as an environment where students can learn from their experience by being confronted with problem situations, which are concrete, complex, and unrefined. See *id.* at 616. Also, the clinical approach ensures that students pursue an experience likened to the role as attorneys with all the attendant responsibilities for a client's welfare and ensures that their performance in these tasks is “subjected to intensive and rigorous *post-mortem* critical review.” *Id.*; see also SCHRAG & MELTSNER, *supra* note 1, at 26-40 (describing the introduction of simulations, videotaped review sessions, ongoing dialogue, and close critique into their clinic as part of an evolving clinical pedagogy); Grossman, *supra* note 1, at 186-87 (emphasizing the centrality of close-guided supervision as part of the clinical method of teaching, which provides educational contexts beyond what had been described narrowly as “skills” training).

[FN4]. See Amsterdam, *supra* note 3, at 615-16.

[FN5]. See SCHRAG & MELTSNER, *supra* note 1, at 20-22.

[FN6]. See generally SCHRAG & MELTSNER, *supra* note 1, at 94-122 (chapter titled “Scenes from a Clinic (1978)”) (describing numerous examples of clinical supervision and the application of clinical methods of teaching in different contexts); see also Peter Toll Hoffman, *Clinical Course Design and the Supervisory Process*, 1982 ARIZ. ST. L.J. 277, 280 (“The number one prescription repeated almost as a ritual incantation in recent writings on clinical education, is ‘supervision’ Supervision more than any other factor distinguishes clinical training from the unstructured practice experience that students encounter after graduation.”).

[FN7]. See SCHRAG & MELTSNER, *supra* note 1; Hoffman, *supra* note 6, at 292-98.

[FN8]. Clinicians have engaged in an ongoing dialogue addressing issues of supervision. See generally George Critchlow, *Professional Responsibility, Student Practice, and the Clinical Teachers Duty to Intervene*, 26 GONZ. L. REV. 415 (1991). One seminal work that has set the stage for much of this discussion is James H. Stark et al., *Directiveness in Clinical Supervision*, 3 PUBLIC INTEREST L.J. 35 (1993).

[FN9]. See Amsterdam, *supra* note 3, at 617; see also SCHRAG & MELTSNER, *supra* note 1, at 18.

[FN10]. Most discussions of feedback have appeared in the context of other issues of supervision. See Amsterdam, *supra* note 3, at 616-17 (describing feedback as a post mortem review of a student's performance); see also Hoffman, *supra* note 6, at 292 (discussing feedback as part of the evaluation process). Hoffman analyzes some of the elements of constructive feedback, although the focus of his work is evaluation. See *id.* at 293-98. Two notable exceptions to the limited treatment of feedback are David R. Barnhizer, *The Clinical Method of Legal Instruction: Its Theory and Implementation*, 30 J. LEGAL EDUC. 67 (1979), and Kenneth Kreiling, *Clinical Education and Lawyer Competency: The Process of Learning to Learn from Experiences through Properly Structured Clinical Supervision*, 40 MD. L. REV. 284 (1981). Each of which offers detailed and comprehensive analysis of the elements of effective feedback that have become the model for clinical teaching.

[FN11]. See Margaret Martin Barry, *Clinical Supervision: Walking That fine Line*, 2 CLINICAL L. REV. 137, 137 (1995) (describing the elements of effective feedback and discussing a particularly difficult simulated feedback session held with a student). Barry's feedback checklist, while both accurate and current, is identical to the list generated by Professor Kenneth Kreiling in his seminal work on clinical methods twenty years earlier. See *id.* at 163 n.48; Kreiling, *supra* note 10, at 318. Since few clinical practices have endured without review, critique, or reevaluation, my curiosity was raised about feedback and led to this inquiry about the practice of effective feedback technique.

[FN12]. See Sue S. Nishikawa, *Feedback: Implications for Further Research and Study* 3 (Jan. 17-23, 1985) (paper presented at the Annual Convention of the Association for Educational Communications and Technology) (pointing out that “feedback may literally be defined as the ‘return to the point of origin of evaluative or corrective information about an action or response.’”). Nishikawa further argues that the feedback process is dynamic and has generated considerable psychological research to ascertain its operative elements. See *id.*

[FN13]. Behavioral and educational psychologists have studied many different aspects of the feedback process and have generated their own series of precise definitions to describe each carefully isolated element of the process under study. Some of the more widely studied subfields include, e.g., Nishikawa, *supra* note 12, at 4-5 (stimulus response feedback); *id.* at 9 (outcome, or knowledge of results, feedback); *id.* at 10 (action feedback and task feedback); *id.* at 11-12 (immediate feedback, delayed feedback, and delayed informational feedback).

[FN14]. See Robert Menges et al., *A Profile of Recent Research on Feedback* (Apr. 16-20, 1990) (paper presented at

the American Educational Research Association). Their review of dissertation profiles found that considerable attention was directed to the topic of feedback to improve performance. *See id.* at 3. Fields of inquiry were as diverse as elementary education, industrial manufacturing, government, management and supervision, medicine, and the visual arts. In each, however, the basic goal was to determine ways to improve the performance of a subject through the feedback process. *See id.*

[FN15]. *See* SCHRAG & MELTSNER, *supra* note 1, at 1-14; Grossman, *supra* note 1, at 168-69.

[FN16]. *See* SCHRAG & MELTSNER, *supra* note 1, at 5.

[FN17]. *See id.* at 198, 201-02 (chapter titled “The Bike Tour Leaders Dilemma”) (developing this metaphor as the framework for a very detailed description of the supervisor's experience in developing a clinic). This chapter emphasizes the supervisor's experience of learning while doing. Although many of their clinical practices had to be worked out as new issues arose, an enormous amount of work had preceded the problems discussed in this chapter. *See generally id.* at 198-238.

[FN18]. *See id.*

[FN19]. *See* Avraham N. Kluger & Angelo DeNisi, *The Effects of Feedback Intervention on Performance: A Historical Review, a Meta-Analysis, and a Preliminary Feedback Intervention Theory*, 119 PSYCHOL. BULL. 254, 255 (1996) (pointing out that the object of the painstaking efforts to develop a feedback theory lies in its ultimate utility in schools, businesses, factories, and any setting where an intervention has as its goal the alteration of some prior pattern of behavior).

[FN20]. *See* Anotol Rappaport, *A Philosophical View*, in FEEDBACK: A GENERAL SYSTEMS APPROACH TO POSITIVE/NEGATIVE AND MUTUAL CAUSALITY 1-3 (John H. Milsum ed., 1968).

[FN21]. *See id.*

[FN22]. *See id.*

[FN23]. *Id.* at 3.

[FN24]. *See id.* at 5-8.

[FN25]. *See id.*

[FN26]. *See id.* at 10.

[FN27]. *See id.*

[FN28]. *See id.* at 11.

[FN29]. *See id.*

[FN30]. *See id.*

[\[FN31\]](#). *See id.*

[\[FN32\]](#). *See* Kluger & DeNisi, *supra* note 19, at 255. “Feedback” in the field of behavioral psychology has many different definitions, depending on the specific aspect of the process being studied. One definition that covers a broad range of subtopics is an “action[] taken by (an) external agent(s) to provide information regarding some aspect(s) of one's task performance.” *Id.*; *see also* Nishikawa, *supra* note 12, at 3.

[\[FN33\]](#). *See* Rappaport, *supra* note 20, at 10.

[\[FN34\]](#). *See id.*

[\[FN35\]](#). *See id.* at 6.

[\[FN36\]](#). This dramatic change in the way feedback was conceptualized led later social scientists to examine interpersonal feedback from this perspective of dynamic changing variables. *See id.*

[\[FN37\]](#). *Id.*

[\[FN38\]](#). *See* Kluger & DeNisi, *supra* note 19, at 256-57.

[\[FN39\]](#). Rappaport, *supra* note 20, at 8.

[\[FN40\]](#). *See id.* *See generally* Kluger & DeNisi, *supra* note 19, at 255.

[\[FN41\]](#). *See* Rappaport, *supra* note 20, at 8 (remarking that feedback process was so variable that the “answers may be quite surprising and may lead to insights inaccessible to common sense or categorical reasoning”).

[\[FN42\]](#). *See id.*

[\[FN43\]](#). *See* M.D. Rubin, *History of Technological Feedback*, in *FEEDBACK: A GENERAL SYSTEMS APPROACH TO POSITIVE/NEGATIVE FEEDBACK AND MUTUAL CAUSALITY* 9 (John H. Milsum ed., 1968) (chapter 2) (“It is assumed that the usage of this term [feedback] in other fields derives from its technological origin, and therefore that a correct understanding of its technological meaning and history will prove useful elsewhere.”).

[\[FN44\]](#). *See id.* at 14-22.

[\[FN45\]](#). *See id.* at 11. The “feedback” was a crude thermostat that would increase or decrease the stove's output of heat based on the input data from the stove's internal temperature. *See id.* In this crude device, feedback was a very simple intervention in a closed system. *See id.* Opening the damper produced more heat; closing it reduced the heating effect. *See id.* Later devices - such as clocks, pressure cookers and steam engines - used this same principle that a predetermined external event would be the feedback that would produce a predetermined internal response. *See id.*

[\[FN46\]](#). *See generally* R.B. Ammons, *Effects of Knowledge of Performance: A Survey and Tentative Theoretical Formation*, 54 *J. GEN. PSYCHOL.* 279 (1956) (explaining that feedback simply measures some projected output and tells the performer whether a particular standard or goal was met; while knowledge of results appears to be an

obvious form of feedback, researchers focused on when and how this information might affect performance).

[FN47]. See Rubin, *supra* note 43, at 16.

[FN48]. See *id.* Anyone who has attended a concert where there are large amplified speakers has probably experienced this version of feedback: an energy input beyond the speakers' capacity for efficient operation produces a squeal. Ironically, laypersons usually associate this "noise" as negative feedback. Negative feedback operates against the excessive positive force, to reestablish stability and eliminate the squeal. See *id.* at 18.

[FN49]. See *id.* at 18-19.

[FN50]. See *id.* at 19. But see Deanna Geddes & Frank Linnehan, *Exploring the Dimensionality of Positive and Negative Performance Feedback*, 44 COMMUNICATION Q. 326, 326 (1996) (in a partial departure from the engineer's definition of feedback, positive feedback is usually depicted as generating self-enhancing behavior and negative feedback is depicted as generating corrective action).

[FN51]. See Kluger & DeNisi, *supra* note 19, at 256 n.3 (describing a computer search that yielded 10,000 articles on feedback research).

[FN52]. See Barnhizer, *supra* note 10, at 131-34 (describing effective feedback process in clinical education); Kreiling, *supra* note 10, at 284 (same).

[FN53]. See SCHRAG & MELTSNER, *supra* note 1, at 57 (describing their clinic in a poor community and exposing their students to the practice of law for the indigent); Grossman, *supra* note 1, at 187 ("Service, law reform and education are not mutually exclusive,"); see also Susan Bryant & Maria Arias, *Case Study: A Battered Women's Rights Clinic: Designing a Clinical Program Which Encourages a Problem Solving Vision of Lawyering That Empowers Clients and Community*, 42 WASH. U.J. URB. & CONTEMP. L. 207 (1992) (explaining that this clinic was created in part because the Borough of Queens, where it is located, was the only Borough that was significantly underserved as far as the availability of legal services for battered women).

[FN54]. See Hoffman, *supra* note 6, at 294 (describing clinical evaluation techniques that include feedback as very similar to those in secondary education teaching and social work).

[FN55]. See Kreiling, *supra* note 10, at 287 n.10 (referring to Benjamin Bloom's work in education and describing the three elements of the learning process as cognitive, affective (or feeling), and psychomotor as together encompassing elements of active, experiential learning); *id.* at 301-02 (pointing out the utility and direction provided by Carl Rogers: "in a wide variety of helping relationships, the most significant element in determining effectiveness is the quality of the interpersonal encounter."); see also *id.* at 302 (noting feedback concepts that were borrowed from counseling). Rogers's influence is also pointed out as significant to the thinking of clinical teachers in SCHRAG & MELTSNER, *supra* note 1, at 125 n.3, and *id.* at 105 (describing Rogers's influence in focusing the design of the clinic to foster greater student responsibility and to encourage their reflection).

[FN56]. See Kluger & DeNisi, *supra* note 19, at 255 (noting feedback research has been going on for almost one hundred years).

[FN57]. See WILLIAM R. TORBERT, *LEARNING FROM EXPERIENCE TOWARD CONSCIOUSNESS* 37-38 (1972).

[FN58]. *See id.* at 38.

[FN59]. *See id.*

[FN60]. *See id.* In criticizing this model, Torbert described it as: “The social rewards and punishments applied to human beings may be treated as the equivalent to the food pellets and electric shocks used with rats. Similarly, social roles are the equivalents to the mazes which must be learned in order to obtain the rewards and avoid punishment.” *Id.* at 39. While this assessment is rather harsh, it nevertheless underscores some of the depth of his criticism of early learning theory and practices.

[FN61]. *See supra* notes 43-52 and accompanying text.

[FN62]. Torbert offers a pithy analysis of what happens to the learner in such a controlled environment:

External control of a person leads to dependency by that person on the controller and to conformity to the ends of control, especially as the person values the rewards and is not aware of other sources of satisfaction for his needs. Such control can be internalized within the subject as superego, in Freudian terms, as an interjection in Gestalt terms, or as an automatic habit, in Deweyan terms. Cultural values can exert the third kind of control by becoming the assumed ground or framework for the person's thought or behavior. He may conform to them and be dependent upon them without even realizing his dependence, being cognitively and emotionally unable to imagine alternatives.

TORBERT, *supra* note 57, at 40.

[FN63]. *See id.* at 37.

[FN64]. *Id.* at 42.

[FN65]. *See id.*

[FN66]. *See* DAVID W. JOHNSON & FRANK P. JOHNSON, JOINING TOGETHER, GROUP THEORY AND GROUP SKILLS 1-15 (4th ed. 1991). Group Dynamics, or group process, is an interdisciplinary approach to the study of groups. *See id.* at 25. Though anchored in the field of psychology, this discipline draws from all of the social sciences. *See id.* Some researchers approach group dynamics from the perspective of the individual in the group. *See id.* Others emphasize group orientation, or the functioning of the group as a whole, and its interaction within society. *See id.* Still others have concentrated their research on subgroups or primary groups such as familial relations. *See id.* at 22-23. All share the view that the outcome of any activity of a group is intricately linked to the interactions between the parties. *See id.*

[FN67]. *See id.* at 21.

[FN68]. *See id.*

[FN69]. *See id.* at 24.

[FN70]. *See* TORBERT, *supra* note 57, at 44. Several models or variables are described by Torbert as critical to this aspect of the cognitive learning process. *See id.* at 44-55. Independence and dependence in this theory were not seen as mutually exclusive categories, but as a process that moved along a continuum. *See id.* Other points along the con-

tinuum were described as counterdependence, competitiveness, collaboration, and situational experimentation. *See id.* Counterdependence is the classic rebellion against authority. *See id.* at 44-47. While rebellion is a recognized element in the process of achieving independence, it is really so dialectically linked to the behaviorist dependence model that it soon becomes apparent that little true independence results from an approach that is simply oppositional in its quest for difference. *See id.*

The competitiveness model is premised on the belief of limited resources or rewards. *See id.* A greater degree of independence can be experienced in this model because the emotional emphasis is switched from the external to the self. *See id.* While this represented another step toward an independent learning model, particularly in its emphasis on more self-determined rewards, it still relies on accepted cultural norms for what is important or valuable and, of course, operates on an emotional presumption of scarcity. Often “getting mine” is perceived as being a far more independent choice than a closer examination would reveal. *See id.*

Collaboration moves closer to independence in that it accepts as a norm the value of interaction and the essential aspect of that process to achieving rewards. *See id.* While the degree to which a group defines itself as one utilizing unilateral inculcation or interdependent goal setting will have a great bearing on the collaborative process, it is still more independent than the typical competitive model because it requires the learner to develop his or her own personal criteria for defining and evaluating the goal. *See id.*

Situational experimentation takes this process one step further. *See id.* at 46. It seeks to have the learner learn through full experiential awareness, even beyond the shared goals of the collaborative group. *See id.* Here the “learning goal” is self-recognition. *See id.* While this goal may be sought through the process of specific problem solving - and one must learn or have a specific goal to solve a specific problem - the real purpose is to develop a sense of one's self that transcends the particular problem and achieve awareness through the process of some broader meaning. *See id.*

[FN71]. *See id.* at 49.

[FN72]. *See id.* at 49-50. Feedback is an essential element that shifts the learner's consciousness along this continuum.

[FN73]. *See* Barnhizer, *supra* note 10, at 104-07.

[FN74]. *See* Jack Himmelstein, *Reassessing Law Schooling: An Inquiry Into the Application of Humanistic Educational Psychology to the Teaching of Law* 53 N.Y.U. L. REV. 514 (1978); *see also* ELIZABETH DVORKIN ET AL., *BECOMING A LAWYER: A HUMANISTIC PERSPECTIVE ON LEGAL EDUCATION AND PROFESSIONALISM* 39-40 (1981). Both emphasize the importance of human values as essential to avoid alienation in the educational process. Feedback was part of the dialogue necessary to surface these values and feelings and reintegrate them into the learning process.

[FN75]. *See* SCHRAG & MELTSNER, *supra* note 1, at 125 n.3 (explaining Rogers's influence in chapters titled “Report from a CLEPR Colony,” “Scenes from a Clinic,” and “Feeling Like a Lawyer”); Barnhizer, *supra* note 10, at 104-07 (quoting Carl Rogers extensively and explaining both how and why clinical education differentiates itself from traditional legal education); Himmelstein, *supra* note 74 (commenting on the influence that Rogers's work has had on his views of law and humanistic psychology).

[FN76]. *See* Barnhizer, *supra* note 10, at 104-07; Himmelstein, *supra* note 74. Some aspects of that relationship include trust, openness, and avoiding the traditional hierarchy and attendant power dynamic between teachers and students. This approach was a marked departure from the idea that teaching and learning proceeded from the goals and dictates of the teacher. Now there was an emphasis on the student-teacher relationship and the student commitment to acquiring a body of knowledge. As long as that knowledge was made available in an appropriate form, the

structure itself would determine the overall quality of the learning process. In legal education the structure was the large lecture classroom and the method of delivery was Socratic dialogue or lecture. The success or failure of the learning process was assumed to be determined by the students' adaptability to this sound pedagogical system that was assumed to be rationally related to the demands of legal practice. For clinicians to proclaim that learning would be substantially influenced by the teachers' relationship with and individualized approach to each student's learning needs was a radical step whose impact is still being felt in legal education.

[FN77]. See Hoffman, *supra* note 6, at 280.

[FN78]. See SCHRAG & MELTSNER, *supra* note 1, at 34. In this chapter, which describes the process of establishing the first clinic at Columbia Law School, the authors do not refer to the process of giving students information about their performance as feedback. Instead, the authors characterize the process as a review and critique of student work in simulations that were designed to teach lawyering skills before actual case assignments were distributed. See *id.* The terminology used in this early article to describe feedback as supervisory critique and critique by peers continued in later clinical articles. See, e.g., Amsterdam, *supra* note 3, at 617. Feedback, as a more defined pedagogical tool emerged a few years later in the literature. See Barnhizer, *supra* note 10, at 133. Feedback and critique continue to be used almost interchangeably in clinical literature. Two factors seem to account for this. First, feedback almost always occurs as part of the supervisory process and it is often subsumed in discussions about supervision that have been a major theme of clinical conferences and literature. Second, critiquing was seen as an ongoing process, much like giving feedback. Finally, as long as critiquing was carried out in the same helpful and instructive manner as described by Professors Kreiling and Barnhizer, the process itself seemed more important than adhering to any specific terminology.

[FN79]. See SCHRAG & MELTSNER, *supra* note 1, at 31-40 (describing the use of simulations in preparing students for client representation as a carefully planned, highly structured educational exercise involving in-role and out-of-role dialogue with students to explore a range of legal technical and interpersonal issues seen as relevant and critical to developing good legal skills). Such simulations included the use of videotaped interviews and counseling sessions, which were then "reviewed" with the students in a group setting, allowing students and supervisors to participate in the critique. See *id.* This highly planned interaction included planning for feedback. See *id.* at 34-35.

[FN80]. See Barnhizer, *supra* note 10, at 92 (describing spontaneous interactions in a manner that fits the definition of feedback and advising teachers to make room for them in their overall clinical plans, but also describing specific elements of the feedback process).

[FN81]. See *id.*

[FN82]. See *id.* at 104-07. The educational goal that is critical to this theory is the need to establish trust and mutual confidence between student and teacher. See *id.* This relationship should be substantially less authoritarian than the traditional classroom to allow the teacher and student to recognize the inherent ambiguity and subjectivity of a process that must involve judgments of the student's performance. See *id.* at 105. Aspects of the relationship that should be avoided include being overly judgmental, undermining trust, and losing perspective of the student as a person with all of the fears and anxieties that accompany the learning of any new and challenging task. See *id.* at 105-06.

[FN83]. See *id.*

[FN84]. While there is no specific record of the degree of acceptance of these procedures by clinicians, their endurance and repetition in subsequent works suggest wide acceptance among clinical educators. See, e.g., Berry, *supra* note 11.

[FN85]. See Hoffman, *supra* note 6, at 296; Kreiling, *supra* note 10, at 299 (noting feedback should be “honest and not unilaterally controlling”); William P. Quigley, *Introduction to Clinical Teaching for the New Clinical Law Professor: A View from the First Floor*, 28 AKRON L. REV. 463, 479, 483-84 (1995) (noting feedback should not be manipulative and should avoid reinforcing the typical hierarchy where students may follow a professor's suggestion because of power dynamics rather than understanding or agreement).

[FN86]. See Hoffman, *supra* note 6, at 294 (noting feedback should provide students with specific examples); Kreiling, *supra* note 10, at 299; see also Barnhizer, *supra* note 10, at 109 (discussing the value of group feedback as both efficient for the clinical program and an opportunity to learn how to give and receive peer feedback); Ann Shalleck, *Clinical Contexts: Theory and Practice in Law and Supervision*, 21 N.Y.U. REV. L. & SOC. CHANGE 109, 178 (1993-94) (describing the importance of giving specific examples to students in the course of the evaluation process); Quigley, *supra* note 85, at 483 (noting the teacher should guide the student to review the specific parts of the activity). The issue of peer feedback will be discussed in Part III of this article.

[FN87]. See Barnhizer, *supra* note 10, at 109-10 (preferring that feedback occur in planned conferences, but recognizing the value of giving direct immediate feedback when the events being discussed are still fresh in the student's mind); Kreiling, *supra* note 10, at 299 (endorsing the idea of immediate feedback, but, like Barnhizer, suggesting that since feedback is an integral part of supervision, some feedback will inevitably and properly be left to scheduled sessions that occur a few times a semester, or at an end-of-semester evaluation conference).

The work of Professors Barnhizer and Kreiling offers the most explicit and detailed discussion of the feedback process in the early clinical literature and appears to have reflected both the thinking and training of the first generation of clinical teachers, which has shaped the training of the next generation. In between these two publications, the Association of American Law Schools Clinical Teachers Conference in 1980 featured a major presentation on evaluation where feedback and the feedback process was discussed as part of the evaluation process. See *Evaluation of Student Performance*, Association of American Law Schools Clinical Teachers Conference, June 15-21, 1980. Subsequent authors refer to this seminal work as creating the inference, albeit without the benefit of empirical data, that there was a consensus on the basic features of the feedback process. See Hoffman *supra* note 6, at 298 (noting feedback should be timely, particularly during the rehearsal process); Quigley, *supra* note 85, at 483 (“feedback ... [should] follow soon after the associate completes a work assignment.”). While there are some differences about the precise meaning of timeliness, all agree that the basic underlying educational goal of giving feedback while the experience is fresh in the student's mind should be the guiding principle.

[FN88]. See Kreiling, *supra* note 10, at 297 (explaining that student receptivity is an important aspect of the feedback process). Students will be receptive if they perceive feedback to be useful and relevant to their learning. Kreiling asserts that students should exhibit some recognition of their ineffectiveness, which is a signal of their receptivity to critique or feedback. See *id.* at 298. Kreiling also asserts that students should desire feedback. See *id.* at 299.

Other authors are less explicit about the degree to which student receptivity should influence the feedback process. Barnhizer adheres to the basic principles derived from Carl Rogers's suggesting that receptivity will come from a teacher's willingness to listen to students. See Barnhizer, *supra* note 10. His views imply that in order to be aware of student anxiety and to view students as individuals in the learning process, some care should be taken in undertaking any critique or feedback. See *id.* However, he also sees clinical teaching as a controlled situation that, because of the potential impact on the students' behavior and on the client, a clinical teacher cannot allow the same degree of latitude that a therapist might in dialogue with a patient. See *id.*; see also Frank S. Bloch, *The Andragogical Basis of Clinical Legal Education*, 35 VAND. L. REV. 321, 342-43 (1982) (underscoring the importance of practicality and usefulness as teaching choices to generate student receptivity, which are particularly relevant to adult learners as well as generally appropriate for the clinical setting).

[FN89]. See Kreiling, *supra* note 10, at 299.

[FN90]. *See id.* at 298-300 (noting feedback should be objective and focus on the personal observations of the teacher); Barnhizer, *supra* note 10, at 133 (pointing out the need to avoid subjective standards and teacher bias).

[FN91]. Barnhizer, *supra* note 10, at 107.

[FN92]. *See generally* Menges et. al., *supra* note 14; *see also* Kluger & DeNisi, *supra* note 19.

[FN93]. *See* Kluger & DeNisi, *supra* note 19, at 254. In Kluger and DeNisi's comprehensive study, the authors conducted a computerized database search using a variety of terms that would generate a wide search for feedback related research. *See id.* at 257. Their study eventually yielded 2500 articles that were related in some way to the topic. *See id.* While there are numerous variations in feedback research cited in their article, the overall theme that concerned most researchers was how we learn from feedback intervention, and whether, in fact, many of the assumptions about feedback and the manner of its delivery could be verified by scientifically valid field or laboratory tests. *See id.* Many of their sources used employee settings or simulated employee settings as frameworks for their research. *See id.* They begin their inquiry quoting Balcazar's 1985 study that "feedback does not uniformly improve performance." *Id.*

[FN94]. "The positive effects of feedback on performance has become one of the most accepted principles in psychology." Robert D. Pritchard et al., *Effects of Group Feedback, Goal Setting, and Incentives on Organizational Productivity*, 73 J. APPLIED PSYCHOL. 337, 338 (1988); *see also* Kluger & DeNisi, *supra* note 19, at 255-56.

[FN95]. *See* Kluger & DeNisi, *supra* note 19, at 257.

[FN96]. *See id.* at 259.

[FN97]. *See id.* at 261-62.

[FN98]. *See id.* at 262.

[FN99]. *See id.*

[FN100]. *See id.* at 263.

[FN101]. *See id.*

[FN102]. *See id.*

[FN103]. *See id.* at 267 (noting that the feedback cue is used to measure the difference between the normative or preferred standard, which is usually offered by the feedback source and the recipient's actual performance).

[FN104]. *See id.* (noting that this theory focuses on how susceptible the task is to attention shifts).

[FN105]. *See id.* The personality plays a major role in how recipients handle the difference between their performance and the standard set by the feedback intervention. *See id.* at 269. This is called the performance gap and is particularly important in measuring the specific impact that various interventions have on performance. *See id.* at 268.

[\[FN106\]](#). *See id.* at 265.

[\[FN107\]](#). *See id.* at 267 (“In one study, grades increased ego involvement but did not affect performance relative to a no [feedback intervention] control, whereas task-focused [feedback intervention] (specific comments) increased task involvement and consequently performance.”).

[\[FN108\]](#). *See id.*

[\[FN109\]](#). *See id.* These and other examples from studies are constructed to replicate tightly controlled conditions to assess the statistical correlations of variables relevant to various theories. As such, they have no direct replication to most real world conditions. However, because they meet statistical scientific standards, they are assumed to be valid mathematical models of how we think and act regardless of the specific scenario. Part III of this article will discuss the relevance of these conclusions in a law school clinical setting.

[\[FN110\]](#). *See id.* While the ego is engaged in virtually everything that we do, these studies focus on the relative degree of its engagement. *See id.*

[\[FN111\]](#). *See id.* at 267-68.

[\[FN112\]](#). *See id.*

[\[FN113\]](#). *See id.*

[\[FN114\]](#). *See* William K. Balzer et al., *Effects of Cognitive Feedback on Performance*, 106 PSYCHOL. BULL. 410, 410 (1989).

[\[FN115\]](#). *See id.*

[\[FN116\]](#). *See* Kluger & DeNisi, *supra* note 19, at 254-55. While knowledge of results, or outcome feedback studies, date back almost to the turn of the century, many of these early studies contained serious methodological flaws or presented conclusions based on informal data or inferences. *See id.* at 255. In 1956, a comprehensive study was done by R.B. Ammons, which concluded that knowledge of results alone improved performance and motivation and had a positive effect on learning. *See id.* at 256. Yet when subsequent researchers tried to replicate these experiments, the results were inconclusive or contradictory. These contradictions along with advances in the field of cognition led to much of the renewed interest in feedback studies. *See id.* at 256-57.

[\[FN117\]](#). *See* Balzer et al., *supra* note 114, at 410.

[\[FN118\]](#). *See id.*

[\[FN119\]](#). *See id.* at 411-21. The MCPL, or the lens model, emerged from theoretical work by Egon Brunswick in 1956. *See id.* at 410. While not the founder of this theory, his work is given credit for advancing these studies. The problem confronting psychologists who were studying how we make decisions and other aspects of behavior was how to capture the many different variables that go into the process in a statistical model that would allow them to test for verifiable results that could be replicated. *See id.* More specifically, they were attempting to isolate decisional factors and determine which ones, or which combination, had the greatest impact on the process. *See id.*

Eventually, a statistical model was developed that captured Brunswick's theories in a mathematical equation and the correlations between these factors established a series of flexible relationships that could be measured, compared, and manipulated. *See id.* at 412.

When we make decisions, there are always objective factors that influence the process. *See id.* at 411. But equally, if not more important, are the subjective, or decisional, values that we give to those factors. *See id.* Whether or not we are correct or incorrect in our assumptions about the value of those variables, they nevertheless influence the judgments we make. *See id.* The lens model attempts to capture this process. On one side of the lens is the subject who needs to make a decision. *See id.* For example, a physician who needs to decide if a particular patient is suffering from heart disease. The “lens” through which she evaluates the patient contains a number of cues, or input feedback, to the process. *See id.* Each cue is related in some way to the environment, which is on the other side of the lens, and which represents the universe in which a particular decision is taking place. *See id.* In this example, the environment is all the available academic data about how various symptoms predict heart disease. The physician must compare this data to her patient's data and, based on the value she gives them, decide whether and how to treat this patient for heart disease.

The lens model measures the relationship between the doctor's decision, based on the symptomatic cues from the medical chart of the patient and their test results and what is generally known in the medical environment about the relationship between certain symptoms and the presence of heart disease. This relationship is expressed as a mathematical value. *See id.* By comparing our doctor's judgment to the generally accepted treatment options from the available medical literature, a picture of that individual's judgment compared to an optimal standard emerges.

Lawyers should keep in mind certain factors concerning the potential utility of this model. First, our concept of the optimal decision is often highly subjective, even though it is expressed as a numerical value. In the areas where the lens model has been most useful, the standard has been at least susceptible to a normative valuation. For example, since there have been exhaustive studies involving tens of thousands of heart patients, there is ample statistical data that shows the correlation between a certain combination of diagnostic factors and the presence of heart disease. In the doctor example, hypothetically, the literature suggests that based on the cues given to this doctor there is a 75% likelihood of heart disease in her patient. The doctor's judgment can be compared against this standard to determine whether her decision is at or close to the 75% standard. Where there is a significant difference between her decision and the optimal model, she can see how to improve on this prediction in the future by examining the difference between her valuation of certain diagnostic criteria and the optimal model. *See generally id.* at 411-21.

The presentation of this mathematical model is cognitive feedback. *See id.* at 410. It may be offered to the recipient in any number of forms: verbally, graphically, through computer generated methods, or other devices. But regardless of the form, its purpose is to get us to change the cognitive learning process and move toward the normative standard in the way in which we make decisions. *See id.* at 415.

The implications of this theory are significant and at the same time problematic for replication to the field of law school clinics and lawyers' decision-making processes generally. One of the major impediments to its application in a legal clinic is the absence of data that can be used to statistically construct the environmental side of the lens model. While medical science relies on scientific data to point to the presence of a specific disease, law school texts and treatises are not written to provide students or the profession with a sufficiently right answer to problems that are so indeterminately fact-based. Part III further discusses this issue.

[FN120]. Balzer et al., *supra* note 114, at 412.

[FN121]. Knowledge refers to the level of knowledge that actors have about the task they perform. *Id.* at 415.

[FN122]. Control represents actors' ability to apply policies or judgments in a consistent manner. *Id.*

[FN123]. Achievement means the degree of success that actors obtain in predicting how their judgments compare to a given standard. *Id.*

[\[FN124\]](#). *See id.*

[\[FN125\]](#). *See id.* at 416. Exceptions to this limited sphere of application are the studies on predictability in medical diagnosis. *See id.* at 417-19. Here, the evidence of improvement in clinical diagnosis is strong, at least in part because of the applicability of certain scientific processes to a fairly finite statistical representation. *See id.* at 421. Consistent with the example of the heart patient in *supra* note 119, it is apparent that the steps and options of some medical procedures are almost universally recognized and can be represented almost as a check list. If a certain number of variables are present, there is a very high probability that a specific decision is the optimal one. What the lens theory does well in that environment is focus on the differences in judgment when two or more subjects are confronted with the same scientific facts. *See id.* at 411. However, this environment will be very difficult to reproduce in legal clinics because of the difficulty in developing a baseline standard for the profession on any given decisional event.

It is possible that cognitive feedback theory could be tested in the controlled environment of law school simulations. One candidate for a cognitive study would be a negotiation simulation, where the outcomes for each group of negotiators could be calibrated against a normative scale. Cognitive feedback theory could isolate the factors that influenced the negotiators to choose strategies and weigh various factors in implementing their strategy, producing a road map of how their decisions were made.

[\[FN126\]](#). *See* Michael E. Doherty & Elke M. Kurz, *Social Treatment Theory*, 2 THINKING & REASONING 114-21 (1996).

[\[FN127\]](#). *See id.*

[\[FN128\]](#). *See id.*

[\[FN129\]](#). *See id.* at 119.

[\[FN130\]](#). *See id.*

[\[FN131\]](#). *See* Wigton, *supra* note 119, at 182. The importance of this research is that it not only points to what worked and what did not work, but it also answers the question why for both success and failure. While it would be very difficult to replicate this system in a law school clinic, *see supra* note 125, its theoretical potential is nonetheless very exciting. Imagine the possibilities for an end of semester “feedback session” where a student could receive an SJT report that would go into far greater depth about how they arrived at certain decisions rather than their subjective view of substantive considerations or the usual feedback exchange in which the student and teacher make estimates of how decisions were arrived at and what factors really influenced the process.

[\[FN132\]](#). *See generally* Balzer et al., *supra* note 114, at 410; Wigton, *supra* note 119, at 188.

[\[FN133\]](#). *See* Wigton, *supra* note 119, at 185-87.

[\[FN134\]](#). *See id.* at 187.

[\[FN135\]](#). *See id.*

[\[FN136\]](#). *See id.* at 188.

[FN137]. See Daniel Ilgen et al., *Consequences of Individual Feedback on Behavior in Organizations*, 64 J. APPLIED PSYCHOL. 349, 349 (1979).

[FN138]. See Barnhizer, *supra* note 10, at 67-69; Kreiling, *supra* note 10, at 285; Shalleck, *supra* note 86, at 110-12.

[FN139]. See Quigley, *supra* note 85, at 471 (“The mission of clinical education has always had two goals: to educate students in a new way of learning; and to provide legal services to the indigent.”); see also *id.* at 472 (stating that the goals of a law school clinic typically include “[i]mparting ... knowledge concerning the impact of the legal system on poor people”). But see *id.* 472 n.41 (pointing out that some clinicians believe that clinics as programs of social justice is an axiomatic conclusion, but others find it “questionable whether service to the unrepresented, despite the enormous need, can be a major function of clinical programs”).

[FN140]. See generally MODEL RULES OF PROFESSIONAL CONDUCT (1983). Most states have fashioned their own ethical codes from the ABA rules. These various state codes all share the common goal of governing lawyers' conduct and their relationship to the courts, the profession, and their clients.

[FN141]. See generally SCHRAG & MELTSNER, *supra* note 1.

[FN142]. See Barnhizer, *supra* note 10, at 104-05 (describing the roles of the supervisor as encompassing the need to stand outside the relationship, making sensitive subjective judgments, and being attuned to the attitudes, emotional maturity, confidence, and ability of the students); see also SCHRAG & MELTSNER, *supra* note 1, at 198-207 (expanding the descriptive metaphor of the chapter title to include the supervisor as mentor, educator, and communicator) (chapter titled “The Bike Tour Leaders Dilemma”). Shrag & Meltsner suggest that analogies for clinic supervisors' role in the world of legal practice are extremely limited. See *id.* at 207; Kreiling, *supra* note 10, at 313 (describing the supervisor as a catalyst and a resource more than a leader).

[FN143]. See Kreiling, *supra* note 10, at 285-89 (describing the gaps in students' knowledge and ability as they assume a new professional role in the clinic and by inference the inevitability of wide variations in skill and performance).

[FN144]. See *id.* at 312-13 (describing the use of group work and seminars where students learn to help one another, including giving and receiving feedback and learning to collaborate). Many management training programs now promote collaborative work and team approaches to problem solving. See generally Peter G. Dominick et al., *The Effects of Peer Feedback on Team Member Behavior*, GROUP & ORG., Dec. 1, 1997, at 508; Kenneth M. Nowack, *360-Degree Feedback: The Whole Story*, TRAINING & DEV., Jan. 1, 1993, at 69.

[FN145]. See generally Barnhizer, *supra* note 10, at 69-71 (providing the early theory and philosophical basis for clinical feedback); Kreiling, *supra* note 10, at 297-318 (providing an early and detailed description of good clinical feedback methods). The scientific support for these practices will be discussed in detail in the section addressing the feedback source and personality characteristics and their influence on receptivity to feedback. See *infra* notes 199-229 and accompanying text.

[FN146]. See Kluger & DeNisi, *supra* note 19, at 254 (describing feedback as a frequently studied phenomenon, but poorly understood, at least in scientific terms). Kluger's and Davis's research reinforced the idea that the key to effective feedback lies in understanding where and how to manipulate the right variables that affect our cognitive consciousness. See *id.* at 278.

[FN147]. Ilgen et al., *supra* note 137, at 350.

[FN148]. Most of the terminology for this diagram is drawn from Ilgen et al., *supra* note 137. While their terminology is common to the field of feedback research, Ilgen et al. provided their analysis in an organizational form that lent itself to a visual representation that may be helpful to the readers of this article.

[FN149]. *Id.* at 350.

[FN150]. *See id.*

[FN151]. *See generally* Paul E. Levy et al., *Situational and Individual Determinants of Feedback Seeking: A Closer Look at the Process*, 62 ORGANIZATIONAL BEHAV. & HUM. DECISION PROCESS 23, 26-34 (1995).

[FN152]. Positive feedback is generally reinforcing, negative feedback is generally corrective. Harriet V. Lawrence & Albert Wiswell, *Feedback Is a Two-Way Street*, TRAINING & DEV., July 1, 1995, at 49.

[FN153]. *See* Ilgen et al., *supra* note 137, at 350-51. *See also* the discussion on feedback cues in the discussion of the multiple cue probability learning model (MCPL) in Part II. The character of the message may also have an impact on the source or feedback provider. *See* Ilgen et al., *supra* note 137, at 353-55. We tend to avoid giving negative feedback. *See id.* at 354. Even when the feedback provider decides to send a negative cue, it is often skewed, or interspersed with enough positive feedback so that the message can become ambiguous and confusing. *See id.*; *see also* Geddes & Linnehan, *supra* note 50, at 326-28. This aspect of feedback cues will be discussed further in the section addressing the feedback message. *See infra* Part III.D.

[FN154]. *See* Ilgen et al., *supra* note 137, at 358.

[FN155]. Many clinical programs encourage peer feedback or provide opportunities for feedback from court personnel, judges, or office supervisors.

[FN156]. Ilgen et al., *supra* note 137, at 350.

[FN157]. *Id.*

[FN158]. *See id.*

[FN159]. *See id.* at 351.

[FN160]. *See id.* at 351-52.

[FN161]. *See* Kluger & DeNisi, *supra* note 19, at 255.

[FN162]. *See id.*

[FN163]. An example of this is found in Jennifer P. Lyman, *Getting Personal in Supervision: Looking for That Fine Line*, 2 CLIN. L. REV. 211 (1995). Part of a vignette between a clinical teacher and a student is described. The vignette involves the white female supervisor wondering whether the African American male student's relationship with her and his subsequent lack of response to her feedback was at least partially the result of some antipathy flow-

ing from the differences in their race and gender. *See id.* at 212. Margaret Martin Barry raised similar issues in describing a vignette where an African American female supervisor was giving feedback to a white male student who had shown resistance to some of the goals of the clinic. *See Barry, supra* note 11, at 144. Barry suggests that one of the reasons for his lack of responsiveness may be the possibility that the student is not giving due credit to the teacher's opinions and expertise because of bias on his part. *Id.* at 156. While the "characters" in both of these vignettes are thoughtful and reflective clinicians, who are aware of and concerned about race and gender issues, each scenario reflects the dilemma of bias and the feedback process. Were these latent biases that were likely to emerge in the clinical work, or were they triggered or exacerbated by something in the various feedback messages that flowed from the supervisor to the student? Or, were the perceptions of bias by these students a major inhibiting factor in their ability to clearly hear and respond to the supervisor's feedback? Some of these issues were raised at the AALS Clinical Teachers Conference in June 1996 where both vignettes were presented and discussed. *See* Section on Clinical Legal Educ., Ass'n of Am. Law Schools, Clinical Teachers Conference (June 10-14, 1996) [hereinafter AALS Teachers Conference].

[FN164]. *See generally* ANDREW HACKER, TWO NATIONS BLACK AND WHITE, SEPARATE, HOSTILE, UNEQUAL 31-49 (1992) (discussing communication processes in Chapter 3, titled "Being Black in America"); LEONARD STEINHORN & BARBARA DIGGS-BROWN, BY THE COLOR OF OUR SKIN: THE ILLUSION OF INTEGRATION AND THE REALITY OF RACE, 180, 190-96 (Dutton Books 1971) (1999) (discussing racial bias in the chapter titled "The Perception Gap").

[FN165]. *See* Karen M. Ruggeiro & Donald M. Taylor, *Why Minority Group Members Perceive or Do Not Perceive the Discrimination That Confronts Them: The Role of Self-Esteem and Perceived Control*, 72 J. PERSONALITY & SOC. PSYCHOL. 373, 373 (1997).

[FN166]. *See id.*

[FN167]. *See* Jennifer Crocker & Brenda Major, *Reactions to Stigma: The Moderating Role of Justifications*, in 7 THE PSYCHOLOGY OF PREJUDICE: THE ONTARIO SYMPOSIUM 289, 289 (Mark P. Zanna & James M. Olson eds., 1993).

[FN168]. *See* AALS Teachers Conference, *supra* note 163. In the vignettes discussed at the Clinical Teachers Conference in 1996, both professors expressed concern that they might be perceived in some way as biased and raised important questions about student perceptions and effective communications between professors and students in the clinical setting. *See id.*

[FN169]. *See* Ruggeiro & Taylor, *supra* note 165, at 373.

[FN170]. *See id.* at 374.

[FN171]. *See id.*

[FN172]. While there certainly can be biased messages and biased sources of feedback, the studies that were done attempted to neutralize these variables so that perception and self-esteem could be isolated and measured. *See id.* at 373. One of the premises of the study was "minority group members will tend to attribute negative feedback to discrimination." *Id.* at 374. But also because bias today is often subtle, the method of isolating the message from the environment may limit the utility of these experiments.

[FN173]. *See id.* at 373.

[\[FN174\]](#). *See id.* at 385.

[\[FN175\]](#). In this study, the researchers listed all reactions to bias as perceptions if the bias was not built into the experiment as a virtual certainty. *See id.* Obviously, in nonlaboratory conditions both perceptions of bias and the actual existence of bias would be measured with far more latitude. The study describes anything less than a 100% likelihood of discrimination as a perception rather than a fact of its presence. *See id.* at 378.

[\[FN176\]](#). *See id.*

[\[FN177\]](#). *See id.* at 381.

[\[FN178\]](#). While studies cited in the Ruggiero and Taylor study focused on Black students and perceptions of discrimination, their study extended those findings and concluded that the same pattern was present with women and Asians. *See id.* This led them to conclude that this reaction/response applied to all minority groups. *See id.* at 385. Hence my decision to use Black/minority interchangeably. Also, the researchers pointed out that the subjects of their study were mostly Black students from a West Indian heritage and therefore the term African American was descriptively inaccurate. *See id.* at 381.

[\[FN179\]](#). *See id.* at 381-82.

[\[FN180\]](#). *See id.* at 382.

[\[FN181\]](#). *See id.* at 383. Performance control refers to our ability to control whatever task in which we are engaged. *See id.* at 375-76. A certain level of performance control is essential to maintain motivation. *See id.* As control moves away from the performer, toward an external agent, personal motivation declines. *See id.* at 376.

[\[FN182\]](#). *See id.* at 374.

[\[FN183\]](#). *See id.* at 378.

[\[FN184\]](#). *See id.*

[\[FN185\]](#). *See id.* at 385.

[\[FN186\]](#). *See id.* at 386.

[\[FN187\]](#). *See id.*

[\[FN188\]](#). *See id.*

[\[FN189\]](#). *See id.* at 385.

[\[FN190\]](#). *See id.* at 386.

[\[FN191\]](#). *See id.*

[\[FN192\]](#). *See id.* at 382.

[\[FN193\]](#). *See id.* at 384.

[\[FN194\]](#). *See id.*

[\[FN195\]](#). *See id.*

[\[FN196\]](#). *See id.* at 373. For example, the personal/group discrimination discrepancy theory is based on findings that show that members of minority groups rate discrimination against their group much higher than their personal experience with discrimination. *See id.*

[\[FN197\]](#). *See id.* at 374.

[\[FN198\]](#). *See id.*

[\[FN199\]](#). *See* Kent D. Harber, *Feedback to Minorities: Evidence of a Positive Bias*, 74 J. PERSONALITY & SOC. PSYCHOL. 622, 622 (1998). Other researchers have not replicated and verified this relatively recent study. It represents a variation from previous studies that have provided consistent evidence of bias in the assessment of minority groups by whites. *See id.* For further discussion of that subject, see generally P.G. Devine, *Stereotypes and Prejudice: Their Automatic and Controlled Components*, 56 J. PERSONALITY & SOC. PSYCHOL. 5-18 (1989). *See generally* Elaine D. Pulakos et al., *Examination of Race and Sex Effects on Performance Ratings*, 74 J. APPLIED PSYCHOL. 800 (1989).

The value of this experiment lies in its effort to measure discrimination in a feedback context, whereas the other studies documenting white bias against minorities involved reporting white perceptions to a third party or to a researcher. The Harber study theorized that in feedback delivery, which is a more direct interpersonal exchange, bias would either be masked or would take the form of a positive bias favoring the members of minority groups. *See* Harber, *supra* note 199, at 622.

[\[FN200\]](#). *See* Harber, *supra* note 199, at 626. Two different essays were used in the experiment. *See id.* at 623. Both were intentionally filled with grammatical errors as well as content flaws. *See id.* The identity of the writer was introduced subtly by adding a demographic sheet that showed a series of questions and answers supposedly given by the author. *See id.* The only factor identifying the race of the writer was a response to a question about campus affiliations in which some of the essays contained the response “member of the Black Student Union.” *Id.* In the “white” essays no organizational affiliation was listed, but in the address section, a sorority and a dormitory were listed that everyone on campus would recognize as all-white living units. *See id.*

[\[FN201\]](#). *See id.*

[\[FN202\]](#). *See id.* at 626.

[\[FN203\]](#). *See id.*

[\[FN204\]](#). *See id.*

[\[FN205\]](#). *See id.* However, shifting standards theory has only been tested for subjective evaluations. The Harber

study attempted to control this factor by building in objective evaluation criteria as well as subjective criteria. *See id.* at 623-25.

[FN206]. *Id.* at 622.

[FN207]. *Id.*

[FN208]. *See id.* (discussing previous research supporting each of these theories).

[FN209]. *See id.*

[FN210]. *See id.* at 626-27.

[FN211]. *See id.*

[FN212]. *See id.*

[FN213]. *See id.*

[FN214]. *See id.* at 627.

[FN215]. *See id.* It is also important to note that the term “positive bias” simply describes the direction of the activity. *Id.* The projected results of this study on the Black students is anything but positive.

[FN216]. *See* Brenda Major et al., *Coping With Negative Stereotypes About Intellectual Performance: The Role of Psychological Disengagement*, 24 PERSONALITY & SOC. PSYCHOL. BULL. 34, 34 (1998). This study found that tests purported to measure intelligence caused significant disengagement of self-esteem by African Americans. *See id.* One effect of this disengagement was for students to be less responsive to negative feedback. *See id.* Normally, negative feedback generates considerable cognitive attention. However, disengagement is not always a negative event. We can still think of a task as important even if we divorce our feeling of self-worth from the task. *See id.* at 35. In fact, this is a trait well known to most lawyers who must steel their egos against the constant buffeting of adversarial conflict, emotional fluctuations, and uncertain outcomes. Similarly, members of minority groups may utilize this “skill” as a defense mechanism in a world filled with experiences of stereotyping and prejudice.

[FN217]. *See, e.g.*, William B. Swan, Jr. & Stephen J. Read, *Acquiring Self Knowledge: The Search for Feedback That Fits*, 41 J. PERSONALITY & SOC. DISORDER 1119, 1120 (1981) (noting that any self-confirming factors could enter into the perception of the feedback).

[FN218]. *See* Ilgen et al., *supra* note 137, at 356.

[FN219]. *See* Levy et al., *supra* note 151, at 24.

[FN220]. *See* Barnhizer, *supra* note 10, at 109-10; Hoffman, *supra* note 6, at 292-98 (discussing the theory of feedback and the specific techniques for delivering good feedback); Kreiling, *supra* note 10, at 299. The chart in Figure 1 provides a more detailed checklist for feedback providers and may offer guidance in exploring the dynamics that the list represents. *See supra* text accompanying note 148. More will be discussed about the public/private nature of feedback and different views of timeliness in the section on the feedback message. *See infra* Part III.D.

[FN221]. While racial tensions are more common at undergraduate institutions, issues concerning admissions standards, funding of clubs and organizations, and occasional hate speech messages arise in law schools. Even when there are no overt acts of racial hostility, minority students still experience feelings of isolation and subtle exclusions that often contribute to well-founded suspicions of racial discrimination. The *Journal of Blacks in Higher Education* contains a quarterly survey of race relations on campus, under the heading “Vital Signs.” Upon a review covering a five-year period (issue no. 4, 1994, through issue no. 22, 1998-99), I found only one reported law school incident and that was directed against a Black faculty member. Unfortunately, the incidents on undergraduate campuses were numerous and at times shocking in that they demonstrate the resiliency and persistence of bias.

[FN222]. See Cathaleen R. Roach, *A River Runs Through It: Tapping Into the Informational Stream to Move Students From Isolation to Autonomy*, 36 ARIZ. L. REV. 667, 668 (1994) (noting that isolation especially can burden minority and other nontraditional students).

[FN223]. See Major et al., *supra* note 216, at 35.

[FN224]. See *id.* at 36.

In our society, African Americans are likely to experience prejudice, discrimination, and racial bias in a number of settings. The racial devaluation of African Americans is particularly apparent with respect to intellectual ability and academic performance. According to Steele, “negative stereotypes about the intellectual abilities of African Americans are so conditioned in our culture, and so collectively known, that even those who are not strongly prejudiced and even African Americans themselves, are aware of them.”

Id. (citations omitted)

[FN225]. See Section of Legal Educ. & Admission to the Bar, ABA, *Female Statistics: First Year Enrollment in ABA Approved Law Schools, 1947-1988* (visited Sept. 11, 2000) <<http://www.abanet.org/legaled/statistics/femstats.html>>.

[FN226]. See Carol S. Dweck et al., *Sex Differences in Learned Helplessness: II. The Contingencies of Evaluative Feedback in the Classroom and III. An Experimental Analysis*, 14 DEVELOPMENTAL PSYCHOL. 268, 268 (1978). In one classroom study, teacher comments were observed and categorized. In comments that reflected praise to boys, 90% of the comments went to intellectual ability. See *id.* at 271. For girls it was only 80%. See *id.* This meant that 20% of the praise that went to females was for process skills or other nonintellectual activity. When negative feedback was analyzed, 54.4% of the comments to males pointed out intellectual inadequacy, while for females the figure was 88.9%. See *id.* at 272. The message was clear. Female failure was due to a lack of ability, male failure was due to external factors, or internal factors that were not considered intrinsic, such as lack of effort. While the social movement for gender equality has raised societal awareness of these issues, it is likely that today's female law students have experienced similar subordinating treatment of this type at least during some part of their education. But we must also consider findings in a more contemporary study. See Janet Swim et al., *Joan McKay Versus John McKay: Do Gender Stereotypes Bias Evaluations?*, 105 PSYCHOL. BULL. 409, 409 (1989) (attempting to update the results of the influential 1968 Goldberg study that showed that women rated the identical article higher if they thought the author was a man rather than a woman). The 1968 Goldberg study had been cited frequently as clear evidence of the depth of gender bias in our culture. The Swim et al. study sought to update those results. They used a large quantitative analysis study and found differences in ratings of articles by gender since the original study were negligible. While these findings reflect some of the real progress that has been made toward equality, they concluded that “[g]ender biased evaluations indeed occur, but as research in ... gender stereotyp[ing] suggest[s], the complexity of the conditions under which such evaluations occur and the flexibility of social perceivers’ thinking must be taken into consideration.” *Id.* at 424. In other words, the present form of gender bias is more

subtle and less obvious but is still present.

[FN227]. For the last two years, students at CUNY Law School have conducted a Diversity Day where groups are organized for their diversity in all respects and general discussions take place about individual experiences. The groups are led by student facilitators and the survey of responses to the activity have been consistently high. Summary of Student Evaluations of CUNY School of Law Diversity Day, 1998 and 1999 (on file with author).

[FN228]. *Id.* Students expressed a willingness to speak openly with faculty as long as the faculty was considered to be open and willing to listen to their perceptions.

[FN229]. See Gary Bellow, *The Limits of Humanistic Law Teaching*, 53 N.Y.U. L. REV. 644, 644-48 (1978) (critiquing some of the excesses of law and humanism). Bellow correctly points out that clinical teachers are not trained or equipped to play the role of psychological counselor. See *id.* at 644-45. But see Barnhizer, *supra* note 10, at 1360 (commenting on the importance of trust in the student-teacher relationship); Kreiling, *supra* note 10, at 300 (same). See also Shalleck, *supra* note 86, at 154 (setting forth the importance of empathy in the supervision of students).

[FN230]. See Ilgen et al., *supra* note 137, at 357.

[FN231]. See Kreiling, *supra* note 10, at 299 (listing clinical feedback features); see also Hoffman, *supra* note 6, at 294; Quigley, *supra* note 85, at 471-73. Effective feedback should be timely, specific, limited in scope, aimed at performance not the student, goal oriented, honest, relevant/objective, and nonthreatening. Because of the interplay between the feedback message and the characteristics of the recipient, some of these features of feedback will be discussed in the section of the feedback message. See *infra* Part III.D. Others will be discussed in relation to the psychological traits of the recipient. See *infra* text accompanying notes 293-327.

[FN232]. See Ilgen et al., *supra* note 137, at 353-54 (reviewing several studies on feedback timing). “Timing refers to the interval between the behavior being evaluated and the feedback.” *Id.* at 353. Generally, the greater the interval between behavior and feedback the less effective the feedback will be on performance. See *id.* at 354. But there are some exceptions to these findings. If the time interval is not filled in with distracting activities, then the recipient can make a link between their recall of the behavior and the feedback. See *id.* While this theory has been verified in lab studies, most work environments, including a law school clinic, are sufficiently active so that intervening activities are likely to occur. This suggests that timeliness related to recall is important in a law school clinic.

[FN233]. See *id.*

[FN234]. See *id.*

[FN235]. See Howard Lesnick, *Infinity in a Grain of Sand: The World of Law and Lawyering as Portrayed in the Clinical Teaching Implicit in the Law School*, 37 U.C.L.A. L. REV. 1157, 1186 (1990) (describing the role of reflection in the development of the clinical programs at the CUNY Law School).

[FN236]. See Marvin L. Schroth, *Effects of Frequency of Feedback on Transfer In Concept Identification*, 110 AM. J. PSYCHOL. 71, 74 (1997) [hereinafter Schroth, *Effects*]; Marvin L. Schroth, *Variable Delay of Feedback Procedures and Subsequent Concept Formation Transfer*, 122 J. GEN. PSYCHOL. 393, 393 (1995) [hereinafter Schroth, *Variable Delay*].

[FN237]. See Schroth, *Variable Delay*, *supra* note 236, at 393.

[\[FN238\]](#). *See id.*

[\[FN239\]](#). *See id.* at 396.

[\[FN240\]](#). *See id.*

[\[FN241\]](#). *See* Ilgen et al., *supra* note 137, at 354.

[\[FN242\]](#). *See id.* at 358.

[\[FN243\]](#). *See* discussion *supra* Part II.A.

[\[FN244\]](#). *See* Peter Hoffman, *The Stages of the Clinical Supervisory Relationship*, 4 ANTIOCH L. J. 301 (1986); Kreiling, *supra* note 10, at 286-87.

[\[FN245\]](#). *See* Ilgen et al., *supra* note 137, at 354-55. More feedback is generally better than less. *See id.* However, when a task involves complex judgment from variables that have no intrinsic value, too much feedback can inhibit the learning of the functional relationships that are crucial to exercising effective judgment. *See id.* at 355. This is partially due to cognitive overload, and also due to the relationship between motivation and control. Excessive feedback shifts the perception of control from the person performing the task to the person giving the feedback. *See id.* at 367. When this occurs, motivation and creativity can diminish. *See id.*

[\[FN246\]](#). *See id.* at 357.

[\[FN247\]](#). *See* RICK MAURER, FEEDBACK TOOLKIT - 16 TOOLS FOR BETTER COMMUNICATION IN THE WORKPLACE 15 (1994). Improving performance on the task is the basic goal of feedback. *See id.* at 18. Focusing on the individual is embarrassing, counterproductive, and likely to generate defensiveness, anger, or other emotional responses. *See id.* at 17.

[\[FN248\]](#). *See* Ilgen et al., *supra* note 137, at 350.

[\[FN249\]](#). *See* Jay S. Kim & W. Clay Hammer, *Effect of Performance Feedback and Goal Setting on Productivity and Satisfaction in an Organizational Setting*, 61 J. APPLIED PSYCHOL. 48, 48 (1976).

[\[FN250\]](#). *See id.*

[\[FN251\]](#). *See id.* at 56.

[\[FN252\]](#). *See id.*

[\[FN253\]](#). *See* Ted Thompson, *Do We Need to Train Teachers How to Administer Praise? Self-Worth Theory Says We Do*, 7 LEARNING & INSTRUCTION 49, 53 (1997).

[\[FN254\]](#). *See id.* at 51.

[\[FN255\]](#). *See id.* at 53.

[\[FN256\]](#). *See id.* at 58. Law teachers often have heard students remark after a final exam that they had no idea whether they got an A or an F. While these perceptions are rarely accurate reflections of most law school grading, or the students' likely performance, they do point out the ambiguity created by the absence of clear standards and why noncontingent feedback should be avoided. For self-evaluations, feedback needs to be referenced to a clear standard and goal. This is especially true due to the affective complexity of any self-assessment.

[\[FN257\]](#). *Id.* at 58.

[\[FN258\]](#). *See id.*

[\[FN259\]](#). *See id.*

[\[FN260\]](#). *See id.* While it can be valuable to look back on past success, this message needs a link to a specific example of past behavior that resulted in success. *See id.*

[\[FN261\]](#). *See id.* at 56 (“Whereas the evaluative component of praise informs the individual that ‘you did well’, the directive component conveys the message ‘you *should* [again] do well.’”). This is an example of how casual, well-intended praise can convey powerful psychological messages that are at odds with the goal of the feedback source. *See id.* It is also easy to avoid seeing the effects of misdirected praise. Law school in general is such a poor feedback environment that it may be difficult for students to sort out the impact of poor feedback in the clinic from the effects of poor feedback in other parts of the students' lives. Another factor to consider is that many students simply steel themselves to the effects of negative feedback messages, sublimate their feeling, and compensate with their well developed skills for high achievement in academic environments. *See id.* at 57.

[\[FN262\]](#). *See id.*

[\[FN263\]](#). *See id.* at 56; Ilgen et al., *supra* note 137, at 357.

[\[FN264\]](#). *See* Thompson, *supra* note 253, at 56.

[\[FN265\]](#). Comments like “you are a very gifted speaker” are other examples of person-based praise. *See id.* at 57. These comments run the risk of heightening the attributional uncertainty, particularly of minority students about the real “motive” behind such praise. African American students who have achieved a certain level of higher education invariably are one day told that they are “very articulate.” While this comment may accurately describe their language skills, it may also suggest that their performance is exceptional relative to the expectation for someone of their race or nationality. Such “praise” can trigger the reactions discussed in the section on bias and the feedback process and may also generate an intellectual performance threat to repeatedly be “articulate” or run the risk of incurring a negative judgment for failing to live up to this imposed standard, particularly if the standard is drawn from racial stereotypes. *See supra* Part III.B.

[\[FN266\]](#). *See* Thompson, *supra* note 253, at 57.

[\[FN267\]](#). *Id.*

[\[FN268\]](#). *See id.* at 51.

[FN269]. *See id.* at 50-51. Self-worth protective students also tend to have low academic self-esteem. *See id.* at 51. This renders them particularly sensitive to the adverse effects of failure. They also tend to have low global self-esteem and fail to accept personal agency for their success. *See id.* There are some qualifications that should be kept in mind in understanding these categories and applying them to a law school context. First, these conclusions represent generalizations and different individuals possessing these traits may manifest them along a continuum, from more pronounced to less pronounced. Also, most of the studies in this area have been conducted on children. It is unclear how many of these traits continue into early adulthood and to what degree. Finally, law students don't necessarily constitute a representative sample of their age group. They generally tend to be high achievers to varying degrees. But even with these qualifications in mind, the theory supporting the reactions of self-worth protective students to misguided feedback messages may explain lack of engagement or withdrawal from their work. These are experiences that are not uncommon to most clinical teachers.

[FN270]. *See id.* at 58.

[FN271]. *See id.* Both these forms of "praise" are similar to the practice of lowered standards feedback given to African American students in the study previously discussed. *See supra* notes 175-82 and accompanying text.

[FN272]. *See generally* Debra Steele Johnson et al., *Exploring the Role of Normative and Performance Based Feedback in Motivational Processes*, 26 J. APPLIED SOC. PSYCHOL. 973 (1996). Performance-based feedback is directed at the goals or demands of the task. *See id.* at 974. Normative feedback focuses on how one performed relative to others. *See id.* One study found that normative performance feedback had the greatest impact on performance, task motivation, and task enjoyment. *See id.* at 977. These results may be problematic to replicate in a law school clinic. One feature of normative feedback is to create an atmosphere of competition. In the workplace normative feedback is often used by employees to structure their expectations for rewards. If you are more productive than others, you might press harder for the biggest raise. Most clinicians try not to foster an atmosphere of competition in the clinic and in fact often favor collaborative activities. The reward phase of the clinic might be the grade, which, at least to some extent, is confidential. While normative performance feedback might increase intrinsic motivation, I believe that there are other ways of affecting motivation that are more adaptable to a law school clinic. Others may disagree. Asking a student to do better than the class average, or even better than the best performance to date, a form of normative feedback, can be a very powerful motivating tool. *See id.* at 988-89.

[FN273]. *See* Ilgen et al., *supra* note 137, at 358.

[FN274]. *See id.* at 351.

[FN275]. *See id.*

[FN276]. *See id.*

[FN277]. The decision to use informational feedback will probably depend on the particular stage of development that the student has achieved and the particular task to which they are assigned. Many clinics load more directive teaching into the beginning of a semester to prepare students for more autonomous work later in the term. Informational feedback, while valuable at any stage of the work of students who are neophytes to the complexities of lawyering, may be especially important during those more developmental months. *See Hoffman, supra* note 244.

[FN278]. *See* Ilgen et al., *supra* note 137, at 352.

[FN279]. See Jing Zhou, *Feedback Valence, Feedback Style, Task Autonomy, And Achievement Orientation: Interactive Effects on Creativity*, 83 J. APPLIED PSYCHOL. 261, 263 (1998). Feedback style refers to the manner in which competence feedback is delivered. See *id.* at 261-62. A controlling style emphasizes the demands or desires of an external force. See *id.* at 262. The recipients' attention is naturally drawn away from their own creativity and toward the standards or desires of the external agent. See *id.*

[FN280]. See *id.*

[FN281]. See *id.* at 263.

[FN282]. See *id.*

[FN283]. See *id.* at 264.

[FN284]. See Andrew Latham, *Learning Through Feedback*, EDUC. LEADERSHIP, May 1, 1997, at 86.

[FN285]. See *id.*

[FN286]. See *id.*

[FN287]. See *id.*

[FN288]. See *id.* (cautioning that the research behind these three types of instructional feedback was done on special educational students and therefore may not be applicable in all educational settings). Even with this caveat in mind, its elements bear a sufficient resemblance to sound basic teaching practices that they seem equally appropriate in law school clinical instruction.

[FN289]. See *id.* at 88.

[FN290]. See Ilgen et al., *supra* note 137, at 350.

[FN291]. See RAYMOND J. CORSINI, THE DICTIONARY OF PSYCHOLOGY (1999). Corsini provides these definitions:

Self Image: A personal picture or concept of self, including a self evaluation of ability, personal worth, goals and potential.

Id. at 878. Self: The totality of all characteristic attributes, conscious and unconscious, mental and physical of a person. William James thought humans have many selves, as they adapt differentially to different situations. Carl Jung conceived of the self as an archetypal image of unity and as the true center of total personality, including both its conscious and its unconscious parts. Karen Horney held that the real self has the capacity for growth and development. Gordon Allport conceived of self as consisting of a gradually developing body sense, identity, self-estimate, and set of personal values, attitudes, and intentions.

Id. at 874. Personality: 1. A complex psychological construct that serves as an heuristic for understanding how an individual or a collectivity of persons typically behaves in situations that present to them differing affirmances and demands 2. Persons self appraisal that leads to their conviction 3. The characterization of

a person by observing others 4. An interior constellation of traits disposing individuals to act and experience themselves in generally consistent, enduring ways.

Id. at 711.

[FN292]. See Swan & Read, *supra* note 217, at 1126 (“Researchers have repeatedly shown that once people form social perceptions, these impressions are incredibly robust and resistant to change.”).

[FN293]. See Ilgen et al., *supra* note 137, at 356.

[FN294]. See *id.*

[FN295]. See Swan & Read, *supra* note 217, at 1119.

[FN296]. See *id.*

[FN297]. See *id.* at 1120.

[FN298]. See *id.*

[FN299]. See Thomas E. Joiner, Jr., *The Price of Soliciting and Receiving Negative Feedback: Self-Verification Theory as a Vulnerability to Depression Theory*, 104 J. ABNORMAL PSYCHOL. 364, 364 (1995).

[FN300]. See *id.* at 365.

[FN301]. See Swan & Read, *supra* note 217, at 1126.

[FN302]. See *id.*

[FN303]. Here I am distinguishing feeling competent from actually acquiring competence in a particular skill. All students seek to acquire competence. Since students in many, if not most, clinics are self-selecting, they are likely to be highly motivated to learn lawyering skills to complement what they already know about substantive law. Many also use clinical instruction as a means to enhance their career options. But feelings of competence are a different phenomena that interplay with issues of self-confidence, self-esteem, and a number of other psychological factors. All of these elements occur simultaneously and affect the students' perception of a feedback message. While it is neither possible nor desirable to address the full package of our personalities, feedback research has isolated those personality traits that have been demonstrated to have a specific measurable effect on the feedback message, the recipient, and the resulting behavioral reaction. With a greater understanding of some of the most pronounced or persistent traits, clinical teachers can factor them into the feedback process and alter the message in ways likely to produce greater receptivity.

[FN304]. See Ilgen et al., *supra* note 137, at 362.

[FN305]. See Levy et al., *supra* note 151, at 23-24.

[FN306]. See Kluger & DeNisi, *supra* note 19, at 275.

[\[FN307\]](#). *See id.*

[\[FN308\]](#). *See* Ilgen et al., *supra* note 137, at 355.

[\[FN309\]](#). *See id.* This measure is one of control preference from the perspective of our personality. *See id.* at 356. It is not in any sense an objective characteristic of degree of control over the performance of a task. *See id.*

[\[FN310\]](#). *See id.* at 355. Internal locus of control subjects responded well to discovery feedback provided by the stimulus from the task. *See id.* Externals did better when the feedback came from the experimenter. *See id.* Other findings were that internals were more motivated by performance feedback. *See id.* Simply knowing how well they were doing with a task is often sufficient for internals to keep their focus and motivation. *See id.* Externals were more motivated by the responses of an external authority, which generated a more favorable reaction to this human intervention feedback. *See id.*

[\[FN311\]](#). *See id.*

[\[FN312\]](#). *See id.*

[\[FN313\]](#). *See id.* The reference to self-esteem in these studies refers to the scores that the test participants received on a standardized psychological test measuring self-esteem. *See id.* at 355-56. Subjects are usually given the feedback preference test first and then tested separately for their score on the self-esteem scale. This method demonstrated the best possibility that the answers to the feedback test would not influence the responses on the self-esteem scale. *See id.* at 356.

[\[FN314\]](#). *See id.* at 355. In this sense, a “favorable response” is not a reflection of preference from the test subject, but a measure of their motivation level and increase in performance as measured before and after the different types of feedback were administered. *See id.*

[\[FN315\]](#). *See id.* at 356.

[\[FN316\]](#). *See id.* at 364. The tests revealed that after receiving feedback, high self-esteems improved their performance more than low self-esteems following positive feedback for both and the performance of low self-esteems decreased more following negative feedback for both. *See id.*

[\[FN317\]](#). *See* Levy et al., *supra* note 151, at 25.

[\[FN318\]](#). *See id.*

[\[FN319\]](#). *See id.*

[\[FN320\]](#). *See id.* at 26. Public self-consciousness was determined from a test designed to measure public self-consciousness, private self-consciousness, and social anxiety. *See id.* The researchers disagree on whether the scores on self-consciousness also reflect their degree of social anxiety. *See id.* The public self-consciousness scale seeks to measure the degree to which a person seeks to direct attention toward themselves as a social object. *See id.* Those who score high on public self-consciousness are not only more interested in the public nature of their performance, but also are more interested in how they were perceived by others. *See id.*

[\[FN321\]](#). *See id.*

[\[FN322\]](#). *See id.* at 31.

[\[FN323\]](#). *See id.* While spontaneous feedback is important, most feedback seekers prefer privacy to a public setting. *See id.* at 32-33.

[\[FN324\]](#). *See id.* at 31.

[\[FN325\]](#). *See id.* at 32.

[\[FN326\]](#). *See* Julie K. Fernandez, *Abandoning Unrealistic Optimism: Performance Estimates and the Temporal Proximity of Self-Relevant Feedback*, 70 J. PERSONALITY & SOC. PSYCHOL. 844, 845 (1996).

[\[FN327\]](#). *See* M.H. Sam Jacobson, *Using The Myers-Briggs Type Indicator To Assess Learning Style: Type or Stereotype?*, 33 WILLAMETTE L. REV. 261, 263-67 (1997) (critiquing the use of the Myers-Briggs type indicator test in law schools). Personality and indicator tests are widely used in business and industry and have found their way into a number of law schools. *See id.* at 262. Jacobson argues that along with other deficiencies, the test is methodologically flawed and uses common terms that in Jungarian psychology have a very specific meaning, but that to the average person taking or interpreting the test have a meaning that invites overgeneralizations and stereotyping. *See id.* at 270-71, 275. Jacobson believes that the dangers for abuse far outweigh any utility for using the test, particularly in a law school environment when better diagnostic instruments are available for ascertaining cognitive learning styles. *See id.* at 301.

[\[FN328\]](#). *See* Fernandez, *supra* note 324, at 846.

[\[FN329\]](#). *See* Ilgen et al., *supra* note 137, at 364. Competence, control, and reward also have very clear objective aspects that are part of any work or task environment. *See id.* Here I am only addressing their emotional elements in the feedback process.

[\[FN330\]](#). *See* Thompson, *supra* note 253, at 56.

[\[FN331\]](#). *See id.* Again, this does not mean that negative or correcting feedback should be avoided. But since positive feedback can also be directive, it can be used to correct errors. *See id.*

[\[FN332\]](#). *See id.* at 58-59.

[\[FN333\]](#). *See id.* at 54.

[\[FN334\]](#). *See generally* Ilgen et al., *supra* note 137.

[\[FN335\]](#). *See generally* Joiner, *supra* note 299.

[\[FN336\]](#). *See* Bahiya Abdul Hamid & Hazita Azman, *Adapting the Six Category Intervention Analysis to Promote Facilitative Type Supervisory Feedback in Teaching Practice*, in EUGENIUS SADTONO, LANGUAGE TEACHER EDUCATION IN A FAST CHANGING WORLD 88, 89 (Anthology Series No. 29, 1991).

[FN337]. *See id.* (noting that this model was adapted to train teachers in a pre-service language training program in Malaysia).

[FN338]. *See id.* at 91.

[FN339]. *See id.* at 90.

[FN340]. *See id.* at 89. The authors define intervention as “any verbal and/or nonverbal behavior that is part of the supervisor’s interaction with the trainee” for the purpose of improving learning. I have substituted feedback for intervention in this model as appropriate.

[FN341]. *See id.*

[FN342]. *See id.* at 92.

[FN343]. *See id.* The assumption here is that a failed effort with extremely negative consequences is potentially more harmful than an intervention by the teacher.

[FN344]. *See id.* at 93.

[FN345]. *See id.* at 93-94.

[FN346]. *See id.* In fact, the purpose of this outline is to facilitate goal awareness in all feedback encounters.

[FN347]. *See id.* at 96-97 (listing authoritative feedback and enabling skills).

[FN348]. *See id.* at 97-98 (listing facilitative feedback and enabling skills).

[FN349]. *See* Ilgen et al., *supra* note 137, at 356-59.

[FN350]. *See id.* at 364.

[FN351]. *See id.* at 355.

[FN352]. *See id.*

[FN353]. *See id.* at 356.

[FN354]. *See* Kreiling, *supra* note 10, at 300.

[FN355]. *See* Lawrence & Wiswell, *supra* note 152, at 50-51.

[FN356]. *See id.* at 50.

[\[FN357\]](#). *See id.* at 51.

[\[FN358\]](#). *See* Ilgen et al., *supra* note 137, at 358.

[\[FN359\]](#). *See id.*

[\[FN360\]](#). *See* Ron Zemke & Susan Zemke, *Adult Learning: What Do We Know for Sure?*, 32 TRAINING 31, 32 (1995). This article points out that 30 years ago, Malcolm Knowles wrote *The Adult Learner: A Neglected Species* and launched the “androgogy,” a unified theory of adult learning. *See id.* It received considerable interest in the 1970s, but Knowles and other commentators wrote that androgogy and pedagogy should be seen as a learning continuum, not separate and distinct categories. *See id.* at 33. One of the main tenants of androgogy is that older learners learn differently from younger students and therefore need a curricular design suited to their particular learning preferences. *See id.* at 33-34. Some of Knowles' findings are still relevant to adults who are engaged in a feedback process. Adult learners are self-directed and practical in their approach to learning. *See id.* at 34. They tend to be motivated by problem solving, particularly when they can draw upon their life experience in their efforts. *See id.* They tend to prefer structure in their learning environment. *See id.* Because of this practical bent, they are very motivated by feedback that is informational, goal-related, and novel. *See id.* At the same time, while they tend to have self-confidence as a result of their prior professions, learning a new profession can challenge their self-esteem. Feedback providers should be particularly sensitive to this. *See id.* at 36. Parallel as well, novel feedback can be useful motivators for adult learners. This form of feedback appeals to adults' desire to integrate their new knowledge and skills with what they already know. *See id.* But because of their prior competence, which may have been considerable prior to law school, they also tend to take their mistakes personally, especially if feedback touches on self-esteem issues. *See id.* at 35. For a more complete discussion of androgogy as a theory for clinical education, see Bloch, *supra* note 88. *But see* Linda Morton et al., *Not Quite Grown Up: The Difficulty of Applying an Adult Education Model to Legal Externs*, 5 CLINICAL. L. REV. 469, 470 (1999) (discussing Knowles' theory and its limitation as an all-encompassing theory).

53 Okla. L. Rev. 223

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