

-On law school grades, the connotation of 'average', and the inherent unique value of individuals-

re. Ed's point: If you've got a problem with being average, then you've got a problem with life, because in life, somebody is average.

I take this a good bit further in many of my talks to students and lawyers actually. in a sort of reality view of a group, EVERYBODY is average. that's the definition of the word (even tho', of course, only the rare person would be perfectly 'average' in any sense) -- it's the most representative quantity, amount, quality, or whatever one is looking at, for the group under consideration. average is what everyone comes out to be when you pool them all and divide by n.

the problem i suggest is the generally ugly connotation which our overall society, and most certainly our legal subcultures, ascribe to the word. when one here's "oh, he's an average lawyer", or "i'd say she's an average law student", it doesn't evoke a very pretty picture for most of us (or most others either). when we focus more specifically on law schools, where the faculty had to be so far beyond 'average' students to even get a read of their resume by an appointments committee, the collective faculty impression of the average student that trickles down to students is often negative indeed. add to that the effect of the 'institutional chasm' between the school the typical faculty member attended, and the school the typical faculty member is teaching at, and that disparaging impression trickle re. the 'average' students the faculty is working with becomes even greater (i.e., top 5%/journal editor from michigan/yale/stanford teaching average students (by definition) at our good old 'average' law school) .

in a nutshell, i think almost everyone has a problem with 'average', and that problem is exacerbated in our highly comparative, performance-based subcultures. there are big depression/suicide tendencies these days at the best undergraduate schools as well, for similar reasons apparently. i just read in my alumni magazine (ivy league, of course) about this issue surfacing in a big way at that school for the same reasons.

one thing i try to do with law students (and lawyers) is confront the myth and explode it. 'average' is, in effect, what everyone is. students need to know it and enjoy the reality instead of struggling against it without even realizing the craziness of the whole adventure. we're all struggling against it, and we'll lose, because it's the reality. i have to believe the ultimate roots are deep, possibly even somewhere in religious dogma, because the problem is so pervasive in the cultures i know. and i'll stop there to avoid opening up too many cans without enough forethought and proofreading. but what do we do in a life environment where average is bad??? ugh! (Larry K.)

When I was coaching kids, I tried to point out that no one was average, that while we might all be average overall, each of us had particular strengths in which they were better than average, so that everyone could make a valued contribution.

I think the problem with "everyone is average" is that we are all at the same time unique.

Richard

Richard Zitrin
Director, Center for Applied Legal Ethics
University of San Francisco School of Law

I couldn't agree more. There is a revolution going on in the education of our Nation's children. Educators are beginning to recognize that each individual has a unique profile in terms of their brain's strengths and weaknesses. One of the pioneers of this new approach to teaching is Dr. Melvin Levine, a professor of pediatrics at the University of North Carolina Medical School. His book, *All Kinds of Minds*, builds a foundation for fostering the uniqueness of each person's learning profile. An average student doesn't necessarily turn into an average lawyer. A law student who displays weakness in writing essays under time pressure might turn out to be a very clever negotiator. Similarly, a student who has difficulty memorizing information for a closed-book exam, might end up being an expert brief writer. I require students in my classes to draw on a wide variety of skills, and I find that a skillful orator does not necessarily shine in written work, that a student who excels in statutory analysis might not adequately grasp the policy underpinnings in legal decisions, and a student who is mediocre in one practice oriented simulation might excel in a different kind of exercise. We have no choice but to give grades and we can't give A's to everyone. But I question the predictive value of grades, especially for the bulk of students in the middle. Some students will find the kind of law practice that allows them to harness the strengths they possess and others may end up in a job that does not adequately fit with their individual intelligence. Regardless, in most cases, a student's GPA is not likely to predict his or her ultimate success in practice.

Joseph A. Siegel
Adjunct Professor

CUNY School of Law and Pace University School of Law

You may be right about the origins of our averageness attitudes in deep traditions and beliefs. In the West, against the message that one is "saved by grace" we have Paul's confounding "faith without works is dead." One of the Victorians said that "a man's reach should exceed his grasp, or what's a heaven for?" Out of such a questionable theology we spend all our time doing the

works rather than accepting our state-in existential terms (in my theology, an aspect of applied grace), we seek approval rather than being satisfied with who we are. I don't know what the terms would be from Eastern thought or existential theory themselves (certainly Buddhism and Taoism have more useful teachings than Christianity does in this regard), but I wonder how useful it would be to think of "grace-ful" teaching, in which we give our students the gift of being satisfied with who they are, and of helping them in reasonable efforts to improve their performances. At another deep level, these attitudes seem directly related to a linear view of history rather than a wheel-like view of history, which could in turn be traced to such thinking as Darwin's theory of the evolution of species and the scientific view of the individual (ontology replicates phylogeny: the development of the individual replicates the development of the species). In this, Jay Gould has science's best response, the "punctuated equilibrium" theory: our contacts with students could be seen as the punctuations in their developmental equilibrium, and like whoever created the universe, we need to be sure that those punctuations move them forward, and not backwards.

Regards,

Ed (Brewer)

Hello all,

While productively procrastinating :-) by reading through the "to read" pile on my desk this morning after reading the latest in this thread, I came across an open letter, entitled "Second Chances," in the latest edition of The Law Teacher. It is a letter to the faculty from a re-admitted Gonzaga student, who failed first year, then was readmitted. The student went on to achieve Dean's List and secured a judicial clerkship on the Alaska Supreme Court, and eloquently notes in the letter "I mention these accomplishments for the benefit of those who may believe that students who fail are failures. Please do not give up on them, as you did not give up on me."

Timing and circumstances are often linked to "achievements" as much as anything else. We need to think about how to support our students (and some colleagues) in understanding that aspect as well. On balance over the course of a lifetime, most of us have sum accomplishments can probably be labelled as "average." Perhaps we need to relabel them as something with less heavy connotations ("just right"? "complete"?)

Best, Kim

I would add simply that it is a very powerful, but not necessarily accurate assumption that we must grade - we too often conflate teaching with evaluation. They are certainly interrelated concepts, but evaluation by no means must entail grading. Does anyone doubt that we could improve the skills of a student if we

could work one-on-one with her throughout a three year period? Do folks really believe that the constraints under which many of us grade produce an accurate reflection of a person or even prediction about their future abilities or chance of success (however that is measured)? Most of our limitations are systemically self-imposed. I believe that my responsibility is to teach, and that I can do that more successfully with fewer students and more resources than I can with the reverse. I have no hesitation believing I can teach students, and more importantly, that I can learn from them. If I allow myself to imagine an ideal teaching and learning environment - one with limitless resources and the absence of ridiculous economically imposed constraints - grades are not in the picture. In a perfect world teaching and learning are goals shared in common by students/teachers and evaluation is unnecessary. I know we are not living in this world, but it helps me stay grounded with respect to present realities. I am lucky enough to have "outperformed" my grades and feel happy when I can share my story with depressed students who are labelled as I was in law school. I also share with them stories of my classmates with great grades who were an embarrassment in court, of those with no ethics, of those who cannot maintain a relationship, and of those true successes who are able to serve society in some way and maintain personal integrity and family balance. sorry for the rant - back to work! peace, Kathy (Hessler)

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Average does not mean failure, in fact it is recognition of success. A failing grade does not mean the person is a failure only that the person, at that time and on that evaluation, did not meet minimum standards. Do not get me started on the number of successful (enjoys his/her job, the standard of living, quality of life, etc.) lawyers who, at one time and on one evaluation (the bar exam) failed to meet the minimum standards.

Failing grades challenge both the student and the institution to find ways to improve the educational experience while not compromising the mission of the institution or ignoring the goals of the student. I, as many of my colleagues - you - often do, agonize over the lost of students due to academic performance. These losses are offset by the achievements of another group of students and from this equation flows a balance. I teach and I think I do that well. I work with students who are either failing or not achieving the level of academic recognition they seek. I also work with students who always seem to have the educational Midas touch on all that they do. The former group

challenge me to continue to teach while the latter group allow me to validate a grading standard.

Grading is tough stuff and I would like to dispense with the stress it brings to everyone. I would be at odds with myself, however, if I had to explain to each student whom I believe would not be successful academically in law school without the advantage of grades and the grading system.

Tim Blevins,
Barry University