Using a Civil Procedure Exam Question to Teach Persuasion

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Using a Civil Procedure Exam Question to Teach Persuasion
spend the next few weeks working on arguments about personal jurisdiction. Using the facts from students’ Civil Procedure exam and the cases from their text, students argue that their client does not have the necessary minimum contacts for jurisdiction over an out-of-state defendant.

Working in small groups during class, students compare their matrices of the cases, outline and draft components of the arguments, and read and critique their classmates’ drafts. At several times during this module, students also e-mail professors current versions of their arguments. From these we make compositions that illustrate particular techniques, such as organizing for persuasiveness, using authorities, making policy arguments and refuting counter-arguments. We also use these compositions to illustrate common problems students encounter. Students read the compositions on overheads, diagnosing the troublesome areas and identifying strategies to make the writing more persuasive.

This exercise has several benefits in addition to allowing students to concentrate on the skill of persuasion. One is that revisiting material builds on what students already know, and using material from the fall semester to teach persuasion makes students more comfortable with the material. This reassures them that the art of persuasion is not about “telling” but “showing” why the requested result should be followed.

Another benefit to this approach is that it increases student confidence. As they rework the same material a month after the exam, students recognize where they were invisible before. By calling their attention to this, we help them see their progress and continued capacity to grow and develop as future lawyers. This helps students at all levels; students who have done well see how they can improve, and students who have done poorly see that they can master writing and analysis. Do students groan about having to revisit the minimum contacts cases? Yes, but at the end of the semester those students also note that these exercises helped them really start to “get” what it means to persuade.

Social Justice and Persuasion
Clifford S. Zimmerman (Northwestern University School of Law)

I integrate issues of social justice into my teaching of persuasion to heighten the context in which students learn the technique. The topic triggers added emotional energy on the part of the students, who then immerse themselves into the research, organization, argument construction, and persuasion with great enthusiasm and vigor. With their work self-motivating, I can focus on rhetorical technique. In the end (after two briefs), most every student is amazed at how much they learned and accomplished and how much fun they had in the process.

Years ago, I merely integrated an issue of social justice (e.g., police brutality, the Gulf War, spousal abuse and police protection, medicinal use of marijuana, or abortion) into the briefing. I now know the students emphasized the material on their exams, and where students need additional coaching. By working through the material collaboratively over several classes, students develop more sophisticated approaches to arguing the minimum contacts rules than they showed in their exams and communicate those arguments more effectively. In the process, students also learn that the art of persuasion is not about “telling” but “showing” why the requested result should be followed.

Another benefit to this approach is that it increases student confidence. As they rework the same material a month after the exam, students recognize where they were invisible before. By calling their attention to this, we help them see their progress and continued capacity to grow and develop as future lawyers. These exercises divide on the issue and are rich in citations to other sources, both legal and non-legal, that can be used in writing the brief.

I ask the students, then, to write a reflective essay on the subject. I expressly tell them that I do not want a recounting or synthesis of the sources, but rather an essay on their thoughts on the subject matter. (They do not know, typically, what a reflective essay is, so some direction here really starts with them really start to “get” what it means to persuade.

Using a Civil Procedure Exam Question to Teach Persuasion
Sophie Sparrow (Franklin Pierce Law Center)

Because studies show that learners master new material more effectively when it builds upon what they already know, we use material from the fall semester to teach persuasion. In teaching persuasive writing, we focus on persuading, rather than learning new doctrine or facts. Turning a predictive discussion into a persuasive argument also demonstrates that making an argument requires the same rigorous thinking as predicting a result.

Turning a predictive discussion into a persuasive argument also demonstrates that making an argument requires the same rigorous thinking as predicting a result. One way we do this is by assigning students to write an argument based on their fall Civil Procedure exam. At the beginning of the spring semester we introduce some general principles of persuasive writing, and then
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Because studies show that learners master new material more effectively when it builds upon what they already know, we use material from the fall semester to teach argumentation, rather than learning new doctrine or facts. Turning a predictive discussion into a persuasive argument also demonstrates that making an argument requires the same rigorous thinking as predicting a result. Turning a predictive discussion into a persuasive argument also demonstrates that making an argument requires the same rigorous thinking as predicting a result. One way we do this is by assigning students to write an argument based on their fall Civil Procedure exam.

At the beginning of the spring semester we introduce some general principles of persuasive writing, and then spend the next few weeks working on arguments about personal jurisdiction. Using the facts from students’ Civil Procedure exam and the cases from their text, students argue that their client does not have the necessary minimum contacts for jurisdiction over an out-of-state defendant.

Working in small groups during class, students compare their matrices of the cases, outline and draft components of the arguments, and read and critique their classmates’ drafts. At several times during this module, students also e-mail professors current versions of their arguments. From these we make composites that illustrate particular techniques, such as organizing for persuasiveness, using authorities, making policy arguments and refuting counter-arguments. We also use these composites to illustrate common problems students encounter. Students read the composites on overheads, diagnosing the troublesome areas and identifying strategies to make the writing more persuasive.

This exercise has several benefits in addition to allowing students to concentrate on the skill of persuasion. One is that revisiting material builds students’ analytical skills and understanding of Civil Procedure. From talking to our Civil Procedure colleague, we know what she emphasized in class, how students analyzed the material on their exams, and where students need additional coaching. By working through the material collaboratively over several classes, students develop more sophisticated approaches to arguing the minimum contacts rules than they showed in their exams and communicate those arguments more effectively. In the process, students also learn that the art of persuasion is not about “telling” but “showing” why the requested result should be followed.

Another benefit to this approach is that it increases student confidence. As they reread the same material a month after the exam, students recognize where they need to sharpen their writing and organizational skills. Students also begin to realize that they are now identifying arguments, analogies and issues in a way that had been invisible before. By calling their attention to this, we help them see their progress and continued capacity to grow and develop as future lawyers. This helps students at all levels; students who have done well see how they can improve, and those who were struggling recognize that they can master writing and analysis.

Do students groan about having to revisit the minimum contacts cases? Yes, but at the end of the semester those students also note that these exercises helped them really start to “get” what it means to persuade.