



COURSE MATERIALS



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SHOULD THE ACADEMIC SUPPORT PROFESSIONAL LOOK TO COUNSELING THEORY AND PRACTICE TO HELP STUDENTS ACHIEVE?

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INTRODUCTION

Academic support has many facets.¹ The academic support professional (ASP)² always interacts with a student with the goal of helping that student improve his performance in law school.³ Often, the assistance we provide is purely academic.⁴ Often, the assistance we provide is support.⁵ Often, we cannot pro-

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¹ See Kristine S. Knaplund & Richard H. Sander, *The Art and Science of Academic Support*, 45 J. LEGAL EDUC. 157 (1995); Symposium, *In Honor of Professor Trina Grillo: Legal Education for a Diverse World*, 31 U.S.F.L. REV. 747 (1997), including Paula Lustbader, *From Dreams to Reality: The Emerging Role of Law School Academic Support Programs*, 31 U.S.F.L. REV. 839 (1997); Martha M. Peters, *Bridging Troubled Waters: Academic Support's Role in Teaching and Modeling "Helping" in Legal Education*, 31 U.S.F.L. REV. 861 (1997); David Dominguez et al., *Inclusive Teaching Methods Across the Curriculum: Academic Resource and Law Teachers Tie a Knot at the AALS*, 31 U.S.F.L. REV. 875 (1997).

² Although the abbreviation ASP often refers to the academic support program, in this article, "ASP" designates the "academic support professional." This term recognizes the various classifications of people who provide academic support. The director of academic support or the person chiefly responsible for the academic support program can be a tenured/tenure track faculty member, a non-tenure track faculty member, a staff member, or an administrator. In an informal survey taken in 1999 of faculty/staff classifications of those primarily responsible for academic support programs, of twenty-four schools responding, fourteen were classified as faculty (tenured/tenure-track/non-tenure track) and ten as staff (three also teaching as an adjunct or legal writing professor). Postings Regarding Survey of Faculty/Staff Classification, to Academic Support Listserv, ASP-L@chicagokent.kentlaw.edu (March 1999) (copy on file with author). Titles varied from Director of Academic Support/Academic Achievement/Academic Assistance/Educational Services/ Academic Success, to Assistant Dean for Academic Support/Educational Services, to Associate/ Assistant/Full Professor of Law, to a few instances where legal writing faculty were responsible for directing the academic support program. *Id.*

³ "The primary mission of ASPs [academic support programs] is to help students help themselves." Ruta K. Stropus, *Mend It, Bend it, and Extend It: The Fate of Traditional Law School Methodology in the 21st Century*, 27 LOY. U. CHI. L.J. 449, 486 (1996).

⁴ See Lustbader, *supra* note 1, at 857 (describing academic content of academic support programs).

⁵ See Peters, *supra* note 1, at 871 (describing non-academic components of academic support programs).

vide academic assistance without first providing support of some sort.⁶ How we help the student improve her performance is open to debate and is the goal of continued program design.

Part I of this article explores the nature of the academic support student and the role of the academic support professional in facilitating student achievement. Part II begins the evaluation of whether the academic support professional should look to counseling theory and practice to help students achieve. It addresses the issues of whether the academic support professional who does not have counseling training should perform functions associated with a professional counselor,⁷ and it introduces and discusses the counseling theories most suitable for academic support programs and how they can help law students. This part then discusses whether there is a pedagogical reason for the application of counseling theories. Part III addresses the intersection of counseling and academic support. It analyzes whether counseling fosters academic support programs, and it considers consultation with counseling professionals as an alternative to the ASP applying counseling theory and practice. The article concludes that knowledge of counseling theory and practice provides additional competency that the ASP can use to help improve student achievement.

I. FOUNDATIONS OF ACADEMIC SUPPORT

A. The Nature of the Academic Support Student

A student may be characterized as an academic support student for any number of reasons. A program often considers entering credentials, such as undergraduate grade point average (UGPA), law school standardized admissions test (LSAT) scores, and actual academic performance. The student may have the potential to perform poorly, based on the performance of prior students with similar characteristics,⁸ or may actually have performed poorly. Typically, academic support students either entered law school with lower LSAT scores, UGPAs and ranks than other students, or earned grades in law school that placed them in academic probation or in the lower ranks of the class.⁹

⁶ See Lustbader, *supra* note 1, at 857 (“it is essential to address the myriad of psychological barriers (attitude, self-esteem, motivation, and alienation) to learning. These barriers must be attended to before students can be receptive to skill-improvements”).

⁷ There is no danger that the ASP can “turn into a counselor” by applying elements of counseling theory and practice. Counseling as a profession is regulated by licensing in some jurisdictions and by the following professional associations, primarily: The American Association for Counseling and Development (AACD) (formerly American Personnel and Guidance Association), but also the American Psychological Association, Association for Marriage & Family Therapy, and the American Education Research Association. NICHOLAS A. VACC & LARRY C. LOESCH, COUNSELING AS A PROFESSION 197 (1987). Counselors particularly are bound by the AACD’s Ethical Standards. *Id.* at 215.

⁸ Often minority students are included initially in academic support programs because of poor past performance of other minority students. However, these students often “graduate” out of the program because initial grades demonstrate performance above academic support minimums.

⁹ See Knaplund & Sander, *supra* note 1, at 160.

Many in legal academia believe that purely academic factors determine whether students need or receive academic support.¹⁰ These students do not perform well either because the material is too difficult or too unfamiliar. Compared to other students, these students have poor writing skills, poor analytical skills, or “they just do not get it.”¹¹ Proponents of the theory that student performance is based on ability to write or analyze believe that low-achieving students simply need to study harder to achieve better results.¹²

Another view holds that some students do not perform well because a traumatic life event has intervened to prevent them from studying, concentrating, or absorbing the material, a view borne out by experience working with this author’s own students.¹³ Proponents of this theory believe that part of the ASP’s function is to assist these students in moving past the traumatic life event, in actuality or in the student’s mind, knowing that once the experience is competently treated, the student is free to perform well.¹⁴

Behind every student who does not perform well is a story, often with dramatic tinges. If the student performs poorly because she did not study “hard enough,” why didn’t she? Potential law students universally know that law school is intellectually challenging and time consuming. However, some students do not manage their lives or their time to provide themselves with the optimal conditions to study “hard enough.”¹⁵ Some conditions, occurrences or experiences cannot be prevented or anticipated, but others can be. Questions as to one’s personal competencies in planning and prioritizing arise if a student did not take all the actions that she could to give herself optimal conditions to handle competently the varied aspects of law school.

¹⁰ For a discussion of the different factors that lead students into academic difficulty, see Kevin H. Smith, *Disabilities, Law Schools, and Law Students: A Proactive and Holistic Approach*, 32 AKRON L. REV. 1, nn. 5, 205 (1999) (citing Paul T. Wangerin, *Law School Academic Support Programs*, 40 HASTINGS L.J. 771, 779 n.38 (1989)). Many legal educators believe that law schools should deliver legal education, particularly in the first year, in the same way (Socratically) to all students, that one test per semester is a true measure of student competency, and that those who don’t succeed under that method should be excluded from law school for academic reasons. See generally Paul Bateman, *Toward Diversity in Teaching Methods in Law Schools: Five Suggestions from the Back Row*, 17 QUINNIPIAC L. REV. 397 (1997); see also Alan A. Stone, *Legal Education on the Couch*, 85 HARV. L. REV. 392 (1971). While Stone’s article is almost thirty years old, his description of legal education is still fresh today in many respects.

¹¹ See Lustbader, *supra* note 1, at 857; B.A. Glesner, *Fear and Loathing in the Law Schools*, 23 CONN. L. REV. 627 (1991); Stropus, *supra* note 3, at 484-85; Kathy L. Cerminara, *Remembering Arthur: Some Suggestions for Law School Academic Support Programs*, 21 T. MARSHALL L. REV. 249, 268 (1996).

¹² See Cerminara, *supra* note 11, at 268.

¹³ See generally Wangerin, *supra* note 14, at 405.

¹⁴ See *id.*

¹⁵ Many of the counseling theorists believe that one purpose of counseling is to assist clients in adapting to new life stages, and that young adults, particularly, need more assistance than others. See *infra*, nn. 84-86 and accompanying text. Many law students are young adults in a new environment, at a new stage of life, and setting goals. The failure to meet these goals can be disorienting and debilitating. See Stone, *supra* note 14, at 423. Stone boldly states, “[a]s a general proposition, there is empirical evidence to suggest that young adults in our society expect more of themselves than they will ever attain.” *Id.* at n.113 (citing T. PARSONS, *THE SOCIAL SYSTEM* (1951)).

The nature of the academic support student leads to certain conclusions about the nature of academic support programs. Given the generally formal, faceless, and impersonal nature of traditional legal education, those students who can perform well in a “pure” academic sense¹⁶ have already done so.¹⁷ There are many reasons why the academic support student has not succeeded in the traditional sense.¹⁸ Some of these reasons have to do with learning styles, language differences, self-esteem issues, past poor exam performance, and test anxiety.¹⁹

To understand the nature of the academic support student, perhaps the ASP who works with individual students must attempt to glean from the student an answer to the question, “why didn’t you do as well as you would have liked?”²⁰ That question forces the student to conduct a self-examination and disclose the factors he believed contributed to poor performance. The student thus provides the ASP with information about the student that she can use to develop a program to address that student’s particularized needs. The individual attention to both personal and academic needs, as revealed by the student, distinguishes the academic support program from the traditional law school academic program.

The academic support student reveals problems in adjusting to the foreign environment and differentiated demands of law school. He may be sensitive about his failure to successfully adapt.²¹ Those difficulties, combined with the general adaptations to progress through varied and sensitive life stages,²² results in a student in need of informed and compassionate assessment and intervention.

B. The Role of the Academic Support Professional in Facilitating Student Achievement

The contemporary academic support professional has one primary role: to assist the student in achieving improved academic performance and successful

¹⁶ “Pure academic sense” refers to traditional, or, as Martha Peters has termed it, “an unspoken traditional standard.” See Peters, *supra* note 1, at 871.

¹⁷ This does not mean that I accept the “traditional” mode of legal education as the most effective one. It simply means that I acknowledge the widespread use of this model and the seeming inertia in most law schools to try anything different on a large scale. Correspondingly, I acknowledge there are many faculty members, deans, and administrators who are changing traditional legal education to meet the more diverse, individual, and humanistic needs of law students. See Bateman, *supra* note 14, at 401-16; Stropus, *supra* note 3 at 479.

¹⁸ I characterize succeeding in the “traditional sense” as achieving good grades. Yet I recognize that for some students, earning high grades is not their goal or their measure of success in law school. While many students set that goal initially, many reject that goal when it appears that no matter how hard they work, they do not achieve high grades; many others reject what they see as an illogical system of measurement wherein one exam determines a grade in a semester-long course. See NEAL A. WHITMAN ET AL., STUDENT STRESS: EFFECTS AND SOLUTIONS 53 (1984). The authors surveyed law students and found that a source of student stress was “getting grades that did not reflect the amount of effort invested,” and that the quest for high grades had a “detrimental effect on learning and thus contribute[d] to the sharp decline in intellectual interest in subsequent years...” *Id.* at 55.

¹⁹ Smith, *supra* note 14, at 411; Stropus, *supra* note 3, at 485; Bateman, *supra* note 14, at 401-16.

²⁰ This is the first question I ask students.

²¹ See Peters, *supra* note 1, at 872.

²² See Stone, *supra* note 14, at 423.

completion of law school.²³ In furtherance of that goal, the ASP provides support in many forms.²⁴ The ASP must possess the requisite information and skill to assess the student's needs and to develop a strategy to assist that student.²⁵ In so doing, the ASP must determine the needs of the individual student or group of students with similar characteristics. The ASP may have to delve into the student's personal issues before he can implement an academic intervention program.²⁶ Or, as often happens, the parties may delve into personal issues sometime after the academic relationship has been established.

The ASP may provide assistance with substantive course material, similar to the instruction that occurs in the law school classroom,²⁷ or assistance that is designed to strengthen the student's skills in legal analysis and legal writing, with the goal of transferring these skills to exam-taking. At the same time, the ASP may concentrate on learning skills and theory, focusing on how the student learns, not what the student learns.²⁸ The result is that the role of the ASP is to design and operate a number of diverse programs. Some programs include minority student orientation before classes begin; summer programs for "at risk" or probationary admits; study skills workshops for all students; special sections of courses for students based on LSAT, UGPA or law school GPA and rank; programs for students on academic probation or who have been readmitted; peer

²³ Lustbader, *supra* note 1, at 842 (noting that a consensus definition of the mission of academic support programs, based on discussions that arose out of academic support conferences, was "to provide diverse persons access to legal education, help create community, help diverse students succeed and excel academically, and most importantly, preserve students' feelings of self-worth and value").

²⁴ There is no one definition of "academic support" or "academic support program." I proffer the following definition: an academic support program is a comprehensive program designed to help law students succeed academically through a combination of substantive legal instruction, study skills, legal analysis, legal writing, and attention to learning styles. In the 1960s many law schools began some type of academic support program to assist minority students. These programs have evolved from the Access 2000 project of the Law School Admissions Conference (LSAC) in 1976, to the first full-day mini-conference on academic support issues at the Association of American Law Schools (AALS) 1989 conference. Lustbader, *supra* note 1, at 842. LSAC's committee on minority affairs "promote[d] the proliferation of [academic support programs] by retaining a consultant who researched program designs developed a manual, and assisted schools and trained personnel in developing programs." *Id.* ASPs lauded the June 1992 LSAC Academic Assistance Training Workshop as a major professional development. *Id.* Since then, there have been numerous academic support conferences, national and regional, and an Academic Support Section of AALS.

²⁵ See Dominguez, *supra* note 1, at n.5.

²⁶ See Peters, *supra* note 1, at 872.

²⁷ Increasingly, law schools are offering academic support courses in substantive areas and for credit. See Knaplund & Sander, *supra* note 1, at 158; Jacquelyn H. Slotkin, *An Institutional Commitment to Minorities and Diversity: The Evolution of a Law School Academic Support Program*, 12 T.M. COOLEY L. REV. 559 (1995).

²⁸ Academic support professionals have written a great deal on the need to understand learning theory and to attend to student's individual learning styles. See, e.g., Stropus, *supra* note 3; Vernelia Randall, *The Myers-Briggs Type Indicator, First Year Law Students and Performance*, 26 CUMB. L. REV. 63 (1995); Dominguez, *supra* note 1. See also Smith, *supra* note 14; Robin A. Boyle & Rita Dunn, *Teaching Law Students Through Individual Learning Styles*, 62 ALB. L. REV. 213 (1998).

tutors; special study groups (peer or faculty led); and bar exam preparation classes.²⁹

Counseling, even informal or inadvertent, is also often one of the roles of the ASP. Out of twelve components of academic support programs a recent survey identified, counseling was the fourth most common component with the related area of advising/mentoring programs ranking eighth.³⁰ For example, suppose a student's parent dies during the semester. The student may turn to the ASP for emotional support when the student's grief interferes with his ability to attend class, concentrate, study, or prepare for exams. The ASP often must encourage students like this on a regular and sustained basis, even if the ASP refers the student for professional counseling. Also, for some students, law school is their first experience away from home. These students may feel disoriented and unable to fit in with other students. Such students may seek out the ASP as an open and available resource with whom they can share their feelings about law school and be put on the path towards academic achievement.

III. APPLYING COUNSELING THEORIES TO HELP STUDENTS ACHIEVE

A. Should an Academic Support Professional (ASP) who does not have counseling training assume the role of counselor?

Several cautions come to mind for the ASP who considers going beyond the academic. Chief among them is student resistance.³¹ Students may want the ASP to help them achieve in substantive courses, but they may feel that their personal issues are their own business. Even if the ASP believes that the student

²⁹ See Lustbader, *supra* note 1, at 849; Knaplund & Sander, *supra* note 1; Symposium, *supra* note 1; Slotkin, *supra* note 27, at 561. The AALS has recently surveyed its member and Fee-Paid Schools to collect information about bar preparation courses offered by law schools. The letter to Deans at these schools states, “[w]hile most law schools understandably do not emphasize bar preparation in planning general curricula, all schools should be concerned about the possibility that some graduates will not succeed in qualifying for the practice of law.” Letter from Harvey G. Prince, Deputy Director, AALS, to Deans, Nov. 2, 1999.

³⁰ Richard Cabrera & Stephanie Zeman, *Law School Academic Support Programs – A Survey of Available Academic Support Programs for the New Century*, 26 WM. MITCHELL L. REV. 205 (2000). The authors surveyed all 175 ABA-accredited U.S. law schools from fall 1996 to October 1998 to find answers to these questions: 1) whether the law school had an academic support program; 2) the program components, its selection criteria, and whether participation was mandatory or voluntary; and 3) whether the program targeted minorities. *Id.* at 210. Slightly more than 90% (137) of the schools responding had an academic support program. Of them, thirty-two programs listed one component as “counseling (usually academic counseling, though sometimes personal counseling as well, on a one-to-one basis which included coaching and suggestions for improvement),” and eight mentioned “advising/mentoring (programs encouraging one-on-one meetings with alumni, faculty or senior students to help guide students through law school and, in some cases, into the job market).” *Id.*

³¹ Law students are adults and, as such, they may have very definite ideas of how they want to shape their educational programs. See Gerald F. Hess, *Listening To Our Students: Obstructing and Enhancing Learning in Law School*, 31 U.S.F.L. REV. 941 (1997).

needs to attend to his personal issues before he can achieve maximum academic potential, a student's personal life may not be a relevant area of inquiry or intervention for an academic professional.³²

An important warning for the ASP who seeks to assume the role of counselor is that counselors are trained professionals. Many counseling programs are masters level graduate courses requiring two full years of study, and many counselors have a Ph.D.³³ One does not become a counselor overnight or by reading a few books, although some of the most popular "counselors" in our society are not professionally trained.³⁴ A person may have intuitive or natural counseling abilities and a genuine desire to help people improve their lives. While a counselor's personality is important in enabling clients to be receptive to the counselor's efforts towards helping the client improve, a successful counselor needs knowledge and skills to practice effectively.³⁵

Other warnings for those looking at counseling involve confidentiality and ethical issues. Generally, the existence of a counseling relationship imposes a legal duty to use professionally accepted care and skill.³⁶ Professionals may be held to the standards that apply to a counseling relationship if they hold themselves out as providing these public services.³⁷ It is important to note that malpractice lawsuits against counselors have grown substantially.³⁸

³² See Peters, *supra* note 1, at 872 (stating that many students need to attend to personal issues before achieving academic improvement).

³³ VACC & LOESCH, *supra* note 9, at 37-62.

³⁴ By popular, I mean impacting the most people. So-called "pop psychologists," such as Marianne Williamson and Iyanla Vanzant do not hold graduate degrees in counseling or psychology, but their best selling books, personal appearances, and counseling services have affected and improved the lives of millions. See MARIANNE WILLIAMSON, A RETURN TO LOVE: REFLECTIONS ON THE PRINCIPLES OF A COURSE IN MIRACLES (1992); MARIANNE WILLIAMSON, A WOMAN'S WORTH (1993); IYANLA VANZANT, THE VALUE IN THE VALLEY: A BLACK WOMAN'S GUIDE THROUGH LIFE'S DILEMMAS (1995); IYANLA VANZANT, IN THE MEANTIME - : FINDING YOURSELF AND THE LOVE THAT YOU WANT (1998).

³⁵ See VACC & LOESCH, *supra* note 9, at 8-9.

³⁶ See LOUIS FISHER & GAIL P. SORENSON, SCHOOL LAW FOR COUNSELORS, PSYCHOLOGISTS, AND SOCIAL WORKERS 42 (3d ed. 1996). The Restatement (Second) of Torts provides that:

one who undertakes, gratuitously or for consideration, to render services to another which he should recognize as necessary for the protection of the other person or things, is subject to liability to the other for harm resulting from his failure to exercise reasonable care to perform his undertaking, if: (a) his failure to exercise such care increases the risk of harm, or (b) the harm is suffered because of the other's reliance upon the undertaking.

RESTATEMENT (SECOND) OF TORTS § 323 (1965). By counseling a student in confidence, an educator implies that he or she will act in a skillful and responsible manner. See FISHER & SORENSON, *supra*, at 42.

³⁷ In *Johnson v. Lincoln Christian College*, a student brought an action against his college (LCC) and its counselor, Kent Paris. 501 N.E.2d 1380, 1384 (Ill. App. Ct. 1986). Johnson was a student at LCC from 1976-1981, in a five-year program studying sacred music. *Id.* LCC, a religious school, denied him his diploma at the end of his program because it had reason to believe he was a homosexual. *Id.* During Johnson's final semester at LCC, a fellow student told LCC's dean that she believed he was a homosexual. *Id.* LCC then informed Johnson that he would only be permitted to graduate if he sought counseling from Paris. *Id.* at 1382. Johnson was told these counseling

Further, applying most counseling techniques requires a sustained, thorough and regular commitment of time, which is difficult for the ASP to provide. Most counseling techniques require extended sessions to establish a relationship with the client, apply the techniques, and have the client implement those techniques. Even so-called “brief strategic therapy” approaches can require multiple sessions to be effective.³⁹

Concerns about professional status and the ASP’s role in the legal academy can impact whether the ASP wants to assume a counseling role. There is a structural dichotomy as to whether the ASP is or should be designated faculty or staff.⁴⁰ Just as the content and character of the academic support program varies from institution to institution, so does the professional’s designation as faculty or staff. Some of the professionals responsible for ASP are tenured or tenure-track faculty, others are staff members.⁴¹

A legitimate concern exists if the ASP takes on more of a counseling mantle. The fact that counseling, in essence, is not an academic function, might pigeonhole the ASP as staff and move him away from a faculty position.⁴² Because the ASP works with students on academic issues the question arises as to whether the ASP should be a faculty position.⁴³ Many ASPs teach study skills, tutor students individually or in small groups, or teach small sections of a substantive course with varied and alternative pedagogies. Because they inevitably teach students legal reasoning and analysis, these ASPs may seek to have their

sessions would be confidential, and he agreed to undergo them. *Johnson*, 501 N.E.2d at 1382. In the counseling sessions, Johnson revealed his homosexuality and many details concerning it. *Id.* He had never admitted these things to anyone before, and never consented to Paris disclosing any of this information. *Id.* Nevertheless, Paris informed LCC of everything Johnson had told him. *Id.* LCC informed Johnson that he would be dismissed from the school based on his homosexuality, and that the reasons for the dismissal would appear in his transcript. *Id.* at 1382. Johnson withdrew from LCC and was never given his diploma. *Id.* at 1382. Johnson sued Paris and LCC and won his right to maintain claims against both. *Id.* at 1386. Paris tried to escape liability by claiming that he was not a psychologist, but this argument failed. *See id.* The court held that simply by holding himself out as someone who would provide Johnson with confidential services as a therapist, that Paris could be held liable for breaching a student’s confidence. *Id.* at 1387.

³⁸ *See VACC & LOESCH, supra* note 9, at 218.

³⁹ “[P]roponents of different approaches argue that [brief therapy] can be comprised of one session or weekly sessions over several years.” SCOTT T. MEIER & SUSAN R. DAVIS, *THE ELEMENTS OF COUNSELING* 81 (3d ed. 1997).

⁴⁰ *See generally, Cerminara, supra* note 11.

⁴¹ *Id.*; *see also, supra* note 2 (noting results of an informal survey of academic support professionals).

⁴² However, one of the responsibilities of full-time faculty is “being available for student consultation, and creating an atmosphere in which students and faculty may voice opinions and exchange ideas.” A.B.A. STANDARDS FOR APPROVAL OF LAW SCHOOLS, standard 404(a)(1) (1999). It can be argued that this is what the ASP does.

⁴³ Law schools are guided by The American Bar Association (ABA) Standards for Approval of Law Schools to define what constitutes a full-time faculty member. *See* standard 402(c). ASPs who do not have faculty status but who teach are counted at the lowest possible level for purposes of determining the student faculty ratio. *See* standard 402(c), Interpretation 402-i(1)(A)(iii) (explaining “nontenure-track administrators who teach” are counted as 2/10th of a person).

positions reclassified as faculty positions the way clinical and legal writing faculty have done.

B. The Counseling Theories Most Suitable for Academic Support Programs and How They Can Help Law Students

Many counseling theories are suitable for academic support programs because they can help students adjust to law school and achieve. The most applicable approaches are person-centered therapy, the cognitive/cognitive-behavioral approaches, Gestalt therapy, transactional analysis, brief therapy and group counseling. These approaches will be addressed in turn.

1. Person-Centered Therapy

Person centered or client-centered therapy,⁴⁴ as developed by Carl Rogers,⁴⁵ is one of the most popular forms of counseling. It forms the basis of the introductory counseling course in many institutions⁴⁶ and is the basic counseling approach utilized in most law school clinical settings.⁴⁷ Given the prevalence and influence of this approach, anyone who is interested in applying any counseling theory must understand the principal elements of the person-centered approach. Rogers believed that the person-centered therapist should use himself as an “instrument of change” and provide the client with an atmosphere to explore himself without judgment or evaluation.⁴⁸ He believed that to bring about change in a client, three conditions must be present: congruence, unconditional positive regard, and accurate empathy.⁴⁹

⁴⁴ Person-centered counseling is “the humanistic extension of existential philosophy.” MARTY SAPP, COUNSELING AND PSYCHOTHERAPY: THEORIES, ASSOCIATED RESEARCH, AND ISSUES 498 (1997). Its architect, Carl Rogers, believed that clients were “trustworthy and ha[d] vast potentials.” *Id.* Therefore, he believed that “the prime determinants of therapeutic outcome” were “the therapist’s attitude, the client-therapist relationship, and a trusting environment.” *Id.*

⁴⁵ Rogers is widely recognized as the author of the client-centered counseling model. *Id.* at 496. In 1940, he first crystallized this “newer approach to therapy,” termed “non-directive counseling.” CARL R. ROGERS, CLIENT-CENTERED THERAPY: ITS CURRENT PRACTICE, IMPLICATIONS AND THEORY 9 (1951). In 1951, he published a classic text “to bring together the clinical thinking of those who are engaged in client-centered therapy.” SAPP, *supra* note 44, at 6.

⁴⁶ SAPP, *supra* note 44, at 506 (“Level I and II counseling skills, which were derived from this model, are the foundation for counseling training programs throughout the United States”).

⁴⁷ See Michelle S. Jacobs, *People From the Footnotes: The Missing Element in Client-Centered Counseling*, 27 GOLDEN GATE U. L. REV. 345, 350 (1997). Approximately ninety-four law schools have adopted the leading text on client-centered counseling in law schools, DAVID BINDER ET AL., LAWYERS AS COUNSELORS: A CLIENT-CENTERED APPROACH (1991). See Robert D. Dinerstein, *Client-Centered Counseling: Reappraisal and Refinement*, 32 ARIZ. L. REV. 501, 504 n.15.

⁴⁸ SAPP, *supra* note 44, at 503-04.

⁴⁹ *Id.* Rogers further defined the three conditions: 1) “the client and therapist are in psychological contact” (defined as “genuineness which implies that the therapist is authentic during therapy”); 2) “the client experiences incongruence, anxiety or vulnerability” (defined as “caring for a client without evaluating the client’s feelings, thoughts, and behavior”); and most importantly 3) “the client experiences the conditions provided by the therapist – congruence, unconditional positive regard, and empathy” (defined as “understanding and reflecting a client’s feelings and the attempt

The basic hypothesis of Rogers' client-centered counseling is that all activity should be directed towards developing a free flowing counselor-counselee relationship, allowing the counselee to gain a greater understanding of herself and others in the counseling relationship and to move toward "positive, self-initiated action" – the self-actualized person.⁵⁰

At the heart of this theory is Rogers' belief that the client has the answers within and it is the counselor's responsibility to create an atmosphere that allows the client to identify, articulate and implement those answers.⁵¹ The effective counselor is not authoritarian.⁵² The counselor encourages the client's growth, guiding him to make independent and mature choices.⁵³

Much has been written about the application of client-centered counseling in the law school clinic.⁵⁴ Most of that writing has focused on the direct representational relationship between the client and the counselor, here meaning the counselor-at-law, the clinician or the student who is responsible for representing that client.⁵⁵ The literature discussing the use of the model in law schools does not focus on how the person-centered approach can impact on the pedagogical relationship between the clinical professor and the law student.

Rogers advocated applying client-centered counseling to education.⁵⁶ However, he only believed that client-centered therapy could be applied to the goals of "democratic education," not authoritarian education.⁵⁷ Rogers' explanation of the goals of democratic education⁵⁸ seems to be congruent with the goals

of the therapist to imagine what it would be like to experience the client's phenomenological world"). *Id.*

⁵⁰ CARL R. ROGERS, *COUNSELING & PSYCHOTHERAPY: NEWER CONCEPTS IN PRACTICE* 18 (1942).

⁵¹ *Id.* at 113. "[T]he counseling relationship is one in which warmth of acceptance and absence of any coercion or personal pressure on the part of the counselor permits the maximum expression of feelings, attitudes, and problems by the counselee." *Id.* at 113-14.

⁵² *See id.* at 109 (explaining that the therapeutic relationship is not compatible with authority).

⁵³ *Id.* at 252.

⁵⁴ Some of the many articles that have been written on this subject are Dinerstein, *supra* note 47; Jacobs, *supra* note 47; Donald G. Gifford, *The Synthesis of Legal Counseling and Negotiation Models: Preserving The Client Centered Advocacy in the Negotiation Context*, 34 *UCLA L. REV.* 811 (1987).

⁵⁵ Dinerstein, *supra* note 47; Jacobs, *supra* note 47; Gifford, *supra* note 54.

⁵⁶ ROGERS, *supra* note 45, at 387.

⁵⁷ *Id.*

⁵⁸ Rogers wrote:

the goal of democratic education is to assist students to become individuals who are able to take self-initiated action and to be responsible for those actions; who are capable of intelligent choice and self-direction; who are critical learners, able to evaluate the contributions made by others; who have acquired knowledge relevant to the solution of problems; who, even more importantly, are able to adapt flexibly and intelligently to new problem situations; who have internalized an adaptive mode of approach to problems, utilizing all pertinent experience freely and creatively; who are able to cooperate effectively with others in these various activities; who work, not for the approval of others, but in terms of their own socialized purposes.

Id. at 387-88.

of academic support programs. He rightly assumed that most professional schools are not operated in conjunction with the principles of democratic education but are aimed towards a more authoritarian model.⁵⁹

Rogers formulated some principles and hypotheses that the ASP can adopt as the philosophical foundation of his program. These principles are particularly applicable since the ASP is involved in the education of adult learners who have particularized educational needs and who learn best when they are self-directed, use their personal experience, can relate in-class learning to out-of-class expectations, and seek information with immediate applicability.⁶⁰ The most important of Rogers' hypothesis is that "we cannot teach another person directly; we can only facilitate his learning."⁶¹

The ASP's goals, like Rogers', are to "center the process in the developing aims of the students,"⁶² but the ASP has roles as well. These involve trust, respect, marshaling resources to facilitate learning, acceptance, communication, and genuineness.⁶³ One caution: the student-centered approach does not work for

⁵⁹ *Id.* "[T]he method of operation of our . . . professional schools is ample evidence that the usual goal is very different – more in the direction of producing a student who can reproduce certain informational material, who has skills in performing certain prescribed intellectual operations, and who can reproduce the thinking of his teacher." *Id.* at 388.

⁶⁰ Adult learning theory is concerned with examining the means by which adults learn as opposed to children and adolescents. See Fran Quigley, *Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics*, 2 CLINICAL L. REV. 37, 47 (1995). For this reason, adult learning theory has been dubbed "andragogy" (to distinguish it from "pedagogy"). *Id.* According to popular adult learning theory, adult learners possess four distinct advantages. Adult students 1) believe they are self-directed rather than dependent on instruction; 2) use their vast personal experience as a basis for learning; 3) learn more readily where the subject matter relates to what is expected of them in their social role; and 4) are more inclined than younger students to acquire knowledge which can be immediately applied. *Id.* Educational scholars believe that these strengths are best utilized if law professors understand six key principles of adult learning: 1) voluntariness, 2) respect, 3) collaboration, 4) context, 5) activity, and 6) evaluation. See Hess, *supra* note 31, at 942.

⁶¹ The remaining three factors in Rogers' principal hypotheses are:

[1] A person learns significantly only those things he perceives as being involved in maintenance of, or enhancement of, the structure of self. . . .;

[2] Experience which, if assimilated, would involve a change in the organization of self tends to be resisted through denial or distortion of symbolization. The structure and organization of self appears to become more rigid under threat; to relax its boundaries when completely free from threat. Experience which is perceived as inconsistent with the self can only be assimilated if the current organization of self is relaxed and expanded to include it. . . .;

[3] The educational situation which most effectively promotes significant learning is one in which . . . threat to the self of the learner is reduced to a minimum, and . . . differentiated perception of the field of experience is facilitated.

ROGERS, *supra* note 45, at 390. As Rogers noted, "learning, particularly if it is significant, is often a threatening thing." *Id.* at 390.

⁶² *Id.* at 401.

⁶³ See *id.* at 401-02 for ten steps in the "role of the leader in an educational situation when the aim is to center the process in the developing aims of the students."

all students. Some students resist a lack of structure and orientation and prefer authoritative domination by the instructor.⁶⁴

2. Cognitive/Cognitive Behavioral Approaches

Cognitive-Behavioral therapy is a “group of techniques that combines strategies from cognitive and behavioral psychology.”⁶⁵ Cognitive-behavioral therapists use the Socratic method to promote cognitive and behavioral changes.⁶⁶ Law students might be comforted to know that their intuitive feelings about the psychological nature of the application of the Socratic method are well founded.⁶⁷ In the counseling context, the Socratic method helps the client in self-exploration, self-awareness and problem clarification.⁶⁸

a. Behavior Therapy

Behavior therapy is not a single approach to therapy, but an array of regimens based largely on problem solving.⁶⁹ There are at least five models of behavior therapy with varied approaches, premises and features.⁷⁰ While there are

⁶⁴ Rogers noted that some students respond well to learning under threat. *Id.* at 390. Much has been written on the Socratic method, largely a dominant and authoritarian style as practiced in law schools, and the need for a group (the class) to have a leader (instructor) who leads, otherwise the class will turn on the leader. *See* Stropus, *supra* note 3, at 480; Stone, *supra* note 14, at 422.

⁶⁵ SAPP, *supra* note 44, at 251 (discussing the theories and techniques of Albert Ellis, the “grandfather” of cognitive-behavioral therapy,” particularly rational emotive therapy).

⁶⁶ *Id.* at 253.

Such [skillful] questioning allows a client to discover answers for himself, or herself which leads to self-exploration and self-awareness. Moreover, the Socratic method can facilitate the clarification of a problem. In addition, this method can lead the client toward solving problems and learning coping strategies. Some examples of coping questions are as follows: ‘What makes this so?’ ‘Where is the evidence to support your belief?’ ‘What can you learn from this experience?’

Id.

⁶⁷ For criticisms of the Socratic/Langdellian method and its resultant student psychological problems, *see* Stropus, *supra* note 3, at 455-60. *See also* Stone, *supra* note 14, for a survey of student criticisms of the method as a type of psychological torture.

⁶⁸ SAPP, *supra* note 44, at 253.

⁶⁹ *Id.* at 243.

⁷⁰ *Id.* These five models are 1) applied behavior analysis; 2) neobehaviorism; 3) cognitive - behavioral therapy; 4) social learning theory; and 5) multi-modal behavior therapy. *Id.* at 244. The three that are not fully discussed here are applied behavior analysis, neobehaviorism, and multi-modal behavior therapy. However, some background on the reasons for excluding these three is in order. Applied behavior analysis is inappropriate because it is concerned with predicting behavior based on environment. *Id.* Neobehaviorism has been largely ignored after its founder was disgraced and burned his writings, although he did receive an award from the APA for influencing modern psychology in 1957, a year before he died. SAPP, *supra* note 44, at 248-49. Albert Lazarus’ Multi-modal Behavioral Therapy (MMBT) requires an active therapist directing the client in some fifteen to fifty sessions. *Id.* at 372. Further, the MMBT has few or no client techniques or theories and allows therapists to draw techniques from any theoretical approach. *Id.* at 365-76.

commonalities to the behavioral approaches,⁷¹ only those that are relevant and replicable in an academic support context will be discussed. Those two learning theories underlying behavior therapy are 1) classical conditioning⁷² and 2) operant conditioning.⁷³ Behavioral therapists began to apply these two conditioning theories, which were originally applied and developed in experimental laboratory research with animals, to treat maladaptive behavior in humans in clinical or client/office settings.⁷⁴ One hallmark of behavior therapy, as distinguished from the psychoanalytic models, is that the client's previous conscious or unconscious thoughts are given little or no value.⁷⁵ The behavior therapist focuses on current causes of behavior, with treatment techniques modified in accordance with the client's current needs.⁷⁶

Behavior therapy models have five common characteristics that are replicable and applicable to academic support.⁷⁷ To assist the ASP in effectuating change for the academic support students, those elements can be applied to the following steps in the academic support process: the initial student interview, developing interventions, student application of interventions, modifying the intervention if results are not obtained, and student application of the interventions independently and continuously.

Behavior therapy has been used to treat anxiety⁷⁸ and could provide a resource to the ASP's efforts to assist students in overcoming or modulating test

⁷¹ See GERALD COREY, THEORY AND PRACTICE OF COUNSELING AND PSYCHOTHERAPY 283 (5th ed. 1996).

⁷² *Id.* at 283 (explaining that classical or respondent conditioning is the conditioning (learning) of autonomic responses (reflexes) such as eye blinks and the salivation response).

⁷³ *Id.* (explaining that operant or instrumental conditioning is the shaping of behavior based on operants which are things that can be manipulated within the environment, such as food, money and reduction of pain).

⁷⁴ *Id.*

⁷⁵ See COREY, *supra* note 71, at 283.

⁷⁶ See *id.*

⁷⁷ The common characteristics parallel the five steps of the scientific method. As a scientific method, those steps are replicable. SAPP, *supra* note 44, at 256-57. The steps are:

- 1) A history is obtained from a client in terms of his or her current behavior.
- 2) the behavior therapist puts the client's problem in conceptual terms and explores possible treatments.... Pretests or baseline measures are obtained to determine the scope of the client's presenting concern.
- 3) treatment is [administered,]... monitored and evaluated by the therapist and client.
- 4) if necessary, the treatment is modified...obtaining post-test or after-treatment data.
- 5) the therapist discusses the results with the client and encourages the client to apply the treatment in his or her own life.

Id.

⁷⁸The anxious client cannot function optimally because his worrying has become automatic, habitual and debilitating.. *Id.* at 257. Many law students seem to be affected by at least generalized anxiety disorder: "anxiety disorder with the features of worry and the affective sense of anxiety that lasts at least six months." *Id.* at 260.

anxiety.⁷⁹ Other interventions that the ASP can suggest to students are self-control strategies, self-monitoring and self-reinforcement.⁸⁰ Another technique similar to what many ASPs already do is bibliotherapy, where clients read books or training manuals and learn to apply techniques themselves – again, the classic independent learner.⁸¹

b. Rational-Emotive Therapy

A popular form of cognitive-behavior therapy is Albert Ellis' rational-emotive therapy (RET).⁸² Rational-emotive therapy is founded on the premise that a person's emotions arise out of his "beliefs, interpretations and responses to life situations."⁸³ The therapeutic goal of RET is to help clients learn skills to identify and refute the irrational beliefs they have acquired and maintain by self-indoctrination.⁸⁴ The counselor uses cognitive, emotive and behavioral techniques to help the client replace negative, irrational beliefs with rational beliefs.⁸⁵ In turn, the client changes his emotional reactions to situations.⁸⁶ RET is an educational process, with the counselor often assigning homework.⁸⁷ The counselor allows the client to apply RET to his current problem, and also to those he may encounter.⁸⁸

The principal theory on which RET is based is termed the A-B-C theory.⁸⁹ This theory is that the A (activating event) does not directly cause C (consequences, both emotional and behavioral), but that B (the person's beliefs about

⁷⁹ For an excellent book on the application of various counseling theories in the treatment of test anxiety, see CHARLES D. SPIELBERGER & PETER R. VAGG, *TEST ANXIETY* (1995).

⁸⁰ "Self-monitoring has become a common strategy for many self-control procedures." SAPP, *supra* note 44, at 271. The client monitors and records behavior that is to be changed, such as not talking up in class, not studying, and worrying. *See id.* Often, self-monitoring changes the behavior because the individual becomes more aware of the behavior. *See id.* "Self-reinforcement involves the client administering his own reinforcement." *See id.* For example, a client repeats a fearful behavior (like volunteering in class) enough times to overcome her fear. *See id.*

⁸¹ SAPP, *supra* note 44, at 272.

⁸² *Id.* at 356. *See also* ALBERT ELLIS & RUSSELL GRIEGER, *HANDBOOK OF RATIONAL-EMOTIVE THERAPY* (1977).

⁸³ COREY, *supra* note 71, at 320.

⁸⁴ *Id.* Ellis formulated thirteen irrational beliefs that led to self-defeating emotions and behaviors, some of which relate to students in academic support programs. The ones that are relevant to academic support are: 1) it is necessary to be competent, adequate, and achieving 100% of the time in order to be worthwhile; 2) it is catastrophic and awful when things do not go the way I would like; 3) unhappiness is the result of external events that are beyond my control; 4) if certain things are dangerous and fearsome, the individual should constantly be preoccupied with them; 5) it is easier to avoid facing difficult life situations than to face them; 6) the past is the sole determinant of present behavior; 7) individuals should worry, be upset, and be concerned about other people's concerns; 8) a correct or perfect solution exists for every problem, and it is terrible if such a solution is not found; 9) human happiness can be achieved by inertia; and 10) one can have no control over emotions. *See id.* at 322; *see also* ELLIS & GREIGER, *supra* note 82, at 31-45.

⁸⁵ COREY, *supra* note 71, at 320.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ ELLIS & GRIEGER, *supra* note 82, at 5.

A) does.⁹⁰ In the law school context, Ellis would tell a student that a poor grade on an exam (the activating event) does not directly cause depression (the consequence), but that the student's beliefs about the poor grade and what it represents (the Belief) do.⁹¹ Continuing with this alphabet soup, through RET, the counselor attempts to get the client to D (dispute, discriminate, and define) these irrational beliefs, leading to E (a new effect or philosophy), which allows the client to think about himself, others and the world more rationally and sensibly.⁹² The E is essentially a cE (a cognitive effect), which, if believed and followed, would result in a new eE (emotive effect) and a bE (behavioral effect), the cognitive, emotive and behavioral systems being at the heart of RET.⁹³

Rational-emotive therapy (RET) is a cognitive process that involves delving into the student's mind.⁹⁴ Probing the student's mind as it relates to personal issues may not seem appropriate for academic support. However, as noted earlier, sometimes psychological barriers must be removed before a student can learn, and the ASP must be the one to remove those barriers because the student will not seek other counseling.⁹⁵

Many academic support students possess Ellis' irrational beliefs that lead to the development or perpetuation of self-defeating behaviors.⁹⁶ Some key irrational beliefs stem from the student's "absolutistic philosophy."⁹⁷ In helping the client apply rational alternatives to irrational beliefs, Ellis defined three irrational beliefs that had their main roots in an "absolutistic philosophy."⁹⁸ These are awfulizing,⁹⁹ I-can't-stand-it-it-is,¹⁰⁰ and damnation.¹⁰¹ The rational alternatives to these beliefs are tolerance,¹⁰² acceptance¹⁰³ and the understanding that a situation

⁹⁰ *Id.* at 8.

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.* at 20-32.

⁹⁴ See ELLIS & GREIGER, *supra* note 82, at 8.

⁹⁵ See Glesner, *supra* note 11, at 661 (stating that "law students are even more reluctant than a general student population to seek formal psychological counseling").

⁹⁶ SAPP, *supra* note 44, at 340.

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ Awfulizing is a cognitive distortion that exaggerates the meaning of an event as 100% bad. *Id.* at 340.

¹⁰⁰ I-can't-stand-it-it-is, is the belief that "one cannot experience any happiness at all if an event occurs that 'must' not happen," like getting low grades. This belief extends to the irrational thinker who then cannot stand herself. *Id.*

¹⁰¹ The damnation is of self, others and the world. SAPP, *supra* note 44, at 362.

¹⁰² "A rational person accepts that if events happen, it is just the way things are and tries to change what can be changed and not waste time over what can't, [but] if a rational person encounters events that can't be changed, he would pursue other goals and objectives." *Id.* This is in part what ASPs do with students in suggesting the application of different study and learning techniques, but query whether sometimes the rational choice is to encourage such students to pursue other careers.

¹⁰³ "Acceptance of the fallibility of humans and the uncertainty of life." *Id.* at 341. This is a hard lesson to learn when young, as many law students are. More encouraging, Ellis also felt that the rational person realized "that because life is in a constant state of change, a situation does not have to exist forever." *Id.*

is not 100% bad, even if the student wishes it had not occurred.¹⁰⁴ The ASP can, and frequently does by instinct, relate these rational alternatives to the student and help him grasp them.

For example, students often believe that their self-worth depends on top level performance in law school, that they cannot have a successful legal career unless they are in the top ten percent of the class, that the professors have it in for them (or for people who look like them) so their achievement will not be rewarded, that there is no other option than to spend the entire class period worrying that they will be called on, that poor exam performance first year means poor exam performance forever, that it is fine to not speak up in class if you are worried that other students will think that you are unintelligent, and that there *is* a right answer but they just do not know it.¹⁰⁵

RET also teaches clients to distinguish between rational and irrational emotions, such as anxiety, shame, embarrassment, depression, guilt, anger, hurt, and irrational jealousy.¹⁰⁶ The ASP is faced with many of these emotions almost every time she meets with a student. Through further study of RET, the ASP can gain great insights in understanding how people handle these emotions and assist students in keeping these emotions in perspective.

c. *Cognitive Therapy*

Aaron T. Beck developed cognitive therapy in the early 1960s as a result of his research on depression.¹⁰⁷ Like RET, cognitive therapy has an active, directed, time-limited and structured approach. The foundation of cognitive therapy is that the major determinants of how people feel and act are cognitions, or thoughts.¹⁰⁸ The goal is to modify the client's inaccurate and dysfunctional thinking, thereby changing his emotions and behaviors.¹⁰⁹ Beck found that many of his clients had "automatic thoughts" that were triggered by certain stimuli and lead to certain emotional responses.¹¹⁰

Beck found that clients with emotional difficulties often thought of certain events in the skewed view of their self-deprecating automatic thoughts.¹¹¹ An objective observer, given those same events, would see the situation different-

¹⁰⁴ "The rational person will first rate a bad situation along a continuum of 0-100 and stating a preference for a bad situation not to occur." SAPP, *supra* note 44, at 340.

¹⁰⁵ On the other hand, many law students demonstrate incredible persistence, resilience, and determination to meet their goals. I have been impressed by the attitudes of the many students with whom I have worked who possess these qualities.

¹⁰⁶ SAPP, *supra* note 44, at 344-49.

¹⁰⁷ See generally AARON BECK, COGNITIVE THERAPIES AND THE EMOTIONAL DISORDERS (1976). Beck's clinical research led to the development of several assessment scales, most notable being the Beck Depression Inventory (BDI) which is frequently used to assess client depression, and the Beck Hopelessness Scale, which has predicted eventual suicide. SAPP, *supra* note 44, at 379.

¹⁰⁸ COREY, *supra* note 71, at 338.

¹⁰⁹ *Id.*

¹¹⁰ AARON BECK, COGNITIVE THERAPY AND EMOTIONAL DISORDERS 214 (1976) ("cognitive therapy consists of all the approaches that alleviate psychological distress through the medium of correcting faulty conceptions and self-signals").

¹¹¹ See COREY, *supra* note 71 at 338-39.

ly.¹¹² Through a process called evaluation, the counselor teaches clients to identify and monitor distorted cognitions and the effect the cognition has on their feelings and behaviors.¹¹³ Clients then learn to submit those thoughts to reality testing, which involves examining the evidence for and against their unrealistically negative cognitions. Clients then form theories about their behavior and learn to use selected problem solving and coping skills to replace their biased cognitions with realistic and accurate interpretations.¹¹⁴

Much of Beck's cognitive therapy explores personality therapy and subsequent treatment in ways that the ASP cannot pursue unless he wants to assume the counseling role.¹¹⁵ However, Beck's work on depression may help the ASP understand and assist students, many of whom come to the academic support program in a depressed state.¹¹⁶ The depressed person lacks coping skills, which can lead to a paralysis of will and the belief that he does not possess the resources to handle life's unfortunate events.¹¹⁷ Many students are young and often experience failure in the form of bad grades for the first time. These students, like the depressed client, may have difficulty solving problems.¹¹⁸ Like the therapist, the ASP can intervene with problem solving training, certainly academically and sometimes personally.¹¹⁹

Students should be familiar with these cognitive techniques. Beck uses Socratic dialogue to allow clients to discover cognitive distortion and misperceptions on their own.¹²⁰ In fact, Socratic dialogue, through skillful questioning, is the prominent technique in cognitive therapy.¹²¹

d. Cognitive-Behavior Modification

Cognitive-behavior modification (CBM) is based on the theory that a person's self-verbalizations affect his behavior.¹²² To effectuate behavior change, a person must interrupt her usual pattern of negative self-talk and modify the "in-

¹¹² *See id.*

¹¹³ *See id.*

¹¹⁴ *Id.* at 342.

¹¹⁵ SAPP, *supra* note 44, at 381.

¹¹⁶ Beck proposed a "cognitive triad" to explain depression. "That is, a depressed person has a negative view of the self, the world, and the future." *Id.* at 383. To elaborate further, in the first element of the cognitive triad, clients hold a negative view of themselves, blaming their setbacks on personal inadequacies rather than circumstances. COREY, *supra* note 71, at 349. In the second, clients interpret experiences negatively, selecting certain facts to conform to their negative conclusions. *Id.* In the third, clients have gloomy projections about the future, expecting more failure and disappointment. *Id.*

¹¹⁷ COREY, *supra* note 71, at 349.

¹¹⁸ *Id.*

¹¹⁹ "Problem solving-training can help the client see that there are reasonable solutions, resolutions to problems, and hope." SAPP, *supra* note 44, at 383.

¹²⁰ *Id.* at 387.

¹²¹ "Questioning is used to promote new learning, to identify and clarify problems, and to explore maladaptive cognition." *Id.* at 387.

¹²² *Id.* at 346.

structions” that she gives herself to more effectively cope with the problems she encounters.¹²³

The architect of CBM, Donald Meichenbaum, believed that behavior change resulted from an orderly three-stage process that involved the interaction of inner speech, cognitive structures,¹²⁴ behaviors and their outcomes.¹²⁵ In the first stage, self-observation, clients learn how to observe their behavior, with a focus on listening to their thoughts. In stage two, clients start a new internal dialogue, initiating a “new behavioral chain” with the goal of changing what they say to themselves. In stage three, learning new skills, the counselor uses a five-step approach to teach the client more effective coping skills.¹²⁶

Cognitive-Behavior Modification (CBM) focuses on helping the client recognize and overcome negative self-talk.¹²⁷ Many academic support students engage in negative self-talk. It may be naive to assume that years of entrenched negative self-talk can be overcome in a semester or two of academic support, but Meichenbaum’s techniques seem to have some relevance.¹²⁸

Meichenbaum begins therapy by assessing the client’s status quo.¹²⁹ He asks such questions as, “What is the client doing to cause maladaptive behavior,” “What is the client thinking that may be causing an inability to cope,” and “Are there deficits in the client’s ability to solve problems.”¹³⁰ Those questions might be an effective starting point.

e. Social Learning Theory

Social learning theory is a comprehensive theory developed by Albert Bandura that integrates cognitive-behavioral theories and social psychological theo-

¹²³ *Id.* at 347.

¹²⁴ COREY, *supra* note 71, at 347-48 (quoting DONALD MEICHENBAUM, COGNITIVE-BEHAVIOR MODIFICATION: AN INTEGRATIVE APPROACH (1977), and defining cognitive structures as “the organizing aspect of thinking, which seems to monitor and direct the choice of thoughts”).

¹²⁵ *Id.*

¹²⁶ COREY, *supra* note 71, at 348-49. The five step approach to teaching the coping skills is:

- 1) exposing clients to anxiety-provoking situations by means of role playing and imagery,
- 2) requiring clients to evaluate their anxiety level,
- 3) teaching clients to become aware of the anxiety-provoking cognitions they experience in stressful situations,
- 4) helping clients examine these thoughts by reevaluating their self-statements, and
- 5) having clients note the level of anxiety following this reevaluation.

Id. at 348.

¹²⁷ Meichenbaum discovered that clients improved when they learned to use healthy self-talk. *Id.* at 394; *see also* MEICHENBAUM, *supra* note 127. Healthier self-talk is also the process applied in the popular practice of saying affirmations. *See* SHAKTI GAWAIN, CREATIVE VISUALIZATION (1979).

¹²⁸ CBM has been applied in the effective treatment of and stress-related disorders such as test anxiety, generalized anxiety disorder, type-A behavior, headaches, and lower back pain. SAPP, *supra* note 44, at 397.

¹²⁹ *See* MEICHENBAUM, *supra* note 127.

¹³⁰ SAPP, *supra* note 44, at 394.

ries.¹³¹ Bandura's social learning theory,¹³² which is termed "modeling,"¹³³ is based on an observational learning theory that the behavior of a person or group (the model) stimulates similar thoughts, attitudes and behaviors on the part of the person who is observing.¹³⁴ As a result of observing someone the client considers successful, the client could learn to exhibit those behaviors which he strived to obtain without going through "trial-and-error learning."¹³⁵ There are three steps to observational learning under this theory. They are 1) exposure, 2) acquisition, and 3) acceptance, or the client's using the modeled behavior.¹³⁶

Modeling has three major effects. The first is that the client acquires and performs new responses or skills. The second is that the client's fear responses are inhibited because the client sees that the model does not suffer negative consequences for his behavior; in contrast, such behavior often results in positive consequences. The third effect is the "facilitation of responses" because the client can emulate the cues the model provides from his behavior.¹³⁷

The therapist/counselor uses live models, symbolic models, (such as those on film or tape) and multiple models, which often occurs when the client observes several people's successful behaviors in group therapy.¹³⁸ Clients generally have more respect for and learn more from models who are similar in age, race, sex and attitude and have a higher degree of prestige and status.¹³⁹

Social learning theory, which is centered on modeling, can, is, and should be used in academic support.¹⁴⁰ For example, exposing students to competent behavior through peer tutors or peer study groups or through the ASP is model-

¹³¹ *Id.* at 318 ("this is possibly the most comprehensive group of behavioral theories, because elements of applied behavioral analysis, neobehaviorism, and cognitive-behavioral theory are all incorporated under one domain").

¹³² See generally, e.g., ALBERT BANDURA, PRINCIPLES OF BEHAVIOR MODIFICATION (1969); see also ALBERT BANDURA, SOCIAL LEARNING THEORY (1977).

¹³³ *Id.* During the 1960s and 1970s, Bandura conducted many studies showing that humans can learn by having someone model behavior. See also ALBERT BANDURA, SOCIAL FOUNDATIONS OF THOUGHT AND ACTION: A SOCIAL COGNITIVE THEORY (1986).

¹³⁴ COREY, *supra* note 71, at 293.

¹³⁵ *Id.*

¹³⁶ SAPP, *supra* note 44, at 322.

Exposure is the first step of observational learning, the exposure of a client to a person who is modeling certain behaviors. If a client receives enough exposure to a model individual and pays close attention, he or she can recall the model's behavior. This is called *acquisition*, which is the cognitive process of observational learning. This can be measured by having a client recall the behaviors that were modeled. Acceptance is the client using those behaviors that were modeled.

Id.

¹³⁷ COREY, *supra* note 71, at 294.

¹³⁸ *Id.* (noting that therapists can be a model, and often are, even if unintended).

¹³⁹ *Id.* Hence, modeling could be a problem or could not occur in the context of an ASP director with low status, compared to faculty, or with physical characteristics that are dissimilar to the student's. However, effective modeling can occur when the model performs competently and exhibits warmth. See *id.* at 295.

¹⁴⁰ "Modeling is one of the most powerful therapeutic tools in psychotherapy." *Id.* at 323.

ing. If students see the effectiveness of certain behavior, they are more inclined to acquire and display those behaviors.¹⁴¹ However, the student must accept the peer tutor or the ASP as a model worthy of imitation for the changed behavior to occur.¹⁴²

Modeling also respects the client by recognizing that each client has a cache of skills that the therapist can modify.¹⁴³ This comports with the philosophy of most academic support programs: that the student has the skills to succeed, but that the ASP has to bring them out or modify them.¹⁴⁴ This approach is supported by the many clinical studies that have demonstrated the importance of models in shaping behavior and teaching new skills.¹⁴⁵

3. Gestalt Therapy

Frederick (Fritz) Perls and his wife developed Gestalt Therapy.¹⁴⁶ One author suggests that this form of therapy is largely discredited.¹⁴⁷ However, it was an extremely popular approach in the late 1960s and 1970s. It remains popular, and its influence is felt in other counseling theories.

The goal of Gestalt therapy is for people to become aware of what they are experiencing and doing in the here and now, and through this awareness “gain self-understanding and the knowledge that they can change.”¹⁴⁸ The Gestalt approach is phenomenological in its focus on the client’s perception of reality and existential in its foundation in the here and now.¹⁴⁹ The client’s past only becomes relevant if it is significantly related to how the client functions in the present, and even then the counselor brings the past into the present by having the client relive the past.¹⁵⁰ Key concepts in the Gestalt view are having the counselor assist the client in dealing with unfinished business,¹⁵¹ avoidance,¹⁵² layers of neurosis,¹⁵³ contact,¹⁵⁴ resistances to contact,¹⁵⁵ energy and blocks to energy.¹⁵⁶

¹⁴¹ COREY, *supra* note 71, at 294.

¹⁴² “If one views observational learning as imitation, steps one and two are necessary-but not sufficient-to bring about imitation. Therefore, for imitation to occur, the client must accept the therapist as a model.” *Id.*

¹⁴³ *Id.*

¹⁴⁴ Phrased differently, modeling can be used to facilitate “self-enhancing behaviors” in clients. *Id.*

¹⁴⁵ SAPP, *supra* note 44, at 177. Social learning theory has been called “probably the most comprehensive behavioral theory – especially Bandura’s theory.” *Id.* at 325.

¹⁴⁶ DONALD J. TOSL, THEORIES AND APPLICATIONS OF COUNSELING 125-26 (1987).

¹⁴⁷ SAPP, *supra* note 44, at 489 (suggesting that Gestalt therapy was declining in heuristic value since it is not cited as frequently in professional journals as “its cousin,” transactional analysis, and that it was not included in a major text in the field, RAYMOND J. CORSINI & DANNY WEDDING, CURRENT PSYCHOTHERAPIES (1995)).

¹⁴⁸ COREY, *supra* note 71, at 224.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.* at 226.

¹⁵¹ *Id.* at 226-28 (explaining that unfinished business is conceptualized around unexpressed feelings such as resentment, rage, hatred, pain, anxiety, grief, guilt, and abandonment that are associated with distinct memories and fantasies. The unfinished business hovers in the background and is carried into the present in ways that interfere with a person’s interactions with self and others).

The therapist will pay attention to the client's body language, which Perls believed "tell the real story," and point out incongruities between body language and the client's verbally expressed feelings.¹⁵⁷ The therapist also attends to the client's language patterns, helping clients become more aware of what they are experiencing in the here and now and how they are avoiding contacting those present feelings.¹⁵⁸

To assist their client's growth, Gestalt therapists use a variety of preplanned exercises designed to evoke certain emotions and experiments, which are techniques that grow out of the individual client-counselor interaction.¹⁵⁹ Confrontation is a key part of most Gestalt techniques.¹⁶⁰ Through confrontation, counselors assist clients in examining the incongruities in their behaviors, attitudes and thoughts.¹⁶¹

¹⁵² *Id.* at 228. Avoidance is what people do or "use to keep . . . from facing unfinished business and . . . experiencing the uncomfortable emotions associated with unfinished situations." COREY, *supra* note 71, at 228.

¹⁵³ *Id.* at 228-29. Perls believed that adults had five layers of neuroses that had to be peeled off to enable the person to attain psychological maturity. *Id.* The layers are 1) the phony, in which a person "react[s] to others in stereotypical and inauthentic ways"; 2) the phobic, in which the person "attempt[s] to avoid the emotional pain that is associated with seeing aspects of [himself] that [he] would prefer to deny; 3) the impasse, "or the point where we are stuck" because we do not feel that we have the resources to move beyond it; 4) the implosive, in which we "fully experience our deadness," expose defenses and finally contact our genuine selves; to 5) the explosive layer, where a person lets go of phony roles and the resultant energy drain to release a tremendous amount of energy. *Id.*

¹⁵⁴ *Id.* at 229-30. Contact means making effective contact with the environment and people without losing one's individuality. COREY, *supra* note 71, at 229.

¹⁵⁵ *Id.* at 229. Five major channels of resistance that are challenged in Gestalt therapy are 1) introjection, which "is the tendency to uncritically accept others' beliefs and standards without assimilating them to make them congruent with who we are"; 2) projection, "the reverse of introjection," where "we disown certain aspects of ourselves by assigning them to the environment"; 3) retroflection, which involves "turning back to ourselves what we would like to do to someone else or doing to ourselves what we would like someone else to do to us"; 4) deflection, which "is the process of distraction so that it is difficult to maintain a sustained sense of contact"; and 5) confluence, which "involves a blurring of awareness of the differentiation between the self and the environment." *Id.* at 229-30.

¹⁵⁶ *Id.* at 231 ("Blocked energy is another form of resistance. It can be manifested by tension in some part of the body, by posture, by keeping one's body tight and closed, by looking away from people when speaking as a way to avoid contact, and by speaking with a restricted voice, to mention only a few").

¹⁵⁷ *Id.* at 233.

¹⁵⁸ *Id.* at 233. Gestalt counselors are taught to focus on such incongruent or less than authentic language as "It" talk, where clients say "it" when they really mean "I"; "You" talk, where clients also say "you" when they really mean "I"; questions, behind which the counselor does not let the client hide, and which the counselor has the client turn into statements; language that denies power, such as "but," "sort of," "I guess," "I can not." COREY, *supra* note 71, at 233-34. In addition, counselors are taught to listen to a client's metaphors to get insight into the client's internal struggles, and to listen for language that uncovers a story, such as picking out the small cues or pregnant pauses and developing them. *Id.* at 234-35.

¹⁵⁹ *Id.* at 241-46.

¹⁶⁰ *See id.* at 240-41.

¹⁶¹ *Id.*

The academic support professional can learn from the Gestalt therapist's goal of helping clients become aware of and understand their here-and-now feelings and confronting clients with their incongruities in behavior, attitudes and thoughts to help them grow.¹⁶² Sometimes, the academic support student does not want to confront the reality of the causes of his poor performance. Students often believe that they just have to study harder, not differently, and that they do not need academic support assistance to reach their goals. Often, these students are in denial as to the causes of their poor performance and what they need to do to rectify it. These students may be very defensive about having been referred to the ASP or required to participate in academic support programs.

The ASP knows that she has techniques that can help the student improve. To convince the student of that, the ASP may have to pay attention to the student's incongruent language and observe his body language, which may reveal true feelings of vulnerability and anxiousness, as opposed to verbally expressed feelings of confidence in his plan for self-improvement. The ASP may have to confront the student with his inconsistencies to get him to face them and take a different approach. Even though it may be uncomfortable, the competent and committed ASP will attempt to reach the difficult or recalcitrant student because she knows that she has something to offer him. By honestly working with a student, the ASP can assist him in attaining psychological maturity.¹⁶³ This psychological maturity will translate to a mature approach to academic improvement.

4. Transactional Analysis

Transactional Analysis (TA) is a framework for analyzing the transactions between people and within a person based on Eric Berne's concept of the parent, adult and child ego states.¹⁶⁴ The goal of transactional analysis is "to help clients make new decisions about current behavior and to take charge of their lives."¹⁶⁵ TA is distinguished from other approaches in that the client develops a contract that states the goals and direction of the therapeutic process.¹⁶⁶

The essence of TA is that children grow up with injunctions, or messages that parents give to the child out of the parent's internal child, who forms those messages based on the parent's own pain, anxiety, anger, frustration and unhappiness.¹⁶⁷ Children make early decisions as to the type of people they will be based on these injunctions.¹⁶⁸ The child makes these decisions with the goal of receiving parental strokes, which include recognition, attention, and attention to the child's basic survival.¹⁶⁹ To support these early decisions, people develop and play games, which are transactions that can end with negative psychological

¹⁶² COREY, *supra* note 71, at 222-53.

¹⁶³ See *supra* note 156 for a discussion of the five layers of neuroses.

¹⁶⁴ SAPP, *supra* note 44, at 417.

¹⁶⁵ *Id.* at 433.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.* at 425-26.

¹⁶⁸ *Id.* at 425.

¹⁶⁹ See SAPP, *supra* note 44, at 425.

results for at least one player and which are designed to prevent intimacy.¹⁷⁰ After a game, a person feels and retains unpleasant feelings, which are called rackets.¹⁷¹ All of these combine to create a person's life script, which includes incorporated parental messages, early decisions made in response to those injunctions, games played to maintain the early decisions, rackets experienced to justify decisions, and the expectations a person has of how his life script will be played out.¹⁷² A goal of therapy is to help clients make specific decisions to alter an ineffective life script.¹⁷³

Academic support professionals can learn philosophies and techniques from TA, but cannot truly apply the theory because of its time-intensive nature and emphasis on the client's childhood, background, ways of interacting with others, and the "games" he plays.¹⁷⁴ One aspect of Berne's TA is very valuable-his assumption that people are ultimately responsible for their own life decisions.¹⁷⁵ In counseling, clients take responsibility and ownership for their problems and must take constructive action toward the resolution of their difficulties.¹⁷⁶ This is what the competent ASP suggests that her students do, and this is what the successful ones are willing to do.

Also, academic support programs might apply the TA concept of the client establishing a contract specifying the objectives of the therapeutic relationship, what the client will do to obtain those objectives, and the criteria that both will use to determine whether those goals have been met.¹⁷⁷ The client and therapist do not go beyond the contract, so the relationship is defined. A contract would establish the foundation of the academic support relationship with specificity, which might be what the discouraged student is looking for.

The contract also makes the client responsible for his progress and indicates a willingness to change by doing, not just trying.¹⁷⁸ That comports with one of the goals of academic support, which is that the student take responsibility and become a successful independent learner. In TA, the client and therapist may design experiments for use in therapy sessions and in real life.¹⁷⁹ Clients experiment with new ways of behavior and can determine whether they want to adopt a new approach.¹⁸⁰ The client and the therapist become allies and work together to help the client reach his goals.¹⁸¹ Not every academic support student considers

¹⁷⁰ *Id.* at 423-24.

¹⁷¹ *Id.* at 424.

¹⁷² *See id.* at 417-19.

¹⁷³ *See id.* at 433.

¹⁷⁴ *See* ERIC BERNE, *TRANSACTIONAL ANALYSIS IN PSYCHOTHERAPY* (1961) (outlining and describing the approach. Berne's approach is the basis for many psychology terms that have made it into popular jargon: games, strokes, "I'm OK, You're OK," and rackets). *SAPP, supra* note 44, at 416-435.

¹⁷⁵ BERNE, *supra* note 177.

¹⁷⁶ *SAPP, supra* note 44, at 433.

¹⁷⁷ *Id.* at 432.

¹⁷⁸ *Id.* at 427-433 (a discussion of various therapeutic approaches to TA).

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *SAPP, supra* note 44, at 73.

the ASP an ally, particularly if the program is mandatory. This might help alleviate some of the problems associated with that approach by having the student write down and commit to certain goals.

5. Brief Therapy

Brief therapy is not a distinct therapeutic approach.¹⁸² Brief therapists use any number of therapeutic techniques.¹⁸³ Brief therapy is a relatively new approach to therapy, adapted in recent years in response to insurer's attempts to limit health care costs.¹⁸⁴ Counselors are more directive in planning the sessions, and they are more effective with clients expressing definite complaints.¹⁸⁵ While brief therapists establish the goal of reducing symptoms and restoring functioning, clients often need to return periodically for counseling because the brief therapy did not result in long-term gain.¹⁸⁶ However, other research supports the effectiveness of brief therapeutic approaches.¹⁸⁷

Much of what the ASP does and can do with her students is, by its nature, brief. Time or circumstance may only result in a few meetings with individual students. Many of the counseling techniques covered previously can be used in a direct, active and brief manner, particularly the cognitive approaches, and can be quite effective.¹⁸⁸ Research has demonstrated that even one counseling session can be effective.¹⁸⁹ Several techniques have been identified to make the most of a single session with a client.¹⁹⁰ The ASP should be mindful of some of these techniques in any single session with a student, especially an initial session, for although the ASP may plan for several sessions with a student, he may terminate after one. Those techniques are: be prudently active, encourage the expression of

¹⁸² MEIER & DAVIS, *supra* note 39, at 81.

¹⁸³ *Id.*

¹⁸⁴ *Id.* Many HMOs limit mental health benefits to 25 sessions. See Aetna US HealthCare benefits manual at 13.

¹⁸⁵ MEIER & DAVIS, *supra* note 39, at 81.

¹⁸⁶ *Id.* Although a recent survey showed that length of therapy positively correlated with improvement, research on the number of counseling sessions required to be effective has been inconclusive. See *Does Therapy Help?* 60 CONSUMER REPORTS 734-39 (Nov. 1995).

¹⁸⁷ See SIMON H. BUDMAN, ED., FORMS OF BRIEF THERAPY, (1981); JOHN J. MURPHY & BARRY L. DUNCAN, BRIEF INTERVENTIONS FOR SCHOOL PROBLEMS (1997).

¹⁸⁸ See MEIER & DAVIS, *supra* note 39, at 81.

¹⁸⁹ The effectiveness of the single-session therapy has been documented. See Bernard L. Bloom, *Focused Single-Session Therapy: Initial Development and Evaluation*, in FORMS OF BRIEF THERAPY (Simon H. Budman ed., 1981). Some patients who terminated therapy after one session, called "dropouts" by mental health professionals, were in fact satisfied with the results of the single session. *Id.* at 169. "Clients described themselves as serious, in need of answers to questions, and desirous of an opportunity to express their emotions and resolve their problems. Furthermore, they tended to see the therapist as providing just what they needed." *Id.* The author notes that social workers have long successfully worked with the "short-contact case," defined as a client with only one planned intake appointment but follow-up phone calls and letters. *Id.*

¹⁹⁰ *Id.* at 183-91.

affect, use the interview to start a problem-solving process, do not be overambitious, do not overestimate a student's self-awareness.¹⁹¹

6. Group Counseling

Group counseling is merely an approach where the therapist works with a group of individuals applying any type or combination of therapeutic approaches.¹⁹² There are tremendous benefits to be gained from group counseling. The members of the group benefit from interactions with each other, and the group leader/facilitator benefits from working with more than one client at a time.¹⁹³ Group counseling is not a theory and approach in itself; counselors run their groups according to the principles of the different therapeutic approaches already described in this article.¹⁹⁴

Group counseling with a therapeutic approach has particularized goals.¹⁹⁵ These goals also correlate with the goals of some academic support services. People in groups, such as study groups or small classes, generally feel more supported, more free to express themselves, and more invested in the outcomes.¹⁹⁶

C. Is There a Pedagogical Reason for Counseling?

The creators of many of the counseling theories discussed in this paper have recognized that those theories have a great deal of pedagogical value and have written about how their theories can be applied in the classroom to help students learn. Some even went so far as establishing their own schools based on the application of their theories. Elementary and secondary level educators have seen the pedagogical value of these theories and have been applying them in the classroom, some for fifty years or more.¹⁹⁷ Psychology influences how people learn, and since the counseling theories have a psychological base, the relationship between counseling and effective pedagogy becomes clear. The pedagogical value of various counseling theories and techniques are described below.¹⁹⁸ Section C of this article builds on the pedagogical analysis and application of these techniques and discusses the counseling theories that are most suitable for academic support programs and how they can help law students.

¹⁹¹ See Bernard L. Bloom, *Focused Single-Session Therapy: Initial Development and Evaluation*, in FORMS OF BRIEF THERAPY 169 (Simon H. Budman ed., 1981).

¹⁹² MEIER & DAVIS, *supra* note 39, at 79.

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ See JOHN VRIEND & WAYNE DYER, COUNSELING EFFECTIVELY IN GROUPS (1973); see also GERARD EGAN, FACE TO FACE: THE SMALL GROUP EXPERIENCE AND INTERPERSONAL GROWTH 19-31 (1973).

¹⁹⁶ Lustbader, *supra* note 1, at 853-54.. Some students may object to group processes for reasons of confidentiality and embarrassment about their academic standing.

¹⁹⁷ See generally H. THOMPSON PROUT & DOUGLAS T. BROWN, COUNSELING AND PSYCHOTHERAPY WITH CHILDREN AND ADOLESCENTS (3d ed. 1999).

¹⁹⁸ Much of the material discussed concerns the application of these theories in elementary and secondary schools, but understanding these theories, hypotheses and conclusions are useful in laying the foundation for how the pedagogical value of these theories applies to academic support.

1. Person-Centered Counseling

The pedagogical value of person-centered counseling to academic support is that both are focused on helping the student become a successful independent learner. The principal theory in the application of person-centered counseling to education is that the educator cannot teach or instruct students, but can only facilitate their learning.¹⁹⁹ In his books, Carl Rogers established that applying person-centered counseling techniques can give the student freedom to learn.²⁰⁰ The function of the person-centered counselor is to create an atmosphere in which the client can explore, locate, and implement the answers he has within.²⁰¹ Similarly, the person-centered educator creates a freeing atmosphere where the student can explore, locate, and feel free to learn. Rogers' belief was that giving students freedom to learn would help them set their own goals and decide how they wanted to reach them.²⁰² Teachers can assist students by providing many resources inside and outside of the classroom. For instance, teachers can use learning contracts, help students conduct their own inquiries and make their own discoveries, use simulation activities for experiential learning, use programmed instruction when students wanted to learn more efficiently, and have students evaluate themselves.²⁰³

During the 1960s and 1970s, humanistic person-centered educators, with views similar to Rogers', sought more democratic learning climates for students.²⁰⁴ Such climates were consistent with their beliefs in the drive toward innate human growth, health, and self-actualization.²⁰⁵ Educators with this mindset felt that the curriculum should include an affective component and that students should be helped toward self-awareness, self-understanding, and self-responsibility.²⁰⁶ These educators advanced pedagogical goals of fostering creativity, divergent thinking, inquiry learning, and problem-solving while promoting a respect for the uniqueness of student perceptions, values, feelings and beliefs.²⁰⁷ Although the "back-to-basics" movement in education has been influential, the humanistic person-centered influence continues to be felt.²⁰⁸ Indeed, many of its pedagogical goals are found in contemporary academic support programs.

¹⁹⁹ Rogers was interested only in "facilitating the process of learning for individuals, not in teaching or instructing them." PROUT & BROWN, *supra* note 200, at 118-19.

²⁰⁰ Rogers authored two books detailing the client-or-person-centered approach to education. CARL ROGERS, *FREEDOM TO LEARN* (1969); CARL ROGERS, *FREEDOM TO LEARN FOR THE 80S* (1983).

²⁰¹ ROGERS, *FREEDOM TO LEARN FOR THE 80S*, *supra* note 203, at 54.

²⁰² PROUT & BROWN, *supra* note 200, at 179.

²⁰³ *Id.*

²⁰⁴ *Id.* at 260-66.

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ PROUT & BROWN, *supra* note 200, at 260-66.

²⁰⁸ Person-centered counselors have influenced curriculum in elementary and middle schools in at least 4 ways:

- 1) By encouraging teachers to incorporate regularly within the school day opportunities for students to explore their feelings, beliefs, values, and attitudes

2. Behavioral Approaches

The pedagogical value of the behavioral approaches to academic support is that these techniques can help students learn the skills and behaviors that other students have found successful. Educators have applied behavior strategies to help students unlearn ill-wanted behavior and learn wanted behavior, especially through modeling.²⁰⁹ Many of the behavioral approaches have been applied pedagogically to behavior in the classroom by establishing precise learning strategies and measures for children. Other approaches have been used to develop and implement problem-solving curriculums for elementary and middle school students.²¹⁰

3. Rational Emotive Therapy

The pedagogical value of rational emotive therapy to academic support is the application of its techniques to help students discard irrational beliefs, such as low grades one semester meaning low grades throughout law school. By adopting rational alternatives, such as an understanding and the application of different study skills, the student's grades can improve. From 1971-75, the Institute for Advanced Study in Rational Psychotherapy, which was established by rational emotive therapy (RET) architect Albert Ellis, ran an elementary school with a curriculum that taught rational thinking as a preventive mental health program along with the standard academic subjects.²¹¹ Staff developed exercises and classroom activities to teach various thinking skills, and this resulted in syllabi that teachers, guidance counselors, and therapists have used to educate children and improve their learning capacities.²¹² Many of these exercises had great utility in group settings.²¹³

through planned activities or by taking advantage of spontaneous opportunities during regular content instruction.

2) by compiling and demonstrating affective programs and materials for use in the classroom to complement the cognitive learnings.

3) by actually conducting classroom guidance activities on a regular basis.

4) by helping teachers conduct classroom meetings . . . where children can communicate openly and honestly and develop personal responsibility.

Id.

²⁰⁹ *Id.* at 229-30.

²¹⁰ PROUT & BROWN, *supra* note 200, at 230.

²¹¹ *Id.* at 277. Ellis considered RET to be a psychoeducational procedure that can be taught to people in workshops, classrooms and groups. *Id.*

²¹² See, e.g., DR. ANN VERNON, THE THINKING, FEELING AND BEHAVING CLASSROOM/GROUP MANUALS (1989).

These syllabi focus on specific emotional problems children have and lessons that teach the following skills: a) developing critical thinking skills, b) distinguishing between thoughts and feelings, c) distinguishing between opinions, facts, and hypotheses, d) linking thoughts and feelings, the B arrow C connection, e) identifying ideas that lead to emotional upset, f) distinguishing between rational and irrational beliefs, g) challenging irrational beliefs, and h) specific modules on self-worth versus self-esteem, low frustration tolerance, demandingness, and catastrophizing.

4. Other Theories

Other counseling theories have been applied pedagogically in elementary and secondary education. However, their value to contemporary academic support programs seems limited. For example, Sigmund Freud was quite interested in the application of psychoanalysis to the education of children. He challenged psychoanalysts to apply those theories to education as one of the most important activities in which they could engage.²¹⁴ Although reality therapy is not mentioned in the list of the most well-known counseling techniques,²¹⁵ its founder, William Glasser, was quite interested in its application to education and authored several books on the subject.²¹⁶ Reality therapy remains a popular approach for school counselors and teachers.²¹⁷

Adlerian theory is not one of the major counseling theories discussed separately in this article.²¹⁸ However, it deserves brief mention in this section because in contemporary education, Adlerian principles are a frequent staple of K-12 classroom discipline and behavior management,²¹⁹ as well as pedagogy, through such techniques as cooperative learning and group problem solving.

PROUT & BROWN, *supra* note 200, at 277. The most comprehensive educational RET program is Dr. Michael Bernard's "You Can Do It." *Id.* at 278. He also developed an RET stress management program for teachers. *Id.*

²¹³ PROUT & BROWN, *supra* note 200, at 277.

²¹⁴ "Perhaps the most important of all the activities of which I am thinking is the application of psychoanalysis to education, the upbringing of the next generation. It is time for us as psychoanalysts to concern ourselves with this goal." SIGMUND FREUD, *NEW INTRODUCTORY LECTURES ON PSYCHOANALYSIS* 146 (James Strachey ed. & trans., Norton Press 1965) (1933); PROUT & BROWN, *supra* note 200, at 94. Interested psychoanalysts were led by Anna Freud who, in 1952, published a series of papers to educate parents and teachers on how to handle children's anxieties and psychic conflicts to allow them to learn freely. Classical psychoanalysts focused on how to apply their techniques to influence student's learning problems. Other, similar theoreticians in that school viewed learning problems as a "deficit in self-esteem" brought about by a neurotic conflict in the development of self. However, the pedagogical value of the psychoanalytical approach has been questioned. A criticism is that due to its lengthy, time-intensive methods, it is too costly and inaccessible for most teachers and students. Another question as to the pedagogical value of psychoanalysis is that psychoanalysis focuses on the emotional component of learning and learning difficulties while ignoring the cognitive aspect of learning, which is the focus of education.

²¹⁵ *But see* Avery Zook II & Joseph M. Walton, *Theoretical Orientations and Work Settings of Clinical and Counseling Psychologists: A Current Perspective*, 20 *PROF. PSYCHOL.: RES. & PRAC.* 1, 23-25 (1989). The authors reported the therapeutic orientations of 201 counseling psychologists who responded to a survey as follows, in order of popularity of their theoretical approach: Person-centered, 25.9%; Cognitive-behavioral, 22.4%; psychodynamic, 12.4%; rational-emotive, 6.5%; behavioral, 5%; Gestalt, 5%; humanistic, 3.5%; systems, 3.5%; psychoanalytic, 3%; reality, 3%; existential, 2.5%; social learning, 2%; transactional analysis, 1%; other, 4.5%. *Id.*

²¹⁶ *See, e.g.*, WILLIAM GLASSER, *SCHOOLS WITHOUT FAILURE* (1969); WILLIAM GLASSER, *CONTROL THEORY IN THE CLASSROOM* (1986); WILLIAM GLASSER, *THE QUALITY SCHOOL* (1990).

²¹⁷ COREY, *supra* note 71, at 260.

²¹⁸ *But see id.* at 133-66, for a discussion of Adlerian theory and Eric Adler's contributions to the field. One of Eric Adler's greatest contributions to helping teachers and parents help students establish an environment for effective learning by better understanding child and adolescent behavior was the establishment of Child Guidance clinics. *Id.* at 133.

²¹⁹ *Id.* at 154. This is since the publication of DREIKURS, *PSYCHOLOGY IN THE CLASSROOM* (1957). Educators have applied Adlerian principles to enhance pedagogy by promoting a sense of belong-

The pedagogical value of counseling theories to K-12 education is well-documented. The question remains whether this value can be transferred to law school generally and academic support programs in particular.

IV. THE INTERSECTION OF COUNSELING AND ACADEMIC SUPPORT

A. Does Counseling Foster Academic Support?

Counseling fosters academic support because the aims of both are similar. Consider the following explanation of the aims of the counseling profession proposed by several counseling theorists: “[t]he counseling profession’s main reason for existence, (like other helping professions such as social work, psychiatry and clinical psychology) is to try to help people make some sense out of the confusion, anxiety and stresses of our time and to offer, as well, some reasonable solutions and perspectives.”²²⁰ Academic support could be listed as one of the helping professions. The preceding definition could be aptly applied to academic support programs with a few modifications, as follows: “[t]he [academic support] profession’s main reason for existence (like other helping professions...) is to try to help [law students] make some sense out of the confusion, anxiety and stresses of [law school] and to offer, as well, some reasonable solutions and perspectives.”

Counselors apply all the counseling theories and practices described herein to help their clients make sense out of and improve their lives. Some of these theories and practices can help the ASP help students do the same. In fact, elements of counseling theory, whether intentionally or instinctively, named or not, are often present in academic support programs.²²¹

Some of the common elements of law school academic support programs are: 1) individual meetings with the student to assess the reasons for poor past performance; 2) a plan of intervention to help the student improve; 3) small classes, often with similarly situated students, and with individualized attention; 4) study skills workshops focusing on strategies that students can apply to succeed, such as critical reading, outlining, exam-taking skills, time and stress management, and briefing; 5) respect for students’ varied learning styles; 6) involvement of peers, either as tutors or as leaders of sponsored study-groups; 7) orientation or

ing, cooperation, empathy and sensitivity toward others. These goals have been advanced through several techniques. Some of these include class discussions, which consist of regularly scheduled teacher-facilitated student meetings that emphasize mutual support, encouragement, decision making, and effective communication; community service, and conflict resolution. Others are cooperative learning, in which small, diverse groups of students assist one another in classroom learning activities with group and individual accountability for progress; and group problem-solving, focusing on innovative planning, task performance, and peer tutoring.

²²⁰ Tosi, *supra* note 149, at 4.

²²¹ Perhaps this is because ASPs have always looked to other fields for information to help them do their jobs. “By recognizing the diversity within students and responding to this diversity, [ASPs] have, by necessity, gone beyond traditional law teaching to apply theories of learning from educational psychology and other related fields.” Peters, *supra* note 1, at 868.

supportive programs for minority students, either to provide social or academic support.²²² Many of the elements are similar to frequently applied counseling techniques. The following discussion illustrates the commonalities.

1. Initial Student Interview

If the student seeks out the ASP director for assistance, the director must first elicit from the student his concerns, needs and problems, whether perceived or actual. This is the most important meeting that the ASP has with the student because it sets the tone for further interactions. At its conclusion, the student will either respect the ASP and her suggestions for assistance, or view the meeting as an exercise in futility and reject the ASP. Almost every counseling theory gives great weight to the value of the initial client interview or first client contact and provides practitioners with skills, roadmaps and techniques to make that initial contact successful.²²³ The initial client contact in counseling sets a tone and is a source of honest and abundant information about the client and his concerns.

2. A Plan of Intervention

The plan of intervention that the ASP develops correlates with the therapeutic approach that the counselor decides to apply. The ASP provides the student with suggestions as to the type of interventions and strategies that will help her achieve her goals. The counselor has evaluated various counseling theories to determine which theory and its techniques would be most helpful to the client. The counselor either uses one technique on a consistent basis, such as billing oneself as a Gestalt counselor, or he utilizes the techniques from a variety of counseling theories. Several counseling theories call for giving the client strategies to try to improve her situation, empirically validated approaches that have worked for clients in the past and that the counselor assumes will work for that client.²²⁴ Similarly, the ASP evaluates various approaches that have been applied to help students handle law school and achieve success. The ASP then makes an informed choice as to what techniques might help the student who presents herself with particularized concerns.

3. Small Classes

Often in academic support programs, small groups of students, similarly situated in terms of grade point average or class rank, are either required or encouraged to enroll in certain classes. These classes, focusing on substantive course material like property, or analytical course material, like Legal Method, may be conducted in a form of direct instruction with lectures or Socratic dia-

²²² See Knaplund & Sander, *supra* note 1 (providing an analysis of UCLA's academic support program).

²²³ Success is defined as revealing enough information to establish the client's trust and begin the development of the intervention.

²²⁴ Counseling approaches vary in whether the counselor actively recommends strategies or interventions for the client. For comparisons of the level of counselor-planned interventions related to the counseling therapies discussed in this article, see SAPP, *supra* note 44, at 5 – 9.

logue. Sometimes there may be interaction between the students in class in the form of small group assignments, in or out of class, or discussions and study groups, either led by the ASP or a student.

Small, heterogeneous, groups in an academic setting can be likened to group therapy.²²⁵ In group therapy people meet in small, face-to-face, groups to interact with and receive feedback from each other in ways that are proven to develop a number of positive human relations skills. People in small groups learn from each other and help each other grow and learn.²²⁶ The pedagogical value of the small classes is that students in small classes learn from each other.²²⁷ In group therapy, the group leader or facilitator recognizes the dynamics of the group and facilitates their growth. In an academic setting, the ASP does the same.

4. Study Skills Workshops

These workshops are the best correlates to an active counselor therapeutic approach. The ASP relates to students that certain study skills have proven to be effective, encourages the students to apply those skills and determine whether they are an effective means of facilitating the student's academic growth.²²⁸ The counselor who adopts an active, directed therapeutic approach essentially relates to clients what techniques have worked in the past and educates the client on how to apply those techniques in her life. Counselors facilitate group therapy sessions because they understand that people in small groups learn from each other.

5. Respect for Learning Styles

This involves accepting the student where he is, building on his strengths, recognizing and respecting what he can or cannot do, and allowing the student to achieve success his way.²²⁹ Some academic support programs use a popular counseling tool, the Myers-Briggs Type Indicator, to help students assess themselves and validate their approaches to life and learning.²³⁰ Respect for learning styles recognizes that there are different ways to achieve the same result. The ASP, like the counselor, is patient in helping students achieve their goals, but assists in leading the way.

²²⁵ See generally GERARD EGAN, *FACE TO FACE: THE SMALL GROUP EXPERIENCE AND INTERPERSONAL GROWTH* (1973).

²²⁶ *Id.* at 8. See also VACC & LOESCH, *supra* note 9, at 65-68. "With group counseling, group members learn to accept responsibility for helping others within the group as well as themselves. . . . In this perspective, productive change can take place within individuals as a result of the behavior of the individual, the group counselor, and the other group members." *Id.* at 67.

²²⁷ Students in small classes get to know each other. They often feel more comfortable with the other students and support each other. They often feel more free to participate in class and receive more individualized attention. See Lustbader, *supra* note 1, at 839, 853-4.

²²⁸ See Peters, *supra* note 1 (for components of a program).

²²⁹ Stropus, *supra* note 3, at 483.

²³⁰ See Randall, *supra* note 31.

6. Involvement of Peers

Somewhat like the group therapy experience, the literature shows that similarly situated people can learn from each other and that some people learn more effectively from people who are more like them.²³¹ Most students who work as peer tutors or study group leaders are closer in age to other students, or at least, closer in experience. That can make them more effective in reaching the academic support student than the ASP.

7. Minority Programs

These programs, again, recognize the value of the group and peer experience.²³² They also recognize issues of adjustment, acceptance, and belonging.²³³ These are critical concerns that are addressed in most counseling approaches.

Given that there already is an intersection between ASP and counseling, an issue remains as to whether more is appropriate. The balance of this article will examine whether traditional counseling approaches can be applied to help the academic support student.

D. Consultation with Counseling Professionals as an Alternative to the ASP Applying Counseling Theory and Practice

The best choice for the ASP may be to leave the counseling to the university counseling service, if one exists, as it does in most universities. These counseling centers, staffed by professional counselors, help students with personal and academic issues. The counseling center staff can assist law students through the traditional one-on-one counselor/counseee (or client) relationship.²³⁴ Ideally, when a student works with counseling center staff, the ASP's job is simplified

²³¹ See NEAL A. WHITMAN, PEER TEACHING: TO TEACH IS TO LEARN TWICE (1988).

²³² They also recognize the value of smaller groups as minorities in law school are generally small groups, and even declining in recent years. See Leslie Yalof Garfield, *Squaring Affirmative Action Admissions Policies with Federal Judicial Guidelines: A Model for the Twenty-First Century*, 22 J. C. & U. L. 895 (1996). "Responding to affirmative action setbacks that have vastly reduced minority representation in some states' entering law school classes . . . 140 U.S. law schools are participating in National Minority Law Student Recruitment Month." National Minority Law Student Recruitment Month, <http://www.lsac.org/changing-news.asp> (Feb. 2001).

²³³ Several counseling theorists believe that issues of acceptance and inclusion are causes of client's failure to achieve his goals. See TOSI, *supra* note ___ at 107, 108 and 142. Minority programs typically are designed, at least in part, to help diverse students feel more comfortable in law schools and, hence, to perform better. See Charles L. Finke, *Affirmative Action in Law School Academic Support Programs*, 39 J. Legal Educ. 55 (1989); Kevin Deasey, *Enabling Black Students to Realize Their Potential in Law School*, 16 T. Marshall L. Rev. 547 (1991); Slotkin, *supra* note 27.

²³⁴ Lanning acknowledges that the university counseling center counselors "have been trained to work effectively in a counseling relationship but know little or nothing about a consulting relationship." Wayne Lanning, *An Expanded View of Consultation for Colleges and Community Counseling Center*, 15 J. C. STUDENT PERSONNEL 175 (May 1974). While acknowledging this deficiency, he also acknowledges that the counselors can be trained to act as consultants and that the value of the university counseling center is strengthened if counselors expand their roles to assist faculty, academic department heads and administrators, besides those "care-givers" within the university system who have a counseling or quasi-counseling relationship with students. *Id.* at 171-76.

because the ASP can work with the student on academic issues alone. However, this cleanly divided scenario is possible only if the student seeks counseling, and many will not.²³⁵

Should the student resist formal counseling, the ASP can still bring some of the benefits of the counseling staff's wisdom and advice to the student through consultations with the counseling center staff to assist the ASP in developing programs that meet the law student's particularized needs. Researchers have advocated such an approach at the undergraduate level,²³⁶ and elementary and secondary school counselors have long identified consultation, or indirect services to individuals, as one of the three primary responsibilities of the school counselor.²³⁷ As part of the consultation process, the consultant, in this context, the counseling center staff, assists the consultee, here, the ASP, with the goal of either "promoting changes in the consultee's behavior that will, in turn, affect the client, or to alter situational variables," such as the curriculum or physical environment to help students adjust to the school environment.²³⁸

If there is no campus counseling center, such as in a stand-alone law school, the ASP should establish relationships with area counselors or counseling centers to refer students in need.²³⁹ These counselors also could provide consultation services to the ASP. In any event, the ASP must acknowledge that he will be the person that some students seek when they need counseling and be prepared to meet those students' needs.

²³⁵ Various studies of college students have revealed student resistance to seeking counseling through the university counseling service. Some of the research has shown that women are more likely to seek counseling than men and that the likelihood of seeking counseling was related to the type of counseling theory that the counselor followed. See Warren R. Rule & Gerald L. Gandez, *A Thirteen-Year Comparison in Patterns of Attitudes Toward Counseling*, 29(115) *ADOLESCENCE* 575-89 (1994). Some of the research shows African Americans, Asian Americans, Hispanic Americans, and Native Americans were less likely to seek counseling than European Americans. See Jacques M. A. Okonji et al., *Preferred Style and Ethnicity of Counselors by African American Males*, 22 *J. BLACK PSYCH.* 3, 330 (1996).

²³⁶ See C. Dean Miller et al., *Learning Approaches and Motives: Male and Female Differences and Implications for Learning Assistance Programs*, 31 *J. C. STUDENT DEV.* 147-54 (1990).

²³⁷ See Association for Counselor Education and Supervision, Joint Committee on the Elementary School Counselor (1966). The other responsibilities are counseling, or direct services to clients, and coordination. See Donald J. Dickinson & Steven P. Bradshaw, *Multiplying Effectiveness: Combining Consultation with Counseling*, *THE SCHOOL COUNSELOR* 118 (November 1992).

²³⁸ *Id.* Perhaps university counselors can advise law schools on how to make curriculum or teaching methods more adaptive and responsive to varied student learning styles and needs, and even on what type of classroom design and environment best facilitates learning. However, just as some teachers give more weight to the views of school counselors with prior teaching experience, law school faculty and administrators may not respect the views of those without law school teaching experience, or at least a J.D. See generally Christopher J. Quarto, *Teachers' Perceptions of School Counselors With and Without Teaching Experience*, 2:5 *ASCA: PROFESSIONAL SCHOOL COUNSELING* 378-83 (1999).

²³⁹ See Glesner, *supra* note 11, at 666.

V. CONCLUSION

The academic support student needs assistance in adjusting to law school and its academic demands. The academic support professional must determine the student's needs and design a program that will meet them. Through the application of counseling theory and practice, the counseling profession has helped people adjust to confusion and provide reasonable solutions and perspectives. Elementary, secondary, and undergraduate educators have recognized the pedagogical value of elements of various counseling theories in providing their students with freedom to effectively learn. Many of the useful elements of counseling theory and practice are already in place in law school academic support programs.

There are many elements of counseling theory and practice that can be applied in academic support programs. The academic support professional who is examining methods to apply or programs to design to help students achieve could consider counseling theory as one source of ideas, inspiration, and methodology. If "knowledge is power" an examination of counseling theory and practice can enhance the academic support professional as a powerful resource for optimum student academic achievement.