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From Simon Cowell to Tim Gunn:

What Reality Television Can Teach Us About How to Critique Our Students' Work Effectively

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Anyone who has paid even the slightest attention to pop culture over the last few years cannot help but be aware of the recent proliferation of reality television. However, within that broad category, it is those reality shows that fall into the "talent competition" category, like *American Idol* and *Project Runway,* that currently reign supreme. In reality shows belonging to this class, a variety of individuals in a particular field compete against one another for a career-advancing prize. For example, on *America's Next Top Model* and *The Apprentice*, participants compete for a large modeling contract and the opportunity to work for Donald Trump, respectively. However, despite the different premises of these talent-based reality shows, each is comprised of a series of episodes, all of which share the same three elements: (1) contestants are given a particular task; (2) at the completion of the task, the participants are critiqued; and (3) one of the contestants is then eliminated from the competition.

For the legal writing professional looking at these three elements, the last element no doubt sounds like something exclusively within the realm of reality television. Indeed, although there might be days when even the most dedicated teacher might find it an entertaining idea, no legal writing program in the country allows its professors to vote students out of the classroom. In contrast, of course, the first two elements constitute not only a very familiar, but also a very large part of legal writing instruction. Throughout the year, we give students a variety of tasks and then critique their performance. Given, then, the overlap between these essential elements of both reality television and legal writing instruction, we can learn much about the effectiveness of different critiquing styles by comparing what the judges do on reality television with what we do in legal writing.

Furthermore, the critiques that take place on reality television provide us with an additional perspective on critique that we rarely get to experience. Specifically, part of what makes critique so difficult in the classroom is that we often return the critiqued work for the student to review (and respond to) outside of class. Thus, we do not see the initial impact that our critiques have on the students. Such information is crucial because of the potential for hurt feelings, given that we are, in essence, critiquing the student's mental processes as well as his creative choices. However, when a contestant on a reality show is critiqued by the judges, the reaction of the contestant is not just visible; it is often the focus of the segment featuring the critique. Thus, watching how reality television contestants respond to different approaches to critique can help us better understand how to critique in a way that is more likely to be inspiring and less likely to be hurtful.

In this article, I focus on two particular programs: *Project Runway* and *American Idol*. On *Project Runway*, aspiring fashion designers compete for a mentorship with Banana Republic. Each week, the designers are asked to design and construct a garment based on that week's theme. At the end of the challenge, the contestants show their creations in a runway show, and the "loser" is then "sent home." Similarly, on *American Idol*, young singers from across the United States compete for a recording contract. After a series of preliminary rounds, the field of contenders is narrowed to 12 finalists. Each week, the finalists perform a song based on that week's theme, and one finalist, based on the viewer's phone-in votes, is then eliminated.

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Using these two programs as a backdrop, I give various examples of specific critiques from each show organized under four basic principles of effective student critique. Given the difficulty we sometimes face in finding helpful models of student critique in action, these examples not only provide samples but also help us better understand the varying success of the different approaches.

Principle 1: In Critiquing a Work, a Good Critique Does Not Focus on What Is Right or Wrong with the Work, but Instead Focuses on the Reader's Reaction

We routinely tell our students that the documents they draft are ultimately for the benefit of the reader; thus, the writing process itself must take into account the reader's expectations. One of the main goals of a critique is to inform the student how we, as the reader, respond to the draft. Ultimately, as we review the document, we must ask ourselves whether the document helps to inform the reader of the law and, at the same time, persuade the reader that the student's analysis can be trusted. Furthermore, where our reaction indicates a possible weakness in the work, we provide the student not only with our response, but also with the specific aspects of the work that gave rise to our response so as to aid the student as she revises.

To see a good example of principle 1 in action, we need only look to Tim Gunn of *Project Runway*. Gunn is the outgoing chair of New York's Fashion Design at Parsons The New School for Design, which is the setting for *Project Runway*. Although not one of the official judges, Gunn is specifically charged with critiquing the contestants each week as they design and execute the garment for that week's challenge.

In critiquing the contestants on *Project Runway*, Gunn understands that one of the most helpful things he can share with the students is simply his reaction. For example, in one episode, Gunn is critiquing an evening gown design by contestant Santino Rice. Gunn states: "Can I tell you how I respond to this now without any additional embellishment? … It looks like a costume. It looks like renaissance fest to me … I see Guinevere."

Contrast Gunn's approach with the approach frequently taken by Simon Cowell, one of the *American Idol* judges. Cowell, who is a record producer for Sony BMG, is well known for being rather abrupt and sometimes abrasive with the contestants on *American Idol*. For example, on a recent episode, contestant Chris Sligh had just completed his performance for the evening. Simon then gave the following critique: "I think you murdered the arrangement. … I think you turned a beautiful song into a complete and utter drone."

In their two approaches, both Cowell's and Gunn's critiques force the contestant to view the submission through the eyes of the reader. However, Gunn's critique is phrased in such a way that the contestant is less likely to feel that he, as the artist, did anything objectively wrong. Instead, the contestant is merely presented with Gunn's reaction to the work, not to the designer. In Cowell's critique, however, the negative response is presented not as one person's reaction, but more like an indisputable truth. Furthermore, Cowell's comment is phrased in such a way that the contestant is more likely to take the critique personally. Indeed, Cowell's critique is phrased in terms of what the contestant personally did "wrong." On the other hand, Gunn's critique appears more thoughtful as he couches his response in specific terms that better allow the contestant to understand the source of Gunn's response; in contrast, Cowell's comment is more general and, thus, less likely to help the contestant understand what it was exactly that he did that was "bad." Accordingly, of the two critiques, Gunn's is more likely to be helpful to the contestant because it not only provides the contestant with the reader's reaction but does so in terms that are (1) not personal and (2) specific enough to better equip the contestant to make revisions.

Principle 2: A Good Critique Forces the Student to Consider Other Audience Members Who May Approach the Work from a Different Perspective

We constantly remind our students that legal documents are intended for a variety of audience members and that not all audience members will approach the document from the same perspective.

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Accordingly, we typically, through our critique, try to force our students to consider the perspectives of those various audience members. For example, we may note on a student draft: "Yes, I know the facts of this precedent case; however, the judge may not. As a result, you need to include more facts" or "Watch your tone, the client may read this!"

Like the legal writing professional, Simon Cowell and Tim Gunn also employ this principle of critique, albeit with varying degrees of effectiveness. For example, Cowell once told a contestant that the contestant's performance "came over as a bit of a joke. Having said that, I have a feeling the audience at home will like you." However, once again, Cowell fails to offer sufficient details to make the critique useful to the contestant. The contestant is left to his own devices to figure out (1) why Cowell perceived the performance as a joke, and (2) why the audience at home would be inclined to like it.

Gunn offers a better example. On season two of *Project Runway*, when finalist Daniel Vosovic was preparing for the final runway challenge, Gunn pulls Vosovic down on the floor to force the contestant to look at the design from the perspective of those watching the runway show. In the process, the contestant discovers that his hem is uneven and his lining is showing. Thus, Gunn provides a very literal example of forcing students to look at their work from the perspective of various audience members.

Principle 3: A Good Critique Calls on the Student to Explain the Choices She Made in Creating the Work

One of the primary goals we all have in critiquing papers is to force our students to expand their critical thinking skills. When students are drafting out of habit and not through conscious decision making, the students are not being effective legal writers. Accordingly, effective critique does not so much point out the failings of a work along with suggested revisions, but actually empowers the student to figure out for herself which of her choices potentially needs to be revised and how. As a result, many of us will frequently use a form of Socratic critique on our students' papers: "I'm curious why you phrased the court's holding in these terms?" or "Can you think of any other facts from our case that might be helpful to your analysis?"

Unfortunately, the judges on *American Idol* rarely ask a contestant to explain his decisions. Instead, the judges simply give their critique and neither solicit nor even permit much response from the contestant. Of course, this failing could be due to the fact that *American Idol* is a live show with rather tight time constraints.

However, on *Project Runway*, Tim Gunn not only makes frequent use of principle 3, but does so in a variety of different situations to which many of us can relate. First, Gunn seems to recognize that he can more easily critique if he first asks the contestant to explain the choices that she has made. Of course, we can understand Gunn's approach given that many of us have frequently had the experience where we note a criticism on a student's paper only to later, after the student has explained the cogent rationale behind his choices, wish we could retract the comment. Thus, by phrasing his critiques in the form of a question, Gunn avoids this potentially uncomfortable situation. For example, in one episode, the contestants had to design an outfit that could be worn both at the office and also for a night on the town. As Gunn approaches one team of contestants, he preliminarily notes, with some concern, that the jacket they have designed appears a bit too "precious." He then allows the two to explain, and they reply "That's what we *want*. The jacket should look like 'No, I'm not going home with you.' And, then, she takes it off and now she says, 'But maybe I'll let you buy me a drink. … '" Armed with the contestants' explanation, Gunn is now in a position to give his critique: "Alright, well you know something, then you achieved it … and it works!"

Second, Gunn seems to understand how unpleasant it can be to communicate a negative critique to the unsuspecting student. Accordingly, Gunn is quite effective at softening the blow by first asking a contestant questions about the decisions she has

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made in order to allow the contestant, on her own, to discover the negative aspects of her work. In one example, Gunn approaches designer Guadalupe Vidal while she is sewing. Immediately, the home viewer can tell from Gunn's face that he is not reacting well to what he sees on the design table. However, instead of offering his thoughts, Gunn asks Vidal some questions that ultimately lead her to concede that she thinks the design looks lousy. Gunn's terse response? "I'm not going to debate that." Not only is Gunn's method a kinder approach to delivering bad news, but his approach is likely more effective given that people are more persuaded by conclusions they reach on their own.

"Finally, Gunn's method of asking the contestants to explain their choices makes it clear to the contestants that it is they who ultimately retain creative control over their designs."

Finally, Gunn's method of asking the contestants to explain their choices makes it clear to the contestants that it is they who ultimately retain creative control over their designs. As such, the contestants are empowered and, thus, more likely to take pride in the final product. Thus, Gunn's contestants, like our students, are free to make any choice they like.

However, our job does require that we help the students understand that certain choices will carry consequences. In terms of legal writing education, those consequences include a lower grade, a less helpful document, or even an angry supervising attorney. However, even on *Project Runway*, Tim Gunn is quick to let the contestants know that their choices will have consequences. For example, in one episode Gunn tells contestant Chloe Dao that the dress she has designed looks as though it is "hugging a rear end." When Dao explains that she intended that effect, he then tells her exactly what she needs to say to runway judge Nina Garcia when Garcia undoubtedly questions Dao's choice: "Nina, I *wanted* her to look like she has a big, fat ass!"

Principle 4: A Good Critique Offers Praise, but Only Where Such Praise Is Deserved

When critiquing, I often have to remind myself of this last principle. Of course, I start the year off on a fairly good foot as I know that I need to give my new students sufficient praise to build their confidence and to encourage them to continue their hard work. However, as the students' confidence builds, I tend to forget the need to praise good choices that the students make. Nonetheless, praise is one of the key components of effective critique as it not only provides positive reinforcement for the good choices that the students make, but also, when supplied judiciously, can provide them with an additional incentive to work hard.

Thus, in looking at this last principle, there are two components: (1) the need to praise and (2) only offering this praise when it is deserved. Indeed, offering praise too freely will minimize the positive reinforcement that such encouragement is intended to convey.

For example, *American Idol* judge Paula Abdul frequently violates this second component as she almost always finds some excuse to praise a contestant's performance. As a result, when receiving praise from Abdul, the contestants show relatively mild appreciation, which is a direct contrast to the unbridled glee they exhibit when praised by Simon Cowell, who doles out praise *much* more rarely.

Furthermore, Abdul demonstrates another potential problem that arises from an extreme eagerness to praise. Specifically, if the praise does not relate to the skill that the student is being tested on, it may come across instead as somewhat insulting. For example, on season three of *American Idol*, contestant Katherine McPhee flubbed the lyrics of a song during her weekly performance. When it came time for Abdul's critique, she chose to focus on McPhee's attire: "You should wear dresses more often. You look absolutely beautiful." Given that *American Idol* is a singing competition, the fact that Abdul chose to comment on the contestant's clothing was more likely to be perceived by the contestant as criticism. Thus, a legal writing professor who writes "good job at numbering pages" or "excellent placement of staple" on a student's paper would likely be doing more harm than good.

Finally, Abdul's approach to critique also demonstrates that a critique must be specific and meaningful if it is likely to serve its intended purpose. For example, *American Idol* contestant Lisa Tucker probably had little idea what she had done well when Abdul gave her the following

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critique: "The energy of what you brought tonight was who you are." In contrast, once again, Tim Gunn provides a better demonstration. Prior to contestant Chloe Dao's final runway competition, Gunn, taking one final look at Dao's design, tells her: "the way in which you are innovating with the construction is really brilliant … good work!" Dao responds with a beaming smile.

Thus, despite the bickering that sometimes goes on between American Idol judges Simon Cowell and Paula Abdul, the two actually have something in common: both provide excellent examples of what not to do when critiquing student work. Project *Runway*'s Tim Gunn, on the other hand, sets a more positive example. In fact, Gunn, who frequently tells his contestants that when it comes to their creations, they need to "make it work," understands that it is actually his critique that will better enable the contestants to reach that goal.

Consequently, unlike Cowell and Abdul, Gunn does not use his critiques as an opportunity to belittle or patronize a young artist. Gunn uses his critiques as an opportunity to help improve the student's ability to make more effective choices in the future. For these reasons, the legal writing professional would likely be much better off to emulate the example set by Gunn. After all, unlike contestant William Hung, whose poor performance on *American Idol* was so bad that it earned him both a record deal and a cult following, legal writers will find that the legal field is much less inclined to embrace a poor performance.

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Another **Perspective**

"I illustrate [dicta] by reference to a hypothetical card game, with rules not yet clearly understood. Let's call it 'Poker.' The plaintiff has three Jacks; the defendant holds a pair of Queens. Each claims to have the winning hand. The court rules for three Jacks. In explanation, the court writes, 'When held in equal numbers, Queens beat Jacks. But three-of-a-kind always beats a pair.' The statement that Queens beat Jacks is superfluous to the court's reasoning, which explained the grant of judgment to the plaintiff by reason of the plaintiff's having three-of-a-kind. Were the statement turned around to state the opposite—that Jacks beat Queens—the court's grant of judgment in favor of the three Jacks, on the ground that three-of-a-kind beats a pair, would nonetheless stand unaltered. The statement of priorities between Jacks and Queens played no role in its award of judgment in favor of the three-Jack hand and was accordingly dictum. …

To professors I would say: You have a responsibility to make sure your students understand and are alert to the distinction between holding and dictum—and its importance. It is not something to be discussed only in a brief, first-year intro-to-law lecture. Students who graduate without a grasp of it are not well trained for the profession."

—Pierre N. Leval, *Judging Under the Constitution: Dicta About Dicta*, 81 N.Y.U. L. Rev. 1249, 1257, 1282 (2006).

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