

TRAINING BEST PRACTICES – CHECKLIST

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The last couple of years have forced a technological sea change on law firms and, to a lesser extent, legal departments within larger organizations. Storms brewing just over the horizon exploded on the scene with 2020's COVID-19 pandemic and the subsequent, massive shift to work-from-home practices and remote lawyering. Lawyers and legal professionals embraced, learned, or merely muddled through with new approaches and technologies that more than a few previously expected they could continue ignoring until retirement.

These growing technological shifts remind me of Mike Campbell's money troubles from *The Sun Also Rises*:

“How did you go bankrupt?” Bill asked.

“Two ways,” Mike said. “Gradually and then suddenly.”

As with Ernest Hemingway's protagonist, technological changes that built slowly over years, from digital signatures to web-meeting-based conferences and CLEs, came rushing to the fore, bringing with them some things we thought we'd never see, like widespread, web-meeting-based court appearances, hearings, and even trials. This on-rush of new legal tech means that you and your co-workers can benefit from focused training on how to use these new, or new-to-you, capabilities.

Below are some guideposts on developing an effective training program for your firm.

❖ JUST-IN-TIME CONTENT DELIVERY

While just-in-time (JIT) techniques have taken a few body blows during the pandemic (e.g., keeping no microchips in inventory looks great and cost-effective until you lack chips to make automobiles, forcing you to idle workers and factories), with teaching someone something new, it's still the gold standard.

Intuitively, we know that the best time to learn a skill is when we need that skill. For example, it makes no sense to read board game instructions today if we are not going to play the game until next month. Learning a skill in a timely way means using it soon after acquiring it and, ideally, using it repeatedly to both retain it and improve our knowledge of it.

❖ ONLY SHOW RELEVANT INFORMATION FOR THE JOB AND TASK

We're all inclined to digress on topics interesting to us. This fact is as true for IT trainers as it is for sports fans or knitting aficionados. Most people don't care about the details of how something happens, only that it happens correctly and promptly. No one quizzes the dental hygienist on the psi of the “swish and spit” spray head or the method for sharpening the plaque removal tools. We just want clean teeth.

Similarly, if one trainee is an accountant and another a legal secretary, they may need different training, even in the same program. For example, the knowledge each needs for spreadsheets and word processing share core, foundational skills, but the necessary training for advanced tasks in each program is quite different. In the case of spreadsheets, accountants likely need to learn more advanced formula manipulation that secretaries do.

❖ MAKE SURE THE TRAINING STICKS; DON'T RUSH IT

This point builds on the JIT component above. You could present all of the training to every team member in one eight-hour slog, but by the time a staffer needed that skill, in many cases it would be long forgotten.

Nineteenth century German psychologist Hermann Ebbinghaus developed a mathematical equation for how soon people forget a fact or skill. Ebbinghaus's aptly named "Forgetting Curve" states that, after someone learns new information, if that information is not used, 75% of it will be forgotten within six days and 79% will be forgotten within a month. The best-known way to counteract this phenomenon is to spread out training, including reviews of previously covered subjects, over gradually increasing intervals—for example, two, then four, then eight days.¹ Doing so provides trainees with approximately 80% retention after 60 days.²

➤ **SPECIAL NOTE FOR NEW-HIRE SITUATIONS**

The most common training in legal organizations occurs at or near an employee's first day of work. Some of this is necessary—how one enters time, uses the phone/intercom system, or lookups case files and documents, for example. However, the bulk of what remains need not be presented immediately upon hire. To borrow a childhood game example, top-notch new hire training should look more like a ladder than a chute. New hires should not be force-fed a bunch of technology skills as they are "sliding out the chute" at the end of a very hectic first day or first week. Excellent new hiring training occurs over weeks, step by step or rung by rung up the ladder. As the new employee becomes ever more acclimated to their environment, new questions arise, which a regularly appearing trainer could happily answer at a time relevant to the employee when he or she can remember it; perhaps cover one program per week, with ample time in each session for review and questions.

❖ **"DOG FOOD" THE TRAINING**

In the 1990s and early 2000s, Microsoft popularized the concept of "dog fooding" their products.³ One of the best ways to find software flaws, discover workflows that didn't work, or learn that the software lacked a necessary feature was for people inside the company, including the developers writing the software product, to use the software every day in the normal course of business, as if it were a released product. Essentially, be your first customer.

Dog fooding affects training best practices in two ways.

➤ **TRAINING MUST BE A VISIBLE, DEMONSTRABLE PRIORITY FOR LEADERSHIP**

A well-known management parable about training employees goes like this:

CFO: What happens if we train them and they leave?
CEO: What happens if we don't and they stay?

Failure to properly train employees—to invest in them—may lead the best, self-starter employees to leave... or not. But even if no one leaves, unless you invest in them, your employees will continue to work ineffectively and inefficiently, damaging your business's bottom line. According to a 2009 study, businesses without high-quality training or employee development plans reported average revenues of \$82,800 per employee. Similar firms that emphasized learning and development saw per-employee revenues of more than twice that—\$169,100.⁴ That's quite the difference!

Leaders who understand those numbers must also know the value of setting a good example. If there is a firm-wide training, for example on core Microsoft Word techniques everyone benefits from, not just typists or legal secretaries, then firm leadership makes it a point to be present and engaged during the training, for their own benefit of course,

¹ See Dempster, Frank N. "Spacing Effects and Their Implications for Theory and Practice." *Educational Psychology Review* 1, no. 4 (1989): 309-30. <http://www.jstor.org/stable/23359223>.

² See Schimanke, Florian & Mertens, Robert & Hallay, Florian & Enders, Arkadij & Vornberger, Oliver. (2015). Using a Spaced-Repetition-Based Mobile Learning Game in Database Lectures.

³ See Raymond Chen, *Microspeak: Dogfood, The Old New Thing* (Aug. 2, 2011), <https://devblogs.microsoft.com/oldnewthing/20110802-00/?p=10003>.

⁴ CORNERSTONE, WHY YOUR NONEXISTENT TALENT MANAGEMENT STRATEGY IS COSTING YOU MONEY (2017), <https://www.cornerstoneondemand.com/sites/default/files/whitepaper/smb-wp-nonexistent-tm-strategy-costing-money.pdf>.

and as a signal to others about the value the firm places on training and educating employees, and helping them to learn and perform better.

➤ GOOD DOG FOODING BY LEADERSHIP BUILDS A FIRM CULTURE THAT BENEFITS EVERYONE

Jason Fried, Founder and CEO of Basecamp and author of several business books, tweeted an apt summary of organizational culture:

Company culture isn't a moment in time. It's not something you write down. Culture is the by-product of consistent behavior. It's what you do over time. Your current company culture is essentially a 50-day moving average of your actions.⁵

It's a 50-day moving average of your *actions*—not of your wishes, desires, or even statements. It's what you do that matters. Fifty days may seem like an eternity, but it's really a short window. Begin creating a culture of learning now, and it will pay off exponentially. Signal the importance of training by making time for training yourself. If training is a regular event, and especially if firm leaders make it a point to attend and engage, even if the specific content is not strictly relevant to them, they send a message to other trainees of the value to the firm of continual education.

❖ PEOPLE ON THE “FRONT LINES” ARE BEST-POSITIONED TO SPOT AREAS IN NEED OF TRAINING AND ARE MOST OPEN TO RELIEVING THOSE “PAIN POINTS”

➤ WHAT TO PRESENT

The staff member who spends a good portion of the day creating and filing documents is best positioned to know what eats up a lot of time in that process. Same thing with the accountant or bookkeeper who prepares monthly bills. In these examples, and the countless others coming to your mind, there's no need for a managing partner, office manager, or leadership team to guess what people need help with. Just ask!

However, the phraseology is important. Asking someone a question like, “Do you have problems doing your job?”, will put the employee on the defensive. Instead, ask broader questions like, “What annoys you about making a time entry?”, or “Does the new PDF software make redactions easier?”. The answers to these types of questions tell you whether firm members would benefit from additional training on the practice management or PDF software, and even what areas the trainers should focus on.

➤ HOW TO PRESENT IT

Trainers must speak to trainees on their level. Trainers must understand their trainees' needs and the language that they use. Trainers should not speak above their level, using technical jargon the attendees don't understand. Trainers should be familiar with their attendees' work environment and job responsibilities. The trainer must become a trusted partner rather than just another required meeting.

The traditional top-down delivery of pre-determined, passively received information isn't good enough, unfortunately. Training need not be a game show, but it does need to hold students' interest and address their concerns. Students may feel embarrassed or shy to ask a question, particularly if that feeling flows from a lack of confidence in the subject matter. Similarly, not everyone learns the same way. Some people are visual learners; others auditory; and still others hands-on. Successful training requires materials in several formats—perhaps a customized webinar, presented as a whole, but divisible afterwards into individual topical videos, accompanied by instructional handouts, and followed by an opportunity to have individual questions answered privately, if possible.

➤ WHO SHOULD PRESENT IT

⁵ Fried, Jason (jasonfried). “Company culture isn't a moment in time. It's not something you write down. Culture is the by-product of consistent behavior. It's what you do over time. Your current company culture is essentially a 50-day moving average of your actions.” Oct 11. 2019, 11:24a.m. Tweet.

A trainer pulled from other internal responsibilities has a few disadvantages when training co-workers. This person is not a teacher. Just because they know something or can learn it, doesn't mean they can instruct others effectively. If the employee-trainer possesses an IT background they may relate poorly to the "user" side, as opposed to their typical "administrator" side, of technology and the workflows that the law firm uses. Finally, if the employee-trainer is someone whose time would otherwise be dedicated to client work, that employee's productivity and billable work suffers because they are asked to wear two wildly different hats, and they are unlikely to be relieved of client responsibilities when training duties are added.

External trainers with legal experience mitigate these issues. They know how law firms work. Their job is training; they know how to teach. Good external trainers can easily speak to both users and IT to educate firms on efficient workflows that benefit everyone. They talk with trainees about their challenges and, with the end-goal in mind, move a trainee from a convoluted process or work-around to a seamless experience that makes the task simpler to complete.

❖ REPETITION AND REINFORCEMENT ARE KEY

As noted above, trainees forget 75% of new material within six days if it goes unused. Good instruction must anticipate and correct for that fact. Training should incorporate "refresher" exercises soon after initial training to cement knowledge of the material. This could be done in the form of "post-training" exercises that trainees do and which the trainer reviews with them. Hands-on training—in the case of software, following along with the instructor—helps trainees retain learned skills. "Cheat sheets" or pictographic guides allow trainees to refresh themselves when skills are called for. Without "going through the motions," being corrected where appropriate, and possessing "study guides" when the challenge arrives "in real life," trainees understandably walk away with an ever-diminishing reservoir of knowledge.

KEY TAKE-AWAYS

❖ CONTENT AND APPROACH

- Employees are trained on skills as those skills are need. This could be via live, in-person training, a help line, or a video library.
- Handouts, "how to" videos, and recordings of trainings are always available on an intranet or other platform.
- Training materials and classes are tailored to job roles. Some trainings or skills are universally applicable (perhaps how the new copier/scanner works), but many are not (like time entry). If someone never enters time, that employee need not attend the time entry training.
- New trainings should include a brief refresher on previously-covered content, as with TV shows: "Last time on..."
- Spread training over ever-larger intervals to given employees time to "try it themselves" and come back with questions. The "spreading out" should be used in conjunction with making training materials (e.g., videos, cheat sheets, etc.) easily available.
- Training must meet the questions or problems employees face and be tailored to their challenges.
- Respect individual learning styles.
- Hands-on exercises are a must.
- Cheat sheets from the exercises are incorporated into the always-available training library.
- Firm leadership makes time for training themselves and, by their actions, emphasize the importance of continual learning to firm culture.
- Trainers must "speak the language" of employees.
- Trainers must meet employees where they are in terms of skill level.
- Trainers must be teachers, not merely subject matter experts.
- Trainers cannot also be fulltime billable employees. Wearing those two hats is unfair to the trainer and the students. The split attention causes either non-billable training or billable work to suffer. It'll probably be the training that suffers.