

DEALING WITH YOUR PEERS

Vivien J. Monaco*

This Essay is designed to warn new editors of the pitfalls they may encounter in dealing with law review associates and editors and suggest some advice on how to deal with these potential problems.

I. YOU WILL ALWAYS HAVE SOME PROBLEM MEMBERS

First, most law review members will *not* be problems. Generally, law review members are some of the hardest-working students in your law school, which is how they came to be members of the review. Thus, most law review members are happy to be on law review and sincerely want to do a good job.

Having said that, there always will be some problem members who miss deadlines, do sloppy work, make a thousand excuses, and wonder why they should have to work so hard. Dealing with these associates is difficult enough, but dealing with one or more problem editors is even worse. An editor who misses deadlines and does sloppy work can do far more damage to the quality of your publication than a lazy associate. Some editors (and associates) are complacent. Now that they have law review (or law review editor!) on their résumés, they decide they can stop working so hard.

The damage these members can do to your publication is clear. Lazy associates performing cite and source checks may miss inaccurate quotations and may decide to skip checking some footnotes altogether. If footnotes are not carefully checked after each edit, you can end up with a citation that does not match the cited text. More importantly, the cite and source checkers are the first line of defense against plagiarism. An associate who is carefully checking citations and quotations becomes quite familiar with the author's sources and is likely to recognize an unattributed quotation or idea.

* © Vivien J. Monaco, 2000. All rights reserved. Assistant County Attorney, Orange County, Florida. B.S., University of Texas at Austin, 1979; M.B.A., Stetson University, 1997; J.D., Stetson University College of Law, 1997. While a law student at Stetson University College of Law, Vivien J. Monaco served as executive editor of the *Stetson Law Review* from 1996 to 1997. This Essay is based on a presentation and panel discussion at the National Conference of Law Reviews 2000 entitled "Dealing with Your Peers."

A lazy editor can delay your schedule and may delay your publication date before you even realize it. Suppose one editor has not done a thorough and detailed edit of a particular piece. Another editor performs an edit that should be a review only to discover numerous items the first editor missed. At that point, either another editor must take the time to do a thorough edit or the first editor (who may not be trusted) is instructed to re-edit the piece. Either way, that piece is behind schedule and may cause a missed publication date.

Another problem law review member is “the troublemaker.” This person purports to know exactly how everything should be done and lets everyone else on law review know it. He or she can tell the editor in chief what the articles editors are doing wrong, tell the executive editor what the student works editors are doing wrong, and tell everybody else what the editor in chief is doing wrong. Unfortunately, if this person is convincing, some law review associates and editors may unfairly and inaccurately be pegged as lazy, overbearing, untrustworthy, careless, or stupid. The conflict and divisiveness caused by the troublemaker can be devastating to morale and efficiency.

II. HOW TO DEAL WITH PROBLEM MEMBERS

How do you deal with these problem law review members? First, you need to acknowledge that at least some of these problem members can and probably will be on your law review during your tenure as an editor. Once you make that acknowledgment, you need to start establishing written policies, which you should publish in a policy manual or include in a policy and procedures manual. These policies must be clear and specific regarding issues such as deadlines, absences, and types and amount of work required. Consequences for violations should be established and made part of the policies.

Consequences should be specific and automatic. For example, a member who misses a deadline will receive a written notice, a member who misses a second deadline will be placed on probation, and a member who misses a third deadline will not receive academic credit or will be removed from the review. For the last two punishments, consider adding an appeal to the full editorial board.

You also should have specific policies for editorial board members. It will be harder to deal with editors who violate policies than associates who do, but a written policy, with specific

consequences for violating that policy, will make it easier. The consequences may, and probably should, be tougher for an editor than an associate who violate policies, because an editor can cause greater damage to morale and to the publication itself. Furthermore, the rest of the law review members will be watching how you enforce policies, and associates will resent it if you are easier on an editor's violation.

You should include roles for your faculty advisors in creating and enforcing these policies. Often, members may accord greater respect to a faculty member and may be more concerned about pleasing him or her than pleasing a student editor. At some law reviews, the faculty advisor, often in conjunction with the editor in chief, determines a member's grade or whether a member receives credit. A law review associate or editor may not care what the editor in chief or other senior editor says, but will care about the opinion of a faculty advisor who can affect his or her law review credit or grade.

Be inclusive in establishing your policies. If you do not have written policies or if they need to be updated, members at all levels should be involved in creating new policies, along with a faculty advisor, if possible. A good place to start is by creating a policy committee staffed by editors, senior associates, and new associates. This committee should be charged with creating policies to respond to current or future needs. Once proposed policies are created or updated, distribute copies of proposals to all members, faculty advisors, and others who will be affected, such as the law librarians. After allowing an opportunity for comments and suggestions, all members of the law review should vote on the proposals.¹

Once the policies are in place, you must make sure your members are aware of them. All members should receive copies of your policy manual. If policies are new or have been updated, you should review them at a law review meeting.

It is important for potential members to be aware of some of the important policies. For example, potential members should know how many cite and source checks a new member is required to complete during his or her first semester and the amount of time

1. If you do not already have written policies, creating a policy manual may seem like an enormous undertaking, especially when added to the other tasks and responsibilities of the law review. However, law reviews at most other law schools will be willing to help you by sending copies of their policies. Once the policy committee has looked at three or four of them, the committee will have a feel for how it should set up your manual and what policies it wants to suggest.

that may entail. Candidates also should know if members are required to work office hours in the law review office. Even though you may not want to frighten away potential members, your law review will be much better off with people who are prepared to commit the investment in time and hard work that law review requires. You also should provide these major policies to the candidates in writing as a reminder of the commitment required if they join law review.

New members should receive the policy manual as soon as they are selected. An editor should review these policies at meetings for new members, paying particular attention to those policies that will affect members in their first semester.

After your policies are in place and your membership is aware of them, you can enforce those policies. When you have a problem with an associate or editor, refer to your policy manual and follow the prescribed procedure. Any common or continuing problems should be addressed during meetings with all members.

In dealing with problem members, do not hesitate to ask for help from other people. You will often have editors with management experience who have disciplined and terminated employees in the "real world." If you are lucky, that person may be the executive editor or managing editor to whom you can properly delegate disciplinary action. If not, you can certainly ask for advice. By taking advantage of others' experience, you may learn some useful techniques to help you deal with a problem member in the future.

When your best efforts have failed, do not be afraid to consult a faculty advisor. Outline the problem, the steps you have taken to correct the problem, and the current situation for the advisor. It is important to provide the advisor with copies of anything you have in writing concerning the problem, including any notes you have made. The faculty advisor may give suggestions on other approaches to take, or he or she may suggest a joint meeting with the problem member. Finally, the faculty advisor may decide to meet with the problem member alone. Remember, it is not a sign of weakness to ask for help after you have exhausted your options.

III. REWARD MEMBERS WHO GO BEYOND WHAT IS REQUIRED

Most law review members are not going to cause problems. In fact, there will be some who go above and beyond what is required. These people are a joy to work with. You need to reward them for

two reasons. First, you want your best members to know their hard work is appreciated. Second, you want to let other members know that hard work is rewarded. How do you reward hard-working members? One way is recognition within the law review. You can post a memo on your bulletin board thanking a member for a job well done. A letter of appreciation from the editor in chief is a good reward, particularly if it is copied to the faculty advisors and a copy is placed in the member's law school record. You also can publish recognition ("kudos") in your law school newsletter, and once a semester you can give special awards that can be noted on a member's résumé.

Finally, dealing with your peers is only a part of what you will be doing as a law review editor. Remember that your primary responsibility is to ensure that you and the rest of the members of the law review produce a high quality publication in a timely fashion. This endeavor will involve a tremendous amount of work and sleepless nights at the same time that you are struggling to maintain your grades and looking for a job. However, law review also will be one of the most rewarding experiences of your law school career and one that will pay dividends, not only in helping you get the job you want, but also in making you a better lawyer. Good luck.