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WORD TO THE WISE: FEEDBACK INTERVENTION TO MODERATE THE EFFECTS OF STEREOTYPE THREAT AND ATTRIBUTIONAL AMBIGUITY ON LAW STUDENTS

Paula J. Manning*

INTRODUCTION

The underrepresentation of ethnic minorities in the legal profession has been a persistent concern since the 1960s.¹ Although affirmative action increased the number of underrepresented minorities admitted to law schools in the 1970s and 1980s, an achievement gap between white students and students of color still existed.² Retention proved problematic because students of color had lower grades and higher attrition rates than their white counterparts.³ Unfortunately, there has been little improvement in nearly five decades.⁴ Minority law school enrollment has declined.⁵ The achievement gap continues to persist in law school and on the bar exam.⁶

The academic underachievement of minority students can be explained, in part, by a psychological phenomenon called stereotype threat.⁷ Stereotype threat is a form of identity threat that occurs when a negative group stereotype exists, and the possibility exists that an individual member of a stereotyped group can be devalued by a stereotype because of membership in the group.⁸ When an individual is

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¹ Russell A. McClain, *Helping Our Students Reach Their Full Potential: The Insidious Consequences of Ignoring Stereotype Threat*, 17 RUTGERS RACE & L. REV. 1, 5 (2016).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ McClain, *supra* note 1, at 5.

⁷ *Id.* at 1; Geoffrey L. Cohen et al., *An Identity Threat Perspective on Intervention*, in STEREOTYPE THREAT 280, 281 (Michael Inzlicht & Toni Schmader eds., 2012) [hereinafter Cohen et al., *Identity Threat*].

⁸ Cohen et al., *Identity Threat*, *supra* note 7, at 281; Claude M. Steele et al., *Contending with Group Image: The Psychology of Stereotype and Social Identity Threat*, 34 ADVANCES EXPERIMENTAL SOC. PSYCHOL. 379, 389 (2002) [hereinafter Steele et al., *Group Image*].

subject to stereotype threat, the fear of confirming a negative stereotype creates cognitive barriers that negatively impact performance.⁹ Because negative stereotypes about the intellectual and academic ability of Black and Latina¹⁰ students persist, these students are susceptible to stereotype threat in any academic environment.¹¹

Providing critical feedback to students facing negative stereotypes about their group's intellectual capacity presents a unique challenge to educators. When receiving critical feedback, a stereotype threatened student's decision to respond to negative feedback by increasing effort carries more than the possibility of failing to meet the standard; for the stereotype threatened student, failure also threatens to confirm the stereotyped limitation, both in the eyes of others and potentially in the eyes of the student.¹² Rather than expose themselves to such a possibility, stereotype threatened students may diminish the importance of the task, reduce their effort, or disengage from the task, and even from the domain itself—i.e., law school—because of a reluctance to invest effort in an area where they may be subjected to biased treatment, or because the risk of confirming the negative stereotype comes at too great of an emotional and psychological cost.¹³

Additionally, where bias presents a plausible explanation for critical feedback it creates an “attributional ambiguity” for the stereotyped student—who may choose to attribute the feedback to bias, rather than shortcomings in his or her own performance.¹⁴ Since law school is typically more rigorous than undergraduate or even some other

⁹ See *infra* Part I.

¹⁰ I use the term Latina to refer to Latino and Latina American students, as well as Hispanic Americans because of the shared social identity in the context of the educational research applicable to identity (and stereotype) threat. See David K. Sherman et al., *Deflecting the Trajectory and Changing the Narrative: How Self-Affirmation Affects Academic Performance and Motivation Under Identity Threat*, 104 J. PERSONALITY & SOC. PSYCHOL. 591, 592 (2013); McClain, *supra* note 1, at 5–6.

¹¹ See *infra* Section I.A.

¹² See *infra* Section I.B.

¹³ McClain, *supra* note 1, at 22–23; Anthony R. Artino, Jr., *Academic Self-Efficacy: From Educational Theory to Instructional Practice*, 1 PERSPECTIVES MED. EDUC. 76, 78 (2012); Jennifer Crocker & Brenda Major, *Social Stigma and Self-Esteem: The Self-Protective Properties of Stigma*, 96 PSYCHOL. REV. 608, 622 (1989).

¹⁴ See *infra* Part II.

graduate education, students may experience a decline in performance despite an increase in effort.¹⁵ The typical reasons (or attributions) for low performance may no longer seem to be plausible explanations for such lower than expected performance. For example, where a student exerts far more effort on a law school paper than the student previously exerted on any other paper as an undergraduate and receives a lower grade than the student is used to receiving, the student may not believe the poor performance is effort-related.¹⁶ Black and Latina students, who know, based on societal stereotypes and personal experiences, that their skills, and those of others in their group, could be viewed through the lens of a stereotype that questions their group's intellectual and academic abilities, and who are aware that people in their academic environment may doubt their ability and belonging, have ample reason to fear being judged or treated prejudicially.¹⁷ The possibility that they have been judged in light of a negative stereotype can then serve as a plausible explanation for negative performance feedback.¹⁸ The unfortunate consequence is that attributing feedback to bias, rather than personal shortcomings, can cause students to dismiss valuable critique and ignore feedback, as a protective measure; in so doing, they miss vital opportunities for growth.¹⁹

Although some scholarship exists that attempts to explain the structural causes of the achievement gap, retention issues, and the lack of diversity in the legal profession,²⁰ little has been offered in the way of concrete suggestions for law school faculty who hope to close the gap and improve performance of stereotyped students in their own classrooms. This article is a step toward filling that void, providing specific strategies law school faculty can employ in their written and verbal feedback statements to improve outcomes for their students. Known as “wise feedback” in the social psychology literature, this two-faceted intervention assures students both that critical feedback is the result of high standards and that the student is capable of meeting these

¹⁵ Emily Zimmerman, *Do Grades Matter?*, 35 SEATTLE U. L. REV. 305, 311–12 (2012).

¹⁶ See *infra* Part II.

¹⁷ See *infra* Part II.

¹⁸ See *infra* Part II.

¹⁹ See *infra* Part II.

²⁰ McClain, *supra* note 1, at 4–7.

standards. By employing “wise” techniques, faculty can convey critical feedback in a manner that encourages effort and persistence and minimizes or eliminates the negative motivational effects of stereotype threat, thereby achieving the goal of improving performance and retention of minority law students and taking steps to close the minority achievement gap in law school.²¹

Part I of this article describes the impact of stereotype threat on academic performance, including a discussion of the cues that trigger the threat and factors that can intensify the threat.²² It examines the ways in which stereotype threat may contribute to depressed academic performance and the resulting attrition of minority law students.²³ Part II explains the reasons an “attributional ambiguity” may exist when a stereotype threatened student is given critical feedback and how stereotyped students' attributions affect motivation, effort, and persistence.²⁴ More specifically, it explores the connection between entity and incremental views of intelligence, learned helplessness, explanatory style and self-efficacy, to explain the reasons stereotyped students experience declines in motivation and engagement in response to performance difficulties and critical feedback.²⁵ Finally, Part III offers a means for law school faculty to combat the negative consequences of stereotype threat and attributional ambiguity by using a social-psychology based intervention known as “wise feedback” and concludes with suggestions for implementation.²⁶

I. THE IMPACT OF STEREOTYPE THREAT ON ACADEMIC PERFORMANCE

²¹ See *infra* Part III.

²² See *infra* Part I.

²³ See *infra* Section I.B.

²⁴ See *infra* Part II.

²⁵ See *infra* Part II.

²⁶ See *infra* Part III.

A. *The Nature of Stereotype Threat*

Stereotype threat is a form of identity threat.²⁷ Identity threat occurs when an individual's self-view is challenged, generally by devaluing attitudes and behaviors, such as discrimination, exclusion, marginalization and underrepresentation.²⁸ Stereotype threat occurs when a negative group stereotype exists, and a member of that stereotyped group is in a situation where the possibility exists that the individual's identity can be devalued because of membership in that stereotyped group—e.g., a situation where a stereotype about the individual's group applies.²⁹ To put it another way, it is the fear or worry about confirming or being judged by a stereotype because of membership in a stereotyped group. For example, a Latina student may worry about being judged in light of negative stereotypes about the intellectual ability of Latina Americans, because she is aware of the stereotype that Latinas are less likely to succeed in academic settings based on cultural beliefs in the United States that immigrants, second language speakers, and Spanish speakers are less likely to succeed in school than people who were born in the United States and who speak primarily or only English.³⁰ Law school presents an environment that is ripe for triggering chronic and intense experiences of stereotype threat.³¹ Negative group stereotypes exist for a number of racial and ethnic groups with regard to lack of intelligence,³² and the law school

²⁷ Cohen et al., *Identity Threat*, *supra* note 7, at 281.

²⁸ *Id.* at 281.

²⁹ Steele et al., *Group Image*, *supra* note 8, at 387–89.

³⁰ Sherman et al., *supra* note 10, at 592.

³¹ *See infra* Section I.C.

³² Claude M. Steele & Joshua Aronson, *Stereotype Threat and the Intellectual Test Performance of African Americans*, 69 J. PERSONALITY & SOC. PSYCHOL. 797, 797 (1995) (“Whenever African American students perform an explicitly scholastic or intellectual task, they face the threat of confirming or being judged by a negative societal stereotype—a suspicion—about their group’s intellectual ability and competence.”) [hereinafter Steele & Aronson, *Test Performance*]; Claude M. Steele, *A Threat in the Air, How Stereotypes Shape Intellectual Identity and Performance*, 52 AM. PSYCHOLOGIST 613, 614 (1997) [hereinafter Steele, *Threat in the Air*]; Geoffrey L. Cohen & Julio Garcia, *Identity, Belonging, and Achievement: A Model, Interventions, Implications*, 17 CURRENT DIRECTIONS PSYCHOL. SCI. 365, 366 (2008) [hereinafter Cohen & Garcia, *Identity*]; *see also* Sherman et al., *supra* note 10, at 592–93.

classroom experience and examinations are purportedly a measure of intelligence.

Stereotype threat can occur irrespective of whether there is actual prejudice.³³ It is a social-psychological, situational threat, which can affect any member of a group that is negatively stereotyped, whenever the negative stereotype applies, and a member of the group fears being reduced to that stereotype.³⁴ It arises because situational cues signal to an individual that a negative stereotype presents a relevant explanation for the individual's poor performance—i.e., the threat is derived from the individual's perceived relevance of the negative stereotype to the situation.³⁵ For this reason it does not matter if the individual believes the stereotype or if bias or prejudice actually exists.³⁶ Merely being aware that membership in a group can cause one to be devalued is sufficient to undermine performance.³⁷ Thus, anytime an individual is in a situation where a stereotype about a group of which they are a member might apply, the individual can experience stereotype threat.³⁸

Many stereotypes exist that can trigger a threat, and stereotype threat has been shown to exist across a number of domains, including: Blacks and Latinas are not as intelligent as whites,³⁹ women are worse

³³ Sherman et al., *supra* note 10, at 592.

³⁴ Steele, *Threat in the Air*, *supra* note 32, at 614.

³⁵ Steele et al., *Group Image*, *supra* note 8, at 389.

³⁶ Steele & Aronson, *Test Performance*, *supra* note 32, at 798; Steele, *Threat in the Air*, *supra* note 32, at 614, 618 (“[S]usceptibility to this threat derives not from internal doubts about their ability [e.g., their internalization of the stereotype] but from their identifications with the domain and the resulting concern they have about being stereotyped in it.”).

³⁷ Sherman et al., *supra* note 10, at 592.

³⁸ Steele et al., *Group Image*, *supra* note 8, at 390.

³⁹ Cohen & Garcia, *Identity*, *supra* note 32, at 366 (stating that Black and Latina students “face the extra burden of knowing that their skills, and those of others in their group, could be viewed through the lens of a stereotype that questions their group’s intellectual and academic abilities.”); *see also* Geoffrey L. Cohen & Claude M. Steele, *A Barrier of Mistrust: How Negative Stereotypes Affect Cross-Race Mentoring*, in *IMPROVING ACADEMIC ACHIEVEMENT: IMPACT OF PSYCHOLOGICAL FACTORS ON EDUCATION* 303 (Joshua Aronson ed., 2002) [hereinafter Cohen & Steele, *Barrier of Mistrust*]; Sherman et al., *supra* note 10, at 592–93.

at math than men;⁴⁰ whites have less athletic ability than blacks;⁴¹ older people have worse memories than young people;⁴² and whites are worse at math than Asians.⁴³ The data on stereotype threat is so robust and reliable that research is no longer focused on if or when it happens—but on why.⁴⁴ Of course not all stereotype threat is of equal severity and intensity; for example, a stereotype that demeans a group's intellectual ability has more negative meaning than a stereotype that demeans a group's ability to dance well, because of the relative societal importance of intellect versus being able to dance.⁴⁵

B. The Negative Effects of Stereotype Threat

The negative effects of stereotype threat are substantial and well-documented.⁴⁶ Stereotype threat contributes to academic underperformance and diminished psychological well-being.⁴⁷ For example, stereotype threat can negatively influence the intellectual functioning and academic performance of individual group members by

⁴⁰ See, e.g., Vincent J. Fogliati & Kay Bussey, *Stereotype Threat Reduces Motivation to Improve: Feedback on Women's Intentions to Improve Mathematical Ability*, 37 PSYCHOL. WOMEN Q. 310 (2013).

⁴¹ See, e.g., Jeff Stone et al., *Stereotype Threat Effects on Black and White Athletic Performance*, 77 J. PERSONALITY & SOC. PSYCHOL. 1213 (1999).

⁴² See, e.g., Sarah J. Barber & Mara Mather, *Stereotype Threat in Older Adults: When and Why does it Occur, and Who is Most Affected?*, in THE OXFORD HANDBOOK OF EMOTION, SOCIAL COGNITION AND EVERYDAY PROBLEM SOLVING DURING ADULTHOOD 302 (Paul Verhaeghen & Christopher Hertzog eds., 2014).

⁴³ See, e.g., Joshua Aronson et al., *When White Men Can't Do Math: Necessary and Sufficient Factors in Stereotype Threat*, 35 J. EXPERIMENTAL SOC. PSYCHOL. 29 (1999) [hereinafter Aronson et al., *White Men Can't Do Math*].

⁴⁴ Wendy Berry Mendes & Jeremy Jamieson, *Embodied Stereotype Threat: Exploring Brain and Body Mechanisms Underlying Performance Impairments*, in STEREOTYPE THREAT 51 (Michael Inzlicht & Toni Schmader eds., 2012).

⁴⁵ Steele et al., *Group Image*, *supra* note 8, at 390.

⁴⁶ *Id.* at 385. A thorough discussion of empirical work documenting such effects is described in McClain's work. See McClain, *supra* note 1. See generally STEREOTYPE THREAT (Michael Inzlicht & Toni Schmader eds., 2012); CLAUDE M. STEELE, WHISTLING VIVALDI (2010) [hereinafter STEELE, WHISTLING VIVALDI]. The effects have been documented for a number of groups and stereotypes. See *supra* notes 35–39; see also Jean Claude Croizet & Theresa Claire, *Extending the Concept of Stereotype Threat to Social Class: The Intellectual Underperformance of Students from Low Socioeconomic Backgrounds*, 24 PERSONALITY & SOC. PSYCH BULLETIN 588 (1998) (discussing low socio-economic status student performance in school).

⁴⁷ See Sherman et al., *supra* note 10, at 592.

creating an additional cognitive burden, which does not exist for non-stereotyped individuals.⁴⁸ Essentially, the stereotype threatened student devotes cognitive resources, including attention and working memory to processing and addressing the threat; as they focus cognitive resources on these issues, they have less working memory and attention to devote to other task related issues, like problem solving.⁴⁹

Stereotype threat can be a chronic stressor in the classroom for members of groups that are stereotyped as having lower levels of intelligence and academic performance.⁵⁰ Stereotyped students constantly face the prospect of confirming negative intellectual stereotypes any time they are called on in class, complete a task, or turn in an assignment. This chronic stress can result in a state of acute vigilance and narrowing of attention; for example, a stereotype threatened student might focus attention on scrutinizing a professor's nonverbal behavior for evidence of bias, rather than attending to other information presented during the class session.⁵¹

The intensity of the threat depends on a number of factors, many of which are relevant to legal education. The more negative the stereotype, the more intense the threat.⁵² The threat also intensifies in relation to the strength with which the threatened person identifies with the domain; the more an individual cares about the domain, the more important performance in that domain is likely to be, and the more the threat of being stereotyped is likely to negatively affect that individual.⁵³ The intensity of the threat is also impacted by the strength of the individual's identification with the stereotyped group; the more an individual identifies with the stereotyped group, or expects to be perceived as a member of that group, the stronger the threat is likely to be.⁵⁴

For ability-stereotyped individuals, the effects of stereotype threat are greatest when performing difficult tasks, and when there are marked increases in curriculum difficulty, in part because working memory and

⁴⁸ See sources cited *supra* note 46.

⁴⁹ See, e.g., Aronson et al., *White Men Can't Do Math*, *supra* note 43.

⁵⁰ See Sherman et al., *supra* note 10, at 593.

⁵¹ *Id.*

⁵² Steele et al., *Group Image*, *supra* note 8, at 390.

⁵³ *Id.*; see Steele, *Threat in the Air*, *supra* note 32, at 614.

⁵⁴ Steele et al., *Group Image*, *supra* note 8, at 391.

attention focusing are especially critical for optimal performance in these situations.⁵⁵ Unfortunately, it is during these times, when the effects of the threat are strongest, that stereotype threat is most likely to occur—because stereotype threat is triggered by the experience of frustration.⁵⁶ When the task is difficult to complete or the curricular change causes a student to struggle with the material it can be frustrating for the student.⁵⁷ This frustration and struggle can make a stereotype about lack of intellectual ability seem credible because it presents a plausible explanation for the struggle.⁵⁸ At these moments the effects of the threat are especially burdensome because students can least afford diverted attention and working memory when the task or material is difficult.⁵⁹

Finally, contextual cues that suggest the possibility of stereotyping can also increase the intensity of the threat.⁶⁰ One such cue is numeric

⁵⁵ *Id.* at 391–92.

⁵⁶ *Id.* at 392

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ See, e.g., Toni Schmader & Michael Johns, *Converging Evidence that Stereotype Threat Reduces Working Memory Capacity*, 85 J. PERSONALITY & SOC. PSYCH. 440 (2003) (providing an example of a scientific study of stereotype threat and showcasing increased perceived difficulty in groups likely to experience stereotype threat).

⁶⁰ *Id.* at 440; Gregory M. Walton & Priyanka B. Carr, *Social Belonging and the Motivation and Intellectual Achievement of Negatively Stereotyped Students*, in STEREOTYPE THREAT 89, 93 (Michael Inzlicht & Toni Schmader eds., 2012). Although not discussed here, the subjectivity, or lack of clarity of evaluative criteria can also act as a clue. When the criteria by which a student is awarded her grade is vague or possibly subjective, stereotyped students may worry that their devalued identity may influence subjective evaluation. Steele et al., *Group Image*, *supra* note 8, at 422. Law students experience evaluation as both vague and subjective where there is a lack of formative feedback or where professors do not set out the explicit criteria on which a student was judged. However, to the extent that law school examinations are graded anonymously it complicates the analysis for that particular graded experience. If the student (and thus, their race) is unknown to the grader it cannot be a basis for the evaluation. However, if the student does not believe grading is actually anonymous—for example, if the only hand writer is a Latina student, she might feel like her identity is known to the grader, especially if the grader were to see her handwriting during the exam or know from class that she is the only student who does not have a laptop. Her perception (real or not) that her identity is known to the grader, could then trigger a stereotype threat. See McClain, *supra* note 1 (offering an analysis of stereotype threat in the law school context).

underrepresentation, which can lead students to believe they stand as the “representative” for the entire group, which increases the potential consequences of confirming the negative stereotype.⁶¹ Numeric underrepresentation can also cause minority group members to suspect that they do not “fit in,” and this lack of a sense of belonging can trigger stereotype threat; worse still, it can lead to disidentification with the domain.⁶² For example, the racial or gender mix in a room of test takers can trigger stereotype threat during test taking.⁶³ If a woman takes an advanced math test in a room where she is the only female, or one of a small minority of females, it can trigger a sense that she doesn’t belong in the field, or that others may believe she doesn’t belong in the field, because of the stereotype that women are not as good at math as men.⁶⁴ Either way, this has two important consequences. First, it undermines

⁶¹ Steele et al., *Group Image*, *supra* note 8, at 419 (“The degree to which a social identity has minority status is a cue that can be relevant to how that identity is valued in the setting.”); Steele, *Threat in the Air*, *supra* note 32, at 625 (“Negative ability stereotypes raise the threat that one does not belong in the domain. They cast doubt on the extent of one’s abilities, on how well one will be accepted, on one’s social compatibility with the domain, and so on.”). For a specific personal example, see “33,” a video made in 2014 by a group of students from UCLA School of Law to raise awareness of the disturbing emotional toll placed upon students of color due to their alarmingly low representation within the student body. RecordtoCapture, 33, YOUTUBE (Feb. 10, 2014), <https://www.youtube.com/watch?v=5y3C5KBcCPI>.

⁶² Walton & Carr, *supra* note 60, at 92–93. A sense of “social belonging is essential for sustained, high levels of motivation and achievement.” *Id.* at 91. Thus, a sense of uncertainty about the quality of social bonds and social belonging can contribute to racial disparities in achievement. See Gregory M. Walton & Geoffrey L. Cohen, *A Question of Belonging: Race, Social Fit, and Achievement*, 92 J. PERSONALITY & SOC. PSYCH. 82 (2007) (arguing that socially stigmatized groups question the strength of their social bonds and as such feel lower levels of social belonging); see also Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 321 (noting that being a token minority member or solitary group member can trigger stereotype threat); Cohen & Garcia, *Identity*, *supra* note 32, at 365 (“Belonging uncertainty, doubt as to whether one will be accepted or rejected by key figures in the social environment, can prove acute if rejection could be based on one’s negatively stereotyped social identity.”) (internal citations omitted). This discussion of social belonging is presented here to highlight the interrelationship between stereotype threat and belonging uncertainty; however, a complete discussion of belonging uncertainty and its potential causes and effects is beyond the scope of this article.

⁶³ Catherine Good et al., *Improving Adolescents’ Standardized Test Performance: An Intervention to Reduce the Effects of Stereotype Threat*, 24 APPLIED DEVELOPMENTAL PSYCHOL. 645, 647 (2003); Steele et al., *Group Image*, *supra* note 8, at 422–23.

⁶⁴ Steele et al., *Group Image*, *supra* note 8, at 422–23.

her academic performance because her working memory and attention are diverted to deal with the threat—decreasing the cognitive resources she has to solve problems on the math test.⁶⁵ Second, her sense that she does not belong can lead to a belief that she cannot succeed in the field, which can ultimately lead her to select another field of study.⁶⁶ This lack of belonging then does more than undermine academic performance on specific tasks or courses, it can deter students from educational opportunities by leading them to “disidentify from scholastic pursuits, prompting them to invest their efforts and identity in areas where they are less subject to doubt.”⁶⁷ This departure forms part of a vicious cycle as stereotypes based on limited intellectual ability are then reinforced by increasingly small group representations at more advanced levels.⁶⁸

C. The Applicability of Stereotype Threat to Law Students

Any law student in an intellectual ability stereotyped group faces the prospect of confirming such negative stereotypes when they are called on in class, complete and submit an assignment, or take a test.⁶⁹ Given that stereotype threat is highest when there is a marked increase in difficulty of material,⁷⁰ and for most students the material presented in law school is substantially more difficult than most prior academic experiences, the likelihood of law students experiencing the threat is high.⁷¹ Also, law students are likely to be highly identified with the domain, since the selectivity, expense and focus of legal education

⁶⁵ Schmader & Johns, *supra* note 59, at 442–44.

⁶⁶ Steele, *Threat in the Air*, *supra* note 32, at 614; Fogliati & Bussey, *supra* note 40, at 312. Female students in male dominated academic domains are more likely to experience stereotype threat and to consider changing their major than are women in female-dominated domains. *Id.*

⁶⁷ Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 308; Steele, *Threat in the Air*, *supra* note 32, at 614; *see also* STEELE, WHISTLING VIVALDI, *supra* note 46 (providing a detailed account of the various effects of stereotypes).

⁶⁸ Steele, *Threat in the Air*, *supra* note 32, at 618 (noting that stereotypical group-based limitations of ability “are often reinforced by the structural reality of increasingly small group representations at more advanced levels of the schooling domain”).

⁶⁹ *See generally* McClain, *supra* note 1 (providing a detailed account of the effects of stereotype threat in the law school setting).

⁷⁰ Steele et al., *Group Image*, *supra* note 8, at 391–92.

⁷¹ *See* McClain, *supra* note 1, at 20 (indicating that “stereotype threat may explain . . . why high-performing students do not perform at an elite level”).

result in the admission of students who strongly identify with pursuits related to law.⁷² Therefore, when triggered, the threat is likely to be substantial because the stereotype posing the threat relates to a critically important ability—intellect.⁷³ Finally, because stereotype threat can be triggered by numeric underrepresentation, and intensify where the student's group is underrepresented,⁷⁴ law schools with underrepresentation of minority students may increase both the possibility of minority students experiencing the threat and the intensity of the threat. Since stereotypes about intellectual inability persist with regard to Black and Latina students, and these stereotypes are triggered in academic settings because they relate directly to academic performance, stereotype threat presents a credible explanation for differences in performance and retention of minority students in law schools.⁷⁵

II. THE ROLE OF ATTRIBUTIONAL AMBIGUITY

Another problem presented by social stereotypes is that it presents individual members of stereotyped groups with a plausible explanation for critical feedback which does not exist for non-stereotyped students, creating an “attributional ambiguity.”⁷⁶ Attributions are the explanations or reasons a person gives for their own and others behavior.⁷⁷ For example, students might attribute a low grade on an exam to not having studied sufficiently for the exam, or to a belief that they are intellectually inferior to their classmates.⁷⁸ According to attribution theory, the type of explanation selected by a student is

⁷² *Id.*

⁷³ See sources cited *supra* note 67.

⁷⁴ Good et al., *supra* note 63, at 647.

⁷⁵ Cohen & Garcia, *Identity*, *supra* note 32, at 366.

⁷⁶ See David Scott Yeager et al., *Breaking the Cycle of Mistrust: Wise Interventions to Provide Critical Feedback Across the Racial Divide*, 143 J. EXPERIMENTAL PSYCHOL. 804 (2014) [hereinafter Yeager et al., *Cycle of Mistrust*]; Geoffrey L. Cohen et al., *The Mentor's Dilemma: Providing Critical Feedback Across the Racial Divide*, 25 PERSONALITY & SOC. PSYCHOL. BULLETIN 1302 (1999) [hereinafter Cohen et al., *Mentor's Dilemma*].

⁷⁷ Timothy D. Wilson et al., *Improving the Academic Performance of College Students with Brief Attributional Interventions*, in IMPROVING ACADEMIC ACHIEVEMENT: IMPACT OF PSYCHOLOGICAL FACTORS ON EDUCATION 89, 89 (Joshua Aronson ed., 2002).

⁷⁸ *Id.* at 89–90.

critical to a student's success or failure.⁷⁹ Students who attribute academic difficulties to specific, changeable causes (like not having studied), rather than global, unchangeable causes (like intellectual inferiority), are more likely to improve performance, because students who attribute setbacks to correctable causes perceive themselves as capable of becoming effective with further effort, and thus remain motivated and persist in the face of difficulty or failure.⁸⁰ Because attributions impact motivation, they have consequences independent of actual causes.⁸¹

In general, people tend to attribute the causes of successes and failures to those things that covary with the event.⁸² For example, if a student receives high grades on assignments for which she has put in concerted effort, she will tend to attribute her success to her efforts. An attributional ambiguity arises when events do not covary with the most salient or cognitively accessible causes—like perceived ability, effort, or objective performance.⁸³ It is at these times that bias or prejudice present a reasonable explanation for the stereotype threatened student, particularly in cases where instances of bias or prejudice have been recently brought to mind, or are more readily accessible for a particular person, because of experience or vigilance.⁸⁴ For the stereotyped or stigmatized student, because the possibility of rater bias or prejudice can present a plausible explanation for successes and failures, it creates what researchers have termed an “attributional ambiguity.”⁸⁵

Law school, especially during the first year, is likely to present opportunities for attributional ambiguity. The opportunity for mistrust

⁷⁹ *Id.* at 90.

⁸⁰ *Id.* at 93; Corie Rosen, *Creating the Optimistic Classroom: What Law Schools Can Learn from Attribution Style Effects*, 42 MCGEORGE L. REV. 319, 327 (2011).

⁸¹ Wilson et al., *supra* note 77, at 90. Attribution theory assumes that in everyday life people are usually in situations in which they have the potential to succeed—e.g., most law students have the ability to succeed in law school or they would not have made it this far or have been admitted to law school. It is within this range of abilities that the type of attribution made by a person is critical. *Id.*

⁸² Crocker & Major, *supra* note 13, at 613–14.

⁸³ *Id.* at 614.

⁸⁴ *Id.*

⁸⁵ See generally Yeager et al., *Cycle of Mistrust*, *supra* note 76; Cohen et al., *Mentor's Dilemma*, *supra* note 76; Crocker & Major, *supra* note 13.

is high when students move to a more rigorous academic environment and performance standards rise sharply,⁸⁶ and law school is known for being a particularly rigorous academic endeavor. As performance standards rise, students may exhibit more effort than in previous academic endeavors, but without corresponding positive results. When effort and performance do not covary as they once did, other plausible attributions, including bias or prejudice, may present a reasonable option.⁸⁷ And for stereotyped students bias is a plausible option because they know their abilities can be negatively stereotyped⁸⁸ and it is likely that for many students there have been past encounters with discrimination.⁸⁹ In short, for stereotyped students, the abrupt nature of a decline in performance, not tied to a decline in effort, presents grounds for questioning whether there are other reasons for the critical feedback, and potentially to attributing the critical feedback and decline in performance to bias.⁹⁰ To further compound the problem, attributions to bias can also be impacted by the race of the student and feedback giver, since “the tendency to attribute bias is greater across racial divides than within them.”⁹¹ Thus, there is an increased opportunity for Black and Latina law students to attribute critical feedback to bias because they are almost certain to be given feedback by a professor of a different race.⁹²

⁸⁶ Wilson et al., *supra* note 77, at 95.

⁸⁷ Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 313–14.

⁸⁸ Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 805, 807. There is a “large body of research attest[ing] to the subtle and not-so-subtle cues that send the message to minority students that they are seen as lacking and as not belonging in school.” *Id.* at 805. *See also* Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 304 (“[P]ersonal experience alone may provide African American, Latino American, and Native Americans with ample reason to fear being judged or treated prejudicially.”).

⁸⁹ Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 805, 807. *See also* David S. Yeager et al., *Loss of Institutional Trust Among Racial and Ethnic Minority Adolescents: A Consequence of Procedural Injustice and a Case of Life-Span Outcomes*, 88 CHILD DEV. 658, 671 (2017) [hereinafter Yeager et al., *Trust Gap*] (noting that “[i]n a Pew Center survey of adults in the United States, 61% of African Americans and 53% of Latinos reported low levels of trust in the fairness of American society, as compared to only 32% of White Americans”).

⁹⁰ Crocker & Major, *supra* note 13, at 614; Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 807; Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 314.

⁹¹ Yeager et al., *Trust Gap*, *supra* note 89, at 659.

⁹² A.B.A., TOTAL STAFF & FACULTY MEMBERS (2013), http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_a

An attribution to bias has both positive and negative consequences. Attribution to bias can be self-esteem protective because it allows students to reject personal shortcomings as reasons for their failure.⁹³ However, this seemingly positive consequence is outweighed by the negative consequences, which are severe in academic contexts. First, because attributing critical feedback to rater bias causes the student to disregard and thus ignore critical feedback, students miss opportunities to learn or improve from the feedback.⁹⁴ Next, and even more concerning, is that attributing critical feedback to rater bias negatively impacts motivation and engagement.⁹⁵ Since eliminating the feedback giver's bias is not within the students' control, the stereotype threatened student believes they cannot improve sufficiently to meet the required standards, even with an investment of further effort; for this reason, the student does not persist.⁹⁶ Also, because they believe they are being judged stereotypically, and it does not feel worthwhile to invest effort, the student may begin to devalue the task as a self-protective measure, resulting in decreased motivation to reengage in similar subsequent tasks and potentially the domain.⁹⁷ Several prominent social-psychological theories that seek to examine human motivation and performance help to explain how stereotypes, and attribution to bias can lead to diminished motivation, disengagement and depressed academic performance of stereotyped students, and provide direction for

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am.pdf.

⁹³ Cohen et al., *Mentor's Dilemma*, *supra* note 76, at 1302.

⁹⁴ Crocker & Major, *supra* note 13, at 622–23; Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 307.

⁹⁵ Crocker & Major, *supra* note 13, at 622–23.

⁹⁶ *Id.*

⁹⁷ Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 304; *see also* Charles S. Carver & Michael F. Scheier, *Optimism, Pessimism and Self-Regulation*, in *OPTIMISM & PESSIMISM: IMPLICATIONS FOR THEORY, RESEARCH, AND PRACTICE* 31, 41–42 (Edward Chang ed., 2001) (“If expectations are for a successful outcome, the person returns to effort toward the goal. If doubts are strong enough, the result is an impetus to disengage from effort, and potentially from the goal itself.”); Carol S. Dweck & Daniel C. Molden, *Self-Theories: Their Impact on Competence Motivation and Acquisition*, in *HANDBOOK OF COMPETENCE & MOTIVATION* 122 (Andrew J. Elliot & Carol S. Dweck eds., 2005). Dweck, whose work examines personal theories of intelligence, was one of the first to demonstrate that attribution to controllable causes improves motivation and performance.

alleviating the negative consequences.⁹⁸ These theories represent a convergence of explanations for the negative consequences of attributional ambiguity.⁹⁹

A. Entity v. Incremental Theories of Intelligence—Fixed and Growth Mindsets

Attributions are impacted by a person's theory about whether their own intelligence is fixed or malleable.¹⁰⁰ People who adopt an entity-theory of intelligence believe ability, including intellectual ability, is fixed and unchangeable—they have a fixed mindset.¹⁰¹ Conversely, people who adopt the incremental-theory perceive ability, including intellectual ability, as malleable, and thus believe intellect can be developed and increased—they have a growth mindset.¹⁰²

Students' mindsets impact their attributions. If a student has a fixed mindset, perceiving intelligence as a fixed quality, the student attributes poor performance or failure to an unchangeable, and thus uncorrectable cause—a fixed amount of intelligence—and therefore reacts by giving up, because the student assumes they are not capable of performing the task, even with further effort.¹⁰³ On the other hand, if a student has a growth-mindset, perceiving intelligence as something that is malleable, i.e., can be developed and increased, the student attributes poor performance to a correctable cause—an intellectual ability that needs to be further developed; because the student believes this ability can be developed by further effort, the student responds by working harder to develop the necessary skills.¹⁰⁴ Only students who possess a growth mindset have the potential to improve, because skill development depends upon deliberate practice—a purposeful and sustained effort, with focus on improving weaknesses—and only

⁹⁸ See *infra* Part II.

⁹⁹ See *infra* Part II.

¹⁰⁰ CAROL S. DWECK, *MINDSET: THE NEW PSYCHOLOGY OF SUCCESS* 6–7 (Updated Ed., Random House 2016); see also Wilson et al., *supra* note 77, at 94.

¹⁰¹ Dweck & Molden, *supra* note 97, at 125.

¹⁰² DWECK, *supra* note 100, at 15–18, 21–25; Dweck & Molden, *supra* note 97, at 125.

¹⁰³ DWECK, *supra* note 100, at 42–44; Dweck & Molden, *supra* note 97, at 125–26.

¹⁰⁴ DWECK, *supra* note 100, at 15–18, 21–25; Dweck & Molden, *supra* note 97, at 125–28.

students who believe effort will result in improvement will engage in this type of practice.¹⁰⁵

Stereotypes imply that intelligence is fixed because it is limited (and unchangeable) for members of certain groups—thus inducing an entity-theory, or fixed mindset.¹⁰⁶ In other words, a stereotype that intelligence (or lack thereof) is based upon race necessarily requires adopting a view that intelligence is fixed and unchangeable because race is unchangeable. To the extent a student's attribution is impacted by ability-based stereotypes (including perceived intellectual shortcomings), the effects of stereotype threat can be halted by attributional retraining which helps students develop an incremental view of intelligence—a growth mindset.¹⁰⁷

A different problem occurs when stereotyped students attribute critical feedback or poor performance to rater bias, rather than attributing failure to intellectual shortcomings. The student is still attributing failure to an unchangeable cause, resulting in the same consequences as an attribution to lack of intellectual ability, namely decreased effort and motivation. However, in such cases developing an incremental view of intelligence does not address the negative motivational consequences, since lack of intellect is not perceived to be the cause. Instead, addressing the consequences of attributions to bias requires an intervention which clarifies the feedback giver's motives and thus removes the attributional ambiguity.¹⁰⁸

B. Learned Helplessness and Explanatory Style

¹⁰⁵ Paula J. Manning, *Understanding the Impact of Inadequate Feedback: A Means to Reduce Law Student Psychological Distress, Increase Motivation, and Improve Learning Outcomes*, 43 CUMB. L. REV. 329, 339–40 (2013).

¹⁰⁶ Good et al., *supra* note 63, at 650.

¹⁰⁷ Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 320–21.

¹⁰⁸ Part III of this article describes one such intervention—“wise feedback.” See *supra* Part III.

According to learned helplessness theory people can, via their experiences, come to believe that no amount of effort will change their circumstances.¹⁰⁹ This learned behavior, or pattern of learned thinking, will then cause a person to do nothing when presented with similar difficult or negative situations, even if effort on their part might alleviate the difficulty or improve their new situation.¹¹⁰ If, for example, a student comes to believe, via experiences with racism and discrimination, that no amount of effort on their part can change perceptions of bias, and the resulting discrimination, the student will do nothing in subsequent situations where they believe they are experiencing bias and discrimination.

Martin Seligman and his team examined the cognitive processes underlying development of learned helplessness, leading them to conclude that the key to understanding how a person will respond to negative events, including whether a person will rebound in the face of difficulty or failure, lies in the way the person explains the cause of those events—the person’s explanatory, or attribution style.¹¹¹ They examined attribution style along three dimensions: internal vs. external, stable vs. changeable, and global vs. specific.¹¹² Attribution along these dimensions ultimately results in explanatory styles they characterized as optimistic or pessimistic.¹¹³ According to Seligman, those persons who exhibit a pessimistic attribution style characterize negative events, difficulties and failures as unchangeable and global; they attribute difficulty and failure to causes that are permanent, pervasive throughout the domain, rather than limited to the particular context, and to internal, personal flaws.¹¹⁴ Students with a pessimistic attribution style do not believe they can improve performance through additional effort, because their attributions are to unchangeable causes.¹¹⁵ The result is that these students do not persist in the face of difficulty or failure.¹¹⁶ Also, because they perceive the reasons for their difficulties are global,

¹⁰⁹ Rosen, *supra* note 80, at 331.

¹¹⁰ *Id.*

¹¹¹ See MARTIN E. P. SELIGMAN, *LEARNED OPTIMISM: HOW TO CHANGE YOUR MIND AND YOUR LIFE* (Reprint Ed. Vintage 2006).

¹¹² *Id.* at 44, 46, 49.

¹¹³ *Id.* at 44–50.

¹¹⁴ *Id.* at 44–49.

¹¹⁵ *Id.* at 45, 47.

¹¹⁶ SELIGMAN, *supra* note 111, at 45, 47.

meaning they persist throughout the domain, the student may also disengage from the domain, rather than just the specific context.¹¹⁷ Conversely, those with an optimistic attribution style attribute difficulties and failures to causes which are external, changeable and specific to the context rather than applicable to many contexts, perceiving the cause of the difficulty or failure as changeable and fixable.¹¹⁸ Students who exhibit an optimistic attribution style perceive themselves as able to become effective, both at the specific task, and throughout the domain, by exerting additional effort.¹¹⁹

Students who have an entity theory of intelligence, and who attribute failure to lack of intelligence, are making attributions to internal, stable, global causes. The cause is stable because it is due to a personal failure of intelligence, which cannot be changed because it is set by race. The cause is global because it is pervasive throughout the relevant domain, because intelligence is presumably required for all academic success. When students attribute poor performance and critical feedback to bias, or a stereotyped perception held by another person, they are also attributing to a stable cause, to the extent they believe another person's bias cannot be changed via the student's own efforts. To the extent the student believes bias permeates the course or domain, the attribution is also global, rather than specific to the particular task, course, or professor. In these ways, the stereotype threatened student exhibits a pessimistic attribution style, which leads the student to believe they cannot improve performance through additional effort, and so they do not persist in the face of difficulty or failure. This lack of persistence and effort leads to a self-fulfilling prophecy of sorts, as the student inevitably performs worse.

C. *Self-Efficacy Theory*

¹¹⁷ *Id.* at 44–49.

¹¹⁸ *Id.*

¹¹⁹ *Id.* at 46–48. Rosen describes a narrow category of pessimists that may not have the same reactions, but even this group is at risk for other issues where negative affect is linked to detrimental coping skills and negative psychological effects. Rosen, *supra* note 80, at 334–36.

A student's attributions can also impact their self-efficacy. According to Self-efficacy Theory, self-efficacy is an individual's belief that they can perform a desired task.¹²⁰ Self-efficacy differs from self-esteem in that it is specific to a particular task or goal, and involves judgments about personal capabilities, as opposed to self-worth.¹²¹ Students who attribute failure to changeable, correctable causes experience greater self-efficacy.¹²² Such students can anticipate the satisfaction of reaching the goal once they correct the reasons for the failure.¹²³ The belief that they can correct the deficiency, and the anticipation of reaching the goal, produce high self-efficacy.¹²⁴ Students with high self-efficacy select more challenging tasks, put forth more effort to accomplish tasks, and persist in the face of difficulty or challenge.¹²⁵ This leads to a "virtuous" cycle—the greater a student's sense of self-efficacy, the more effort the student is likely to exert, which then has beneficial effects on future performance, resulting in even higher self-efficacy.¹²⁶ Students with fixed mindsets or pessimistic attributions styles, as described above, attribute failure to unfixable, unchangeable causes.¹²⁷ As a result they do not believe they will be able to perform sufficiently to be successful—i.e., they do not have self-efficacy.¹²⁸ They are engaged in a "vicious" cycle—their low self-efficacy leads to low effort, which has negative consequences on their performance, which leads to lower self-efficacy, and to lower effort, or possibly no effort at all—as they disengage from the task or domain.¹²⁹

¹²⁰ Pamela J. Gaskill & Anita Woolfolk Hoy, *Self-Efficacy and Self-Regulated Learning: The Dynamic Duo in School Performance*, in IMPROVING ACADEMIC ACHIEVEMENT: IMPACT OF PSYCHOLOGICAL FACTORS ON EDUCATION 185, 186 (Joshua Aronson ed., 2002).

¹²¹ *Id.*

¹²² Wilson et al., *supra* note 77, at 94.

¹²³ See Marilyn E. Gist & Terence R. Mitchell, *Self-Efficacy; A Theoretical Analysis of its Determinants and Malleability*, 17 ACAD. MGMT. REV. 183, 192–93 (1992).

¹²⁴ *Id.*

¹²⁵ Wilson et al., *supra* note 77, at 94.

¹²⁶ *Id.*; see Michael Hunter Schwartz, *Teaching Law Students to Be Self-Regulated Learners*, 2003 MICH. ST. DCL L. REV. 448, 477–78 (2003) (explaining that self-efficacy is required for self-regulated learning because it is what ensures students continue to reflect on and alter learning strategies when something they are doing is not producing the desired results).

¹²⁷ Rosen, *supra* note 80, at 331; see SELIGMAN, *supra* note 111, at 54–70 (discussing pessimism generally).

¹²⁸ Wilson et al., *supra* note 77, at 94.

¹²⁹ See Artino, *supra* note 13, at 78.

D. The Consequences of Attribution to Stable Causes

A key problem for stereotyped students is that whether they choose to believe the stereotype and attribute critical feedback or task difficulty to an internal failure (e.g. lack of intelligence) or to disbelieve the stereotype and attribute critical feedback or task difficulty to an external cause (e.g., rater bias), they run the risk of attributing to a cause which is out of their control. Where the student believes she has no control over negative outcomes, and that no amount of effort would change the result, it leads to a decline in self-efficacy, effort, and motivation.¹³⁰

Like stereotype threat, a student's attributions can lead to consequences beyond poor performance on a particular assignment. Motivation is derived in part from a person's perceived likelihood of being able to obtain a goal.¹³¹ Where the student believes they cannot improve sufficiently to meet the standards, even with an investment of further effort, the student does not persist.¹³² Because they believe it is not safe or worthwhile to invest effort, they begin to devalue the task goal.¹³³ This devaluing results in decreased motivation to reengage in the task (e.g., a particular assignment or course) and ultimately, as performance begins to decline, to disengaging from the domain (e.g., a course or law school).¹³⁴

III. INTERVENING AT THE INDIVIDUAL LEVEL USING "WISE FEEDBACK"

¹³⁰ Crocker & Major, *supra* note 13, at 622.

¹³¹ *Id.*

¹³² Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 304; *see also* Carver & Scheier, *supra* note 97, at 41–42 ("If expectations are for a successful outcome, the person returns to effort toward the goal. If doubts are strong enough, the result is an impetus to disengage from effort, and potentially from the goal itself."); Carol S. Dweck, *Messages That Motivate: How Praise Molds Students' Beliefs, Motivation, and Performance (in Surprising Ways)*, in *IMPROVING ACADEMIC ACHIEVEMENT: IMPACT OF PSYCHOLOGICAL FACTORS ON EDUCATION* 37, 41–43 (Joshua Aronson ed., 2002).

¹³³ *See* sources cited *supra* note 132.

¹³⁴ *See* sources cited *supra* note 132.

While structural changes, including changes to the admission process,¹³⁵ are necessary to address the larger systemic problem of underrepresentation in law schools and the profession, faculty looking for a means to address performance and retention problems for current students can adopt relatively simple feedback practices which have proven successful at negating or minimizing the effects of stereotype threat and attributional ambiguity. In fact, “the first step . . . lies with teachers and the schools they represent. They must educate in a ‘wise’ manner, that is, in a way that communicates to students that they will neither be viewed nor be treated in light of a negative stereotype.”¹³⁶ In taking this step, faculty assure that stereotyped students will be less likely to disengage, and more likely to be able to devote the same intellectual effort as their non-stereotyped peers towards solving the complex problems of the law school curriculum.

A. *Educating in a “Wise” Manner*

In the social-psychological literature the term “wise”¹³⁷ is used to identify interventions which secure students in the belief that they will not be judged by a negative stereotype or treated stereotypically—that their abilities and belonging are assumed rather than doubted.¹³⁸ It is important to distinguish between well-meaning and “wise” interventions.¹³⁹ “Wise” interventions share several key characteristics, including a combination of high performance standards and high personal regard.¹⁴⁰ They continually convey that success is the result of

¹³⁵ See McClain, *supra* note 1, at 44 (documenting negative effects of stereotype threat and recommendations on how to eliminate or limit such threats).

¹³⁶ Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 309.

¹³⁷ The term, as it is used in the social-psychology literature, is borrowed from Erving Goffman’s analysis of social stigma; it describes the act of seeing the full humanity of a stigmatized individual—i.e., the act of seeing beneath and beyond the stigma to allow for open and honest interaction. Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 805–06 (discussing ERVING GOFFMAN, STIGMA: NOTES ON THE MGMT. OF SPOILED IDENTITY); Steele, *Threat in the Air*, *supra* note 32, at 624.

¹³⁸ Steele, *Threat in the Air*, *supra* note 32, at 624; Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 309.

¹³⁹ Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 806 (noting “not all well-intentioned strategies are wise”); Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 309 (describing successful “wise” interventions).

¹⁴⁰ Yeager et al., *Trust Gap*, *supra* note 89, at 661–62; Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 806; see also Cohen et al., *Mentor’s Dilemma*, *supra* note

effort and persistence.¹⁴¹ They emphasize that intelligence is malleable, not fixed.¹⁴² They provide sufficient competency information for students to attain the expected standards.¹⁴³

Importantly, “wise” interventions do not overpraise or under challenge.¹⁴⁴ When well-intended educators overpraise mediocre work of racial minorities, or require lower performance standards, it conveys low expectations, and that the educator does not believe their students can meet higher standards.¹⁴⁵ It conveys that the educator does not believe students are worthy of real praise, and that they are not capable of earning it.¹⁴⁶ This can then confirm a suspicion that the student is being stereotyped, which may erode students' trust in the educator.¹⁴⁷ This lack of trust can then cause students to question whether the teacher's real praise, when it does come, is based on the student's achievement or their race.¹⁴⁸

B. “Wise” Feedback

“Wise” feedback, as it is used in this article, and the social-psychology literature, refers specifically to feedback statements that have the potential to forestall attributions of bias and mediate the impact of stereotype threat on performance and subsequent motivation.¹⁴⁹ In

76, at 1303; JACQUELINE JORDAN IRVINE, EDUCATING TEACHERS FOR DIVERSITY, SEEING WITH A CULTURAL EYE (2003).

¹⁴¹ Cohen et al., *Mentor's Dilemma*, *supra* note 76, at 1303; Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 320.

¹⁴² See sources cited *supra* note 141.

¹⁴³ Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 806. See Cohen et al., *Mentor's Dilemma*, *supra* note 76, at 1306 (providing detailed competency information).

¹⁴⁴ Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 317; Cohen et al., *Mentor's Dilemma*, *supra* note 76, at 1303. See *infra* notes 179–84 and accompanying text.

¹⁴⁵ Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 806.

¹⁴⁶ Kent D. Harber et al., *Students' Race and Teachers' Social Support Affect the Positive Feedback Bias in Public Schools*, 104 J. EDUC. PSYCHOL. 1149 (2012); see also Jere Brophy, *Teacher Praise: A Functional Analysis*, 51 REV. EDUC. RES. 5 (1981) (explaining the characteristics of effective praise and dangers of ineffective praise).

¹⁴⁷ Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 806.

¹⁴⁸ Harber et al., *supra* note 146, at 1149.

¹⁴⁹ See *supra* note 137.

addition to the characteristics described above, “wise feedback” requires two specific components, which must be made explicitly, to students: (1) the feedback giver must invoke high standards as the basis for critical feedback; and (2) the feedback giver must assure the student of their capacity to reach those standards through additional effort.¹⁵⁰ This section describes these two characteristics, the need for explicit communication of the two facets, and other necessary components of “wise feedback,” providing specific examples of each.

1. A “Wise” Two Faceted Approach

In the late 1990’s social psychologists Geoffrey Cohen, Claude Steele and Lee Ross, engaged in a set of experiments which demonstrated the effectiveness of a two faceted “wise feedback” intervention at reducing the negative consequences of stereotype threat and attributional ambiguity.¹⁵¹ Black and White students at Stanford University wrote and received feedback on a letter describing an important teacher, mentor, coach or other important person, purportedly for the purpose of having the letter published in an education journal.¹⁵² Students were divided into three categories, each of which received critical feedback ostensibly from a white reviewer who was part of the journal’s editorial board.¹⁵³ The students’ letters were blind graded, and the reviewer did not know the race of the participants.¹⁵⁴ However, students were led to believe that their race was known to the reviewer, because students were required to take a photo and attach it to the letter, for the apparent purpose of including the photo in the journal if the letter was published.¹⁵⁵ Students were also led to believe the reviewer was

¹⁵⁰ Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 311–12; Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 806.

¹⁵¹ Cohen and Steele’s “wise feedback” intervention is rooted in other studies and anecdotal evidence, including Xavier University’s admission rates for Black undergraduates into medical schools, Georgia Tech’s graduation rates of minority students from the engineering program, and East Los Angeles High School teacher Jamie Escalante’s success with Mexican American students and the AP calculus exam (the subject of the movie *Stand and Deliver*). Cohen et al., *Mentor’s Dilemma*, *supra* note 76, at 1303.

¹⁵² *Id.* at 1304.

¹⁵³ *Id.* at 1306.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

white, via use of a recognizably Caucasian name.¹⁵⁶ Students were all given handwritten corrections and comments regarding style, structure and wording, and specific suggestions for improvement,¹⁵⁷ along with the following identical,¹⁵⁸ general critique:

Your letter needs work in several areas before it can be considered for publication. In addition to some routine editorial suggestions that I've offered, most of my comments center on how you could breathe more life into your letter and make the description of your favorite teacher and her [his] merits more vivid, personal, and persuasive. As it stands, your letter is vague and rambling—long on adjectives and short on specific illustrations. You describe your teacher's dedication and commitment but you haven't explained why your teacher is more exemplary in her [his] contribution, more deserving of recognition, than most of the other nominees cited by other writers. In particular, it would be helpful to be more specific when you describe your teacher, to pay closer attention to the details that inspired your high opinion of her [him]. What were some of the specific things your teacher did that set her [him] apart from all other teachers you've encountered in your life? You cover this at certain points in your letter, and it is there that your letter begins to come to life. You need to sustain this.

One last comment: If you choose to revise your letter, you should spend significantly more time explaining your teacher's impact on your own personal growth. What made her [his] influence so much more important than other teachers in your life? Perhaps your teacher opened your eyes to something you hadn't seen before, perhaps she [he] helped you to see your potential. Sometimes you touch on this but you fail to build on it. You need to discuss the long-term imprint [teacher's name]

¹⁵⁶ Cohen et al., *Mentor's Dilemma*, *supra* note 76, at 1306.

¹⁵⁷ *Id.* Importantly, these specific comments provided competency feedback, a necessary component as described *infra* in notes 181–87 and accompanying text.

¹⁵⁸ To the students the critique appeared to be individualized, since virtually all of the students' letters shared the same characteristics addressed by the comments. Cohen et al., *Mentor's Dilemma*, *supra* note 76, at 1306.

has left on you in greater detail. This enduring impact is perhaps the strongest testimony of a teacher's success.¹⁵⁹

The "unbuffered criticism" group received no additional comment.¹⁶⁰ The "positive buffer" group received a preface containing the following additional feedback, which consisted of general praise of their performance:

Overall, nice job. Your enthusiasm for your teacher really shows through, and it's clear that you must have valued her [him] a great deal. You have some interesting ideas in your letter and make some good points. In the pages that follow, I've provided some more specific feedback and suggested several areas that could be improved.¹⁶¹

The "wise criticism" group received a preface containing the following statement, designed to "explicitly invoke high standards while assuring the particular student that he or she could meet such standards".¹⁶²

It's obvious to me that you've taken your task seriously and I'm going to do likewise by giving you some straightforward, honest feedback. The letter itself is okay as far as it goes—you've followed the instructions, listed your teacher's merits, given evidence in support of them, and importantly, produced an articulate letter. On the other hand, judged by a higher standard, the one that really counts, that is, whether your letter will be publishable in our journal, I have serious reservations. The comments I provide in the following pages are quite critical but I hope helpful. Remember, I wouldn't go to the trouble of giving you this feedback if I didn't think, based on what I've read in your letter, that you are capable of meeting the higher standard I mentioned.¹⁶³

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.* at 1307.

¹⁶² *Id.* at 1306.

¹⁶³ Cohen et al., *Mentor's Dilemma*, *supra* note 76, at 1307.

After students in all three conditions received the feedback, researchers then measured the individual student's perceptions of bias of the reviewer and level of task motivation—specifically the student's interest in revising and resubmitting the essay, and the student's belief in her ability to improve with greater effort.¹⁶⁴

In evaluating the difference between Black and White students' reports of reviewer bias, the researchers found the difference was greatest between Black and White students in the unbuffered group; Black students receiving unbuffered criticism rated the reviewer as more biased than did White students.¹⁶⁵ That difference was smaller for students in the positive feedback group, although ratings were still higher for Black students than White students.¹⁶⁶ However, it was nonexistent for the "wise" criticism group—in fact, Black students in the "wise criticism" group rated the reviewer somewhat lower in bias than did White students in that same group.¹⁶⁷ Even more significant for the researchers than the between race comparison, was the fact that the bias ratings for Black students in the "wise criticism" group were lower than ratings for Black students in the unbuffered and positive buffer conditions.¹⁶⁸

There were similar results with regard to task motivation. The difference was greatest between White and Black students in the unbuffered group, with Black students reporting lower levels of motivation.¹⁶⁹ This difference in motivation between Black and White students was somewhat reduced in the positive buffer group—but Black students still reported lower levels of motivation than did White

¹⁶⁴ *Id.* at 1307–09.

¹⁶⁵ *Id.* at 1308.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ Cohen, Steele, and Ross warned that comparison between races might be "inappropriate because White students may have interpreted the term *bias* to mean hostility toward them personally, rather than animus toward members of their race." They went on to explain that the more relevant comparison is probably Black students in the unbuffered criticism condition versus Black students in the "wise criticism" group, which would not have the interpretation problems involved in the between race comparisons. Cohen et al., *Mentor's Dilemma*, *supra* note 76, at 1308.

¹⁶⁹ *Id.* at 1309.

students in that same group.¹⁷⁰ However, Black students in the “wise criticism” group reported significantly higher levels of motivation than Black students in both the unbuffered and positive buffer groups, and slightly higher motivation than White students in the “wise feedback” group.¹⁷¹

In a second study, Cohen and Steele set out to determine whether personal assurance is a necessary component of “wise feedback.”¹⁷² They hypothesized that invocation of higher standards, by itself, might forestall attributions of bias, but that it would not sufficiently address the negative motivational consequences of stereotype threat.¹⁷³ They used the same letter writing task, and again divided students into three different conditions; one group received the same unbuffered feedback as the first study, and another received the same “wise feedback” (feedback accompanied by an invocation of high standards and assurance of capacity to reach those standards) as the first study.¹⁷⁴ A third group received the same general feedback as all three groups in the first study, prefaced with the following “high standards only” feedback statement:

It’s obvious to me that you’ve taken your task seriously and I’m going to do likewise by giving you some straightforward, honest feedback. The letter itself is okay as far as it goes—you’ve followed the instructions, listed your teacher’s merits, given evidence in support of them, and importantly, produced an articulate letter. On the other hand, judged by a higher standard, the one that really counts, that is, whether your letter will be publishable in our journal, I have serious reservations. The comments I provide in the following pages are quite critical but I hope helpful. Remember, I wouldn’t go to the trouble of giving you this feedback if I weren’t committed to the quality of this journal—I want to uphold the highest standards for what I

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² *Id.* at 1310.

¹⁷³ Cohen et al., *Mentor’s Dilemma*, *supra* note 76, at 1310.

¹⁷⁴ *Id.* at 1310–11.

consider a suitable entry, for you or any student whose work is under consideration.¹⁷⁵

In this second study, similar to the first study, Black students in the “unbuffered” category reported the reviewer as more biased than did White students in the same category.¹⁷⁶ In both the invocation only and “wise” conditions there was no difference between Black and White students’ ratings of reviewer bias.¹⁷⁷ Importantly, Black students reported significantly greater motivation in the “wise” condition than in either of the other conditions, while White students reported no significant differences in motivation across the three conditions.¹⁷⁸ The researchers thus concluded that invocations of high standards alone could reduce attributions of bias, but were not sufficient to raise task motivation.¹⁷⁹ It was only the “wise feedback” containing the explicit invocation of high standards and explicit assurance of capacity to reach those standards that both significantly raised motivation and reduced perceptions of bias among black students.¹⁸⁰

a. The Need for Both Facets

The two facets of the “wise feedback” intervention—invoking high standards as the basis for the feedback and assuring students of their capacity to meet the high standards—perform different and necessary functions. The invocation of high standards allows the student to view critical feedback as a reflection of rigorous performance standards, rather than racial bias.¹⁸¹ Clarifying the motives behind the feedback removes attributional barriers, because it removes bias as one of the plausible options.¹⁸² The assurance of capacity allays student’s fears that they will fail to meet the standard and confirm a negative stereotype, making it worthwhile for the student to exert additional effort to improve, and thereby addressing the negative motivational

¹⁷⁵ *Id.* at 1311.

¹⁷⁶ *Id.* at 1311–12.

¹⁷⁷ *Id.* at 1313. The researchers noted the same issue as the first study with regard to White students’ interpretation of the word bias. *Id.* at 1308.

¹⁷⁸ Cohen et al., *Mentor’s Dilemma*, *supra* note 76, at 1312.

¹⁷⁹ *Id.* at 1313.

¹⁸⁰ *Id.*

¹⁸¹ *Id.* at 1314

¹⁸² *See id.*; Steele et al., *Group Image*, *supra* note 8, at 394.

consequences posed by stereotype threat.¹⁸³ Without the assurance, stereotype threatened students may no longer perceive bias as the motivation behind the feedback, but they may still wonder if their capacity to reach the high standards is in doubt.¹⁸⁴ Without the invocation of high standards as the reason for the criticism, an assurance that the student can “do better” (as opposed to an assurance the student can meet the articulated high standard) sends “the discouraging message that hard work on the student’s part can only raise the level of their performance from utter deficiency to mere adequacy.”¹⁸⁵ Therefore, to both forestall attributions to bias, and remove the barriers presented by stereotype threat, both the invocation of high standards and assurance of capacity to meet the standards are required.

b. The Importance of Explicitly Communicating Both Facets

“Wise feedback” is beneficial because it makes explicit to stereotyped students the message that is implicit for non-stereotyped students.¹⁸⁶ Non-stereotyped students receiving rigorous criticism are inclined to automatically infer high standards as the basis for the criticism, and to assume that they are viewed as capable of meeting those standards (because their intellectual capabilities are not viewed as stereotypically inferior); however, stereotyped students are not.¹⁸⁷ For

¹⁸³ Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 311–12. The assurance can also be expected to counteract learned helplessness and other maladaptive attributions. *See* Cohen et al., *Mentor’s Dilemma*, *supra* note 76, at 1314.

¹⁸⁴ Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 312.

¹⁸⁵ *Id.* at 313.

¹⁸⁶ *Id.* at 314. Cohen and Steele note that some wise interventions implicitly convey their high standards by means of being a separate “honors” program to which students are only admitted if they can meet higher than “normal” standards of admission. However, they acknowledge that the explicitness of the message may be disproportionately important for stereotyped students, and their successful intervention explicitly invokes both pieces. Cohen et al., *Mentor’s Dilemma*, *supra* note 76, at 1303–04. To the extent that feedback in law school occurs as part of the regular curriculum, and not as separate “honors” curriculum, the message should be explicit. Where students are engaged in separate honors work, the invocation of high standards may be conveyed implicitly, but the assurance would nonetheless need to be explicit.

¹⁸⁷ Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 806 (“nonstereotyped students more readily attribute critical feedback to high standards and a belief in their potential even without explicit explanations”); *see also* Steele et al., *Group Image*, *supra* note 8, at 427.

stereotyped students it does not “go without saying” that they are not being judged stereotypically, or that the provider of critical feedback believes they have the capacity to succeed with further effort.¹⁸⁸ It is the explicit communication of high standards as the basis for the critical feedback, and assurance of capacity to meet those standards that removes the attributional ambiguity for minority students, and communicates that further effort is worthwhile.¹⁸⁹ This explicit communication allows students to trust the feedback giver’s motives, and thus the feedback given. The student then feels safe to invest further effort and even identity in the task (and domain), knowing they will not be judged stereotypically, but through the lens of someone who believes they have the capacity to reach the required standard.

Cohen and Steele’s “wise criticism” intervention models the above criteria. First, it explicitly invokes high standards by stating: “judged by a higher standard, the one that really counts, that is, whether your letter will be publishable in our journal, I have serious reservations.”¹⁹⁰ It also explicitly assures the student of their capacity to meet those standards by stating: “you are capable of meeting the higher standard I mentioned.”¹⁹¹ These and similar phrases could be easily imported into feedback, and they should.

“Wise” feedback must both invoke higher standards as the basis for the critical feedback (and inadequate performance), as well as assure students of their capacity to meet the required standard—and it must do

¹⁸⁸ Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 806; Steele et al., *Group Image*, *supra* note 8, at 427.

¹⁸⁹ Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 806. An interesting question is whether such statements can be made to a group of students—for example, as a blanket prefatory statement before handing back graded exams. The empirical studies all describe one-to-one interventions, so there is no study to support the view that such a global statement would work. It would seem to depend on the nature of the professor-student relationship, and whether students perceived such a statement as trustworthy, as well as whether the student perceived the statement as directed toward them personally. While it might be possible that an invocation of high standards could be done in this manner, stereotype threatened students would need very high levels of trust in the professor, evidenced by personal attention and concern, and it would seem very unlikely that students would perceive a blanket statement as a personal assurance of their own capacity.

¹⁹⁰ Cohen et al., *Mentor’s Dilemma*, *supra* note 76, at 1307.

¹⁹¹ *Id.*

so explicitly.¹⁹² Importantly, however, “wise feedback” must do more than merely recite such statements.¹⁹³ It must provide criticism in a context in which its critical nature can be readily attributed to the existence of the high standards and communicate the feedback giver believes in the student’s capacity to reach them.¹⁹⁴ In subsequent studies confirming the positive impacts of “wise feedback” interventions, researchers examined the means for creating such a context,¹⁹⁵ ultimately finding that to be truly “wise,” in addition to explicitly communicating the two facets, the student must trust that the feedback giver has the student’s best interests at heart; and the student must be provided with the resources – including competency information – to reach the required standards.¹⁹⁶

2. The Moderating Impact of Trust

When students believe poor outcomes or negative feedback are based on bias it creates a “barrier of mistrust” between the student, the feedback giver and ultimately, the institution.¹⁹⁷ This can have short and long term consequences. In the short term, students who suspect bias may be less motivated to comply with instructions for improvement (i.e., they are more likely to ignore feedback).¹⁹⁸ In the long term, the stereotyped person or group may place less importance on the domain, because people, individually and collectively, are generally reluctant to

¹⁹² See, e.g., Cohen et al., *Mentor’s Dilemma*, *supra* note 76, at 1303; Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 806.

¹⁹³ Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 820 (noting wise interventions “must also be accompanied by real opportunities for growth”).

¹⁹⁴ Cohen et al., *Mentor’s Dilemma*, *supra* note 76, at 1316.

¹⁹⁵ Yeager et al., *Cycle of Mistrust*, *supra* note 76 (using field experiments to apply “wise feedback” intervention in middle school); Yeager et al., *Trust Gap*, *supra* note 89 (explaining a longitudinal study that examines the effects of “wise feedback” intervention in middle school on subsequent college enrollment); Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 313 (describing the “wise feedback” intervention for women in science and engineering majors).

¹⁹⁶ Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 806, 822; Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 318.

¹⁹⁷ Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 805.

¹⁹⁸ Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 307; see also Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 822 (“Wise feedback interventions presuppose that teachers provide solid feedback and their intent is to help their students.”).

invest effort in an area where they will be subjected to biased treatment.¹⁹⁹ However, trust allows students to see critical feedback as information that can help them improve, rather than as possible evidence of bias.²⁰⁰ “Wise” interventions are successful because students trust that they will not be judged stereotypically; when students experience teachers as trustworthy, the “barrier” is removed, and students can then learn from instruction.²⁰¹

To establish trust, “wise” educators combine their high-performance standards with high personal regard for students’ well-being. “Wise” educators genuinely believe that their students can succeed.²⁰² As a result, they continually communicate to students that they are capable, valued, and respected.²⁰³ “Wise” educators nurture trust by showing students attention and personal concern, including expenditures of time and effort, like giving detailed attention (and feedback) to the student’s performance.²⁰⁴ As a result, students believe the educator has their best interests at heart, and believes in their potential.²⁰⁵

Even in the relatively short interaction in Cohen and Steele’s “wise criticism” condition, the feedback provider was able to create trust, by evidencing these characteristics. First, even with the generic comments the feedback provider communicated value and respect for

¹⁹⁹ Crocker & Major, *supra* note 13, at 617; Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 304.

²⁰⁰ Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 820.

²⁰¹ Yeager et al., *Trust Gap*, *supra* note 89, at 661–63.

²⁰² Cohen et al., *Mentor’s Dilemma*, *supra* note 76, at 1316.

²⁰³ Yeager et al., *Trust Gap*, *supra* note 89, at 673.

²⁰⁴ Cohen et al., *Mentor’s Dilemma*, *supra* note 76, at 1316; Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 319; *see also* Manning, *supra* note 105, at 241 (discussing importance of investing effort to build teacher-student relationship to extend impact of feedback).

²⁰⁵ Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 304; *see also* Rodolfo Mendoza-Denton et al., *Group Value Ambiguity: Understanding the Effects of Academic Feedback on Minority Students’ Self-Esteem*, 1 SOCIAL PSYCH. & PERSONALITY SCI. 127 (2010). Also, although for adults self-efficacy is influenced primarily by direct experiences (successes raise efficacy beliefs and failures lower them), specific performance feedback can help counter self-doubt and encourage persistence, especially where the feedback is from a credible, trustworthy, expert. Gaskill & Hoy, *supra* note 120, at 187.

the student's effort, with these statements: "It's obvious to me that you've taken your task seriously" and "you've followed the instructions, listed your teacher's merits, given evidence in support of them, and importantly, produced an articulate letter."²⁰⁶ The feedback communicated a commitment to the student's success with this comment: "I'm going to do likewise by giving you some straightforward, honest feedback."²⁰⁷ The comments also included a statement about the feedback provider's belief in the student's capabilities: "Remember, I wouldn't go to the trouble of giving you this feedback if I didn't think, based on what I've read in your letter, that you are capable."²⁰⁸ Finally, the comments clarified the feedback giver's motives—helping the student succeed: "The comments I provide in the following pages are quite critical, but I hope helpful."²⁰⁹ When coupled with detailed feedback demonstrating significant time and effort expended to help the student improve, these statements provided the student with a basis for believing the feedback provider had the student's best interests at heart (helping the student succeed on the task) and believed in the student's potential (i.e., believed the student was capable of meeting the standard).²¹⁰

3. Refocusing Student Attributions

The effectiveness of the "wise feedback" intervention also lies, in part, on the fact that it helps to retrain students' maladaptive attributions.²¹¹ "Wise feedback" sends the message that academic

²⁰⁶ Cohen et al., *Mentor's Dilemma*, *supra* note 76, at 1307.

²⁰⁷ *Id.*

²⁰⁸ *Id.*

²⁰⁹ *Id.*

²¹⁰ *Id.* at 1316 (noting that "[h]ad the feedback been cursory, rather than critical, students might have doubted the sincerity of the reviewer's self-proclaimed high standards. Indeed, the additional assurance might have seemed condescending if it had accompanied milder feedback."). Notably, in Cohen, Steele, and Ross' interventions, the feedback provided to the students was sufficiently detailed in its criticism, such that many of the studies' participants commented that they were "impressed by the attentiveness of the criticism and that seldom in their undergraduate careers had a teacher or professor taken their efforts so seriously." *Id.*; see also Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 319. Cohen and Steele acknowledge that it is likely that the rigor of the feedback "communicated interest in helping students reach the higher standard." *Id.*

²¹¹ Good et al., *supra* note 63, at 659.

performance is not fixed, but rather that it can be improved through effort and practice.²¹² In so doing, it encourages attributions to correctable causes. Where difficulty or failure is attributed to a cause that is changeable, rather than a cause that is permanent, or fixed, it can reduce the threat posed by a stereotype.²¹³ For example, adopting an incremental view of intelligence (i.e., a growth mindset) can reduce the impact of stereotype threat on students whose intellectual abilities are negatively stereotyped.²¹⁴ This is because an incremental view of intelligence allows a student to view the impugned characteristic as fixable, rather than fixed by the student's race.²¹⁵ Students who attribute difficulties to fixable causes can learn to perceive difficulty not as an indictment of a stereotyped inferior ability, but as an opportunity for growth, via effort and persistence.²¹⁶

Students can be taught to attribute to correctable causes, by helping them to develop growth mindsets and optimistic attribution styles.²¹⁷ To foster these attributions, feedback should make clear how and why any difficulties and/or failures are fixable with further effort²¹⁸ and be communicated in a tone that conveys support, encouragement, and appreciation for the student's effort.²¹⁹ Such feedback might include praise that focuses attention on task-involvement and acknowledges effort. This means praise for initiative, learning new concepts, being undaunted by setbacks, persistence, confronting mistakes, and selecting good strategies—even when they result in failure.²²⁰

²¹² Cohen & Steele, *Barrier of Mistrust*, *supra* note 39, at 310.

²¹³ See Joshua Aronson et al., *Reducing the Effects of Stereotype Threat on African American College Students by Shaping Theories of Intelligence*, 38 J. EXPERIMENTAL SOC. PSYCH. 113 (2002) [hereinafter Aronson et al., *Reducing the Effects*]. For example, if the impugned characteristic is intelligence, and students are taught that intelligence is not fixed, by race, but is incremental and can be developed, it reduces the threat posed by being perceived as intellectually inferior. *Id.* at 123.

²¹⁴ Cohen et al., *Mentor's Dilemma*, *supra* note 76, at 1315; Aronson et al., *Reducing the Effects*, *supra* note 213, at 115–16.

²¹⁵ *Supra* Section II.A.

²¹⁶ Aronson et al., *White Men Can't Do Math*, *supra* note 43, at 115–16. See, e.g., DWECK, *supra* note 100, at 193–200.

²¹⁷ See sources cited *supra* note 216.

²¹⁸ Rosen, *supra* note 80, at 338–40.

²¹⁹ Manning, *supra* note 105, at 241.

²²⁰ DWECK, *supra* note 100, at 71–72 (describing effects of ability praise and effort praise); see also Jennifer Henderlong & Mark Lepper, *The Effects of Praise on*

Notably, “wise feedback” does not mean withholding negative information about performance.²²¹ Genuine constructive criticism that identifies problems or deficiencies, and provides information to help students understand how to improve, is helpful.²²² When such criticism is withheld from stereotyped students it “mis[leads] [them] about where, and how ardently, to exert their efforts,” and subsequently, deprives them of the “academic challenge that promotes advancement.”²²³ Additionally, when well-intended educators overpraise mediocre work of racial minorities, it can convey low expectations and confirm a suspicion that the student is being stereotyped.²²⁴ Praising mediocre work can also cause students to believe they are deficient, and unworthy of real praise, and it can erode trust in legitimate praise, where students become unsure of whether praise reflects achievement or their race.²²⁵ Praise is only effective when it provides guidance, by including specific details of the accomplishment and information about achieving competency.²²⁶ Also, as evidenced by the positive buffer condition, praise, by itself, does not have the power to forestall attributions to bias or improve motivation.²²⁷

The stock comments contained in Cohen and Steele's “wise criticism” condition feedback statement use a tone that conveys support, encouragement and appreciation for the student's effort, noting that “it's obvious [the student has] taken [the] task seriously” and that the critical comments are intended to be “helpful.”²²⁸ The comments also offer sincere praise by detailing the student's specific accomplishments, noting that the student “followed the instructions, listed [the] teacher's

Children's Intrinsic Motivation: A Review and Synthesis, 128 PSYCHOL. BULLETIN 774, 779 (2002) (noting that although the primary focus of the article is influence of praise on motivation of children, research on individuals of all ages was considered).

²²¹ See Cohen et al., *Mentor's Dilemma*, *supra* note 76, at 1303.

²²² DWECK, *supra* note 100, at 182. Praise is ineffective when it is merely an expression of approval or admiration, or a global positive reaction, or when it is feigned, forced or trivial. Brophy, *supra* note 146, at 26; Henderlong & Lepper, *supra* note 220, at 778.

²²³ Harber et al., *supra* note 146, at 1149.

²²⁴ Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 806.

²²⁵ Harber et al., *supra* note 146, at 1149.

²²⁶ Brophy, *supra* note 146, at 26; Henderlong & Lepper, *supra* note 220, at 787.

²²⁷ Cohen et al., *Mentor's Dilemma*, *supra* note 76, at 1307–09.

²²⁸ *Id.* at 1307–08.

merits, [gave] evidence in support of them, and importantly, produced an articulate letter.”²²⁹ The comments do not, however, withhold negative evaluation; instead they communicate the letter is “okay so far as it goes,” but when judged by higher standards, the feedback provider “has serious reservations.”²³⁰ Finally, the comments make clear that the provider believes the problems are fixable by telling the student they “are capable of meeting the higher standard.”²³¹ Each of these statements contributes to focusing the student on specific, fixable problems. This is important, but such statements are not, by themselves, sufficient to meet the goal of changing student's attributions to a fixable cause. To facilitate attributions to fixable causes the statements must make clear *how* the failure to meet the standard is fixable with further effort, which requires giving adequate competency feedback.

4. The Need for Adequate Competency Information

To improve performance outcomes “wise feedback” must be accompanied by adequate information—including substantive feedback—for students to use as a basis for meeting the high standard.²³² Setting high standards without providing a way to reach those standards actually discourages persistence and growth.²³³ However, provided with the instruction they need to improve, stereotyped students can reach the higher standard and refute the stereotype.²³⁴ Without competency feedback, however, students may doubt the sincerity of the reviewer's invocation of high standards, as well as perceive the assurance as condescending or disingenuous.²³⁵ Moreover, although “wise criticism” can remove the attributional barrier, and corresponding lack of motivation, without direction about how to use that motivation to improve performance, the student does not have a real opportunity to disprove the stereotype and change their performance outcomes.²³⁶

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ *Id.*

²³² Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 806 (“Students must also be provided with the resources, such as substantive feedback, to reach the standards demanded of them.”); DWECK, *supra* note 100, at 196–97.

²³³ DWECK, *supra* note 100, at 197.

²³⁴ Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 806.

²³⁵ Cohen et al., *Mentor's Dilemma*, *supra* note 76, at 1316.

²³⁶ Yeager et al., *Cycle of Mistrust*, *supra* note 76, at 820–21.

Cohen and Steele's general comments provided solid competency feedback, by explaining how the student could revise their letter to meet the required standard; for example, students were directed to add specific details:

In particular, it would be helpful to be more specific when you describe your teacher, to pay closer attention to the details that inspired your high opinion of her [him]. What were some of the specific things your teacher did that set her [him] apart from all other teachers you've encountered in your life?²³⁷

and to better support the basis for their recommendation:

[Y]ou should spend significantly more time explaining your teacher's impact on your own personal growth. What made her [his] influence so much more important than other teachers in your life? Perhaps your teacher opened your eyes to something you hadn't seen before, perhaps she [he] helped you to see your potential. Sometimes you touch on this but you fail to build on it.²³⁸

This competency feedback provided necessary direction for the student wanting to take steps to improve, and consequently, with a real opportunity for growth.²³⁹

In short, "wise criticism" removes attributional and motivational barriers, but unless students have resources to meet the required standards interventions will be ineffective, which is why "wise feedback" interventions must include competency information. Armed with motivation to succeed, and an understanding that further effort can bring success, students can use the competency information to meet the required high standards, refute the stereotype and improve performance and outcomes.

²³⁷ Cohen et al., *Mentor's Dilemma*, *supra* note 76, at 1306.

²³⁸ *Id.*

²³⁹ Competency feedback also builds trustworthiness and fosters attributions to unstable, correctable causes.

CONCLUSION

While individual faculty may not be able to make immediate changes to address structural and systemic problems in law school and the profession, they do have a tool--that is both powerful and tractable--to address academic success and retention issues for stereotyped students in their own classrooms: “wise feedback.” “Wise” feedback explicitly invokes high standards as the basis for the criticism, and explicitly assures students of their capacity to meet those standards.²⁴⁰ It is easy enough to revise the generic comments from Cohen and Steele's “wise criticism” condition to be applicable to almost any law school setting. For example:

Although your work demonstrates that you have spent a good deal of time and effort on this essay, it does not yet meet the higher standards we require in law school. We expect students to perform at a much higher standard than most other education because we are training you to be a member of a profession—one in which you will be entrusted to represent the interests of others, namely, your clients. The comments I provide in the following pages are quite critical, but I hope helpful. Remember, it takes a good deal of time to provide you with this feedback and I wouldn't go to the trouble of giving you this feedback if I didn't think, based on what I've read in your essay, that you are capable of meeting this higher standard.

However, to be truly “wise” the feedback must also contain sufficient competency information that makes clear how the difficulties and/or failures are fixable with further effort.²⁴¹ This means providing specific information about how to improve performance, including steps the student can take and changes the student can make, to meet the required standards.²⁴² Additionally, to be “wise” feedback must be conveyed by an educator willing to develop trust via expenditures of expend time and effort, often in the form of detailed feedback, which conveys to students they are capable, valued, and respected.²⁴³

²⁴⁰ *Supra* Section III.B.

²⁴¹ *Supra* Section III.B.4.

²⁴² *Supra* Section III.B.4.

²⁴³ *Supra* Section III.B.2.

The necessary effort is worthwhile, given the possible outcomes: halting the negative effects of stereotype threat and attributional bias for Black, Latina, and other intellectually stereotyped groups of law students, thereby positively impacting academic performance and retention. Moreover, a relatively short intervention could have significant and long-lasting impact on stereotyped students' motivation and attributions.²⁴⁴ While law schools can and should do more to address underrepresentation in the profession, law school faculty need not wait for institutional solutions to address performance and related retention issues for students in their own classrooms. Instead, if we are “wise” we can begin to address the inequities created by stereotype threat and attributional ambiguity via the feedback we provide to our students.

²⁴⁴ See, e.g., Yeager et al., *Trust Gap*, *supra* note 89, at 671 (finding that “wise feedback” intervention in 7th grade improved college enrollment outcomes).