



2014

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Recommended Citation

Heidi K. Brown, *The Emotionally Intelligent Law Professor: A Lesson from the Breakfast Club*, 36 U. ARK. LITTLE ROCK L. REV. 273 (2014).

Available at: <http://lawrepository.ualr.edu/lawreview/vol36/iss3/2>

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THE EMOTIONALLY INTELLIGENT LAW PROFESSOR: A LESSON FROM THE BREAKFAST CLUB

Heidi K. Brown*

You see us as you want to see us . . . in the simplest terms and the most convenient definitions. You see us as a brain, an athlete, a basket case, a princess, and a criminal. Correct? That's the way we saw each other at seven o'clock this morning.

The Breakfast Club, 1985¹

The steady tide of media backlash against U.S. law schools over the past several years—from “blawgers” to mainstream news sources—has been dispiriting for educators and students alike. For professors and administrators who work tirelessly to provide a valuable rigorous education to eager and motivated students, it is disheartening how the image of law schools—conduits of shared learning, intellectual challenge, and potential social change—has been tarnished so easily by journalists’ suggestions of financial bait-and-switch. Despite the media’s attacks and economic doomsayers’ predictions about the declining value of a law degree, many law professors truly love teaching law students, and take the job seriously because it is rewarding—not always financially—but intellectually and emotionally. Yet, as students enter law school classrooms each fall, many accepting nearly \$50,000 in debt per year with no guarantee of the breadth of employment opportunities prior generations had, many members of the academy have embraced a renewed responsibility to consider the value and efficacy of the education offered. Rather than sticking merely to tried-and-true teaching methods, reflective professors are taking a moment to ask, “How can we better connect with, engage, and motivate students, not only to obtain a

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1. THE BREAKFAST CLUB (A&M Films 1985).

stimulating education, but to enjoy this multi-year journey?" This article suggests that, by increasing our "emotional intelligence" as classroom leaders, professors can strengthen the intellectual connection with law students and inspire them into deeper learning and self-actualization.²

Emotional Intelligence (EI) is a behavioral concept which became mainstream in American corporate circles via a 1995 book, *Emotional Intelligence*, written by Dr. Daniel Goleman, a former science reporter for the *New York Times*.³ EI (also referred to as EQ, or Emotional Quotient) is based on the premise that the traditional intelligence quotient (IQ)—as a predictor of achievement or life success—is too restrictive⁴ and ignores fun-

2. Psychologist Abraham Maslow explained "self-actualization" as follows:

What a man can be, he must be. This need we may call self-actualization It refers to the desire for self-fulfillment, namely, to the tendency for him to become actualized in what he is potentially. This tendency might be phrased as the desire to become more and more what one is, to become everything that one is capable of becoming.

A. H. Maslow, *A Theory of Human Motivation*, 50 PSYCHOL. REV. 370, 382 (1943). Maslow also stated, "The story of the human race is the story of men and women selling themselves short." JIM WHITT, ROAD SIGNS FOR SUCCESS 61 (1993). See also DUANE SCHULTZ, GROWTH PSYCHOLOGY: MODELS OF THE HEALTHY PERSONALITY 65 (1978) ("supremely healthy persons (self-actualizers) are concerned with the higher needs: fulfilling their potentialities and knowing and understanding the world around them"); DENNIS COON & JOHN O. MITTERER, AN INTRODUCTION TO PSYCHOLOGY: GATEWAYS TO MIND AND BEHAVIOR 409 (2008) ("A self-actualizer is a person who is living creatively and fully using his or her potentials" and "tend[s] to fit the following profile" (according to Maslow): "efficient perceptions of reality; comfortable acceptance of self, others, and nature; spontaneity; task centering; autonomy; continued freshness of appreciation; fellowship with humanity; profound interpersonal relationships; comfort with solitude; nonhostile sense of humor; peak experiences.").

3. DANIEL GOLEMAN, EMOTIONAL INTELLIGENCE: WHY IT CAN MATTER MORE THAN IQ 34 (1995). The term "emotional intelligence" has a history prior to Goleman's book. In an article on About.com entitled, *What Is Emotional Intelligence? Definitions, History, and Measures of Emotional Intelligence*, Kendra Cherry traces EI back to the 1930s, mentioning that Dr. Edward Thorndike commented about "'social intelligence' as the ability to get along with other people." Kendra Cherry, *What Is Emotional Intelligence? Definitions, History, and Measures of Emotional Intelligence*, ABOUT.COM (July 28, 2014, 5:48 PM), <http://psychology.about.com/od/personalitydevelopment/a/emotionalintell.htm>. Cherry also mentions David Wechsler's suggestions in the 1940s that "affective components of intelligence may be essential to success in life." *Id.* Cherry reports that, in the 1950s, "Humanistic psychologists such as Abraham Maslow describe how people can build emotional strength," and in 1975, Howard Gardner published *The Shattered Mind*, "which introduced the concept of multiple intelligences." *Id.* Further, in 1985, "Wayne Payne introduces the term emotional intelligence in his doctoral dissertation," and in 1987, "[i]n an article published in Mensa Magazine, Keith Beasley uses the term 'emotional quotient.' It has been suggested that this is the first published use of the term, although Reuven Bar-On claims to have used the term in an unpublished version of his graduate thesis." *Id.*

4. Dr. Howard Gardner, professor of education at Harvard University, developed the Multiple Intelligence theory in 1983 and published a book called *Frames of Mind: The Theory of Multiple Intelligences*. Dr. Gardner contends that IQ testing is far too limited, and that

damental behavioral and character components affecting success in relationships, in both work and social environments.⁵ Examples of accomplished professionals with emotional intelligence shortfalls might include the accomplished doctor lacking any bedside manner, the brainy minister who alienates his flock, or the brilliant professor who estranges her students.

Ideally, by developing EI in the law school classroom, professors can become more effective conveyors of legal knowledge, thereby increasing our students' productivity and success in processing large amounts of reading material, reducing stress and anxiety, minimizing internal and external conflict, and improving collaborative and sustained learning. A professor developing greater EI competency in the law school setting should tap into five key areas: (1) learning how to identify the professor's own emotions in the classroom; (2) addressing those emotions appropriately in the moment, and upon subsequent reflection; (3) motivating oneself to improve; (4) recognizing and understanding students' emotions; and (5) managing teacher-student relationships.⁶ This process requires the professor to examine his or her own learning preferences, comfort zones, and internal teaching biases, and recognize and appreciate students' differences, with the goal of bridging inevitable gaps and bolstering communication and connection inside and outside the classroom. This brings to mind the theme from the 1985 Hollywood film *The Breakfast Club*, in which an assistant principal and students brought entrenched stereotypes and preconceived notions about one another into the classroom; by the end of one day together in detention, the students—but unfortunately not the teacher—uncovered a common struggle and saw parts of themselves in each other. As law teachers, we should strive to be role models, rather than sideline observers, in forging a united classroom and law school community, which can have ripple effects throughout our legal system.

While some law review articles emphasize the importance of teaching EI as part of the *students'* law school curriculum as a component of "professionalism,"⁷ fewer articles thus far have illuminated how *professors* can

there are instead seven human intellectual competences. HOWARD GARDNER, *FRAMES OF MIND: THE THEORY OF MULTIPLE INTELLIGENCES* (1983).

5. See generally GOLEMAN, *supra* note 3.

6. See *id.* at 43–44 (Goleman summarizes the "five main domains" of emotional intelligence developed by Dr. John Mayer, from the University of New Hampshire, and Dr. Peter Salovey of Yale University. The description above has been adjusted to apply to the law school environment.).

7. See, e.g., Paul J. Cain, *A First Step toward Introducing Emotional Intelligence into the Law School Curriculum: The "Emotional Intelligence and the Clinic Student" Class*, 14 LEGAL EDUC. REV. 1 (2004); John E. Montgomery, *Incorporating Emotional Intelligence Concepts into Legal Education: Strengthening the Professionalism of Law Students*, 39 U. TOL. L. REV. 323 (2008); Marjorie A. Silver, *Emotional Intelligence and Legal Education*, 5 PSYCHOL. PUB. POL'Y & L. 1173 (1999). See also Susan Swaim Daicoff, *Expanding the Law-*

cultivate their own EI to become better educators.⁸ The present article aspires to provide law professors with a workable explanation of EI, and practical guidance to make EI accessible and useful in the classroom. Part I of this article explains the basic concept and components of Emotional Intelligence, and how understanding and cultivating one's own EI in a classroom dynamic can enhance teaching. This section also urges law professors to embrace a "growth mindset," a term advanced by Dr. Carol Dweck, to describe our fundamental ability to change qualities about ourselves that we once might have thought were "fixed."⁹ Part II describes some of the distinctive characteristics of the Millennial¹⁰ generation of law students; in fact, we also need to start studying the characteristics of the post-Millennial "Gen-

yer's Toolkit of Skills and Competencies: *Synthesizing Leadership, Professionalism, Emotional Intelligence, Conflict Resolution, and Comprehensive Law*, 52 SANTA CLARA L. REV. 795 (2012); Scott L. Rogers, *The Mindful Law School: An Integrative Approach to Transforming Legal Education*, 28 Touro L. REV. 1189 (2012). Further, Professor William Blatt at the University of Miami School of Law teaches a course entitled "Emotional Intelligence: Life Skills for Lawyers." *Mindfulness in the Curriculum*, UNIV. OF MIAMI SCH. L., http://www.mindfulnessinlaw.com/Mindfulness_in_the_Curriculum.html (last visited July 29, 2014).

8. Professor James Levy wrote a fascinating article entitled, *As a Last Resort, Ask the Students: What They Say Makes Someone an Effective Law Teacher*. James Levy, 58 ME. L. REV. 49, 51 (2006). Professor Levy's article explores the socio-emotional component to teaching, "which refers to the teacher's ability to influence learning through the emotional milieu she creates in the classroom based on her rapport and interaction with students." See also Ann E. Woodley, *A Student-Centered Approach to Teaching Excellence: 10 Ways to Identify Opportunities for Improvement through the Observation of Students in the Classroom*, 4 PHOENIX L. REV. 155, 160 n.13 (2010) ("The development of a professor's emotional-intelligence skills also can enhance his or her ability to make many of the assessments based on observations that are discussed in this article, and likely will improve both the professor's teaching skills and his or her ability to build relationships with the students."); Michael E. Plantinga, *Langdell's Incomplete Method: How the Use of Narrative Ethics Can Effect a More Complete and Practical Legal Education*, 11 T.M. COOLEY J. PRAC. & CLINICAL L. 127, 145-46 (2008) ("[P]rofessors need to have a certain level of emotional intelligence to teach and mentor effectively. If professors do not have this, they will be ineffective in teaching empathy for clients, the ability to relate to clients, the skill of advocating for a client, or the skill of recognizing buried moral and ethical issues that otherwise would go unnoticed.").

9. CAROL S. DWECK, *MINDSET: THE NEW PSYCHOLOGY OF SUCCESS* 4-8 (2008).

10. Professor Joan Catherine Bohl defines "Millennials" as students born between 1977 and 2003, and the "Net Generation" as students born between 1997 and the present. Joan Catherine Bohl, *Generations X and Y in Law School: Practical Strategies for Teaching the "MTV/Google" Generation*, 54 LOY. L. REV. 775, 778 (2008) (citing Law Sch. Survey of Student Engagement, 2007 Annual Survey Results, Student Engagement in Law School: Knowing Our Students, at 9, available at http://lssse.iub.edu/2007_Annual_Report/pdf/EMBARGOED_LSSSE_2007_Annual_Report.pdf).

eration Z.”¹¹ Understanding the underlying societal drivers behind the current and next generation’s classroom demeanor and approach to learning will help professors overcome kneejerk “Breakfast Club”-style behavioral stereotypes based on past assumptions which may no longer be valid. Part III draws from Dr. Ken Bain’s study of exemplary college-level teachers,¹² as well as the 2013 book, *What the Best Law Teachers Do*,¹³ to identify specific qualities for improving effectiveness as an EI-savvy law teacher. Finally, Part IV suggests practical techniques for applying EI in the law school classroom so that professors can adjust more readily to a constantly evolving classroom dynamic and the needs of the inimitable mosaic of individual learners within each student group.

I. EMOTIONAL INTELLIGENCE

A. History of the Behavioral Theory

Unlike IQ, “with its nearly one-hundred-year history of research with hundreds of thousands of people,”¹⁴ emotional intelligence is a relatively novel concept in the world of legal academia. According to EI guru Dr. Daniel Goleman, there are three primary models of the study of emotional intelligence,¹⁵ which are set forth in the *Encyclopedia of Applied Psychology*.¹⁶ These three models likewise have “dozens of variations.”¹⁷ The three main models include: (1) the Mayer-Salovey model, developed by Dr. John Mayer, from the University of New Hampshire, and Dr. Peter Salovey of Yale University, which “rests firmly in the tradition of intelligence shaped by the original work on IQ a century ago;”¹⁸ (2) the model of Reuven Bar-On, of the University of Texas Medical Branch in Houston, which “is based on his research on well-being;”¹⁹ and (3) Goleman’s own model, which “focuses on performance at work and organizational leadership, melding EI theory with decades of research on modeling the competencies that set star performers apart from the average.”²⁰

11. Policies and Practices § 33:12, HR Series Policies and Practices (July 2014) (“Generation Z is one of the names used for the First World or Western generation of people born between the mid-1990s and the late 2000s.”).

12. KEN BAIN, *WHAT THE BEST COLLEGE TEACHERS DO* (2004).

13. MICHAEL HUNTER SCHWARTZ ET AL., *WHAT THE BEST LAW TEACHERS DO* (2013).

14. GOLEMAN, *supra* note 3, at 34.

15. *Id.* at xiii.

16. *ENCYCLOPEDIA OF APPLIED PSYCHOLOGY* (Charles Spielberger ed., 2004).

17. GOLEMAN, *supra* note 3, at xiii.

18. *Id.*

19. *Id.*

20. *Id.*

The first model purportedly appeared in 1990, when two psychologists, Dr. Mayer and Dr. Salovey, wrote an article offering “the first formulation of a concept they called ‘emotional intelligence’”²¹ in the journal, *Imagination, Cognition, and Personality*.²² The authors suggested that instead of “emotion being contradictory to intelligence,” the concept of intelligence is multi-layered, and includes a layer of social intelligence, defined as the “ability to understand and manage people.”²³ Emotional intelligence is a subset of social intelligence. Mayer and Salovey explained EI as a skills framework under which individuals can appraise, regulate, and employ their emotions in various interactions with other people “to motivate, plan, and achieve.”²⁴ In Goleman’s book, he summarizes Salovey and Mayer’s “five domains” of emotional intelligence as follows:

- (1) Knowing one’s emotions, which Goleman describes further as “self-awareness—recognizing a feeling as it happens,” or “the ability to monitor feelings from moment to moment”;
- (2) Managing emotions, or “handling feelings so that they are appropriate”;
- (3) Motivating oneself, or “marshaling emotions in the service of a goal,” and “delaying gratification and stifling impulsiveness”;
- (4) Recognizing emotions in others, or “empathy,” such as “being attuned to the subtle social signals that indicate what others need or want”; and
- (5) Handling relationships, or “social competence.”²⁵

According to Mayer and Salovey, emotionally intelligent people “should be at an advantage for solving problems adaptively.”²⁶ For example, emotionally intelligent public speakers “can elicit strong reactions in an audience,”²⁷ and further, gauge how a presentation is affecting all audience members, not just the ones nodding along and giving the speaker positive reinforcement. Professor Marjorie A. Silver, who has written about the need for weaving emotional intelligence into legal education, described Mayer and Salovey’s article as “recogniz[ing] that the skills needed for emotional

21. *Id.* at ix.

22. Peter Salovey & John D. Mayer, *Emotional Intelligence*, IMAGINATION, COGNITION, & PERSONALITY (Baywood Publ’g Co., Inc. 1990).

23. *Id.* at 186–87, (quoting R.L. Thorndike & S. Stein, *An Evaluation of the Attempts to Measure Social Intelligence*, 34 PSYCHOL. BULL. 275 (1937)).

24. *Id.* at 185.

25. GOLEMAN, *supra* note 3, at 43.

26. Mayer & Salovey, *supra* note 22, at 200.

27. *Id.* at 197–98.

actualization may be more highly developed in some than in others, but they also may be skills that can be taught and learned, thereby contributing to mental health.”²⁸

The second model is the “Bar-On model of emotional intelligence” developed by Dr. Reuven Bar-On, which is also “one of three leading approaches to this construct in the Encyclopedia of Applied Psychology.”²⁹ The Bar-On model includes five “meta-factors”: (1) intrapersonal—self-awareness and self-expression; (2) interpersonal—social awareness and interaction; (3) stress management—emotional management and control; (4) adaptability—change management; and (5) general mood—self-motivation.³⁰ Each of these meta-factors includes sub-categories of “competencies, skills, and facilitators.”³¹ Bar-On describes his model as follows:

Consistent with this model, to be emotionally and socially intelligent is to effectively understand and express oneself, to understand and relate well with others, and to successfully cope with daily demands, challenges and pressures. This is based, first and foremost, on one’s intrapersonal ability to be aware of oneself, to understand one’s strengths and weaknesses, and to express one’s feelings and thoughts non-destructively. . . . To do this, we need to manage emotions so that they work for us and not

28. Silver, *supra* note 7, at 1177.

29. Reuven Bar-On, *Biography*, CONSORTIUM FOR RES. ON EMOTIONAL INTELLIGENCE IN ORGS., <http://www.eiconsortium.org/members/baron.htm> (last visited Aug. 10, 2014).

30. Reuven Bar-On, *The BarOn Model of Social and Emotional Intelligence (ESI)*, CONSORTIUM FOR RES. ON EMOTIONAL INTELLIGENCE IN ORGS., http://www.eiconsortium.org/reprints/bar-on_model_of_emotional-social_intelligence.htm (last visited Aug. 10, 2014).

31. *Id.* Bar-On’s intrapersonal meta-factor of self-awareness and self-expression includes five sub-factors: (1) Self-Regard (being aware of, understanding and accepting ourselves); (2) Emotional Self-Awareness (being aware of and understanding our emotions); (3) Assertiveness (expressing our feelings and ourselves nondestructively); (4) Independence (being self-reliant and free of emotional dependency on others); (5) Self-Actualization (setting and achieving goals to actualize our potential). The interpersonal meta-factor of social awareness and interaction includes: (1) Empathy (being aware of and understanding how others feel); (2) Social Responsibility (identifying with and feeling part of our social groups); (3) Interpersonal Relationship (establishing mutually satisfying relationships). The stress management meta-factor of emotional management and control includes: (1) Stress Tolerance (effectively and constructively managing our emotions) and (2) Impulse Control (effectively and constructively controlling our emotions). The meta-factor of adaptability or change management includes: (1) Reality Testing (validating our feelings and thinking with external reality); (2) Flexibility (coping with and adapting to change in our daily life); and (3) Problem Solving (generating effective solutions to problems of an intrapersonal and interpersonal nature). Finally, the meta-factor of general mood or self-motivation includes: (1) Optimism (having a positive outlook and looking at the brighter side of life) and (2) Happiness (feeling content with ourselves, others and life in general). *See id.*

against us, and we need to be sufficiently optimistic, positive and self-motivated.³²

Of course, the third model is Dr. Goleman's, who in 1995, then a science journalist for the *New York Times*, authored his groundbreaking book, *Emotional Intelligence*, which spent over a year-and-a-half on the New York Times bestseller list.³³ Goleman's framework is also five-pronged: (1) self-awareness—the ability to read one's own emotions and recognize their impact; (2) self-regulation—controlling one's emotions and impulses and adapting to fluctuating circumstances; (3) motivation—using emotion to reach goals; (4) social awareness and empathy—the ability to sense, understand, and react to others' emotions while comprehending social interrelationships; and (5) social skills and relationship management—the ability to inspire, influence, and nurture others while managing conflict.³⁴ The first three competencies “determine how we manage ourselves,” while the last two “determine how we handle relationships.”³⁵ Goleman summarizes emotional intelligence as “being able to motivate oneself and persist in the face of frustrations; to control impulse and delay gratification; to regulate one's moods and keep distress from swamping the ability to think; to empathize and to hope.”³⁶

All of these models emphasize the importance of an individual being able to recognize and evaluate his own emotions in the moment, gauge emotional responses in other human beings during a social interaction, and channel one's own emotions and those of others in a constructive way.

B. Challenging the Traditional Notion of “Intelligence” in Law Schools

As our fraught economy spurs legal educators to ponder ways of reconfiguring the financial construct of legal education, EI provides an alternate rubric for evaluating our own effectiveness as teachers “in the trenches” and the potential of our students to become helpful legal counselors upon graduation. EI offers a different prism for appraising intellect and predicting “success” in the law school classroom and legal practice.

EI proponents challenge the traditional notion of IQ and the way institutions forecast the success of learners. Dr. Howard Gardner, a psychologist at the Harvard Graduate School of Education, once told Goleman, “[W]e

32. Reuven Bar-On, *The Bar-On Model of Emotional-Social Intelligence (ESI)*, 18 PSICOTHEMA 13, 14 (2006), available at <http://www.psicothema.com/pdf/3271.pdf>.

33. *About Daniel Goleman*, DANIELGOLEMAN.INFO, <http://danielgoleman.info/biography/> (last visited Aug. 10, 2014).

34. DANIEL GOLEMAN, WORKING WITH EMOTIONAL INTELLIGENCE 26–27 (1998).

35. *Id.*

36. GOLEMAN, *supra* note 3, at 34.

subject everyone to an education where, if you succeed, you will be best suited to be a college professor. And we evaluate everyone along the way according to whether they meet that narrow standard of success.”³⁷ Dr. Gardner remarked that the standardized tests “that tyrannized us as we went through school . . . are based on a limited notion of intelligence, one out of touch with the true range of skills and abilities that matter for life over and beyond IQ.”³⁸

Likewise, psychologists E.L. Thorndike and Robert Sternberg noted that, “social intelligence is both distinct from academic abilities and a key part of what makes people do well in the practicalities of life.”³⁹ A growing group of psychologists, including Sternberg and Peter Salovey, “have taken a wider view of intelligence, trying to reinvent it in terms of what it takes to lead life successfully. And that line of enquiry leads back to an appreciation of just how crucial ‘personal’ or emotional intelligence is.”⁴⁰

This is a noteworthy consideration in the law school environment where students learn how to be “counselors-at-law.” The Oxford Dictionary defines the word “counselor” as “a person trained to give guidance on personal, social, or psychological problems.”⁴¹ This role development in the legal context must go beyond learning and reciting legal rules. Students must be able to relate to and connect with clients: real flesh-and-blood human beings, who are often strangers grappling with significant life struggles. This activity requires interpersonal skills far beyond the ability to write an eloquent law school exam essay or respond confidently to Socratic questioning. Law students need to acquire and nurture skills in communicating with clients on a personal level, identifying difficult legal quandaries, gathering sensitive factual information, and generating viable solutions, all while balancing “authentic empathy” and “professional detachment.”⁴² Good lawyers need to be able to listen to their clients’ needs and provide advice without alienating, intimidating, condescending to, or antagonizing the client.

Unfortunately, supremely “book smart” individuals often flail in the realm of common sense or in social or professional relationships. As Goleman puts it, “Academic intelligence has little to do with emotional life. The brightest among us can founder on the shoals of unbridled passions and

37. *Id.* at 37.

38. *Id.* at 38.

39. *Id.* at 42.

40. *Id.* at 43.

41. *Definition of Counselor in English*, OXFORD DICTIONARIES, http://oxforddictionaries.com/definition/american_english/counselor?region=us&q=counselor (last visited Aug. 10, 2014).

42. STEFAN H. KRIEGER & RICHARD K. NEUMANN, JR., *ESSENTIAL LAWYERING SKILLS* 235, 239 (4th ed. 2011). “The wise counselor is one who is able to see his client’s situation from within, and yet at the same time, from a distance, and is thus able to give advice that is at once compassionate and objective.” *Id.* at 235.

unruly impulses; people with high IQs can be stunningly poor pilots of their private lives.”⁴³ In fact, Goleman has an entire chapter in his book entitled, “When Smart is Dumb.”⁴⁴ Cultivating a rich emotional intelligence can help professors steer clear of being, or becoming, “dumb smart people,” and more importantly, avoid enabling smart law students to become “dumb” counselors because they cannot relate to their clients.

C. Sitting for the EI Exam

For many law professors, it has probably been years since we have taken any sort of personality test, such as the Myers-Briggs Type Indicator (MBTI) test, which evaluates where individuals fit along the spectrums of extraversion v. introversion, sensing v. intuition, thinking v. feeling, judging v. perception.⁴⁵ Just as we inadvertently may stereotype our students in “Breakfast Club” fashion—i.e., instead of “a brain, an athlete, a basket case, a princess, or a criminal,” law professors might pre-characterize students as extroverted overachievers, distracted idlers, “jet-skiers” rather than “deep sea divers”⁴⁶—we might also be mislabeling ourselves. We might not even know what kind of “learner” we are (i.e., visual, aural, read/write, kinesthetic (VARK)), or how we prefer to absorb and process new concepts.⁴⁷ Self-examination in this form provides a greater awareness of what stereotypes we bring to the classroom, and how similar to, or different from, our next troupe of students we might be.

Similarly, an EI test could afford law professors fertile insights into how attuned we are with our emotions in the workplace and the classroom, and how skilled we are at shepherding those emotions to connect, instead of disconnect, with students. Goleman explains that, unfortunately, “[u]nlike

43. GOLEMAN, *supra* note 3, at 33–34.

44. *Id.* at 33. As Goleman indicates, “Emotional intelligence trumps IQ primarily in those ‘soft’ domains where intellect is relatively less relevant for success—where, for example, emotional self-regulation and empathy may be more salient skills than purely cognitive abilities.” *Id.* at xiv.

45. MBTI® Basics, THE MYERS & BRIGGS FOUNDATION, <http://www.myersbriggs.org/my-mbti-personality-type/mbti-basics/> (last visited Sept. 3, 2014).

46. NICHOLAS CARR, *THE SHALLOWS: WHAT THE INTERNET IS DOING TO OUR BRAINS* 6–7 (W.W. Norton & Company, Inc. 2010) (“The deep reading that used to come naturally has become a struggle Once I was a scuba diver in the sea of words. Now I zip along the surface like a guy on a Jet Ski.”).

47. VARK is a guide to learning styles created by Neil Fleming and Colleen Mills in 1992. *VARK Biographies*, VARK: A GUIDE TO LEARNING STYLES, <http://www.vark-learn.com/english/page.asp?p=biography> (last visited July 28, 2014). According to the website, “VARK is a questionnaire that provides users with a profile of their learning preferences. These preferences are about the ways that they want to take-in and give-out information.” *Frequently Asked Questions*, VARK: A GUIDE TO LEARNING STYLES, <http://www.vark-learn.com/english/page.asp?p=faq> (last visited July 28, 2014).

the familiar tests for IQ, there is, as yet, no single paper-and-pencil test that yields an ‘emotional intelligence score’ and there may never be one.”⁴⁸ Some components, “such as empathy, are best tested by sampling a person’s actual ability at the task—for example, by having them read a person’s feelings from a video of their facial expressions.”⁴⁹ However, Goleman developed the ECI 2.0—which is touted as “a 360-degree tool designed to assess the emotional and social competencies of individuals in organizations.”⁵⁰ The test takes 30-45 minutes and measures numerous competencies organized into four clusters: Self-Awareness, Self-Management, Social Awareness, and Relationship Management.⁵¹

Further, the website of the Consortium for Research on Emotional Intelligence in Organizations lists ten “measures” for assessing EI, with the caveat that the Consortium has “reviewed many of these tests and selected those for which there is a substantial body of research (at least five published journal articles or book chapters that provide empirical data based on the test).”⁵² For example, Mayer and Salovey worked with their colleague, Dr. David Caruso, to develop the Mayer-Salovey-Caruso Emotional Intelligence Test (MSCEIT) to measure two “areas”: Experiential and Strategic EI.⁵³ Experiential EI addresses the “branches” of perceiving emotions and facilitating thought, while Strategic EI assesses the “branches” of understanding and managing emotions.⁵⁴

Additionally, Dr. Bar-On created the Bar-On Emotional Quotient Inventory™ (the EQ-i™), as well as a commercially available test “designed to assess emotionally and socially intelligent behavior in children and adolescents,”⁵⁵ called the Bar-On EQ-i:YV™. Other tests listed by the Consor-

48. GOLEMAN, *supra* note 3, at 44.

49. *Id.*

50. *Emotional and Social Competence Inventory (ESCI)*, CONSORTIUM FOR RES. ON EMOTIONAL INTELLIGENCE IN ORGS., http://www.eiconsortium.org/measures/eci_360.html (last visited July 28, 2014). The test is based on emotional competencies identified in Goleman’s book, *Working with Emotional Intelligence*, *supra* note 34.

51. *Id.*

52. *Emotional Intelligence Measures*, CONSORTIUM FOR RES. ON EMOTIONAL INTELLIGENCE IN ORGS., <http://www.eiconsortium.org/measures/measures.html> (last visited July 28, 2014).

53. *The Mayer-Salovey-Caruso Emotional Intelligence Test (MSCEIT)*, CONSORTIUM FOR RES. ON EMOTIONAL INTELLIGENCE IN ORGS., <http://www.eiconsortium.org/measures/msceit.html> (last visited Aug. 12, 2014). According to the website, “MSCEIT consists of 141 items and takes 30-45 minutes to complete. MSCEIT provides 15 main scores: Total EI score, two Area scores, four Branch scores, and eight Task scores. In addition to these 15 scores, there are three Supplemental scores (Mayer, Salovey, & Caruso, 2002).” *Id.*

54. *About the MSCEIT*, EI SKILLS GROUP, <http://www.emotionaliq.com/MSCEIT.html> (last visited Aug. 12, 2014).

55. Reuven Bar-On, *Biography*, *supra* note 29. According to the website,

tium include the Genos Emotional Intelligence Inventory, Group Emotional Competency Inventory, Schutte Self Report EI Test, Trait Emotional Intelligence Questionnaire (TEIQue), Work Group Emotional Intelligence Profile, and Wong's Emotional Intelligence Scale.⁵⁶ Of course, EI tests are often criticized as unreliable, based on scoring and validity concerns.⁵⁷

Nonetheless, law professors curious about their own EI quotient might consider taking the Emotional and Social Competency Inventory (ESCI) developed by Goleman, Richard Boyatzis, Ph.D, and the Hay Group,⁵⁸ or perhaps investigating the university edition of the Emotional and Social Competency Inventory (ESCI-U), authored by Goleman and Richard Boyatzis, Ph.D.⁵⁹

D. Adopting a "Growth Mindset" for Increasing Emotional Intelligence in the Law School Classroom

Some academics resist change. After all, law professors already are successful contributors to society, transformation is hard, and personalities can be well entrenched. However, the "growth mindset" studies of Dr. Carol Dweck suggest professors can transform their personal effectiveness in the classroom, even beyond an already effective teaching approach.⁶⁰ Professors

[t]he EQ-i is a self-report measure designed to measure a number of constructs related to EI. The EQ-i consists of 133 items and takes approximately 30 minutes to complete. It gives an overall EQ score as well as scores for the following five composite scales and 15 subscales (Bar-On, 2006).

The Emotional Quotient Inventory (EQ-i), CONSORTIUM FOR RES. ON EMOTIONAL INTELLIGENCE IN ORGS., <http://www.eiconsortium.org/measures/eqi.html> (last visited Sept. 28, 2014).

56. See *Emotional Intelligence Measures*, CONSORTIUM FOR RES. ON EMOTIONAL INTELLIGENCE IN ORGS., <http://www.eiconsortium.org/measures/measures.html> (last visited Aug. 12, 2014).

57. Jeffrey M. Conte, *A Review and Critique of Emotional Intelligence Measures*, 26 J. ORG. BEHAV. 433, 438 (2005) ("serious concerns remain for all of the EI measures, ranging from scoring concerns for ability-based EI measures to discriminant validity concerns for self-report EI measures."). *Id.*

58. *Emotional and Social Competency Inventory—(ESCI)*, HAYGROUP, http://www.haygroup.com/leadershipandtalentondemand/ourproducts/item_details.aspx?itemid=58&type=1 (last visited Aug. 12, 2014). According to certified consultant Kathy Cavallo of New Jersey-based Corporate Consulting Group, "[t]he ESCI has to be purchased from Hay Group by a certified practitioner, who can help the individual interpret the results. The cost for the instrument [is] around \$250 Typically, the debriefing and coaching fees run about \$ 800.00- \$1200.00 which includes up front discussion about selecting your raters and communication to them, as well as a 1 1/2 to 2 hour session to make sense of the results and create a development strategy." E-mail from Kathy Cavallo, Consultant, Corporate Consulting Group, to author (July 21, 2012) (on file with author).

59. *Id.*

60. DWECK, *supra* note 9.

may augment connectivity with greater numbers of students by recognizing differences in students⁶¹ and adopting a change-oriented mentality.⁶² Goleman agrees: “[E]motional intelligence, unlike IQ, can be taught and learned.”⁶³ As Dweck points out, even Alfred Binet, the inventor of the IQ test, recognized, “it’s not always the people who start out the smartest that end up the smartest.”⁶⁴ The bottom line is, it is all in how we define “smart.” This is an exciting reality for EI-curious professors and students alike.

Dweck explains the difference between the fixed mindset and a growth mindset as follows:

Believing that your qualities are carved in stone—the *fixed mindset*—creates an urgency to prove yourself over and over. If you have only a certain amount of intelligence, a certain personality, and a certain moral character—well, then you’d better prove that you have a healthy dose of them.⁶⁵

However, “[the] *growth mindset* is based on the belief that your basic qualities are things you can cultivate through your efforts.”⁶⁶ Dweck’s growth mindset philosophy is stirring.

[T]he belief that cherished qualities can be developed creates a passion for learning. Why waste time proving over and over how great you are, when you could be getting better? Why hide deficiencies instead of overcoming them? Why look for friends or partners who will just shore up your self-esteem instead of ones who will also challenge you to grow?⁶⁷

As teachers, we should embrace the “growth mindset” for ourselves, and our students. As Dweck says, “The great teachers believe in the growth

61. See, e.g., Carrie Sperling, *Presentation at the Second Annual Empire State Legal Writing Conference at St. John’s University: Why Susie Strives Harder and Kimberly Crumbles after Receiving Feedback and How to Arm Kimberly with Susie’s Resilience* (May 13, 2011). See also Carrie Sperling & Susan Shapcott, *Fixing Students’ Fixed Mindsets: Paving the Way for Meaningful Assessment*, 18 LEGAL WRITING: J. LEGAL WRITING INST. 39 (2012).

62. Indeed, in his book *What the Best College Teachers Do*, discussed in detail *infra* Part III, Dr. Ken Bain emphasizes that “the best college teachers” embrace a growth mindset: “[T]he best teachers believe that learning involves both personal and intellectual development and that neither the ability to think nor the qualities of being a mature human are immutable. People can change, and those changes—not just the accumulation of information—represent true learning.” BAIN, *supra* note 12, at 83.

63. Montgomery, *supra* note 7, at 326 (citing DANIEL GOLEMAN ET AL., PRIMAL LEADERSHIP: LEARNING TO LEAD WITH EMOTIONAL INTELLIGENCE 38 (Harvard Business Review Press 2002)).

64. DWECK, *supra* note 9, at 5.

65. *Id.* at 6.

66. *Id.* at 7.

67. *Id.*

of the intellect and talent, and they are fascinated with the process of learning.”⁶⁸ Dweck provides a wonderful description of growth-minded teachers:

They love to learn. And teaching is a wonderful way to learn. About people and how they tick. About what you teach. About yourself. And about life . . . Fixed-minded teachers often think of themselves as finished products. Their role is simply to impart their knowledge. But doesn't that get boring year after year? Standing before yet another crowd of faces and imparting? Now, that's hard.⁶⁹

Dweck cautions that “[m]any people with the fixed mindset think the world needs to change, not them. They feel entitled to something better.”⁷⁰ But the legal economy and the media's outlook on the current state of legal education are not going to change overnight. Therefore, law professors must change,⁷¹ and it might come as a welcome relief. As columnist Anna Quindlen remarked in a commencement address to the graduating students of Mount Holyoke College in 1999, “being perfect day-after-day, year-after-year became like carrying a backpack filled with bricks.”⁷² By embracing EI, law professors can stop being “perfect” and lay down that bag of bricks.

E. A Call for Weaving the Concept of Emotional Intelligence into the Law School Classroom

Legal scholars already have begun to discuss the prospect of teaching EI principles to students as part of a “professionalism” component of the law school curriculum.⁷³ As Professor Marjorie A. Silver notes,

Only recently has legal education awoken to the need to better prepare new lawyers for other aspects of the practice of law, such as counseling, negotiation and drafting . . . Yet even here, the skill to know when to offer a box of tissues to a client, to give the client room to mourn the loss

68. *Id.* at 194.

69. *Id.* at 201. This “imparting” image brings to mind a quote from BAIN, *supra* note 12, at 52: “Some professors discuss knowledge as if it is something they ‘deliver’ or ‘transfer’ to students, almost as if they open heads and pour it in.”

70. DWECK, *supra* note 9, at 230.

71. Professor James B. Levy conducted a survey to provide feedback to law school teachers interested in improving their own classroom emotional intelligence skills, and offered good news: “These skills, like any others, can be learned.” *See* Levy, *supra* note 8, at 55.

72. *See* IVY NAISTADT, SPEAK WITHOUT FEAR: A TOTAL SYSTEM FOR BECOMING A NATURAL, CONFIDENT COMMUNICATOR 35 (Harper Collins 2004) (quoting Anna Quindlen, *Commencement Speech*, MOUNT HOLYOKE (May 23, 1999), available at <https://www.mtholyoke.edu/media/commencement-speech-0>).

73. *See supra* note 7.

of a relationship, are seldom identified, rarely taught, and perhaps never assessed as part of the students' overall competency at lawyering.⁷⁴

Professor Silver states, "[l]egal education should prepare students for the emotional dimensions of lawyering. We fail our students if we fail to prepare them for the impact of their emotional lives, as well as those of their clients, on the practice of law. Legal education should cultivate emotional intelligence."⁷⁵ It is important for students to be prepared for the emotional impact of legal issues on both themselves and their clients and know how to channel those emotions in a productive way—not only to serve the best interests of the client but also for personal fulfillment and career longevity. According to Professor John E. Montgomery, "[m]uch of law school's pedagogical activity presumes that issues of professionalism are somehow, somewhere, being handled. However, in a time when many raise questions about the legitimacy of the legal profession in both general and specific terms, professionalism needs to become more explicit and better diffused throughout legal preparation."⁷⁶ This will contribute to the health of the profession on an individual and institutional basis.

Professor Silver notes the risks of not cultivating emotional intelligence in our law students: "Deficits in interpersonal intelligence adversely affect attorneys' capacity to empathize with their clients, counsel them, and gain their trust."⁷⁷ Further, "[t]he inability to understand the emotional undercurrents among their adversaries is also likely to limit their skill at negotiating and resolving controversies."⁷⁸ The risk of not preparing future lawyers for the emotional repercussions of the practice of law could include unwieldy stress, depression, substance abuse, and career burnout. Conversely, inviting emotion into the study and practice of law can add a richer, more healthy, and positive dimension. Professor Silver presses, "[t]he re-imagination of legal education for the millennium—an exciting and daunting task—should include a refocusing of our collective attention on the human aspects of lawyering."⁷⁹

Unfortunately, traditionalists cling to the notion that law is rational. As Professor Silver describes, "[t]raditionally, legal education has browbeat emotional reactions out of law students. This must end. Legal educators should affirmatively and deliberately endeavor to cultivate emotional intelligence, to develop the intra- and inter-personal skills essential to good law-

74. Silver, *supra* note 7, at 1174.

75. *Id.*

76. Montgomery, *supra* note 7, at 323.

77. Silver, *supra* note 7, at 1182.

78. *Id.*

79. *Id.* at 1202.

ying.”⁸⁰ Professor Montgomery likewise urges the integration of Emotional Intelligence into law teaching: “A promising opportunity to strengthen the professionalism of lawyers now exists in an unlikely vehicle: the concept of emotional intelligence. Without great cost or even restructuring of the standard law school curriculum, it can easily be incorporated into legal education.”⁸¹

This concept prompts us to invite emotion into the law school classroom, not only as a part of teaching professionalism, but as a teaching and learning catalyst for both professor and student. Recognizing the role of emotion in both teaching and learning is key. Traditionally, law classrooms do not connote an image of emotional openness; students (and professors for that matter) might experience anxiety, fear, anger, frustration, resentment, or panic, but often strive to hide such apparent “weaknesses.” These negative emotions can block learning. As explained by Dick Culver of the Watson School of Engineering and Applied Science at SUNY-Binghamton, “[l]earning is an emotional process If learning is under the control of the emotions, then it behooves us to understand how we can use them to enhance learning in our students.”⁸² Professor James B. Levy notes, “[e]ach of us is hardwired to receive and communicate a tremendous amount of information through our emotions.”⁸³ Emotions affect learning because “they influence our ability to process information and to accurately understand what we encounter.”⁸⁴ Negative emotions can impede comprehension and retention, while positive emotions can clear a path for absorption of complex material. According to Priscilla L. Vail, M.A.T., “[t]he emotional brain, the limbic system, has the power to open or close access to learning, memory, and the ability to make novel connections.”⁸⁵

Regarding emotion as a fundamental part of learning for both teacher and student, Joseph Lowman, in *Mastering the Techniques of Teaching*,

80. *Id.*

81. Montgomery, *supra* note 7, at 325.

82. Dick Culver, *A Review of Emotional Intelligence by Daniel Goleman: Implications for Technical Education*, available at <http://fie-conference.org/fie98/papers/1105.pdf> (last visited July 26, 2014).

83. Levy, *supra* note 8, at 51.

84. Linda Darling-Hammond et. al, *Session 5 Feelings Count: Emotions and Learning*, ANNENBERG LEARNER, http://www.learner.org/courses/learningclassroom/support_pages/index.html (last visited July 25, 2014). “Although emotions have the potential to energize students’ thinking, emotional states also have the potential to interfere with learning . . . in several ways; including 1) limiting the capacity to balance emotional issues with schoolwork, 2) creating anxiety specifically about schoolwork, and 3) triggering emotional responses to classroom events.” *Id.* at 90.

85. Priscilla L. Vail, *The Role of Emotions in Learning*, GREAT SCHOOLS, http://www.greatschools.org/parenting/teaching-values/751-the-role-of-emotions-in-learning_gs (last visited July 25, 2014). (“Faced with frustration, despair, worry, sadness, or shame, kids lose access to their own memory, reasoning, and the capacity to make connections.”).

emphasizes that learning “is above all an enterprise involving students’ human emotions and personalities as well as their cognitive reasoning.”⁸⁶ He describes the classroom as not “strictly an intellectual and rational setting,” but instead “an emotionally charged interpersonal area in which a wide range of psychological phenomena occur.”⁸⁷ Students can experience a “variety of emotional reactions [that] can influence how much is learned and how the participants feel about it.”⁸⁸

For law professors to foster a climate of emotional openness in the classroom, they first need to be aware of their own emotional state—which is the first prong of EI—and then address those emotions appropriately, further gauging how they affect communication with students. Levy recommends that “law professors need to redefine their notion of teaching competence to include not only mastery of instructional techniques like the Socratic method and use of classroom technology, but also an appreciation of the importance of, and facility with, the skills needed to foster an effective classroom socio-emotional climate.”⁸⁹ Levy urges,

[I]t is imperative that law teachers become knowledgeable about the emotional intelligence skills needed to transform the existing classroom culture into one that is more favorable to learning. Personal characteristics such as warmth, support, and positive expectations of students, which have all been demonstrated to correlate favorably with student achievement, are learnable skills.⁹⁰

Effective professors constantly monitor their own emotions. They have a strong self-awareness of the impact of those emotions on the classroom environment and the corresponding emotions they elicit from students. As Lowman notes, these types of professors work hard to “increase motivation, enjoyment and independent learning” through: (1) avoiding “stimulating negative emotions—notably, excessive anxiety and anger toward the teacher;” and (2) promoting “positive emotions, such as the feeling that the instructor respects the students as individuals and sees them as capable of performing well.”⁹¹

II. CONNECTING WITH THE FACEBOOK GENERATION OF LAW STUDENTS

In order to recognize emotions in our students, we first must appreciate the distinctive characteristics of the Millennial generation of law students—

86. JOSEPH LOWMAN, *MASTERING THE TECHNIQUES OF TEACHING* 3 (1995).

87. *Id.* at 26.

88. *Id.* at 27.

89. Levy, *supra* note 8, at 53.

90. *Id.* at 65.

91. Lowman, *supra* note 86, at 27.

and next, Generation Z—and how they learn and absorb information differently from prior generations. According to Professor Joan Catherine Bohl, “In 2007, approximately one-third of law students were members of Generation X; two-thirds were members of Generation Y, or the Millennial Generation.”⁹² Bohl defines “Millennials” as students born between 1977 and 2003, and the “Net Generation” as students born between 1997 and the present.⁹³ Analysts define Generation Z as individuals:

born between the mid-1990s and the late 2000s The oldest members of this generation were born during the mid-1990s and thus were too young to substantively remember the September 11th 2001 attacks, and the youngest of the generation were born during a baby boomlet around the time of the Global financial crisis of the late 2000s.⁹⁴

In *Teaching, Learning, and Millennial Students*, Maureen Wilson describes Millennials—as a group—as “special, sheltered, confident, team-oriented, conventional, pressured, achieving, optimistic and upbeat, accepting of authority, rule followers, and structured.”⁹⁵ They had “closely supervised upbringings and are smarter than most think . . . and [are] becoming more politically conservative, while holding more liberal attitudes toward social issues.”⁹⁶

Professors are constantly reminded that today’s generation of law students evinces characteristics that differ from prior cohorts. This does not make these students any less “intellectual” or mean that they take their legal education less seriously than their predecessors. In fact, as Professor Tracy McGaugh notes, “Generation X has definitely caused a ripple in the legal education pond. While Xers certainly are different from previous generations’ students (and therefore, from law faculties) in the way that they learn and see the world, they are just as eager to get an education and become professionally successful.”⁹⁷

A professor devoted to increasing emotional intelligence in the law school classroom might consider the following excerpts of characteristics of incoming Millennial students routinely described by “generation” scholars:

92. Bohl, *supra* note 10, at 778.

93. *Id.*

94. Policies and Practices, *supra* note 11, at § 33:12.

95. Maureen E. Wilson, *Teaching, Learning, and Millennial Students*, 2004 NEW DIRECTIONS FOR STUDENT SERVICES 59, 64–65.

96. *Id.* at 65 (citing NEIL HOWE & WILLIAM STRAUSS, *MILLENNIALS RISING: THE NEXT GREAT GENERATION* (2000); NEIL HOWE & WILLIAM STRAUSS, *MILLENNIALS GO TO COLLEGE* (2003); Megan Rooney, *Freshmen Show Rising Political Awareness and Changing Social Views*, 49 CHRON. HIGHER EDUC. A35 (2003)).

97. Tracy L. McGaugh, *Generation X in Law School: The Dying of the Light or the Dawn of a New Day*, 9 J. LEGAL WRITING INST. 119, 144 (2003).

(1) they are technologically savvy;⁹⁸ (2) while they respect authority, they do not regard professors with the same degree of intellectual superiority as prior generations did;⁹⁹ (3) they give weight to “found information” they discover on their own via the Internet;¹⁰⁰ and (4) they are drawn to “edutainment” and “active learning.”¹⁰¹

Regarding intellectual authority and “found information,” these students’ easy access to research and data on the Internet has caused a shift in the level of the information playing field¹⁰² between professor and student. Bohl points out that “[u]nlike members of any previous generation, members of Gen X Y have had access to readily available information through the internet for virtually their whole lives.”¹⁰³ Indeed, Generation Z “has lived their entire life with instant access to mountains of data on any topic that flutters through their imaginations. They’ve never known the frustration or sheer physical effort of rifling through the M-O volume of the encyclopedia to find out about the Magna Carta.”¹⁰⁴ Because of their ready access to knowledge and information, law students today “may consider themselves far more the professor’s equal than members of any previous generation.”¹⁰⁵ Leslie Owen Wilson, in *Teaching Millennial Students*, emphasizes that the role of the professor has changed; a professor is “no longer an expert, [but] now simply a person with expertise.”¹⁰⁶ Students in this generational unit are less inclined to view professors as all-knowing imparters of wisdom. Wilson notes that the student’s “found information may be perceived as carrying

98. Bohl, *supra* note 10, at 780; M. Wilson, *supra* note 95, at 66.

99. Miriam E. Felsenburg & Laura P. Graham, *Beginning Legal Writers in Their Own Words: Why the First Weeks of Legal Writing are So Tough and What We Can Do about It*, 16 J. LEGAL WRITING INST. 223, 269 n.97 (2010) (Generation X and Millennial law students “are less likely than their predecessors to view their professors as fundamentally different from themselves in terms of intelligence or moral authority”); McGaugh, *supra* note 97, at 130 (this generation “relates to authority differently. What may be perceived as disrespect is, in fact, a lack of recognition. Xers do not see people in positions of authority as fundamentally different from themselves . . . [T]hose in authority may be ‘differently abled’ by having skills and education that the Xers do not yet have themselves, but this does not necessarily make those in authority inherently more intelligent, moral, or valuable.”); Bohl, *supra* note 10, at 782.

100. Leslie Owen Wilson, *Teaching Millennial Students* (Sept. 2005). http://www4.uwsp.edu/education/lwilson/FACETS/links_resources/Millennial%20Specifics.pdf.

101. McGaugh, *supra* note 97, at 124; Paula Lustbader, *You Are Not in Kansas Anymore: Orientation Programs Can Help Students Fly over the Rainbow*, 47 WASHBURN L.J. 327, 358 (2008) (Millennials “learn from active, experiential, and collaborative learning exercises”).

102. McGaugh, *supra* note 97, at 130 (“Xers perceive a much more level playing field than Boomers and Silents did before them.”).

103. Bohl, *supra* note 10, at 779.

104. Policies and Practices, *supra* note 11, at § 33:12.

105. Bohl, *supra* note 10, at 782 (citing McGaugh, *supra* note 97, at 129–30).

106. M. Wilson, *supra* note 95, at 1.

equal weight” to information conveyed by the professor.¹⁰⁷ Of course, this “found information” might not always be accurate, but professors need to at least acknowledge the possibility of its role in students’ outlook toward traditional law teaching.

Further, Millennials’ expectations regarding the classroom environment and interaction with professors clearly differ from past generations. Bob Pletka, Ed. D., author of *Educating the Net Generation*,¹⁰⁸ explains,

Because the Net Generation has been shaped by an environment that is information and communication rich, team-based, achievement-oriented, visually based, and instantly responsive, they often recoil from isolated, lecture-based, information-dated, responsive-deficient silos of learning comprised of outdated technologies from the mid-20th century.¹⁰⁹

Pletko cautions that these students “expect experiential, dynamic, and cooperative activities facilitated through information and communication technologies [W]hen this Net Generation enters our classrooms—notorious for their cultures of isolation combined with their lack of technology—students may find these places of learning irrelevant.”¹¹⁰ Likewise, Leslie Owen Wilson emphasizes that “students may be easily bored and want to use creativity or look at problems in new and different ways.”¹¹¹ They are accustomed to a certain degree of “edutainment.”¹¹²

Joanne Ingham, Ed. D., and Professor Robin A. Boyle, in *Generation X in Law School: How These Law Students Are Different from Those Who Teach Them*,¹¹³ described their multi-year study examining law student learning styles, and explained that, for Gen Xers, “an active learning environment is necessary to stimulate learning.”¹¹⁴ Bohl agrees that an “overwhelming preference for active learning also immerses repeatedly as a key characteristic in studies of Gen X Y law students.”¹¹⁵

107. *Id.*

108. BOB PLETKA, *EDUCATING THE NET GENERATION: HOW TO ENGAGE STUDENTS IN THE 21ST CENTURY* 13 (2007).

109. *Id.*

110. *Id.* at 21.

111. M. Wilson, *supra* note 95, at 2.

112. *Id.*

113. Joanne Ingham & Robin A. Boyle, *Generation X in Law School: How These Law Students Are Different from Those Who Teach Them*, 56 J. LEGAL. EDUC. 281 (2006).

114. *Id.* at 288.

115. Bohl, *supra* note 10, at 784 (citing McGaugh, *supra* note 97, at 133; Rogelio Lasso, *From the Paper Chase to the Digital Chase: Technology and the Challenge of Teaching 21st Century Law Students*, 43 SANTA CLARA L. REV. 1, 23 (2002)). As Professor McGaugh notes, “For Xers, education and entertainment are inextricably intertwined.” McGaugh, *supra* note 97, at 124. Bohl agrees, “Just as technology is perceived as a fundamental facet of life, not just as a separate enhancement, so too the educational process has become inextricably linked to entertainment.” Bohl, *supra* note 10, at 781 (citing McGaugh, *supra* note 97, at 124).

Another characteristic of Generation Z students we either already teach, or will soon be teaching, is that these digital natives are primed for positive reinforcement; scholars explain that the Internet is addictive because it conveys positive reinforcement every time a user clicks a link, receives a “like” on a Facebook posting, hears the “ping” of a new e-mail, Tweet, text-message, or Snapchat.¹¹⁶ Likewise, when faced with negative digital messages, these individuals simply disengage: delete a text or email, “unfriend” the offender, or “un-tag” oneself from an unpleasant photo. Generation Z students inundated with constant electronically-delivered positive reinforcement outside the classroom might yearn for intellectual encouragement inside the classroom, and disengage from criticism delivered by professors. This is not in any way to suggest that we should lower our standards, coddle our students, or give everyone a trophy simply for doing the assigned reading. We simply need to be aware of this psychological phenomenon and understand how related emotions might affect learning. In fact, a social media-addicted law professor might take a moment to reflect on whether the positive-reinforcement mechanism of the Internet affects his or her own emotions, and consider whether this phenomenon transfers to a classroom of students challenging their teacher’s insights instead of the equivalent of “Facebook like”-ing them.

Professor McGaugh describes the three choices facing legal educators: (1) “continue doing exactly what we have been doing;” (2) “*pretend* to adapt by using the same teaching methods but with visual aids;” or (3) “actually adapt the delivery of education to the needs of the students receiving the education.”¹¹⁷ As Bohl puts it very concisely, “As law teachers, we must change The successful law teacher must transcend the old role of providing information and become a guru.”¹¹⁸

According to Merriam-Webster, a “guru” is “a teacher and especially intellectual guide in matters of fundamental concern.”¹¹⁹ Other definitions include “trusted counselor and adviser; a mentor,”¹²⁰ “[a]n acknowledged and influential advocate, as of a movement or idea,”¹²¹ or “an expert in a

116. Professor Laurel Currie Oates, Presentation on “Reading Comprehension in the Age of Twitter: Teaching Law Students to Read for Meaning and Materiality,” New York, New York, Jan. 2014.

117. McGaugh, *supra* note 97, at 133.

118. Bohl, *supra* note 10, at 791.

119. *Guru*, MERRIAM-WEBSTER, <http://www.merriam-webster.com/dictionary/guru> (last visited July 29, 2014).

120. *Guru*, AM. HERITAGE DICTIONARY, <http://ahdictionary.com/word/search.html?q=guru> (last visited July 29, 2014).

121. *Guru*, FREE DICTIONARY, <http://thefreedictionary.com/guru> (last visited July 29, 2014).

particular subject who gives advice.”¹²² Instead of just conveying information, a law professor-as-guru will add a dimension of guidance, trust, mentoring, and advice—creating a more profound one-on-one connection with individual students learning at different paces rather than a one-stop-shopping experience for a collective group. According to Bohl, “the best, most teachable moments will still come from the guru in each of us.”¹²³

III. LAW TEACHER AS GURU

Dr. Ken Bain, Provost and Vice President of Academic Affairs at the University of the District of Columbia, wrote a book in 2004 entitled, *What the Best College Teachers Do*,¹²⁴ which is readily transferable to law teaching with EI at its core. Further, in 2013, Michael Hunter Schwartz, Gerald F. Hess, and Sophie M. Sparrow wrote *What the Best Law Teachers Do*, a must-read for any legal educator seeking to improve his or her EI in the classroom.¹²⁵

Dr. Bain’s book summarizes the results of a study of the following types of professors:

All the professors we chose to put under our pedagogical microscope had achieved remarkable success in helping their students learn in ways that made a sustained, substantial, and positive influence on how those students think, act, and feel. The actual classroom performance of the teachers did not matter to us¹²⁶

Dr. Bain explains, “we were not interested in people because they were well liked by their students. Rather, we wanted indications from the students that the teacher had ‘reached them’ intellectually and educationally, and had left them wanting more.”¹²⁷ In his study, Dr. Bain reported six major conclusions regarding “what the best college teachers do”: (1) they “know their

122. *Guru*, CAMBRIDGE DICTIONARIES, <http://dictionary.cambridge.org/dictionary/american-english/guru?q=guru> (last visited July 29, 2014).

123. Bohl, *supra* note 10, at 799.

124. BAIN, *supra* note 12.

125. SCHWARTZ ET AL., *supra* note 13.

126. BAIN, *supra* note 12, at 5.

127. *Id.* at 7. Dr. Bain’s study did not just focus on “edutainment”; he says, “lectures filled with junk can ‘seduce’ students if the teacher is entertaining.” *Id.* at 12. Joseph Lowman agrees:

College teachers need to stimulate emotion, but their purpose in doing so differs from that of entertainers. The entertainer’s goal is to stimulate emotion for its own sake, while the classroom instructor uses emotion to engage students’ attention fully in the content of learning exercises selected for consideration and to transfer to them his or her own passionate interest in the subject.

LOWMAN, *supra* note 86, at 101.

subjects extremely well;” (2) they treat class preparation as a “serious intellectual endeavor” focused on “student learning objectives rather than what the teacher will do;” (3) they favor teaching objectives “that embody the kind of thinking and acting expected for life;” (4) they create a “natural critical learning environment;” (5) they “reflect a strong trust in students;” and (6) they “have some systematic program . . . to assess their own efforts and to make appropriate changes.”¹²⁸ Similarly, in *What the Best Law Teachers Do*, the authors recounted that the best law teachers “distinguish themselves by their thoughtfulness, caring about their students, high expectations, commitment to student learning, and ability to engage their students.”¹²⁹

When extracting characteristics of college teachers from Dr. Bain’s book that can be applied to law professors seeking to become more emotionally intelligent educators, eight qualities stand out: (1) a dedication to simplifying and clarifying complex subject matter to enhance student comprehension;¹³⁰ (2) the ability to produce “sustained learning” of these subjects;¹³¹ (3) the creation of a safe learning environment;¹³² (4) the development of a relationship of trust, respect, and openness with students;¹³³ (5) appreciation for the individual value of each student;¹³⁴ (6) periodic self-evaluation;¹³⁵ (7) acknowledgement when change, adaptation, or innovation in the teaching process is necessary;¹³⁶ and (8) recognition of emotions as part of the learning process.¹³⁷

First, instead of lecturing about complex subject matter in a business-as-usual “top-down” style, Bain indicates that the best teachers take the time to think about how to communicate concepts in language and incremental components that novices can understand—from the “ground up.” Bain emphasizes the following:

[T]he people in our study, unlike so many others, have used their knowledge to develop techniques for grasping fundamental principles and organizing concepts that others can use to begin building their own understanding and abilities. They know how to simplify and clarify

128. BAIN, *supra* note 12, at 15–19.

129. SCHWARTZ ET AL., *supra* note 13, at 1.

130. BAIN, *supra* note 12, at 16.

131. *Id.* at 17, 24.

132. *Id.* at 28.

133. *Id.* at 18, 141.

134. *Id.* at 72.

135. *Id.* at 19.

136. BAIN, *supra* note 12, at 67.

137. *Id.* at 27–28.

complex subjects, to cut to the heart of the matter with provocative insights. . . .¹³⁸

Similarly, Professors Schwartz, Hess, and Sparrow, in *What the Best Law Teachers Do*, affirm that the most effective law professors “strive to understand their assignments from their students’ perspective, to think about the material both as experts and as novices.”¹³⁹ This quality crystallizes the distinction between an imparter of wisdom, and an emotionally intelligent guru—the difference lies in connecting with each student and ensuring the intellectual message is received, not just sent. This requires an awareness of the comprehension levels throughout a classroom and nurturing a learning atmosphere in which students feel comfortable admitting misunderstanding or confusion without fear of embarrassment.

Second, good teachers cultivate an environment of sustained learning. Bain states, “[t]he scholarly work on this issue asks not if students can pass our examinations but whether their education has a sustained, substantial, and positive influence on the way they think, act, and feel.”¹⁴⁰ This challenge also evokes an emotional component. Sustained learning requires professors to incite, and students to engender, a positive emotional connection with legal doctrine, so that the substantive learning transcends the classroom (and the final exam, or the bar exam) and stays with students as they embark on summer jobs and their eventual careers.

Third, the best teachers create a safe learning environment for students.¹⁴¹ Bain emphasizes, “[t]he best college and university teachers create what we might call a natural critical learning environment . . . a safe environment in which students can try, come up short, receive feedback and try again.”¹⁴² Professors Schwartz, Hess, and Sparrow reiterate that good law professors actively listen to their students and acknowledge without judgment when they are confused or frustrated; in fact, some professors urge their students to “[t]ell me more about that.”¹⁴³ A law school classroom that fosters an atmosphere in which students can express emotion—frustration,

138. *Id.* at 16.

139. SCHWARTZ ET AL., *supra* note 13, at 20.

140. BAIN, *supra* note 62, at 17, 24. Likewise, in *Making Learning Whole: How Seven Principles of Teaching Can Transform Education*, David N. Perkins uses baseball imagery in a concept called “play out of town,” and asks, “I wonder how I can organize today’s learning so it informs and empowers learners widely in their lives.” DAVID N. PERKINS, *MAKING LEARNING WHOLE: HOW SEVEN PRINCIPLES OF TEACHING CAN TRANSFORM EDUCATION* (Jossey-Bass 2010).

141. SCHWARTZ, HESS & SPARROW, *supra* note 13, at 125.

142. BAIN, *supra* note 62, at 47.

143. SCHWARTZ, HESS & SPARROW, *supra* note 13, at 64–65 (quoting Professor Steven Homer).

confusion, passion, trepidation—without negative repercussions, will enable those students to try, make mistakes, start again, and evolve.

Fourth, the best teachers create a bond of trust and respect with their students. Professors can accomplish this by showing a vulnerable, human side—sharing personal hurdles, accomplishments, and disappointments they experienced along the same path upon which students are traveling—instead of perpetuating an “aloof expert” persona. Bain describes how the best professors “often display openness with students and may, from time to time, talk about their own intellectual journey, its ambitions, triumphs, frustrations, and failures, and encourage their students to be similarly reflective and candid They often discuss openly and enthusiastically their own sense of awe and curiosity about life.”¹⁴⁴ Students connect with professors who show humanity, “constantly sprinkl[ing] their classes with personal anecdotes and even emotional stories to illustrate otherwise purely intellectual topics and procedures.”¹⁴⁵ Likewise, the most effective law teachers are “thoughtful, authentic, and passionate”; “they also make mistakes, as they freely admit.”¹⁴⁶ Authenticity “includes deliberately sharing their personal experiences with their students”¹⁴⁷—whether those experiences are good or bad. This openness “shortens the distance between the students and their professor.”¹⁴⁸

Fifth, the best professors “look for and appreciate the individual value of each student. Rather than separating them into winners and losers, geniuses and dullards, good students and bad, they looked for the abilities that any person brought to the table.”¹⁴⁹ Professors Schwartz, Hess, and Sparrow convey that the best law teachers “know their students’ names, backgrounds, and personal experiences They feel concern about every student, not just a select few, and they see the promise in everyone.”¹⁵⁰ Further, they “create a connection with every student in their courses. They want no student to fall through the cracks.”¹⁵¹ This is the proposed *Breakfast Club* challenge; instead of pre-labeling students into categories such as motivated gunners, distracted loafers, future rainmakers, reticent speakers, or hopelessly poor writers, professors can dig deeper to understand the different personalities in the room, and tap into gifts that may not be readily apparent at first glance.

144. BAIN, *supra* note 62, at 18.

145. *Id.* at 40.

146. SCHWARTZ, HESS & SPARROW, *supra* note 13, at 37.

147. *Id.* at 46.

148. *Id.* at 107.

149. BAIN, *supra* note 62, at 72.

150. SCHWARTZ, HESS & SPARROW, *supra* note 13, at 28–29.

151. *Id.* at 86; *see also id.* at 86–97 (quoting Professor Ingrid Hillinger as saying, “Every student at this school is special. Every single student has a story.”).

Sixth, the best teachers self-evaluate; “When students had difficulty in class, the best professors looked for problems in their courses first rather than in their students’ preparation or intelligence.”¹⁵² Similarly, Professors Schwartz, Hess, and Sparrow report that the best law teachers “take responsibility; if their students are not learning, the teachers usually blame themselves.”¹⁵³ These skilled legal educators understand that producing “exceptional learning” requires “exceptional personal development,” including “understanding one’s self (one’s history, emotions, dispositions, abilities, insights, limitations, prejudices, assumptions)”¹⁵⁴—a necessary endeavor in both teacher and student. This attribute reflects EI principles: self-analysis, adaptability, and being attuned to what others need and want, rather than what we personally prioritize.

Seventh, building on the previous trait, good teachers have enough self-awareness to acknowledge when change is necessary; “They follow few traditions blindly and recognize when change in the conventional course is both necessary and possible . . . [They have an] adaptive spirit and expertise to toss aside inhibiting conventions in search of better solutions.”¹⁵⁵ This quality mirrors the call to action described by Professor McGaugh above: law professors cannot just pretend to adapt¹⁵⁶—masking tradition with flashy PowerPoint presentations. We must step up, be willing to scrutinize our own shortcomings, and be open to change.

Finally, the best professors are not afraid to bring emotion into the classroom, and explain to students that emotion is a key part of the learning process. As Bain describes, “[e]xceptional teachers recognize that sometimes the material creates emotional conflicts that prevent highly capable students from doing well.”¹⁵⁷ Teachers need to recognize, and then help students “handle the emotional trauma that sometimes accompanies challenges to longstanding beliefs.”¹⁵⁸ This is especially true in law teaching. Legal rules applied to real or hypothetical client circumstances might trigger complex emotions in students such as: anger, passion, excitement, joy, concern, frustration, and resentment. Good law professors will be emotionally available and have enough classroom awareness to: (1) recognize the ignition of these internal emotional conflicts, and (2) help students and their colleagues

152. BAIN, *supra* note 62, at 78.

153. SCHWARTZ, HESS & SPARROW, *supra* note 13, at 18; *see also id.* at 60 (quoting Professor Meredith Duncan as stating “The more confused they are at the end of class, the more I figure that I haven’t taught the class well.”); *Id.* at 122 (quoting Professor Andy Taslitz, explaining that when he somehow cannot connect with a particular student, he “experience[s] that as a failure on my part. There’s something missing. I’m not seeing something.”).

154. *Id.* at 24.

155. BAIN, *supra* note 62, at 67.

156. MCGAUGH, *supra* note 97, at 133.

157. BAIN, *supra* note 62, at 53.

158. *Id.* at 27–28.

manage and process emotions effectively to facilitate, instead of diminish, learning. As Professors Schwartz, Hess, and Sparrow point out, the best law teachers are “comfortable showing emotions to their students”;¹⁵⁹ they “have superb listening skills, [and] exude empathy.”¹⁶⁰ They recognize the importance of nurturing students’ “ability to understand and use one’s emotions.”¹⁶¹ They will welcome positive emotions into the classroom, affording students opportunities to express enthusiasm, joy, and delight at accomplishing mid-semester goals or overcoming hurdles of understanding.

IV. STRATEGIES FOR LAW PROFESSORS TO ENHANCE EMOTIONAL INTELLIGENCE IN THE LAW SCHOOL CLASSROOM

Law professors who increase their EI quotient will be far more capable of identifying and reaching students who need more concentrated attention in order to understand trickier legal concepts. This will enable the extraction of excellence from a broader collective rather than the smaller cadre of students we typically reach. Goleman’s summary of the rewards of improving one’s EI is inspiring:

Much evidence testifies that people who are emotionally adept—who know and manage their own feelings well, and who read and deal effectively with other people’s feelings—are at an advantage in any domain of life, whether romance and intimate relationships or picking up the unspoken rules that govern success in organizational politics. People with well-developed emotional skills are also more likely to be content and effective in their lives, mastering the habits of mind that foster their own productivity.¹⁶²

In contrast, “people who cannot marshal some control over their emotional life fight inner battles that sabotage their ability for focused work and clear thought.”¹⁶³ Not only do professors obviously benefit from focused work and clear thought in the classroom, students will as well.

The challenge for today’s law professor is first to understand, and then develop, the five components of EI: (1) cultivating an awareness of one’s own emotions in the classroom; (2) handling one’s own emotions in the classroom so that they are appropriate; (3) commanding and regulating one’s emotions to achieve the goals the students need to attain rather than exhaust the professor’s daily agenda; (4) having empathy for students, recognizing their emotions, and tuning into whether and how they are grasping

159. SCHWARTZ, HESS & SPARROW, *supra* note 13, at 55.

160. *Id.* at 18.

161. *Id.* at 24.

162. GOLEMAN, *supra* note 3, at 36.

163. *Id.*

a given day's material; and (5) processing the foregoing components effectively such that relationships with students are cultivated instead of stifled.¹⁶⁴

One method for embracing this challenge is for the professor to think about a particular sea of students, and him- or herself, as individuals with different personality characteristics and learning preferences, but on a common quest. As alluded to above, this theme is reminiscent of the 1985 Hollywood movie, *The Breakfast Club*. The film introduces a collection of high school students via common stereotypes—the beauty, the nerd, the jock, the rebel, and the recluse—labels attributed by themselves and a clichéd overbearing assistant principal. While in detention, focusing on an assignment to write an essay about “who you think you are,” these outwardly distinct individuals realize they share common ground—insecurities, isolation, and fear. Likewise in the law school classroom, emotionally intelligent professors can delve deeper than surface-level assumptions about law student stereotypes—the extroverted talker, the nervous speaker, the quiet note-taker, the eye contact avoider, the attention-seeker, the disrespectful loafer, the already-know-it-all—to see the individual talents lurking below, and create a learning environment conducive to furthering everyone's educational quest. This might take some “professional creativity.”¹⁶⁵ As Professors Stefan H. Krieger and Richard K. Neumann, Jr. note, “creativity is not an innate and mysterious personality trait possessed only by artists and others like them. Creativity is the process of solving problems through insights.”¹⁶⁶ As insightful law professors, we can be sculptors, architects, and orchestra conductors in our classrooms.

But how exactly? A professor seeking to use EI to improve teaching can: (1) first study or re-assess his or her own learning style and personality preferences; (2) take time to identify and understand the different learning styles and personality preferences potentially present in each class of law students; and (3) consider implementing and tailoring a variety of available techniques for enhanced EI-based classroom engagement.

A. Assessing the Professor's Own Learning Style and Personality Preferences

A professor's first step in the road to increased emotional intelligence is to evaluate his or her own personality, learning styles, preferences, and aversions, and how they may differ from those of his or her students. To connect on a meaningful level, students and professors ultimately need to speak the same intellectual language.

164. GOLEMAN, *supra* note 3, at 43 (summarizing Mayer and Salovey's EI construct).

165. KRIEGER & NEUMANN, *supra* note 42, at 35.

166. *Id.*

Whether a law professor is a veteran or a rookie, there is always room for self-evaluation. Professor Douglas K. Newell makes a “plea for the ‘examined life’ as applied to law teaching.”¹⁶⁷ Likewise, Professor Filippa Marullo Anzalone is “convinced that becoming more self-conscious about the learning process and about how each of us, as an individual, performs the act of teaching, has the potential to make us more successful teachers.”¹⁶⁸ She cautions, “[w]ithout being aware of it, most of us are probably teaching in the style that we are most comfortable learning. Many of us do not even know how we learn best or how we prefer to learn.”¹⁶⁹

Taking a moment to study one’s own learning styles, preferences, and aversions can significantly enrich a professor’s ability to reach an audience. A good start might be to re-take the Myers-Briggs Type Indicator (MBTI) test—to become aware of personality preferences.¹⁷⁰ Focusing more deeply on one of the four areas of MBTI personality preferences,¹⁷¹ a professor might also study what it means to be an introvert or an extrovert, and how that personality preference affects teaching style and interaction with, and judgment or misjudgment of, introverted or extroverted students.¹⁷²

167. Douglas K. Newell, *Ten Survival Suggestions for Rookie Law Teachers*, 33 J. LEGAL EDUC. 693, 703 (1983).

168. Filippa Marullo Anzalone, *It All Begins with You: Improving Law School Learning through Professional Self-Awareness and Critical Reflection*, 24 HAMLINE L. REV. 324, 326 (2001).

169. *Id.* at 338–39.

170. The Myers & Briggs Foundation, *The MBTI Instrument for Life*, <http://www.myersbriggs.org/> (last visited July 29, 2014). The website offers an insightful quote from Isabel Briggs Myers: “Whatever the circumstances of your life, the understanding of type can make your perceptions clearer, your judgments sounder, and your life closer to your heart’s desire.” Interestingly, Isabel Myers Briggs is credited with the following list of “What Is To Be Desired?”: “(1) Self-respect: To be part of the solution, not part of the problem; (2) Love: To love the human beings that mean the most to me, and contribute to their lives if I can; (3) Peace of Mind: To avoid mistakes that make me regret the past or fear the future; (4) Involvement: Always to be tremendously interested; (5) Understanding: To incorporate the things, people and ideas that happen to me into a coherent concept of the world; (6) Freedom: To work at what interests me most, with minimum expenditure of time and energy on non-essentials.” Center for Applications of Psychological Type, *MBTI Overview*, <http://www.capt.org/mbti-assessment/isabel-myers.htm> (last visited July 29, 2014). Each one of these “desires” can be readily applied to law teaching.

171. The MBTI assesses four “dichotomies” of personality preferences: extrovert or introvert; sensing or intuition; thinking or feeling; judging or perceiving. The Myers Briggs Foundation, *The MBTI Instrument for Life*, <http://www.myersbriggs.org/> (last visited July 29, 2014).

172. For an insightful look into the world of introverts, see SUSAN CAIN, *QUIET: THE POWER OF INTROVERTS IN A WORLD THAT CAN’T STOP TALKING* (2012). Cain describes how Carl Jung published a book called *Psychological Types* in 1921 that distinguished introverts and extroverts; Cain describes that distinction as follows: “Introverts are drawn to the inner world of thought and feeling, said Jung, extroverts to the external life of people and activities. Introverts focus on the meaning they make of the events swirling around them; extroverts

Further, a professor might assess what type of learner he or she is (visual, aural, read/write, or kinesthetic) based on the VARK guide to learning styles.¹⁷³ A professor might not realize that his or her preference for straight lectures, scratching notes on the board, or routine PowerPoint presentations—while placing him or her squarely within a comfort zone—fails to reach a good portion of the room.

An EI valuation might be informative as well.¹⁷⁴ Armed with these self-assessments, a professor can experiment with subtle shifts in teaching styles to connect with different types of learners.

B. Recognizing Differences in Learning Styles of Students

The second prong of becoming a more emotionally intelligent law professor requires investing time to consider the makeup and composition of each classroom, whether the class is a small seminar, a legal writing course, or a large lecture hall full of students.¹⁷⁵ Professors should pause to think about the individuals physically occupying the rows of chairs. These human beings may be very different from the professor and may absorb complex material in alternative ways. Law professors must avoid making *Breakfast*

plunge into the events themselves. Introverts recharge their batteries by being alone; extroverts need to recharge when they don't socialize enough." *Id.* at 10. Introverts "listen more than they talk, think before they speak, and often feel as if they express themselves better in writing than in conversation." *Id.* at 11.

173. VARK is a guide to learning styles created by Neil Fleming and Colleen Mills in 1992. Neil Fleming, *The VARK Modalities*, VARK. <http://www.vark-learn.com/english/page.asp?p=categories>. According to the website, "VARK is a questionnaire that provides users with a profile of their learning preferences. These preferences are about the ways that they want to take-in and give-out information." Neil Fleming, *Frequently Asked Questions*, VARK. <http://www.vark-learn.com/english/index.asp>. For instance, a Visual Learner relates to "depiction of information in maps, spider diagrams, charts, graphs, flow charts, labeled diagrams, and all the symbolic arrows, circles, hierarchies and other devices, that people use to represent what could have been presented in words." Aural or Auditory Learners prefer "information that is 'heard or spoken' . . . and learn best from lectures, group discussion, radio, email, using mobile phones, speaking, web-chat and talking things through." Learners with a Read/Write preference thrive on "information displayed as words . . . emphasiz[ing] text-based input and output—reading and writing in all its forms but especially manuals, reports, essays and assignments." Finally, Kinesthetic Learners flourish from "demonstrations, simulations, videos and movies of 'real' things, as well as case studies, practice and applications If it can be grasped, held, tasted, or felt it will probably be included. People with this as a strong preference learn from the experience of doing something." Neil Fleming, *The VARK Modalities*, VARK. <http://www.vark-learn.com/english/page.asp?p=categories>.

174. *See supra* text accompanying pt. C (information about available EI tests).

175. For teaching Millennials, Maureen Wilson suggests that professors "consider a class as a group and address the dynamics therein." M. Wilson, *supra* note 95, at 60–64.

Club-type assumptions or stereotypes—negative or positive—about a pack of students; each group dynamic is different.

Ingham and Boyle caution that:

Professors are well advised to be alert to the fact that their classrooms are filled with students who learn in different ways. More importantly, the students professors teach tend to possess learning-style characteristics that may be dramatically different from their own. Students can be challenged to consider their individual learning-style strengths and how those strengths can be utilized to maximize their learning in law school. Simultaneously, faculty can be challenged to create a learning environment that is attentive to the differences students bring with them to their institutions.¹⁷⁶

For example, each law school classroom, no matter the size, could be comprised of any number of the following cohorts: (1) students that range in VARK learning preferences such as visual, aural/auditory, read/write, and kinesthetic;¹⁷⁷ (2) a spectrum of introverted and extroverted students who approach and absorb classroom interaction in completely different ways;¹⁷⁸ (3) students with extreme public speaking anxiety¹⁷⁹ or social anxiety/phobia; (4) students who suffer from panic attacks; (5) students with dyslexia; (6) students with ADD/ADHD; (7) students for whom English is a second or third language; and (8) students suffering from other stressors such as parental needs, child care burdens, financial encumbrances, or cultural pressures from family. Of course, it would be very difficult to tailor every class to fit all the needs of each student, and some of the foregoing characteristics might invoke privacy concerns. Nonetheless, simply being aware of some of these individualities, or creating an environment in which students feel open to appropriately share challenges that inhibit their ability to learn the law, can lay the ground work for slight shifts that may brighten the learning experience for everyone.¹⁸⁰

Unfortunately, students often wait too long to raise learning obstacles to the attention of their professors, or the administration, until it is too late for anyone to do anything about it. These students then get penalized for late interim submissions or perform so poorly on their finals that they may

176. Ingham & Boyle, *supra* note 113, at 292.

177. See *supra* text accompanying note 173.

178. CAIN, *supra* note 172, at 255 (“We think about introverted kids as having a different learning style.”) (citing Pat Adams, the former head of the Emerson School for gifted students in Ann Arbor, Michigan).

179. Heidi K. Brown, *The “Silent But Gifted” Law Student: Transforming Anxious Public Speakers into Well-Rounded Advocates*, 18 LEGAL WRITING 291 (2012).

180. In *What the Best Law Teachers Do*, the authors describe Professor Hiroshi Motomura’s technique for “starting his courses by asking his students how they prefer to learn.” SCHWARTZ, HESS & SPARROW, *supra* note 13, at 256.

achieve troubling GPAs, be placed on academic probation, or even withdraw from law school. Others, without such grave consequences, may experience extreme levels of stress trying to cope with these hurdles without voicing them to anyone who can help. Thus, good professors are mindful of these potential pitfalls and create an environment in which students feel comfortable talking about impediments to learning so such obstacles can be addressed early in their law school careers.

C. A Professor's Emotional Intelligence Tool Box

There are simple ways for EI-savvy professors to gather student-focused information and create relationships with students to encourage them to share more readily why they might experience difficulty grasping material, falter when called on in class, or miss an office hours appointment or deadline. These tactics work in small legal writing classes, seminars, or large lecture classes. They involve little planning and near effortless execution, but have potentially monumental results—both in helping students draw greater connections with their professors and in heightening the teacher's awareness of the tenor of the classroom.

1. *Early-in-the-Semester Fact-Gathering*

As a foundational step, at the beginning of each semester, professors can require each student to complete a short confidential questionnaire, collecting basic information such as: name, hometown, undergraduate institution, college major, pets, outside interests, and most importantly, whether the student has any particular concerns about law school in general, class participation, reading comprehension, public speaking, written work product, outlining, studying, working in groups, and/or test-taking. Over the first weekend of the semester, the professor can quickly scan these questionnaire responses, perhaps synthesizing them into a spreadsheet or flashcards, to foster name recognition and help transform a sea of bodies into individuals with specific characteristics. For any of the particular academic concerns listed above, the professor might—at the beginning of the next class—offer a list of resources, such as Academic Support, tutors, or the Office of Academic Affairs, or the professor might invite individual students or small groups to Office Hours to discuss specific concerns and potential solutions.

2. *Setting an "Emotionally Intelligent" Classroom Tone*

In the first week or two of the semester, the professor can take five minutes out of a lecture period to express—out loud—the desire for greater awareness of the classroom dynamic. The professor might even explain the

definition of EI and how it applies to the classroom as well as law practice. This could involve a discussion about emotions in the classroom—both the professors and the students—and how emotions affect learning. The professor can encourage students to voice concerns about understanding the material, or any learning barriers that arise inside or outside the classroom, and should set up a system for such communication. Perhaps the last ten minutes of each class could be reserved for a Rocket Docket, where the theme is “there are no ‘dumb’ questions.” The professor can urge students to slip anonymous substantive questions into a “Box o’ Clarity.” The professor also can remind students to take advantage of Office Hours and one-on-one conferences to address questions they do not feel comfortable raising in front of the entire group.

3. “Checking the Vitals” in the Classroom

Even during a pivotal lecture class or a fast-paced seminar discussion, it is essential for professors to periodically “take the temperature” of the room. According to Professor Levy, who surveyed the socio-emotional component of teaching, students “want teachers who are empathetic and can read whether the class is understanding the material or not.”¹⁸¹ Whether a class period is 50 minutes, 75 minutes, or 100 minutes, professors need to gauge intermittently whether material is infiltrating. Is the lecture too boring or too long, causing students to “check out?” Is the professor presenting the material too rapidly for comprehension? Is the professor transmitting too much information in one sitting? Is the professor making assumptions about the students’ level of understanding? Susan Cain, the author of *Quiet: The Power of Introverts in a World That Can’t Stop Talking*, refers to this as “self-monitoring” or “checking [the] audience for subtle signs of pleasure or boredom and adjusting [a] presentation to meet its needs.”¹⁸²

For example, at 15-minute intervals, the professor can stop and ask, “I see some scrunched-up faces . . . Is everyone with me? Do we need to break down the rule here into smaller components?” This might be an opportunity to “change up” the method of delivery for different types of learners. Professors might consider ways to at least touch on each of the visual, aural, read-write, and kinesthetic learning styles. If thus far, the class has been based on a straightforward lecture, the professor can add a twist and have students come forward to write a rule, or brief a case, on the board. Or together, the class could use “Mindmap” software projected on the overhead to tie concepts together—which can then be posted on the class TWEN or Blackboard page for later reference. Students could volunteer to repeat or

181. Levy, *supra* note 8, at 98.

182. CAIN, *supra* note 172, at 215.

recite the message gleaned from the past fifteen minutes of class, affording everyone the opportunity for clarification of misunderstandings or gaps. The professor could ask the students to convey the substantive message in a written paragraph, a six-word “bumper sticker” message,¹⁸³ a witty text-message, or a 140-character Tweet. The professor could break students into small groups to discuss or apply the legal rule and concepts to a practice hypothetical. The professor could require students to perform a five-minute “free write” in which each student reflects on the principles just discussed.

Regarding the different learning styles between introverts and extroverts, Cain urges teachers to recognize that “you have more introverted kids in your class than you think.”¹⁸⁴ She suggests that educators “[b]alance teaching methods to serve all the kids in your class. Extroverts tend to like movement, stimulation, and collaborative work. Introverts prefer lectures, downtime, and independent projects. Mix it up fairly.”¹⁸⁵ Regardless of the technique used, it is essential for the professor to check levels of comprehension at various intervals, even if it is as simple as asking, “Is this confusing? Does everyone understand?” As Levy emphasizes, “Students want their teachers to care that they learn.”¹⁸⁶

4. *Fostering an “Emotionally Intelligent” Dialogue*

Professors should also try to gauge the classroom dynamic during question-and-answer sessions. In fact, a Socratic dialogue between teacher and student is perhaps the best example of an opportunity for EI to enhance the learning experience, where, in contrast, a lack of emotional intelligence may result in a colossal failure in a poignant teaching moment.

For example, if a professor calls on a law student and commences the Socratic method, and the student cannot answer the question or seems extremely nervous, the professor should not immediately assume the student is unprepared or even give the student a “pass.” This is a moment when a professor could fall prey to law student stereotyping, but instead could practice EI. It could be that the student simply did not understand an inartfully-

183. Creative and EI-savvy legal writing professors have crafted six-word storytelling exercises. See Mary Dunnewold, *Why Am I Here? Six-Word Stories about the First Month of Law School*, 59 J. Legal Educ. 653, 654 (May 2010) (suggesting “a six-word story assignment could be useful in a legal writing class”) (citing Listserv Posting of Professor Tracy McGaugh, Touro Law Center, tracy.megaugh@gmail.com, to LRWPROF-L, a legal writing listserv) (Sept. 3, 2008). Interestingly, Professor Dunnewold’s article reports the best entries from six-word stories from law students in their first month of school, many of which reflect high stress levels. *Id.* at n.7.

184. CAIN, *supra* note 172, at 255.

185. *Id.*

186. Levy, *supra* note 8, at 96.

phrased question, or that the language used was too complicated.¹⁸⁷ The student could be an introvert, whose base instinct is “to contribute only when he believes he has something insightful to add, or honest-to-God disagrees with someone.”¹⁸⁸ The student could be suffering from extreme public speaking anxiety or social anxiety/phobia. Or it is possible that English is the student’s second language. Alternatively, the student might have dyslexia or ADD/ADHD such that reading and comprehending a case out loud in front of her peers presents difficulty. This scenario offers an ideal opportunity to apply Goleman’s principles of EI.

First, the professor must take a moment to be self-aware and identify his or her own emotions stemming from the unsuccessful Socratic dialogue: frustration? annoyance? exasperation? disappointment? All of these feelings could—without appropriate reflection—translate into kneejerk judgment and dismissiveness of this particular student. However, instead of immediately becoming frustrated, annoyed, exasperated, disappointed, or dismissive, the professor can re-focus on the goals that the student and the class need to achieve rather than the professor’s own agenda. The emotionally intelligent professor needs to be willing to switch gears, slow down, and take a detour for 10-15 minutes of the class itinerary in order to help students overcome bumps in the road; “[T]he best classroom manager is a teacher who strikes a reasonable balance between answering questions and getting through the material.”¹⁸⁹

Next, the professor can engender a level of empathy for the on-call student. The professor can adjust the Q&A dynamic in a way hopefully to cultivate—instead of stifle—the student. For instance, rather than continuing to

187. As Professor Tracy McGaugh notes, “when it comes to considering *our* audience—our students—we tend to think of them as we believe they *should be* rather than as they really are.” McGaugh, *supra* note 97, at 119. McGaugh emphasizes the “good news”: “the students of Generation X are reachable. The problem has not been that we have placed expectations on Gen Xers that they are not willing to meet; the problem is that we have been communicating our expectations in a foreign language. If we can frame our expectations in terms they can understand, they can meet them—and they do so much more enthusiastically than we would have imagined.” *Id.*

188. CAIN, *supra* note 172, at 46. Cain cites College of William and Mary education scholars Jill Burruss and Lisa Kaenzig, as emphasizing “[i]ntroverts need different kinds of instruction from extroverts . . . and too often, ‘very little is made available to that learner except constant advice on becoming more social and gregarious.’” *Id.* at 253; *see also* SCHWARTZ, HESS & SPARROW, *supra* note 13, at 39 (“I usually find that the people with a self-editing function—who wonder whether they really have something to say—have a good deal more to say than the people who have balloons attached to their wrists.”) (quoting Professor Heather Gerken). However, these individuals often feel more comfortable slowly thinking through the right words to express themselves, and can experience anxiety when put on the spot.

189. Levy, *supra* note 8, at 74.

hammer the target, or allowing him/her to “pass” and slink deeper into his/her chair—fostering resentment, embarrassment, or shame which are emotions that will block any learning and absorption for at least the next several minutes of class time—the professor can adjust the mode of questioning and try to get the student to engage in a more relaxed dialogue. “[Student X], let’s break this down. Can you think of a ‘theme’ we could give this case? And why would anyone care about this case in law school? Did this case make you angry? Surprised? Was it unfair? Is this case hard to understand? Why? If we had to Tweet 140 characters about this case, what words would we start with?” An emotionally intelligent professor might even switch roles with a struggling student: “Okay, how about we try this. [Student X], can you be the one to ask the questions? And I, and your fellow classmates, will try to answer them?” The emotionally intelligent professor could hand the student a “prompt sheet” of questions to ask as the leader of the Socratic dialogue, as a way to at least keep the reluctant student talking. The questions can be less “legal,” and more emotional, focusing on how the case law makes students feel about the issues.

Or the professor could simply give the student more time. To deal with a student who is reluctant to participate in class, Cain suggests, “[I]et him know that it’s OK to take his time to gather his thoughts before he speaks, even if it seems as if everyone else is jumping into the fray.”¹⁹⁰ In order to grow from an intimidating public speaking experience, students struggling with extreme public speaking anxiety need to witness the rise and fall of their anxiety symptoms and learn that the stressful reactions will eventually subside, and that catastrophe will not ensue.¹⁹¹ A follow-up email after class to a student that was “on-call” could also facilitate an open discussion with one struggling with the Socratic method: “[Student X], thank you for our discussion in class today. I noticed you struggled a bit with [X] and I just wanted to check in to see if I can be of any assistance in that regard.”

Busy law professors moving from one class to the subsequent one, or racing to the next faculty or committee meeting, often do not have time to reflect back upon the emotional tenor of a classroom experience. Perhaps calendaring a weekly time slot for personal reflection or journaling on the EI

190. CAIN, *supra* note 172, at 257.

191. The author of this article is researching another article entitled, *Empowering Law Students to Overcome Extreme Public Speaking Anxiety: Why “Just Be It” Works and “Just Do It” Doesn’t*. Psychology experts strongly emphasize that, in order for gradual exposure to public speaking scenarios to contribute worthily to a long-term holistic amelioration of extreme public speaking anxiety—rather than undermine this aspiration—law students must be encouraged and supported to stay in the moment until their “anxiety level drops,” at least “to a mild level. The theory is that if you leave the situation while your anxiety is still high it reinforces your fear and can do more harm than good.” Barbara G. Markway, Ph.D. & Gregory P. Markway, Ph.D., *Painfully Shy: How to Overcome Social Anxiety and Reclaim Your Life*, 153 (2001).

quotient in that week's classes will cultivate inner awareness, and help professors strategize on how to handle classroom events more effectively the next time similar interactions occur.¹⁹²

5. *Balancing Group Work with Individual Work*

If the professor breaks students into groups for classroom activities, it is also important to be mindful of the dynamic within small groups. A professor personally might enjoy working in groups in faculty meetings or workshops, or think that group exercises make class more interesting or collaborative, but that does not mean all students think the same way. Human nature will take over, and individuals will gravitate toward the roles that make them feel most comfortable in social dynamics. Professors should monitor groups to make sure that dominant extroverts do not overshadow the introverts and should vary the size, makeup, and focus of groups so students do not adopt the same group personas every time. Different learners respond differently to forced group work. Such dynamics tend to favor socially confident extroverts. Professors who compensate by simply forcing introverts or quiet thinkers to step into the shoes of group leader could be subjecting these individuals to unnecessary anxiety. In fact, Susan Cain cautions against what she refers to as "The Rise of the New Groupthink."¹⁹³ She emphasizes that "introverts prefer to work independently, and solitude can be a catalyst to innovation."¹⁹⁴ Many introverts "resist being herded together."¹⁹⁵ Cain emphasizes that "[s]ome collaborative work is fine for introverts, even beneficial. But it should take place in small groups—pairs or threesomes—and be carefully structured so that each [student] knows her role."¹⁹⁶

Group exercises certainly can be effective teaching mechanisms; however, professors should consider providing an explanation of the context and purpose of such exercises and pre-formed group rosters. These forms of advanced communication and planning can go a long way toward lessening inadvertent stress on students who are more independent workers.

192. The book *What the Best Law Teachers Do* indicates, "all outstanding law teachers are highly reflective," and emphasizes the "power of reflection in developing expertise." SCHWARTZ, HESS & SPARROW, *supra* note 13, at 317.

193. CAIN, *supra* note 172, at 71.

194. *Id.* at 74.

195. *Id.* at 85.

196. *Id.* at 255–56.

6. *Periodic “Big Picture” Check-Ins for Syllabus Clarity and Progress*

Following Dr. Bain’s acknowledgment that good professors have enough self-awareness to acknowledge when change is “necessary and possible,”¹⁹⁷ law professors who re-use the same syllabus each year should give it an annual once-over to see if any adjustments should be made in the order of topics, amount, or type of reading assigned, and if the subject matter could be re-ordered in a more logical progression that students might comprehend better. Maureen Wilson points out that Millennial students “are likely to appreciate clear expectations, explicit syllabi, and well-structured assignments.”¹⁹⁸ A syllabus should contain a realistic amount of material to cover each week, so the professor does not have to modify assignments too often during the semester. The syllabus helps students plan, and when that plan is derailed too many times, they lose trust.

One easy way to help students track progress of a large amount of semester material—and to see how various topics fit together—is to summarize on the board at the beginning of each class what topics have been covered thus far, what topics will be covered in that day’s class, and what will be covered in the following week. Students crave context. Periodic “big picture check-ins” will help them understand how disparate legal topics interrelate.

Professor McGaugh emphasizes how today’s students have transitioned from “just-in-case” learning to “just-in-time” learning:

“Just in case” learning focuses on acquiring information that the student may need sometime in the future; this is the traditional educational model. “Just in time” learning focuses on learning information-acquisition skills so that the student can find any information she might need in the future when the need arises Xer students have long since moved to a “just in time” model of learning [T]hey are inclined to disregard pieces of information they do not currently need or do not see an impending need for.¹⁹⁹

“Just-in-time learning” in law school exam-oriented classes sounds like a risky endeavor, and intuitively seems to conflict with the concept of “sustained learning” that Dr. Bain discusses. However, perhaps the two concepts can be reconciled through emphasizing context. As Professor McGaugh reiterates:

197. BAIN, *supra* note 62, at 67.

198. M. Wilson, *supra* note 95, at 65.

199. McGaugh, *supra* note 97, at 127–28.

Present information “just in time” as much as possible. Tie the topic of each class into an assignment for which students currently are or will very soon be responsible. Explain why they are doing what they are doing. Explain to them how each skill or concept fits into a particular piece of the assignment, the assignment as a whole, the course as a whole, their legal education as a whole, and, when appropriate, their needs in practice, both as a clerk and practicing attorney.²⁰⁰

So, while material can be presented “just-in-time” in terms of what tasks the students are focusing on at a given point in the semester, the students can also envision how the same task fits into the bigger picture “just-in-case”—on the final exam, the bar exam, and ultimately in their first attorney jobs.²⁰¹ Once again, opening clear channels of communication about the learning process—giving context along the way—should boost the students’ level of engagement.

7. *Increasing the Efficacy of Office Hours*

EI-focused professors should consider how to make Office Hours useful and less intimidating for students. Students might be encouraged to e-mail the professor in advance, scheduling a time to meet and discuss a specific concern, so the professor can think through the issue in advance. For introverted professors who become drained by lengthy one-on-one stimulation, Office Hours might be shortened and spread over different days of the week, or offered in a location other than the professor’s actual office, i.e. the local Starbucks.

In a more challenging individual conference, the professor could take a moment to contemplate what deeper issue might be driving the student’s dilemma, resistance, or confusion. It might be as simple as asking, “How is school going in general? Is everything okay? Is there something causing you stress in my class, or right now?” The professor may consider, or even ask directly, whether the student is a particular type of learner, and try explaining a particular legal rule in a new way. For example, the professor might draw a flowchart on a whiteboard, or have the student repeat the elements of a rule aloud, or apply the rule to a real-life scenario outside of law school. Professors can practice the same classroom EI principles on a smaller scale in one-on-one Office Hours.

200. *Id.* at 137.

201. See Bohl, *supra* note 10, at 796 (“Although experiences with technology have engendered a “just in time” attitude in Gen X Y students, as professors we can take advantage of that trait by timing the release of information and assignments to highlight its relevance and so to promote student engagement.”).

8. *Using Creativity to Address Particular Learning Challenges*

If students reveal personal learning challenges, such as English as a Second Language (ESL), panic attacks, dyslexia, ADD/ADHD, or struggles at home, professors should have contact information for Academic Support or Student Services who may be better equipped to assist these students. For example, ESL students, those with grammar challenges, and students with certain learning disabilities might benefit from Writing Centers. However, before simply shuttling students off to someone else, professors might suggest certain writing improvement techniques. For example, in writing classes, for students for whom ESL and dyslexia cause issues with proofreading written work product, it might help to walk through a written document together with a highlighter. Visually pinpointing common mistakes together, such as missing punctuation or singular-plural noun-verb matching issues, might arm these students with new strategies for catching those mistakes more readily. Students need to be shown specifically what to look for and how exactly to see it; some students have never learned how to spot these issues in a piece of writing.²⁰² Dyslexic students might be encouraged to try a new font called Dyslexie, which more dramatically emphasizes the differences in certain letters that look very similar.²⁰³

202. In response to a question posed on the Legal Writing Institute (LWI) Listserv about assisting students with dyslexia, Brenda See, Adjunct Professor of Legal Practice, Belmont University College of Law, noted that she has a dyslexic writing student who prints out each line of a paper and proofreads it separately, catching many more typographical errors than if looking at the paper as a whole. E-mail from Brenda See to Heidi K. Brown on Jan. 18, 2012 6:01 AM (on file with author). Additionally, Sue Liemer, Associate Professor of Law and Director of Lawyering Skills at Southern Illinois University School of Law, responded with a tip to encourage students to use blue highlighters: "Some people with dyslexia can read much more easily with a blue-tinted plastic sheet placed over the page." E-mail from Sue Liemer to Heidi K. Brown on Jan. 18, 2012 4:47 PM (on file with author).

203. Amanda Peters, Assistant Professor at South Texas College of Law, mentioned on the same Listserv thread that the font, Dyslexie, "makes the tops of ds and bs and the bottoms of descending letters look different to the reader so they're not as easily mistaken. It's a great concept that surprisingly wasn't thought of sooner. Here's a blog about it: <http://news.yahoo.com/blogs/technology-blog/font-aims-help-people-dyslexia-read-ease-204213218.html>." E-mail from Amanda Peters to Heidi K. Brown on January 18, 2012 11:49 AM (on file with author). According to Paul Sawyers at thenextweb.com, "of the 26 letters in the standard Latin-based alphabet, as used in English, many of the letters look similar – such as v/w, i/j and m/n – thus people with dyslexia often confuse these letters. So by creating a new typeface where the differences in these letters are emphasized, it was found that dyslexic people made fewer errors." Paul Sawyers, *Dyslexie: A Typeface for Dyslexics*, THE NEXT WEB (June 30, 2011, 12:03 PM), <http://thenextweb.com/shareables/2011/06/30/dyslexie-a-typeface-for-dyslexics/>. See, e.g., DAVID POLLAK, *DYSLEXIA, THE SELF AND HIGHER EDUCATION: LEARNING LIFE HISTORIES OF STUDENTS IDENTIFIED AS DYSLEXIC* (2005); DAVID MCLOUGHLIN, GARY FITZGIBBON & VIVIENNE YOUNG, *ADULT DYSLEXIA: ASSESSMENT, COUNSELLING AND TRAINING* (1994); CYNTHIA KLEIN & ELLEN MORGAN, *THE DYSLEXIC ADULT IN A NON-DYSLEXIC WORLD* (2001); Suzanne Rowe, *Learning Disabilities and the*

It might surprise professors to hear that ADD/ADHD students admit they have trouble even getting through reading a single case in preparation for class. Again, instead of immediately sending the student off to the Office of Academic Affairs, the professor and the student might have a discussion about class preparation, and brainstorm about creative ways for the student to cull through a large volume of reading, and/or adopt a radically different schedule for reading cases, such as breaking them into incremental components, and only reading certain components during shorter scheduled study sessions. For example, Leah Christensen, author of *Thinking outside the Box: A Handbook for Law Students Who Learn Differently*, discusses the benefits of brainstorming alternate study styles with students who have ADD or ADHD.²⁰⁴ She suggests that a student with ADD who identifies as a visual and read/write learner might process voluminous assigned reading by rewriting legal concepts on note cards, over and over.²⁰⁵ A visual learner with ADD might benefit from writing down legal rules or briefing cases but using different colored highlighters to emphasize certain components for better retention.²⁰⁶ A kinesthetic learner with ADD might recognize the need for movement while studying.²⁰⁷ Christensen describes how students with ADD might experiment with reading cases by (1) using a non-linear fashion, being flexible about the order in which they read and process the parts of the case,²⁰⁸ or (2) translating the language of the case into their own words.²⁰⁹ Kick-starting a creative discussion with students about the acceptability of trying different study techniques will further the connection between professor and student. Once students understand that it is okay to process information in a different way than their peers and even their professor, the stress barrier may dissipate.

9. Taking Mid-Semester "Pulse Checks"

Professors can also create periodic "check-ins" and self-assessments throughout the semester, requiring students to complete "reflection worksheets" before transitioning to a new phase of substantive material. These one-page, handwritten, in-class exercises can prompt students to honestly

Americans with Disabilities Act: The Conundrum of Dyslexia and Time, 15 J. LEGAL WRITING INST. 165 (2009).

204. LEAH CHRISTENSEN, *LEARNING OUTSIDE THE BOX: A HANDBOOK FOR LAW STUDENTS WHO LEARN DIFFERENTLY* (2011).

205. *Id.*

206. *Id.* at 30.

207. *Id.* at 31.

208. *Id.* at 58.

209. *Id.* at 60.

assess whether, and how, they are grasping the legal concepts. Probing more deeply, professors can ask students to reflect on: (1) whether they have learned anything about themselves in the particular class, or law school in general; (2) whether anything about the class, or law school, surprised them; (3) whether they are frustrated with their understanding of the material for any reason; or (4) whether they can identify tangible steps to change or overcome any particular hurdles. The prompts should be carefully phrased so that they do not become course evaluations, but instead are personal reflections. These exercises can be anonymous, or professors can require students to submit them as part of class participation. Again, it would not take long for the professor to scan these written responses and extract excerpts from any students triggering major concerns.

10. Using Class Attendance Sheets as "Check-Ins"

Class attendance sheets can also be a useful mechanism for checking in with students. If students are absent, professors can send a short follow-up email to the student simply asking, "I noticed you were not in class on Monday. Is everything okay? Please get the notes from a colleague and let me know if you have questions." Simply asking those three words—"Is everything okay?"—takes very little time, and yet goes a long way toward creating an emotional connection with a student. It opens the lines of communication for a student to admit he or she is facing challenges and difficulties. The student might commit more readily to developing a recovery plan instead of giving up and falling behind the crowd.

11. Being Human and Emotionally Available in the Classroom

Professors seeking to amplify emotional intelligence should consider using personal experiences from their legal career, humor, emotions, and humanity in their teaching in order to engage students and bring legal concepts to life. As Dr. Bain pointed out, a bond of trust and respect develops when professors share their own intellectual journey, including their "ambitions, triumphs, frustrations, and failures."²¹⁰ Students want to know what the practice of law is like in real-life. Law professors might be the first actual lawyers with whom law students have face-to-face contact. As Professor Douglas K. Newell notes,

[m]any students are trying to discover what lawyers are really like and are wondering whether the decision to join this strange breed was a wise one. These students not surprisingly feel better when the first lawyers they regularly deal with (the faculty in most cases) find legal work suffi-

210. BAIN, *supra* note 62, at 18.

ciently interesting and important to do it diligently and well. They are further pleased if they discover that high quality performance can occur without the sacrifice of humor, courtesy, and humanity.²¹¹

Students appreciate law professors who give context to the reality of the practice of law and share their own real-life stories from law school or practice, including those of overcoming weaknesses or personal challenges. A lecture about civil procedure, or motions practice, certainly can be brought to life by sharing a “war story” of how the professor learned the hard way about the importance of taking a FRCP Rule 26(f) conference seriously, or the pitfalls of not respecting local rules regarding word count limits or filing deadlines. Students wrestling with public speaking, or “finding their lawyer voice,” might bond with a professor who shares stories of overcoming similar fears after struggling through arguing motions in open court, or gearing up for combative discovery negotiations or depositions. Likewise, students failing to grasp the importance of good legal writing could benefit from an anecdote about the sheer joy of winning a case on summary judgment “on the papers.” EI-savvy professors know that simply bragging about a career chock-full of legal triumphs is not an effective way to bond with students, and might have the opposite effect of alienating students who feel they could never live up to such a pedigree; however, balancing these victories with stories of a vulnerability or an example of a professional error or loss, and how the professor learned from the experience, can show students that it is possible to be successful even if you make mistakes along the way.

Further, law students dealing with overwhelming stress, anxiety, competitiveness, or internal/external negativity should respond positively to a classroom led by a welcoming, funny, dynamic professor. Humor has been said to stimulate learning.²¹² A professor who brings levity to an otherwise stressful day can change the entire tenor of a group trudging from one classroom to the next. For example, the creative use of an off-the-wall client scenarios or humorous client names in hypotheticals brings lightness to an intellectual conversation, and enables students to relax into a sophisticated legal discussion. Levy states that “[t]eacher friendliness is synonymous with teacher warmth, which we know to be important to good teaching.”²¹³ In

211. Newell, *supra* note 167, at 702. Likewise, Bohl recommends that we “inject our individual experience and energy into the classroom experience,” and “communicate information about ourselves and our professional experiences.” Bohl, *supra* note 10, at 794.

212. See generally MARY KAY MORRISON, USING HUMOR TO MAXIMIZE LEARNING (The Rowman & Littlefield Publ’g Group, Inc. 2012).

213. Levy, *supra* note 8, at 86 (suggesting manifestations such as “eye contact, smiling, positive use of gestures, vocal variety, forward body leans, and a relaxed body position.”) (citing A.B. Frymier, THE IMPACT OF TEACHER IMMEDIACY ON STUDENTS’ MOTIVATION: IS IT THE SAME FOR ALL STUDENTS?, 41 Comm. Q. 454, 454–64 (1993)).

Levy's survey to provide feedback to law school teachers interested in improving their own classroom emotional intelligence skills, one student remarked, "I would choose a personable, value-centered professor over an expert who is a jerk any day of the week."²¹⁴

Inviting students to talk about emotion is another way to deepen classroom discussion about heavy, overwhelming, or intimidating legal concepts. We must give the students permission to take an "emotional vacation"²¹⁵ in healthy intervals. Any legal rule can have emotional ramifications from many different viewpoints. If a professor recognizes that students have reached their boredom saturation point during a lecture, he or she can shift gears and ask, "What makes you mad, sad, annoyed, outraged about this issue? Why is this rule fair? Under what circumstances might this rule be unfair?" Professors can ask students to craft a "theme" for each side of a legal matter, much like boxers or politicians adopt "theme songs." The law will spring to life if students can passionately explore multiple sides of an issue using non-legal terminology: "This case is about greed. This case is about passion. This case is about tomfoolery." If students learn that they can take ownership of the legal issue by giving attention to emotional reactions to the law, the concepts will obtain greater meaning, and gel in their minds. They will retain more information, and obtain a deeper understanding.

V. CONCLUSION

While the Millennial generation has been stereotyped via a checklist of characteristics (and Generation Z likely will be as well), professors should refrain from rote assumptions and preconceived notions about the makeup of each law school classroom. Legal educators need to take the time to understand the different types of learners therein, and whether channels of communication can be deepened and bolstered to facilitate sustained learning. Using emotional intelligence, professors can appreciate the individual value each student brings to a law school classroom, and expand intellectual and emotional connections to all four corners of the room. While the law firms of America obviously need future rainmakers and fist-pounding oral advocates, they also need quiet thinkers and pensive writers, someone to ruminate over a persuasive theme sentence for a brief or cogitate over a pub-

214. Levy, *supra* note 8, at 77.

215. Cain cites LouAnne Johnson, the teacher played by Michelle Pfeiffer in the movie *Dangerous Minds*, as suggesting how to use emotion in the classroom to get shy students to talk more. Johnson says, "it helps to make the topic so compelling that they forget their inhibitions If you find something that arouses your passion or provides a welcome challenge, you forget yourself for a while. It's like an emotional vacation." CAIN, *supra* note 172, at 254.

lic policy argument to help a judge see beyond a difficult legal element. Law offices need individuals skilled at calming down obstreperous clients and serving as the “voice of reason” with challenging opposing counsel. Like professors—who bring much more to the classroom than their paper pedigrees—law students are intellectually and emotionally complex individuals who bring significantly more to the table than an LSAT score, GPA, and class rank. Increasing emotional intelligence in the law school classroom will generate a grander awareness for the value of individuality and a richer learning experience for everyone.

“You see us as you want to see us In the simplest terms and the most convenient definitions. But what we found out is that each one of us is a brain . . . and an athlete . . . and a basket case . . . a princess . . . and a criminal. Does that answer your question?”

*The Breakfast Club, 1985*²¹⁶

216. THE BREAKFAST CLUB (A&M Films 1985).