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# GENERATION Z GOES TO LAW SCHOOL: TEACHING AND REACHING LAW STUDENTS IN THE POST-MILLENNIAL GENERATION

*Laura P. Graham\**

## I. INTRODUCTION

In 1995, exciting things were happening in the world. Pixar released *Toy Story*, the first completely computer-generated film. George Foreman was still known for his boxing, not yet for his grilling devices. Basketball superstar Michael Jordan returned to the National Basketball Association from retirement. That year not only marks the time that the web had become worldwide, it also serves as the beginning of Generation Z, the most recent generation to come of age. In 1995, they were making their first appearances in the world; today they are making their ways into the halls of colleges and universities across America.<sup>1</sup>

The entry of Generation Z into young adulthood has drawn much attention from many constituencies, including employers, advertisers, and educators. Just as was the case with the Millennials before them, everyone is eager to learn what makes Gen Z “tick.”<sup>2</sup> Assuming the first birth year of Gen Z is properly fixed as 1995,<sup>3</sup> many of the same students who were making their way into colleges and universities when the passage quoted above was written are now making their way into law school classrooms across the country. Thus, legal educators would be wise to learn as much as possible about Gen Z students—who they are, where they have come from, and how they learn—because it is imperative that we adapt our teaching methods to competently prepare this next generation of legal professionals.

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1. COREY SEEMILLER & MEGHAN GRACE, *GENERATION Z GOES TO COLLEGE* xxi (2016).

2. “Gen Z” is a widely used abbreviation for Generation Z, and I will use it frequently in this article.

3. For a discussion of how 1995 was selected as the first birth year of Generation Z, see *infra* Part II.

In exploring who Gen Z will be as law students, I make a number of generalizations about Gen Z as a whole, fully cognizant (1) that generational theory has its skeptics;<sup>4</sup> (2) that it is impossible to touch on every characteristic of Gen Z or every shaping influence; and (3) that some individual Gen Z students do not share all of the traits and beliefs that characterize Gen Z as a whole. Nonetheless, “once all the evidence is assembled,”<sup>5</sup> it is possible to paint a fairly accurate picture of Gen Z as a group, and that picture can guide us as we consider how to engage Gen Z law students in the legal education enterprise.

Part II of this article provides an overview of generational theory, as a backdrop against which to view the characteristics of Gen Z.<sup>6</sup> Part III describes some general personality traits of Gen Z, on the premise that as educators, we cannot ignore the personal characteristics that our new law students bring with them to our classrooms and that color their learning.<sup>7</sup> Part IV of the article describes Gen Z as learners, focusing on specific aspects of their educational and social development that are likely to affect their success as law students.<sup>8</sup> Part V of the article suggests several ways law schools can adjust and enhance their educational programs to maximize Gen Z students’ learning.<sup>9</sup> The article concludes on a hopeful note, positing that well-taught Gen Z law students will be uniquely poised to advance the cause of justice at a time when it is desperately needed.<sup>10</sup>

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4. See, e.g., JESSICA KRIEGEL, UNFAIRLY LABELED: HOW YOUR WORKPLACE CAN BENEFIT FROM DITCHING GENERATIONAL STEREOTYPES xi (2016) (arguing that “[g]enerational labels do not work” and that “[t]o relieve ourselves of unfair judgments and social baggage, [we should] stop using generational labels until they’ve lost their charge”); Michael Lind, *Generation Gaps*, N.Y. TIMES (Jan. 26, 1997), [https://archive.nytimes.com/www.nytimes.com/books/97/01/26/reviews/970126.26lindlt.html?\\_r=1](https://archive.nytimes.com/www.nytimes.com/books/97/01/26/reviews/970126.26lindlt.html?_r=1) (calling the predictions of leading generational theorists William Strauss and Neil Howe “as vague as those of fortune cookies”). Interestingly, some of these critics seem uncertain of their own criticisms; for example, one commentator who labels most stories about generational differences as “fluff” nonetheless admits that “[e]very so often, there’s a generation, like the Boomers, that hangs together as a distinct demographic cohort. And maybe, just maybe, the Millennials will eventually be determined to have met that standard.” Philip Bump, *Your Generational Identity Is a Lie*, WASH. POST (Apr. 1, 2015), [https://www.washingtonpost.com/news/the-fix/wp/2015/04/01/your-generational-identity-is-a-lie/?utm\\_term=.98d3fde3a18e](https://www.washingtonpost.com/news/the-fix/wp/2015/04/01/your-generational-identity-is-a-lie/?utm_term=.98d3fde3a18e).

5. WILLIAM STRAUSS & NEIL HOWE, GENERATIONS: THE HISTORY OF AMERICA’S FUTURE, 1584 TO 2069, AT 68 (1991).

6. See *infra* Part II.

7. See *infra* Part III.

8. See *infra* Part IV.

9. See *infra* Part V.

10. See *infra* Part VI.

## II. SALIENT PRINCIPLES AND INHERENT LIMITATIONS OF GENERATIONAL THEORY

Generational theory is a relatively new area of study; its most well-known proponents, William Strauss and Neil Howe, came into prominence with the release of their 1991 book, *Generations: The History of America's Future, 1584 to 2069*.<sup>11</sup> Strauss and Howe's generational theory begins with the assumption that a person's life can be divided into four life phases, each lasting roughly twenty-two years: *youth* (age 0–21), *rising adulthood* (age 22–43), *midlife* (age 44–65), and *elderhood* (age 66–87).<sup>12</sup> Strauss and Howe define a "generation" as "a cohort-group whose length approximates the span of a phase of life and whose boundaries are fixed by peer personality."<sup>13</sup>

Strauss and Howe use the term "peer personality" to describe the perspectives of a prototypical member of a particular generation.<sup>14</sup> Strauss and Howe's central premise is that "generational cohorts have each been impacted by various shaping factors that congeal a generation around common shared experiences and themes. Based upon these shaping factors, each generational cohort enters the educational environment, the work force, and the business marketing environment with diverse and unique perspectives."<sup>15</sup> Strauss and Howe's book lays out a compelling argument that these generational peer personalities are intertwined with the history of the United States and are thus useful in predicting and planning for the nation's future.<sup>16</sup>

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11. STRAUSS & HOWE, *supra* note 5. According to the book's front and back jackets, reviewers lauded *Generations* as "provocative" (Newsweek) and "brilliant in its analysis" (USA Today); one critic went so far as to suggest that *Generations* "might change the world as much as Darwin's *Origin of Species*" (Oakland Tribune). *Id.* (front and back jacket).

12. *Id.* at 60–61.

13. *Id.* at 60. There is naturally some blurring around the boundaries of a given generation; researchers are comfortable acknowledging this reality. For example, Kim Parker, a director of social trends at the Pew Research Center, admits that generational boundaries "are somewhat arbitrary" but argues that generations as a concept can be "a worthwhile tool for storytelling, taking a lot of data and trying to put it into an interesting prism that speaks to people." Bump, *supra* note 4. Mark Mather, a demographer with the Population Reference Bureau, agrees that generational boundaries can seem arbitrary and notes that his organization prefers to "work with cohorts, as opposed to generations" and focuses on identifying "demographic patterns: Marriage, fertility, family formation, those types of things." *Id.* In social science terminology, a cohort is "any set of persons born in the same year," and a "cohort-group" is "any wider set of persons born in a limited span of consecutive years." STRAUSS & HOWE, *supra* note 5, at 44.

14. STRAUSS & HOWE, *supra* note 5, at 63.

15. Tim Carter, *Preparing Generation Z for the Teaching Profession*, 27 SRATE J. 1, 1 (2018).

16. A full discussion of Strauss and Howe's theory is beyond the scope of this article. It will suffice if readers understand its basics, as follows: Strauss and Howe assert that there are four "generational types" that recur in a fixed sequence called a "generational cycle": *idealist*, *reactive*, *civic*, and *adaptive*. STRAUSS & HOWE, *supra* note 5, at 73–74. The Millennials were

It is not necessary to understand all of the complexities of Strauss and Howe's theory<sup>17</sup> to understand the lens through which Strauss and Howe view any given generation:

What makes the cohort-group truly unique is that all its members—from birth on—always encounter the same national events, moods, and trends at similar ages. They retain, in other words, a *common age location in history* throughout their lives. Since history affects people very differently according to their age, common age location is what gives each cohort-group a distinct biography and a distinct life cycle.<sup>18</sup>

Strauss and Howe are careful to note that new generations do not simply “add on” to the characteristics of the previous generation; rather, “generational changes ebb and flow” in response to what is occurring in the culture when that generation is coming into adulthood.<sup>19</sup>

In fact, if particular aspects are missing in one generation (e.g., lack of parenting, lack of structure, lack of financial security, etc.), this missing element may be one of [the] strong points of emphasis within the next generation. This is particularly true when these aspects have been lacking in the generation's formative years and into young adulthood.<sup>20</sup>

To have a richer context in which to examine the peer personality of Generation Z, it is helpful to review Strauss and Howe's mapping of previous generations and their salient characteristics. Although there is widespread consensus as to this mapping, not all generational theorists agree on the dates for each generation.<sup>21</sup> Moreover, Strauss and Howe themselves recognize that

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labeled as *civic*, and if Strauss and Howe's theory is valid, the next generation—Generation Z—is an *adaptive* generation. An adaptive generation, according to Strauss and Howe, “grows up as overprotected and suffocated youths during a secular crisis; matures into risk-averse, conformist rising adults; produces indecisive midlife arbitrator-leaders during a spiritual awakening; and maintains influence (but less respect) as sensitive elders.” *Id.* at 74. As we will see, Strauss and Howe's description of an adaptive generation is fairly accurate in terms of Gen Z's childhood and rising adulthood. See discussion *infra* Part III.

17. For example, Strauss and Howe's theory encompasses such facets as *dominant and recessive generations*, *secular crises*, and *spiritual awakenings* that are key *social moments* in a generation's development; *generational cycles* (each lasting approximately eighty years); and *the generational diagonal*. See *id.* at 43–110.

18. *Id.* at 48.

19. Carter, *supra* note 15, at 1.

20. *Id.*

21. See STRAUSS & HOWE, *supra* note 5, at 59 (“Like most other social categories—religion, political party, income, occupation, race—generations can be imprecise at the boundaries.”). Strauss and Howe argue that “[s]pecifying generations . . . is no more arbitrary than specifying social classes, or ideologies, or political movements where there is inevitably a shading off or ambiguity at the boundaries of categories.” *Id.* (quoting Alan B. Spitzer, *The Historical Problem of Generations*, 78 AM. HIST. R. 1353, 1358 (1973)). An interesting graphic

“a generation, like an individual, merges many different qualities, no one of which is definitive standing alone.”<sup>22</sup> They also acknowledge that “[t]he beliefs and behavior of a generation never show up uniformly across all of its members.”<sup>23</sup> Nonetheless, Strauss and Howe’s mapping of the generations that have “come of age” (that is, that have entered the *rising adulthood* phase of life) since the beginning of the twentieth century rings true in a broad sense and is a useful backdrop for painting a portrait of Gen Z.<sup>24</sup>

- Lost Generation (1883–1900<sup>25</sup>): This generation was “America’s most tough-minded ever, growing up fast amid gangs, drugs, saloons, big-city immigration, and an emotional climate raging with evangelical fervor and social reforms.”<sup>26</sup> The parents of Lost children struggled to figure out how to protect them and were “permissive to the point of near-neglect.”<sup>27</sup> As they grew up, Lost youth became cynical and pessimistic, and they focused on “living the good life” for themselves until World War I and then the Great Depression brought them to despair.<sup>28</sup>
- GI Generation (1901–1924): This generation grew up at a time when popular literature “idealized children who were modest, cheerful, and deferential to adults” (think *Pollyanna* and *Little Orphan Annie*).<sup>29</sup> Their parents taught them to be sharers and helpers, and an “increasingly standardized youth culture” emerged.<sup>30</sup> Many were just coming of age when World War II began, and when they returned home, appreciative elders rewarded their service.<sup>31</sup> These returning GIs “brought a mature, no-nonsense attitude wherever they went—to

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on CNN’s website compares the generational boundaries fixed by Strauss and Howe with the generational boundaries fixed by the Pew Research Center and suggests that for the generations since 1901, the two organizations’ boundaries differ by three or four years at most. *American Generations Through the Years*, CNN (May 5, 2011, 8:23 PM), <http://www.cnn.com/interactive/2011/05/living/infographic.boomer/index.html>.

22. STRAUSS & HOWE, *supra* note 5, at 68.

23. *Id.* at 66 (“But even those who differ from their peer group are *aware* of their nonconformity.” (emphasis in original)).

24. *Id.* at 96 fig.6-6. Strauss and Howe’s generational map traces back to the beginning of the American experience, starting with the Puritan generation (1584–1614) and concluding with the Millennial generation (1982–?). *Id.* Figure 6-6 is a comprehensive chart of the generational cycles in America. *Id.* For purposes of this article, I have elected to include here only the generations that have entered the rising adulthood phase of life since the beginning of the twentieth century.

25. The year span refers to the birth years of members of the generation.

26. STRAUSS & HOWE, *supra* note 5, at 254.

27. *Id.*

28. *Id.*

29. *Id.* at 269.

30. *Id.* at 270.

31. *Id.* at 271.

campuses, to workplaces, to politics,”<sup>32</sup> and in midlife, they made it their mission to “clean up the squalor and decay left behind by the Lost.”<sup>33</sup>

- Silent Generation (1925–1942): This generation’s childhood was marked by threats against the nation, and they grew up being told bluntly “that older generations were making enormous sacrifices so they could grow up enjoying peace and prosperity.”<sup>34</sup> They lived with the fear that “any day could bring devastating news—a layoff, a foreclosed home, the combat death of a father.”<sup>35</sup> After the war ended, they grew up in the shadow of the GIs, and “older generations didn’t expect them to achieve anything great, just to calibrate to . . . [the] GI wealth machine.”<sup>36</sup>
- Baby Boomers (1943–1960<sup>37</sup>): This generation grew up primarily “being taken care of at home by either their mother or another family member.”<sup>38</sup> Born at a time when Dr. Spock was encouraging parents to be “permissive and involved” in their children’s lives, the Boomers grew up in “children-focused houses,” leading them to become “focused on their own self-identity.”<sup>39</sup> Growing up in the era of post-World War II prosperity, Boomers believed that “hard work is the path to success” and sought to “achieve the American dream of having their own houses, cars, and material possessions.”<sup>40</sup>
- Generation X<sup>41</sup> (1961–1981): Growing up in a time of rampant divorce and an increase in the number of working mothers, Generation X children were forced to become independent at a young age.<sup>42</sup> Thus, they were labeled “latchkey kids.”<sup>43</sup> They emerged as young adults who were “cynical about the world, skeptical and

32. STRAUSS & HOWE, *supra* note 5, at 272.

33. *Id.* at 273.

34. *Id.* at 286.

35. *Id.*

36. *Id.* at 287.

37. Seemiller and Grace place the dates for the Baby Boomers from 1946 to 1964. SEEMILLER & GRACE, *supra* note 1, at 2.

38. Mary Ann Becker, *Understanding the Tethered Generation: Net Gens Come to Law School*, 53 DUQ. L. REV. 9, 14 (2015).

39. *Id.*

40. SEEMILLER & GRACE, *supra* note 1, at 2.

41. The name “Generation X” comes from Douglas Coupland’s 1991 novel *Generation X: Tales for an Accelerated Culture*. Becker, *supra* note 38, at 14. Coupland coined this term “to signify the generation’s random, ambiguous, contradictory ways” (though he later disavowed the name). *Id.* at 14 n.36. Strauss and Howe call this generation the “Thirteenth Generation” (though they do not explain why they chose that term). See STRAUSS & HOWE, *supra* note 5, at 317. I have chosen to use the more familiar name, Generation X, in this article.

42. Becker, *supra* note 38, at 15.

43. SEEMILLER & GRACE, *supra* note 1, at 3.

pragmatic.”<sup>44</sup> They experienced the 2008 economic recession just as many of them were entering their peak earning years, and the resulting financial insecurity made a deep impression on their children—Generation Z.<sup>45</sup>

- Millennials<sup>46</sup> (1982–1994<sup>47</sup>): This generation grew up with a “strong support system . . . from their Baby Boomer parents;” thus, as adults, they are “entitled and expect[] things to be handed to them.”<sup>48</sup> Millennials have “high expectations for their career, including pay, opportunities for advancement, fulfilling work, and work-life balance.”<sup>49</sup> They are the first generation to grow up in a “multimedia and interactive environment,” making them the “earliest adopters of social media and Internet technology.”<sup>50</sup>

Significantly, generational theorists routinely caution against labeling any generation as “good” or “bad.”<sup>51</sup> This is critical to keep in mind when considering how best to educate Gen Z law students. Law professors have for years been commiserating about how students today lack this or that skill, lack motivation, care only about their smartphones, and so on.<sup>52</sup> As this article

44. *Id.*

45. *Id.* at 4.

46. The Millennials have also been called Generation Y and the Me Generation. See Becker, *supra* note 38, at 15 n.44 (citing Jean M. Twenge et al., *Generational Differences in Young Adults’ Life Goals, Concern for Others, and Civic Orientation, 1966–2009*, 102 J. PERSONALITY & SOC. PSYCHOL. 1045 (2012)); see also SEEMILLER & GRACE, *supra* note 1, at 4.

47. Strauss and Howe did not project an ending date for the Millennial generation; their book was published in 1991, while that generation was still developing. See STRAUSS & HOWE, *supra* note 5. Later generational theorists have placed the end of the Millennial generation variously as sometime in the early to mid-1990s, see SEEMILLER & GRACE, *supra* note 1, at 4, and the late 1990s, see Becker, *supra* note 38, at 15. Here, I chose to use an end date of 1994, because 1995 is the widely accepted date for the beginning of Gen Z. See *infra* notes 56–57 and accompanying text.

48. SEEMILLER & GRACE, *supra* note 1, at 4–5.

49. *Id.* at 5.

50. *Id.* at 6.

51. See JEAN M. TWENGE, *IGEN: WHY TODAY’S SUPER-CONNECTED KIDS ARE GROWING UP LESS REBELLIOUS, MORE TOLERANT, LESS HAPPY—AND COMPLETELY UNPREPARED FOR ADULTHOOD* 14 (2017) (“Given that many generational changes are positive or at least neutral, using words such as *fault* and *blame* . . . is counterproductive, leaving us squabbling about whom to blame rather than understanding the trends, both good and bad.”); see also STRAUSS & HOWE, *supra* note 5, at 39 (“The American saga is replete with good and bad acts committed by generations no less than by individuals . . . . A lesson of the [generational] cycle is that *each generational type specializes in its own unique brand of positive and negative endowments* . . . [and] has its own special way of helping or hurting the future.”) (emphasis in original).

52. See, e.g., Rebecca Flanagan, *The Kids Aren’t Alright: Rethinking the Law Student Skills Deficit*, 2015 BYU EDUC. & L.J. 135, 135 (2015) (“It’s whispered by colleagues in the law school halls. It’s lamented in faculty lounges. Incoming law students aren’t ‘what they used to be.’ No one seems to define ‘what they used to be’—only that once upon a time, a better

demonstrates, there is some truth to these laments, perhaps more so with regard to Gen Z students than with regard to students of past generations. But we should not approach Gen Z law students with the mindset that they are “deficient” compared to previous generations of law students. Rather, we must view our Gen Z law students through the lens of their peer personality, shaped by the influences of family, by the culture they have lived in, and by the events they have experienced. Put simply, everyone and no one is to “blame” for the attributes of Gen Z law students, good or bad. Our focus should be on understanding them more fully, so we can educate them more effectively.

### III. WHO IS GENERATION Z?

When Strauss and Howe penned *Generations* in 1991, Generation Z had not arrived on the scene. It thus fell to later researchers to study the post-Millennial generation to discern its peer personality. The most widely-cited of these Gen Z experts include Jean M. Twenge, who coined the name “iGen,”<sup>53</sup> and Corey Seemiller and Meghan Grace, authors of *Generation Z Goes to College*.<sup>54</sup> Thanks to these researchers’ efforts to collate information about Gen Z from many varied sources, and to supplement that information with their own studies, we have a fairly full picture of who Gen Z is.<sup>55</sup>

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time, students were more prepared for law school, spent more time studying, and didn’t need so much support.”). Flanagan notes the “long history” of criticism of “lackadaisical, underprepared, or unmotivated” students. *Id.*

53. TWENGE, *supra* note 51, at 2.

54. SEEMILLER & GRACE, *supra* note 1.

55. *Generation Z* is the most commonly used name for this generation, and I have chosen to use it throughout this article. Meghan Grace, co-author of *Generation Z Goes to College*, has endorsed this name “because it does not solely focus on a singular aspect of the societal context in which they grew up.” Meghan Grace, *Hello My Name Is . . . Gen Z*, MEGHAN M. GRACE (Sept. 23, 2017), <http://www.meghanmgrace.com/blog/generation-z-name>.

However, many other names have been given to this generation. For example, some commentators call them *the plurals*. See, e.g., MAGID GENERATIONAL STRATEGIES, *THE FIRST GENERATION OF THE TWENTY-FIRST CENTURY—AN INTRODUCTION TO THE PLURALIST GENERATION* (2012), [https://pracownik.kul.pl/files/83913/public/social\\_media\\_15\\_16/Magid Pluralist Generation Whitepaper.pdf](https://pracownik.kul.pl/files/83913/public/social_media_15_16/Magid%20Pluralist%20Generation%20Whitepaper.pdf) (adopting the Plurals moniker because they are “America’s last generation with a Caucasian majority,” they are “the most positive about America becoming more ethnically diverse,” they “exist[] in the most diverse social circles,” and they are “[a]ffected by blended gender roles”); see also Rhonda Colvin, *Millennials Disrupted the System. Gen Z Is Here to Fix the Mess*, WASH. POST (Feb. 24, 2018), <https://www.washingtonpost.com/news/post-nation/wp/2018/02/24/millennials-disrupted-the-system-gen-z-is-here-to-fix-the-mess/>. Others call them *the Founders*. See, e.g., Josh Sanburn, *Here’s What MTV Is Calling the Generation After Millennials*, TIME (Dec. 1, 2015, 1:28 PM), <http://time.com/4130679/millennials-mtv-generation/?xid=homepage> (noting that the name Founders was chosen to “acknowledge[] that while Millennials have disrupted society, it’s this new generation’s job to rebuild it . . . . ‘They have this self-awareness that systems have been

## A. Baseline Information

Most generational theorists agree that Gen Z encompasses persons born between 1995 and 2010.<sup>56</sup> This range aligns with the widely accepted range for the previous generation, the Millennials, the last birth year of which is commonly considered to be 1994.<sup>57</sup> Using this fifteen-year range for Gen Z, more than twenty-five percent of the U.S. population belongs to Gen Z,<sup>58</sup> making them a force to be reckoned with in every facet of society. Students born in 1995–1996—the oldest members of Gen Z—are now twenty-three, (or soon will turn twenty-three) a common age for first-year law students.<sup>59</sup>

In visualizing the “typical” Gen Z student,<sup>60</sup> it might be helpful to consider some of the cultural markers of students born in 1995, the first birth

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broken . . . [and] they can’t be the generation that broke it even more.”). And Jean Twenge refers to them as *iGen*. TWENGE, *supra* note 51, at 2 (“If this generation is going to be named after anything, the iPhone just might be it . . . . The complete dominance of the smartphone among teens has had a ripple effect across every area of iGen’ers’ lives, from their social interactions to their mental health.”). For a discussion of the impact of the smartphone on Gen Z students, see *infra* Section IV.A.

56. See TWENGE, *supra* note 51, at 5–6 (stating that 1995 makes sense as a starting point for Gen Z, because that is the year the Internet was born, but estimating the last birth year as 2012); see also Elaina Loveland, *Instant Generation*, J.C. ADMISSION 34, 36 (2017) (agreeing on the dates for Gen Z as 1995–2010); Dan Schawbel, *66 of the Most Interesting Facts About Generation Z*, DAN SCHAWBEL (July 14, 2014), <http://danschawbel.com/blog/39-of-the-most-interesting-facts-about-generation-z/> (fixing the dates for Gen Z as 1994–2010). This span is shorter than the typical twenty to twenty-two-year span for a generation that Strauss and Howe identify, perhaps because the rapid development of technology has caused more dramatic changes in the forces that influence Gen Z’s peer personality. See, e.g., TWENGE, *supra* note 51, at 5–6 (“iGen got here faster than anyone anticipated.”); Joan Hope, *Get Your Campus Ready for Generation Z*, 19 STUDENT AFF. TODAY 1, 1 (2016) (citing remarks by Seemiller and Grace at the 2016 annual meeting of the Association of American Colleges and Universities).

57. See, e.g., SEEMILLER & GRACE, *supra* note 1, at 6; *How the New Generation of Well-Wired Multitaskers Is Changing Campus Culture*, CHRON. HIGHER EDUC. (Jan. 5, 2007), <https://www.chronicle.com/article/How-the-New-Generation-of/10203> (using 1994 as the end year for Millennials). Some scholars seem to lump Gen Z in with the Millennials. See, e.g., Becker, *supra* note 38, at 18 (referring to Gen Z as “Net Gens” and calling them “the final Millennial generation”). However, as this article will explain, there are significant differences between the Millennials and Gen Z that justify treating them as distinct generations.

58. See SEEMILLER & GRACE, *supra* note 1, at 6 (estimating that Gen Z will comprise one-third of the U.S. population by 2020).

59. See KIM DUSTMAN & ANN GALLAGHER, LAW SCH. ADMISSIONS COUNCIL, ANALYSIS OF ABA LAW SCHOOL APPLICANTS BY AGE GROUP: 2011–2015, at 1 (2017). This report states that the age distribution of law school applicants remained constant over the five-year period, with about half of applicants being between the ages of twenty-two and twenty-four and another thirty percent being between the ages of twenty-five and twenty-nine. *Id.* It also fixes the median age of applicants for all five years at twenty-four. *Id.*

60. Again, like Strauss and Howe, I recognize that not all Gen Z students share all the characteristics this article includes as part of Gen Z’s peer personality. But generational theory, by its nature, requires some generalizing. Certainly, the cultural markers listed here have been

year of Gen Z. According to the Beloit Mindset List<sup>61</sup> for freshmen entering college in 2013 (and thus potentially entering law school in 2017), these students “probably never had chicken pox”; could “always get rid of their outdated toys on eBay”; have always had Olympic fever every two years; have “never attended a concert in a smoke-filled arena”;<sup>62</sup> and have known only two presidents in their lifetime.<sup>63</sup> The Beloit list gives many nods to the technology at Gen Z’s collective fingertips: for example, for students born in 1995, “[h]aving a chat has seldom involved talking”; “[w]ith GPS, they have never needed directions to get someplace, just an address”; they “have always been able to plug into USB ports”; and they “have never really needed to go to their friend’s house so they could study together.”<sup>64</sup> And for these earliest members of Gen Z, “[r]ites of passage have more to do with having their own cell phone and Skype account<sup>65</sup> than with getting a driver’s license and car.”<sup>66</sup>

The Beloit list vividly illustrates some of the salient characteristics of Gen Z that those who educate them, including law schools, must take into account. They are “tethered to technology, social media, and their parents,”<sup>67</sup>

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experienced by all Gen Z members, though members may have been affected by them in different ways.

61. According to the Beloit Mindset list website:

The Mindset List has delighted millions for over a decade about what has “always” or “never” been true for entering college students. It was created at Beloit College in 1998 to reflect the world view of entering first year students, and started with the members of the class of 2002, born in 1980. What started as a witty way of saying to faculty colleagues “watch your references,” has turned into a globally reported and utilized guide to the intelligent if unprepared adolescent consciousness. It is requested by thousands of readers, reprinted in hundreds of print and electronic publications, and used for a wide variety of purposes. It immediately caught the imagination of the public, and in the ensuing years, has drawn responses from around the world. This site now gets more than a million hits a year.

*The Mindset Lists*, MINDSET LISTS, <http://themindsetlist.com/lists> (last visited Dec. 28, 2018).

62. Ron Nief & Tom McBride, *The Mindset List for the Class of 2017*, MINDSET LISTS, <http://themindsetlist.com/lists/beloit-college-mindset-list-class-2017/> (last visited Dec. 17, 2018).

63. *See id.* Now three, of course.

64. *Id.*

65. Perhaps now we would substitute Instagram and Snapchat.

66. Nief & McBride, *supra* note 62. The Beloit List for the Class of 2018 (born in 1996) is also illuminating as to Gen Z; it reports that “Fox News and MSNBC have always been duking it out for the hearts and minds of American viewers”; “courts have always been overturning bans on same-sex marriages”; these students “have probably never used Netscape as their Web browser”; and “[g]ood feedback’ means getting 30 likes on your last Facebook post in a single afternoon.” Ron Nief & Tom McBride, *The Mindset List for the Class of 2018*, MINDSET LISTS, <http://themindsetlist.com/lists/the-mindset-list-for-the-class-of-2018-born-in-1996/> (last visited Dec. 17, 2018).

67. Becker, *supra* note 38, at 10. Each of these aspects of the “tethered generation” is explored in more depth *infra*.

all of which have direct implications for both how Gen Z members relate to others and how they learn best. They are diverse, and they think globally,<sup>68</sup> which suggests a need for law schools to adapt to embrace their global mindset. And they are insecure and anxious, often coming to law school with mental and emotional health issues that tend to be exacerbated by the very nature of the law school experience,<sup>69</sup> making it imperative for law schools to be creative and proactive in helping students learn how to thrive.

## B. Personal Characteristics of Generation Z Students

To understand how Generation Z students learn, it is helpful to first examine their personal traits and attributes, all of which they naturally bring with them into the classroom. Generational theorists have identified a whole host of traits Gen Z members attribute to themselves: they are loyal, thoughtful, compassionate, open-minded, responsible, and determined.<sup>70</sup> They are liberal to moderate in their views on social issues.<sup>71</sup> They have a distaste for politics in America, preferring to create social change outside the political process.<sup>72</sup> And they see themselves as entrepreneurial; in 2013, a Gallup-Hope Index reported that forty-two percent of fifth through twelfth graders (the oldest of whom might now be in our law school classrooms) said they planned to start their own businesses, and 37.8% said they planned to invent something that would change the world.<sup>73</sup>

Four additional traits common to Gen Z seem particularly relevant to those of us who will be teaching them in law school for years to come: their diversity, their financial conservatism, their insecurity and anxiety about the future, and their slowness to “grow up”—that is, to engage in traditional adult behavior.

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68. See *infra* Part III.B.1.

69. See *infra* Part III.B.3.

70. SEEMILLER & GRACE, *supra* note 1, at 8–12.

71. *Id.* at 43.

72. *Id.* at 138.

73. GALLUP & OPERATION HOPE, THE 2013 GALLUP-HOPE INDEX 6 (2014), <http://hopeglobalforums.org/gallup-hope-index/>. Forty-three percent of college students said they would rather be an entrepreneur than an employee. Dan Schawbel, *Why 'Gen Z' May Be More Entrepreneurial Than 'Gen Y'*, ENTREPRENEUR (Feb. 3, 2014), <https://www.entrepreneur.com/article/231048>. However, Twenge's research led her to a different conclusion about Gen Zers' claim to be entrepreneurial. Twenge states that contrary to popular belief, statistics show that “iGen'ers are actually *less* likely to want to own their own business than Boomers and Gen X'ers were at the same age . . . .” TWENGE, *supra* note 51, at 186. She posits that the risky proposition of starting their own business is unappealing to Gen Z members, who are typically risk-averse. *Id.* at 187.

### 1. *Gen Z Students Are Diverse*

Only fifty-five percent of Gen Z is Caucasian (compared to seventy-two percent of Baby Boomers).<sup>74</sup> They are much less likely than their predecessor generations to define themselves and their peers in terms of race, gender, ethnicity, or sexual orientation.<sup>75</sup> For example, for Gen Z, having an African-American president “is less a historic breakthrough than a fact of life.”<sup>76</sup> Gen Z members have diverse families and diverse friend groups.<sup>77</sup> They “have always lived during a time in which the Civil Rights Act, the Voting Rights Act, the Fair Housing Act, and the Americans with Disabilities Act were part of the fabric of society.”<sup>78</sup> One of their central concerns is racial inequality and discord, and they aim to do something about it.<sup>79</sup>

Gen Z’s diversity makes it incumbent on educators at all levels to foster within their institutions an environment where this diversity is celebrated and where inclusion is the norm. In fact, as students demand “more diverse and inclusive educational spaces,” many institutions of higher education, including law schools, are “struggling to navigate systems of institutionalized racism, sexism, and heterosexism along with issues of marginalization, socioeconomic bias, and immigration.”<sup>80</sup> The arrival of Gen Z students will require law schools to find ways to overcome long-standing barriers to cultural proficiency, including “resistance to change, unawareness of the need to adapt, the presumption of entitlement, and systems of oppression and privilege.”<sup>81</sup> Increasing cultural proficiency throughout the law school curriculum will give Gen Z law students, and their classmates from prior generations, a richer educational experience and a solid foundation for “interact[ing] effectively with clients from diverse backgrounds.”<sup>82</sup>

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74. MAGID GENERATIONAL STRATEGIES, *supra* note 55, at 4.

75. SEEMILLER & GRACE, *supra* note 1, at 10.

76. Alex Williams, *Move Over, Millennials, Here Comes Generation Z*, N.Y. TIMES (Sept. 18, 2015), <https://www.nytimes.com/2015/09/20/fashion/move-over-millennials-here-comes-generation-z.html>.

77. MAGID GENERATIONAL STRATEGIES, *supra* note 55, at 6–7.

78. SEEMILLER & GRACE, *supra* note 1, at 38.

79. *Id.* at 40 (noting that “nearly 56% of Gen Z students are concerned about racism, another 56% about sexism, and 61% about poverty”).

80. Anastasia M. Boles, *Seeking Inclusion from the Inside Out: Towards a Paradigm of Culturally Proficient Legal Education*, 11 CHARLESTON L. REV. 209, 211–12 (2017).

81. *Id.* at 258 (internal numbering omitted).

82. Anastasia M. Boles, *The Culturally Proficient Law Professor: Beginning the Journey*, 48 N.M. L. REV. 145, 150 (2018).

## 2. *Gen Z Students Are Financially Conservative*

The oldest members of Gen Z were young teens when the financial crisis of 2008 took place. They watched as families—perhaps their own—lost their jobs, their homes, and their retirement savings. They saw large companies and small businesses fold. This caused them to develop a “save now, buy later” mentality.<sup>83</sup> They “are under no illusion that they will get a job or keep it.”<sup>84</sup> As one researcher put it, “Shaped by the 2000s, those young people entering the adult world today are thinking about their economic future more like children of the 1930s than their immediate forerunners, those children of the 90s.”<sup>85</sup>

And Gen Z is especially worried about the cost of higher education; in a 2014 study by Northeastern University, sixty-seven percent of Gen Z students said that their number one concern was being able to afford college.<sup>86</sup> Students graduating from college in 2015 had the largest student loan debt in history (\$30,100 on average).<sup>87</sup> In a study conducted by the Higher Education Research Institute (HERI) in 2016, more than sixty-nine percent of students surveyed said that being able to afford to pursue some higher education was “a major concern” or “of some concern.”<sup>88</sup>

Not surprisingly, Gen Z students are very aware that the cost of attending law school has continued to rise;<sup>89</sup> the media has reported extensively on the

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83. SEEMILLER & GRACE, *supra* note 1, at 106. One study by the Cassandra Report (a marketing strategy group) reported that fifty-seven percent of Gen Z members said “they would rather save money than spend it immediately.” Emily Anatole, *Generation Z: Rebels with a Cause*, FORBES (May 28, 2013, 2:13 PM), <https://www.forbes.com/sites/onmarketing/2013/05/28/generation-z-rebels-with-a-cause/#261f930469c2>.

84. Hope, *supra* note 56, at 7.

85. BRUCE TULGAN & RAINMAKER THINKING, INC., MEET GENERATION Z: THE SECOND GENERATION WITHIN THE GIANT “MILLENNIAL” COHORT 5 (2013), <http://www.rainmakerthinking.com/assets/uploads/2013/10/Gen-Z-Whitepaper.pdf>.

86. Loveland, *supra* note 56, at 36. Seemiller and Grace’s estimate of this number is even higher, at eighty percent. SEEMILLER & GRACE, *supra* note 1, at 98. In Adecco’s 2015 Way to Work study, the ability to find a job came in at number one among the concerns of Gen Z students. *The Difference Between Generation Z and Millennials in the Workplace*, ADECCO (May 6, 2018), <https://www.adeccousa.com/employers/resources/generation-z-vs-millennials-infographic/>.

87. Loveland, *supra* note 56, at 36.

88. KEVIN EAGAN ET AL., HIGHER EDUC. RESEARCH INST. AT UCLA, THE AMERICAN FRESHMAN: NATIONAL NORMS FALL 2016, at 7 (2017) [hereinafter 2016 HERI SURVEY], <https://www.heri.ucla.edu/monographs/TheAmericanFreshman2016.pdf>. The 2016 HERI Survey analyzed responses from 137,456 full-time, first-time freshmen entering 184 baccalaureate institutions. *Id.* at 3.

89. See, e.g., *Law School Cost*, LAW SCH. TRANSPARENCY, <https://data.lawschooltransparency.com/costs/tuition/> (last visited Dec. 17, 2018) (charting the average nominal tuition prices for public residential, public non-residential, and private law schools from 1985 to 2017 for all ABA-approved law schools).

“debt crisis” among law school graduates.<sup>90</sup> Today’s law students “persistently demand reductions in tuition; almost in the same breath, they insist that law schools should provide increased career placement services, mental health counseling, and more. Students also vociferously complain about the challenging job market.”<sup>91</sup> These demands will likely continue to increase as more Gen Z students arrive at law school seeking a return on their investment of precious financial resources.

### 3. *Gen Z Students Are Insecure and Anxious*

The oldest Gen Z members were just kindergarteners when they witnessed the terrorist attack on the World Trade Center.<sup>92</sup> Although many Gen Z members do not remember that event vividly (and many more were not even born yet), it has shaped the culture in ways that have led them to become generally anxious and fearful.<sup>93</sup> More recently, the seemingly constant occurrence of school and workplace shootings has added to Gen Z’s sense that the world is not really a safe place.<sup>94</sup>

Moreover, the 24/7 media amplifies this anxiety and fear.<sup>95</sup> Recent research suggests that “negative TV news is a significant mood-changer, and the moods it tends to produce are sadness and anxiety . . . . ‘[S]tudies also show that this change in mood exacerbates the viewer’s own personal worries, even when those worries are not directly relevant to the news stories being

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90. See, e.g., Editorial, *The Law School Debt Crisis*, N.Y. TIMES (Oct. 25, 2015), <https://www.nytimes.com/2015/10/25/opinion/sunday/the-law-school-debt-crisis.html>.

91. Kevin R. Johnson, *Some Thoughts on the Future of Legal Education: Why Diversity and Student Wellness Should Matter in a Time of Economic “Crisis”*, 64 BUFF. L. REV. 255, 263 (2016).

92. SEEMILLER & GRACE, *supra* note 1, at 35.

93. *Id.* at 34–35 (“[Gen Z members] have been told that airports are scary places where even a grandma can hide a bomb in her shoe . . . .”); see also Elizabeth A. Cameron & Marisa Anne Pagnattaro, *Beyond Millennials: Engaging Generation Z in Business Law Classes*, 34 J. LEGAL STUD. EDUC. 317, 317 (2017) (noting that Generation Z has “had its eyes open from the beginning”) (quoting Williams, *supra* note 76).

94. See, e.g., SEEMILLER & GRACE, *supra* note 1, at 36 (noting that “[w]ith one click on a website,” Gen Zers can access video footage, read transcripts, and see interviews about these mass violence episodes, “making the event[s] feel even closer to home and even more frightening”). For a good treatment of how Gen Z students galvanized into action after the Parkland, Florida, high school shooting, see Lorraine Ali, *A Changing of Guard: After Unthinkable Tragedy, Generation Z Emerges Loud and Clear*, L.A. TIMES (Feb. 22, 2018, 12:50 PM), <http://www.latimes.com/entertainment/tv/la-et-st-parkland-florida-shooting-gun-control-protest-generation-z-20180222-story.html>.

95. See, e.g., Jessica Hamblen, *Media Coverage of Traumatic Events: Research on Effects*, U.S. DEP’T VETERANS AFF., [https://www.ptsd.va.gov/professional/treat/type/media\\_coverage\\_trauma.asp](https://www.ptsd.va.gov/professional/treat/type/media_coverage_trauma.asp) (last visited Dec. 17, 2018) (“[C]hildren in most American households are probably being exposed to images of traumatic events for many hours each day even though no one has made a conscious decision to expose these children to these images.”).

broadcast”<sup>96</sup>—a phenomenon known as “catastrophizing.”<sup>97</sup> In fact, Gen Z members’ knowledge about the world’s problems, gained from their constant exposure to media sources that often sensationalize and emotionalize the news, “could outstrip their ability to change things.”<sup>98</sup> This has led some to dub Gen Z “Gen Stressed.”<sup>99</sup>

This aspect of Gen Z’s peer personality seems particularly challenging for educators, because anxiety and stress have so many negative correlations with learning. They stretch our attention span, affect our perception, skew our filtering process toward negative and fear-inducing stimuli, weaken our memory, and obstruct our high-level cognition.<sup>100</sup> They also steal our sleep, which negatively impacts our attention and learning.<sup>101</sup>

The anxiety and stress common to many Gen Z students is likely to be exacerbated when they enter the law school environment, creating the potential for addiction and other mental health issues.<sup>102</sup> In a 2014 study, the Survey of Law Student Well-Being, “roughly one-quarter to one-third of respondents reported frequent binge-drinking or misuse of drugs, and/or

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96. Markham Heid, *You Asked: Is It Bad for You to Read the News Constantly?*, TIME (Jan. 31, 2018), <http://time.com/5125894/is-reading-news-bad-for-you/> (quoting Graham C.L. Davey, professor emeritus of psychology and editor in chief of the *Journal of Experimental Psychopathology*) (reporting that more than half of Americans responded that the news causes them stress, anxiety, fatigue, and/or sleep loss).

97. See, e.g., Graham C.L. Davey, *The Psychological Effects of TV News*, PSYCHOL. TODAY (June 19, 2012), <https://www.psychologytoday.com/us/blog/why-we-worry/201206/the-psychological-effects-tv-news> (“Catastrophizing is when you think about a worry so persistently that you begin to make it seem much worse than it was at the outset and much worse than it is in reality . . .”).

98. Shelley White, *Generation Z: The Kids Who’ll Save the World?*, GLOBE & MAIL (May 12, 2018), <https://www.theglobeandmail.com/life/giving/generation-z-the-kids-wholl-save-the-world/article20790237/> (pointing out that easy access to information about world issues, in the words of futurist Sanjay Khanna, “will be psychologically and economically precarious, and I think there will be a rise in mental health issues”); see also Davey, *supra* note 97.

99. White, *supra* note 98.

100. M.H. Sam Jacobson, *Paying Attention or Fatally Distracted? Concentration, Memory and Multi-Tasking in a Multi-Media World*, 16 LEGAL WRITING: J. LEGAL WRITING INST. 431, 454–55 (2010).

101. *Id.* at 459. Jacobson argues that sleep is needed not only to improve learning but also to “see beyond the explicit knowledge learned, so that one can gain insight. This is when the magic happens. All the neural connections come out to play, creating depth of understanding that would not otherwise exist.” *Id.* For a discussion of the effects of sleep deprivation associated with technology use, see *infra* pp. 36–37.

102. Jerome M. Organ, David B. Jaffe, & Katherine M. Bender, *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. LEGAL EDUC. 116, 146 (2016) (“The transition for many of our students from college to law school, which includes learning the new language of the law, dealing with anxieties about their future beyond graduation, and managing the debt many take on to finance their legal education, create stressors for which many are unprepared.”).

reported mental health challenges.”<sup>103</sup> The survey also reported that the majority of the law students “most in need of help are reluctant to seek it.”<sup>104</sup> Law school faculty, staff, and administrators will need to provide enhanced support systems for Gen Z students and remove barriers that keep students from accessing those support systems.<sup>105</sup>

#### 4. *Gen Z Is Slow to “Grow Up”*

Perhaps most alarming from an educational perspective, Gen Z members are often “tethered to their parents.”<sup>106</sup> While the “helicopter parenting” that was prevalent when the Millennials were growing up<sup>107</sup> appears to be on the wane, the parents of Gen Z, who are primarily from Generation X, are still very involved in their children’s lives. Some have referred to them as “co-pilots;” they are not “hovering over” their children, but they are right beside them, available for consultation about all decisions, both major and minor.<sup>108</sup> In a 2013 Clark University survey of more than a thousand parents, fifty-six percent said they are in contact with their adult children “every day or almost every day.”<sup>109</sup> And Gen Z members seem comfortable with having their parents as co-pilots; in fact, they welcome their parents’ involvement in their lives, and many say that they consider their parents to be their “best friends.”<sup>110</sup>

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103. *Id.* at 116.

104. *Id.*

105. For an excellent discussion of specific strategies law schools can use to create an environment where students in need of help are encouraged to seek it, see generally *id.* at 145–56.

106. Becker, *supra* note 38, at 10.

107. See generally Kathleen Vinson, *Hovering Too Close: The Ramifications of Helicopter Parenting in Higher Education*, 29 GA. ST. U. L. REV. 423, 424 (2013) (“Helicopter parenting is a term used to describe the phenomenon of a growing number of parents—obsessed with their children’s success and safety—who vigilantly hover over them, sheltering them from mistakes, disappointments, or risks; insulating them from the world around them.”).

108. SEEMILLER & GRACE, *supra* note 1, at 89. And with the ability to constantly stay in touch on their smartphones via text, FaceTime, Facebook, and other social media platforms, it is easier now than ever before for Gen Z members to seek their parents’ advice.

109. JEFFREY JENSEN ARNETT & JOSEPH SCHWAB, THE CLARK UNIVERSITY POLL OF PARENTS OF EMERGING ADULTS 5 (2013) [hereinafter CLARK UNIVERSITY POLL], <http://www2.clarku.edu/clark-poll-emerging-adults/pdfs/clark-university-poll-parents-emerging-adults.pdf>. The youngest children of the parents surveyed would now be among the oldest members of Gen Z (the ones entering law school now). The daily contact parents reported was not limited to their college-aged children; the figure held true even when the children were twenty-six to twenty-nine years old. *Id.* The parents largely preferred to communicate by phone (73%), compared to their children, 45% of whom preferred texting. *Id.* at 6.

110. Becker, *supra* note 38, at 10. This seems to be a departure from the two previous generations; for example, 69% of Gen Zers say their parents are their top role models,

This co-piloting relationship is consistent with a key aspect of Gen Z's peer personality: they are taking on adult tasks at a much slower pace than their predecessor generations. Twenge's research concludes that primarily since 2000, there have been considerable declines in the rate of "adolescents engaged in activities rarely performed by children and often performed by adults."<sup>111</sup> Chief among the adult activities that are being delayed by Gen Z are having sex, drinking, dating, working for pay, going out without their parents, and driving.<sup>112</sup> And the delay is driven not so much by their parents as it is by Gen Z members themselves; in Twenge's independent research, she discovered that almost all the Gen Z members she talked to said that "being a child was better than being an adult [because] being an adult involved too much responsibility."<sup>113</sup> In fact, Twenge reports that Gen Z college students scored "markedly higher" on a measure of "maturity fears" than their predecessors in the Millennial generation.<sup>114</sup>

Not surprisingly, Gen Z also appears to be moving toward financial independence more slowly than its predecessor generations. Nearly half (44%) of the parents surveyed in the 2013 Clark University poll said "they provide their 18- to 29-year-olds with either 'frequent support when needed' or 'regular support for living expenses.'"<sup>115</sup> These numbers are understandable given the rising costs of higher education and the fact that students are staying in school longer than ever before.<sup>116</sup> But interestingly, while the majority of parents in the Clark University poll were supporting their adult children financially, almost half of them were "somewhat" or "very" concerned "that their emerging adult was taking too long to become financially independent."<sup>117</sup>

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compared to 54% of Millennials and 29% of Generation X. SEEMILLER & GRACE, *supra* note 1, at 157–58.

111. Jean M. Twenge & Heejung Park, *The Decline in Adult Activities Among U.S. Adolescents, 1976–2016*, 00 *CHLD DEV.* 0, 6 (2017). This decline was seen across races, genders, geographic locations, and socioeconomic statuses. *Id.*

112. *Id.* Unfortunately, Twenge's research shows that although Gen Z members are putting off these adult activities until later, once they do begin to engage in them, they do so with full force, leading to a rise in binge-drinking, casual sex, and other "high-risk" behavior. TWENGE, *supra* note 51, at 37–38.

113. *Id.* at 46.

114. *Id.* at 45 (pointing to the rise of the neologism "adulting" to refer to taking care of one's responsibilities and the boom in products such as adult coloring books that tap into Gen Z's anxiety about growing up).

115. CLARK UNIVERSITY POLL, *supra* note 109, at 11. Eighty-nine percent of parents of adult children aged eighteen to twenty-one reported providing some support for their children; that number declined to fifty-six percent among parents of adult children aged twenty-six to twenty-nine. *Id.*

116. *Id.*

117. *Id.* at 13.

So, what is causing Gen Z to delay adulthood? A number of explanations have been offered, all of which may hold some truth. For example, Twenge explains the delay in terms of *life history theory*—the view that “how fast teens grow up depends on where and when they are raised. In more academic parlance, developmental speed is an adaptation to a cultural context.”<sup>118</sup> Twenge states that following a “slow life strategy” is common for children who grow up “in times and places where families have fewer children and cultivate each child longer and more intensely”<sup>119</sup>—a good description of the current culture in America, where “the average family has two children, kids can start playing organized sports at age 3, and preparing for college seems to begin in elementary school.”<sup>120</sup> Twenge and Park caution that we should not see this slower development as either inherently good or inherently bad; those in Gen Z are neither more virtuous and responsible, nor more boring, than previous generations.<sup>121</sup> They are simply “less like adults.”<sup>122</sup>

The researchers who conducted the Clark University Poll of Parents of Emerging Adults theorized that perhaps the main reason for delayed adulthood is the new economy in which Gen Z has grown up, which is based less on manufacturing and more on information, technology, and services.<sup>123</sup> “The new economy requires more education, training, and experience to get a decent long-term job, and consequently most 18- to 29-year-olds are focused during this time on gaining education and training and then making their way into the workforce.”<sup>124</sup> But these pollsters, and Twenge as well, also recognize that “American society has become more tolerant of young people using most of their twenties to make their way to adulthood at a gradual pace, and to enjoy a period of fun and freedom before taking on the enduring responsibilities of adult life.”<sup>125</sup>

Another manifestation of Gen Z’s “slow to grow up” personality is the increasing demand among college students for academic “safe spaces.”<sup>126</sup> The

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118. TWENGE, *supra* note 51, at 24. Twenge found that these delays in traditionally adult behavior are not attributable, as some have argued, to more homework or more extracurricular activities; in fact, the total time spent on homework and extracurriculars has been declining. *Id.* at 31.

119. *Id.* at 24.

120. *Id.* Twenge contrasts this with a “fast life strategy, where families are larger and parents focus more on subsistence than on quality. This fast life strategy involves less preparation for the future and more just getting through the day.” *Id.*

121. Twenge & Park, *supra* note 111, at 12; *see also* TWENGE, *supra* note 51, at 24.

122. Twenge & Park, *supra* note 111, at 12.

123. CLARK UNIVERSITY POLL, *supra* note 109, at 18.

124. *Id.*

125. *Id.*; *see also* TWENGE, *supra* note 51, at 42 (“The cultural shift toward individualism may also play a role: childhood and adolescence are uniquely self-focused stages, so staying in them longer allows more cultivation of the individual self.”).

126. Judith Shulevitz, *In College and Hiding from Scary Ideas*, N.Y. TIMES (Mar. 21, 2015), <https://www.nytimes.com/2015/03/22/opinion/sunday/judith-shulevitz-hiding-from->

safe spaces movement grew out of students' need for emotional safety and validation at a time when there is more diversity than ever in terms of race and ethnicity, sexual orientation, religious beliefs, and gender fluidity.<sup>127</sup> Thus, to the extent the term "safe space" refers to a particular place or extracurricular group that is intended to be a haven for historically marginalized students, "safe" simply denotes "emotional protection"—the "opportunity to feel secure in times of distress and dysfunction"—and a sense of community.<sup>128</sup> In this sense, it is hard to argue against the need for these safe spaces on campuses.

Others have not been as measured in their response to the safe spaces movement, seeing the demand for such spaces as an effort to censor speech that is disagreeable or uncomfortable. For example, in 2016, the Dean of Students in the College of the University of Chicago sent an email to incoming freshmen categorically rejecting the call for safe spaces, at least when it would restrict academic freedom:

Our commitment to academic freedom means that we do not support so-called trigger warnings, we do not cancel invited speakers because their topics might prove controversial, and we do not condone the creation of intellectual "safe spaces" where individuals can retreat from ideas and perspectives at odds with their own.<sup>129</sup>

When it comes to the latter kind of safe space—the academic safe space—Gen Z students' desire for such spaces is likely to be uniquely problematic when they enter law school, where, for better or worse, the

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scary-ideas.html; see also SEEMILLER & GRACE, *supra* note 1, at 7–8 (noting that members of Gen X, many of whom are parents of Gen Z members, are less trusting of institutions like colleges to take care of their children). See generally Vinay Harpalani, "Safe Spaces" and the Educational Benefits of Diversity, 13 DUKE J. CONST. L. & PUB. POL'Y 117, 124 (2017) ("In its most common usage, the term refers to institutions on college campuses that are devoted to the needs of marginalized groups. Often, safe spaces are physical places on campus, but they can also be organizations or specific gatherings.").

127. See, e.g., Harpalani, *supra* note 126, at 123–27 (tracing the origins and development of safe spaces in colleges and universities); see also Eric Posner, *Universities Are Right—and Within Their Rights—to Crack Down on Speech and Behavior*, SLATE (Feb. 12, 2015, 2:30 PM), <https://slate.com/news-and-politics/2015/02/university-speech-codes-students-are-child-ren-who-must-be-protected.html> (theorizing that the demand for safe spaces in college classrooms "comes not from parents and administrators, but from students themselves, who, apparently recognizing that their parents and schools have not fully prepared them for independence, want universities to resume their traditional role in loco parentis").

128. Katherine Ho, *Tackling the Term: What is a Safe Space?*, HARV. POL. REV. (Jan. 30, 2017), <http://harvardpolitics.com/harvard/what-is-a-safe-space/>; see also Harpalani, *supra* note 126, at 127 ("[T]he goal of safe spaces is to facilitate engagement of uncomfortable issues and to provide a supportive atmosphere for this endeavor.").

129. Letter of John Ellison, Dean of Students in the College, to the Class of 2020 of the University of Chicago (Aug. 2016), [https://news.uchicago.edu/sites/default/files/attachments/Dear\\_Class\\_of\\_2020\\_Students.pdf](https://news.uchicago.edu/sites/default/files/attachments/Dear_Class_of_2020_Students.pdf).

Socratic method is still the gold standard.<sup>130</sup> “The Socratic method is, at its heart, a way of teaching that fosters critical thinking, in part by encouraging students to question their own unexamined beliefs, as well as the received wisdom of those around them.”<sup>131</sup> Moreover, the work of a lawyer “demands intellectual engagement with people and ideas one might find uncongenial or wrong.”<sup>132</sup> Thus, as Gen Z students enter law school, faculty and administrators will need to consider how to strike the appropriate balance between their desire for protection from uncomfortable or unfamiliar ideas, which may not serve them well, and their need for others to respect their diverse backgrounds and views, which is worthy of attention.

It bears repeating that in describing the peer personality of Gen Z, I intend no criticism. It would be no less unfair to fault Gen Z for being “tethered to their parents” than it would have been to fault Generation X for being “latchkey kids.” Gen Z students are simply the product of the cultural influences—some positive and some negative—that have been dominant in their youth. My aim in this section has not been to put Gen Z down or portray it as inferior to prior generations; rather, my aim has been only to describe the salient traits of Gen Z as accurately as possible, so that as legal educators, we can more effectively anticipate who they will be as students and as eventual members of the profession.

#### IV. LEARNING CHARACTERISTICS OF GENERATION Z STUDENTS

With that same caveat in mind, this section examines three additional traits of Generation Z that relate specifically to the way these students learn. Naturally, there is more data about the early educational experiences of Gen Z than about their undergraduate experiences; colleges and universities are just now beginning to assess how the first wave of Gen Z students has fared.<sup>133</sup>

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130. See generally Jeannie Suk Gersen, *The Socratic Method in the Age of Trauma*, 130 HARV. L. REV. 2320 (2017). Gersen’s article describes the modern criticism that the Socratic method is linked to psychological harm, “particularly in courses including sexual topics that our culture now commonly associates with trauma.” *Id.* at 2337–38. However, Gersen concludes that Socratic dialogue is perhaps more important than ever in today’s law schools. *Id.* at 2346 (“[The Socratic method] is indeed more valuable, not less, in the context of the diverse student bodies and legal profession we have today, and particularly for students from cultures and families that did not emphasize . . .”). Gersen emphasizes the pressing need for the Socratic method, as students must “learn to comport themselves with respect, confidence, collegiality, and equanimity in both adversarial situations . . . and collaborative situations.” *Id.*

131. Greg Lukianoff & Jonathan Haidt, *The Coddling of the American Mind*, ATLANTIC (Sept. 2015), <https://www.theatlantic.com/magazine/archive/2015/09/the-coddling-of-the-american-mind/399356/>.

132. *Id.*

133. For good descriptions of the undergraduate learning experience, one written in 2016 as the oldest Gen Z students were graduating from college and one written while they were in the thick of it, see Patricia Grande Montana, *Bridging the Reading Gap in the Law School*

But again, once all the evidence is assembled, a fairly clear picture of Gen Z as learners emerges.

#### A. Gen Z Students Are Saturated with Technology, Which Often Hinders Their Learning

For members of Gen Z, as for Millennials, the world has always been a place of rapid technological growth and change.<sup>134</sup> But there is one key distinction between Gen Z and all other generations, including Millennials, in this regard: Gen Z is the first to enter adolescence with access to smartphones.<sup>135</sup> The iPhone was launched in 2007, when the oldest members of Gen Z were about twelve years old,<sup>136</sup> and the smartphone's effect on today's students cannot be overstated.

An estimated ninety-five percent of American teens own or have access to a smartphone,<sup>137</sup> and they are tethered to them. Almost half of them report being connected online for ten or more hours a day.<sup>138</sup> Three out of four Gen

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*Classroom*, 45 CAP. U. L. REV. 433, 434–45 (2017); Flanagan, *supra* 52, at 135. For another excellent source of information about the undergraduate experiences of the earliest Gen Z students, see also NAT'L SURVEY OF STUDENT ENGAGEMENT, ENGAGEMENT INSIGHTS: SURVEY FINDINGS ON THE QUALITY OF UNDERGRADUATE EDUCATION (2017), [http://nsse.indiana.edu/NSSE\\_2017\\_Results/pdf/NSSE\\_2017\\_Annual\\_Results.pdf](http://nsse.indiana.edu/NSSE_2017_Results/pdf/NSSE_2017_Annual_Results.pdf).

134. See, e.g., Shailini Jandial George, *Teaching the Smartphone Generation: How Cognitive Science Can Improve Learning in Law School*, 66 ME. L. REV. 163, 167–68 (2013); Jean M. Twenge, *Have Smartphones Destroyed a Generation?*, ATLANTIC (Sept. 2017), <https://www.theatlantic.com/magazine/archive/2017/09/has-the-smartphone-destroyed-a-generation/534198/>.

135. Twenge, *supra* note 134 (noting that Gen Z students “do not remember a time before the internet” and that while Millennials also grew up with the web, “it wasn’t ever-present in their lives, at hand at all times, day and night”).

136. *Id.*; see *Apple Reinvents the Phone with iPhone*, APPLE (Jan. 9, 2007), <https://www.apple.com/newsroom/2007/01/09Apple-Reinvents-the-Phone-with-iPhone/>.

137. See Kurt Schlosser, *New Research Finds 95% of Teens Have Access to a Smartphone, 45% Online ‘Almost Constantly’*, GEEKWIRE (June 1, 2018, 10:54 AM), <https://www.geekwire.com/2018/new-research-finds-95-teens-access-smartphone-45-online-almost-constantly/>. Even in 2013, when the oldest members of Gen Z were entering college, seventy-nine percent of young adults aged eighteen to twenty-four owned smartphones. *Ring the Bells: More Smartphones in Students’ Hands Ahead of Back-to-School Season*, NIELSEN (Oct. 29, 2013), <http://www.nielsen.com/us/en/insights/news/2013/ring-the-bells-more-smartphones-in-students-hands-ahead-of-back.html>. Twenge’s research showed that the trends surrounding smartphone use “appear among teens poor and rich; of every ethnic background; in cities, suburbs, and small towns. Where there are cell towers, there are teens living their lives on their smartphone.” Twenge, *supra* note 134.

138. *Generation Z: A Look at the Technology and Media Habits of Today’s Teens*, WIKIA (Mar. 18, 2013) [hereinafter *Wikia Report*], [http://www.wikia.com/Generation\\_Z:\\_A\\_Look\\_at\\_the\\_Technology\\_and\\_Media\\_Habits\\_of\\_Today%E2%80%99s\\_Teens](http://www.wikia.com/Generation_Z:_A_Look_at_the_Technology_and_Media_Habits_of_Today%E2%80%99s_Teens). The 2016 HERI Survey found that in 2016, about 41% of entering college students reported using social media for at least six hours a week, up from about 25% just a year before. 2016 HERI

Z members report being actively connected within an hour of waking up in the morning; and for one out of four of those, the connection occurs within five minutes or less of waking up.<sup>139</sup> Many Gen Z members acknowledge that they are addicted to their smartphones,<sup>140</sup> and they say that FOMO—fear of missing out—is largely to blame.<sup>141</sup>

As any parent of a Gen Z member well knows, Gen Z uses smartphones for almost everything. Not surprisingly, social media use accounts for much of the time Gen Z members spend on their phones. In the 2016 HERI survey, about forty-one percent of students reported spending six hours or more per week using social media;<sup>142</sup> to many, that figure might appear much lower than the reality. And students are not using social media only to post pictures and chat with friends; in one recent survey, more than half of the students said they use social media for research assignments, and one-third said they use it to work with classmates and watch lessons online.<sup>143</sup> They also use it to access the news; sites like BuzzFeed and Reddit, blogs like Tumblr, and social media platforms like Facebook and Twitter have the ability to send push notifications about news stories of particular interest right to Gen Z's smartphones.<sup>144</sup>

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SURVEY, *supra* note 88, at 20. Twenge puts the figure at “six hours a day with new media” and breaks it down as follows: “an average of 2¼ hours a day texting on their cellphones, about 2 hours a day on the Internet, 1½ hours a day on electronic gaming, and about a half hour on video chat.” TWENGE, *supra* note 51, at 51. She points out that this constitutes almost all of Gen Z members' leisure time. *Id.*

139. *Wikia Report*, *supra* note 138.

140. *See, e.g.*, SEEMILLER & GRACE, *supra* note 1, at 29 (noting that Gen Z believes “there's no good time to turn [their phone] off”); Amy Joyce, *Teens Say They're Addicted to Technology. Here's How Parents Can Help.*, WASH. POST (May 3, 2016), [https://www.washingtonpost.com/news/parenting/wp/2016/05/03/teens-say-theyre-addicted-to-technology-heres-how-parents-can-help/?noredirect=on&utm\\_term=.66514bf40737](https://www.washingtonpost.com/news/parenting/wp/2016/05/03/teens-say-theyre-addicted-to-technology-heres-how-parents-can-help/?noredirect=on&utm_term=.66514bf40737) (citing a report by Common Sense Media that fifty percent of teens admitted feeling addicted to their mobile devices).

141. FOMO—the fear of missing out—is “the blend of anxiety, inadequacy and irritation that can flare up while skimming social media . . . [It is] the fear of missing out on something or someone more interesting, exciting or better than what we're currently doing.” Amelia Strickland, *Exploring the Effects of Social Media Use on the Mental Health of Young Adults*, U. CENT. FLA. STARS, 28 (2014), <https://stars.library.ucf.edu/cgi/viewcontent.cgi?article=2683&context=honorstheses1990-2015>.

142. 2016 HERI SURVEY, *supra* note 88, at 20. This was a significant increase; the figure was just twenty-five percent for each year between 2007 and 2015. *Id.*

143. *See* Modo Labs Team, *The Plurals Are Coming: What Universities Need to Know*, MODO: BLOG (May 23, 2016), <https://www.modolabs.com/blog-post/the-plurals-are-coming-what-universities-need-to-know/>; *see also* SEEMILLER & GRACE, *supra* note 1, at 75.

144. SEEMILLER & GRACE, *supra* note 1, at 131–32. But Twenge's study showed that Gen Z members are “not huge news fans” and that they tend to go online for news primarily when “something major” happens. TWENGE, *supra* note 51, at 284–85.

Gen Z members' almost constant use of their smartphones in nearly every facet of their lives has led some experts to conclude that we are seeing a new epidemic, often referred to as "Internet addiction" or "technology addiction."<sup>145</sup> Michael Mercier, the founder of [screeneducation.org](http://screeneducation.org), uses the term "digital addiction" and defines it as "the compulsive use of screens. It's the all-consuming compulsion to get online and stay online for endless hours—to the exclusion of other activities you should be doing. Or, it's the continuous compulsion to use screens while simultaneously engaging in other activities."<sup>146</sup> This compulsion to be online, experts say, leads to anxiety, fear, and "feelings of saturation, craziness, and never having a moment of peace."<sup>147</sup>

Perhaps more alarmingly, many neuroscientists believe that this compulsive use of technology is actually rewiring our brains. They claim that "the constant use of technologies such as smartphones, computers, search engines, and the like 'stimulate brain cell alteration and neurotransmitter release, gradually strengthening new neural pathways in our brains while weakening old ones.'"<sup>148</sup> Put another way, technology is altering the neural connections and stunting the development of the frontal lobe, "the higher order reasoning center of the brain where working memory is located."<sup>149</sup>

Those who have taught Gen Z will not be surprised by this science; it simply confirms our anecdotal observations that Gen Z students' non-stop use

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145. See, e.g., FCD Prevention Works, *Technology Addiction: Creating a Healthy Balance*, HAZELDEN BETTY FORD FOUND. (Mar. 16, 2017), <https://www.hazeldenbettyford.org/articles/fcd/teen-technology-addiction>; Farhad Manjoo, *Even the Tech Elite Are Worrying About Tech Addiction*, N.Y. TIMES (Feb. 14, 2018), <https://www.nytimes.com/interactive/2018/02/09/technology/the-addiction-wrought-by-techies.html>. But see Christopher J. Ferguson, *Debunking the 6 Biggest Myths About 'Technology Addiction'*, CONVERSATION (June 18, 2018, 10:32 AM), <https://theconversation.com/debunking-the-6-biggest-myths-about-technology-addiction-95850> (arguing that "technology is not a drug," "technology addiction is not common," and "technology is not uniquely addictive").

146. *Q & A with Michael Mercier, President of Screen Education*, BOLDFISH (Apr. 5, 2018), <https://www.goboldfish.com/qa-michael-mercier>. Mercier says that digital addicts do these things even if they do not want to be doing them—"even if it is driving you crazy . . . you can't stop doing them." *Id.*

147. Lauren A. Newell, *Redefining Attention (and Revamping the Legal Profession?) for the Digital Generation*, 15 NEV. L.J. 754, 794 (2015) (quoting DON TAPSCOTT, GROWN UP DIGITAL: HOW THE NET GENERATION IS CHANGING YOUR WORLD 116 (2009)); see also Kathy Evans, *Are Digital Natives Really Just Digital Labourers? Teens Turning Off Social Media*, AGE (Apr. 21, 2016, 5:59 PM), <https://www.theage.com.au/national/victoria/are-digital-natives-really-just-digital-labourers-teens-turning-off-social-media-20160419-goaoor.html> (noting that "fear has long been a by-product of media usage").

148. Kari Mercer Dalton, *Their Brains on Google: How Digital Technologies Are Altering the Millennial Generation's Brain and Impacting Legal Education*, 16 SMU SCI. & TECH. L. REV. 409, 419 (2013) (quoting NICHOLAS CARR, *THE SHALLOWS: WHAT THE INTERNET IS DOING TO OUR BRAINS* 409, 419 (1st ed. 2010)).

149. *Id.* at 419.

of their smartphones and other technology is affecting their learning in significant ways.<sup>150</sup>

First, it is causing their attention spans to become shorter. Current research suggests that the average attention span for a Gen Z student is only eight seconds.<sup>151</sup> Some experts have coined the term “acquired ADD” to describe students’ inability to focus when reading, listening, and writing.<sup>152</sup> One manifestation of students’ short attention span is “power-browsing,”<sup>153</sup> which occurs when students approach the task of reading complex material in the same way they approach skimming Facebook or Twitter.<sup>154</sup> Another manifestation occurs when students work on long projects such as research papers; they may spend many hours looking for sources and reading (or more likely, power-browsing) them, but when they begin the drafting phase, they move through it very quickly, often wrapping it up while the content is still incomplete and the writing is still in need of revising, editing, and polishing.<sup>155</sup>

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150. For a sampling of such anecdotal observations, see George, *supra* note 134, at 164 (drawing a composite picture of a hypothetical first-year law student, Lara, whose in-class use of her smartphone includes checking email, looking at pictures on Facebook, and texting her roommate—a scene George says “is becoming the norm across law school classrooms nationwide”); Dalton, *supra* note 148, at 410 (describing an experiment she conducted with her negotiations class revealing that not a single student was able to read an article she handed out for ten consecutive minutes without stopping to check their computers or phones); Twenge, *supra* note 134 (describing her interviews with several Gen Z students who readily admitted that their smartphones distract them from learning tasks).

151. See Cameron & Pagnattaro, *supra* note 93, at 318; Leonid Bershidsky, *Here Comes Generation Z*, BLOOMBERG (June 18, 2014, 7:28 AM), <https://www.bloomberg.com/view/articles/2014-06-18/nailing-generation-z>.

152. *Generation Z and Learning*, PRELUDE CONSULTING, <https://www.prelude-team.com/articles/generation-z-and-learning> (last visited Dec. 29, 2018) (citing Dr. John Ratey, a clinical associate professor of psychiatry at Harvard who specializes in neuropsychiatry, who uses the term “acquired attention deficit disorder” to describe the way technology is rewiring the modern brain).

153. Dalton, *supra* note 148, at 421–22 (noting that power-browsing “puts efficiency and immediacy above all else, and we are weakening our ability to read deeply, which in turn weakens our ability to interpret text and make rich mental connections”); see also Maryanne Wolf, *Skim Reading Is the New Normal. The Effect on Society Is Profound*, GUARDIAN (Aug. 25, 2018, 2:41 PM), <https://www.theguardian.com/commentisfree/2018/aug/25/skim-reading-new-normal-maryanne-wolf> (“Many readers now use an F or Z pattern when reading in which they sample the first line and then word-spot through the rest of the text. When the reading brain skims like this, it reduces time allocated to deep reading processes. In other words, we don’t have time to grasp complexity, to understand another’s feelings, to perceive beauty, and to create thoughts of the reader’s own.”).

154. Dalton, *supra* note 148, at 421–22; see also Montana, *supra* note 133, at 443 (noting that rather than reading a text from the beginning to the end, today’s students “scan the text, reading out of sequence so they can quickly retrieve the information they need”).

155. ADECCO, GENERATION Z VS. MILLENNIALS 3 (2015) [hereinafter ADECCO STUDY], <http://pages.adeccousa.com/rs/107-IXF-539/images/generation-z-vs-millennials.pdf>.

Second, Gen Z's constant smartphone use is creating the illusion (unfortunately embraced by some)<sup>156</sup> that they are adept at multi-tasking. Gen Z students are accustomed to toggling among as many as five screens (as opposed to Millennials, who typically toggled between only two screens).<sup>157</sup> But scientists who study the brain agree that there is really no such thing as “multi-tasking;” students are actually “task-switching”—dividing their attention between tasks.<sup>158</sup> Moreover, they are ““leaking a little mental efficiency with every switch;””<sup>159</sup> there is a “restart cost” with every shift of attention.<sup>160</sup> Thus, students “take more time to finish each [task] and both are performed with much less proficiency.”<sup>161</sup>

Multitasking may be especially deleterious for students when they are trying to learn new things (as in the first months of law school).<sup>162</sup> In his 2016 article entitled *Skills for Law Students*,<sup>163</sup> geared toward novice students, Professor Jonathan Van Patten enumerates no fewer than twenty-three discrete skills that effective lawyers must possess (and that effective law students must learn); they include “academic” skills (such as reading and understanding cases, reading and understanding statutes and regulations, learning how to tell a story, understanding argumentation, and doing computerized legal research); “practical” skills (such as asking good questions, spotting issues, and speaking in public); and “softer” skills (such as listening well, working well with others, dealing with adversity, and

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156. For example, an employment website recently posted a blog entry stating, “One of the foremost qualities any employer wants to see in their employees is the ability to multitask. This particular skill applies to a variety of different professions, from the finance world to academia to industrial engineering, and is highly valued due to its connection to production and efficiency.” *Emphasizing the Ability to Multitask on Your Resume*, GREAT SAMPLE RESUME, <https://www.greatsamplesresume.com/blog/emphasizing-the-ability-to-multitask-on-your-resume/> (last visited Nov. 16, 2018).

157. See Modo Labs Team, *supra* note 143.

158. See Jacobson, *supra* note 100, at 435, 437 (“Multi-tasking is not a myth. People do it every day, all the time . . . .” But “[i]f multitasking means doing two or more things simultaneously, things that are competing for the same cognitive resources, they don’t. Instead, the brain divides its attention between the tasks and attention is shifted back and forth between them.”); Rosa Kim, *Lightening the Cognitive Load: Maximizing Learning in the Legal Writing Classroom*, 21 PERSPS.: TEACHING LEGAL RES. & WRITING 101, 102 (2013); James B. Levy, *Teaching the Digital Caveman: Rethinking the Use of Classroom Technology in Law School*, 19 CHAP. L. REV. 241, 260–61 (2016) (“[I]t is essentially impossible for the brain to ‘multitask’ beyond activities that are so automated, like walking and chewing gum, that they require no attention.”).

159. George, *supra* note 134, at 171 (quoting Sam Anderson, *In Defense of Distraction*, N.Y. MAG. (May 17, 2009), <http://nymag.com/news/features/56793>).

160. Jacobson, *supra* note 100, at 439; Newell, *supra* note 147, at 768.

161. Levy, *supra* note 158, at 260; see also Jacobson, *supra* note 100, at 437; Kim, *supra* note 158, at 102.

162. See, e.g., Levy, *supra* note 158, at 283.

163. Jonathan K. Van Patten, *Skills for Law Students*, 61 S.D. L. REV. 165, 165 (2016).

picking fights wisely).<sup>164</sup> The thought of trying to master all of these skills would overwhelm most beginning law students, even if the skills were taught one at a time and even if the students came to law school with strong backgrounds in critical reading, thinking, and writing.

In the face of these numerous difficult learning tasks, novice Gen Z law students may struggle mightily if their professors' teaching methods do not account for "the constraints posed by working memory."<sup>165</sup> Cognitive load theory tells us that our working memory is "a narrow channel that tolerates a very low cognitive load"; it is "the bottleneck that channels all new information processed in the brain."<sup>166</sup> In the multitasking context, the processing of information tends to be superficial, thus impeding students' ability to engage in in-depth analysis.<sup>167</sup> This impediment is exacerbated when the information is delivered simultaneously in various media—for example, when a professor plans a lesson incorporating text from a book, information from a PowerPoint, and content from videos, requiring students to engage in "multimedia multitasking."<sup>168</sup>

Third, Gen Z students' constant use of smartphones affects their physical and mental health in ways that often impede or prevent their learning. On the physical health front, studies show that screen time is a significant risk factor for sleep deprivation, or "short sleep duration."<sup>169</sup> And "portable media devices are of special importance for insufficient sleep as they not only directly displace or delay sleep time by increasing arousal that interferes with sleep but are also easily carried into the bedroom and used in bed before sleep while emitting light that can affect sleep-wake rhythms."<sup>170</sup> In 2011 (when the oldest members of Gen Z were about sixteen), one study reported that seventy-two percent of adolescents said they used a cellphone in their bedroom within an hour of bedtime,<sup>171</sup> and they were seventy-nine percent less likely to get nine hours of sleep than their peers who did not use their cellphones at night.<sup>172</sup>

Sleep deprivation results in "more problems with working memory, including needing more time to accomplish tasks, more effort to do them, and

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164. *Id.* at 170–95.

165. Deborah J. Merritt, *Legal Education in the Age of Cognitive Science and Advanced Classroom Technology*, 14 B.U. J. SCI. & TECH. L. 39, 45 (2008).

166. Kim, *supra* note 158, at 101.

167. *See id.* at 102; Newell, *supra* note 147, at 768–69. For a more thorough discussion of how legal educators can help students manage their cognitive load effectively, see *infra* Section V.C.

168. Jacobson, *supra* note 100, at 451–52; Kim, *supra* note 158, at 102.

169. Jean M. Twenge et al., *Decreases in Self-Reported Sleep Duration Among U.S. Adolescents 2009–2015 and Links to New Media Screen Time*, 39 SLEEP MED. 47 (2017).

170. *Id.* at 48.

171. *Id.* at 47–48.

172. *Id.* at 47.

more effort to remember, all while making more errors.”<sup>173</sup> Moreover, sleep is needed not only before and after learning; “it is also needed to see beyond the explicit knowledge learned, so that one can gain insight.”<sup>174</sup> Adequate sleep correlates highly with good grades, better ability to cope with stress, a more positive attitude, and higher quality interpersonal relationships.<sup>175</sup> Thus, the fact that many students entering law school today are perpetually tired puts them at a serious disadvantage as they tackle the difficult and intense academic work required of law students and as they strive to maintain their mental and emotional health.

On the mental and emotional health front, studies show that Gen Z is at a higher risk of depression and anxiety than any other generation.<sup>176</sup> In 2016, about one in eight entering college freshmen reported feeling depressed frequently in the past year, and about one-third of those students said there was a “very good chance” they would seek personal counseling in the coming year.<sup>177</sup> More than one-third of entering freshmen reported frequently feeling anxious.<sup>178</sup> And it appears that smartphone use—particularly social media use—is partly responsible.<sup>179</sup> One study suggested that smartphone use contributes to the increase in anxiety among Gen Z because “technology has developed faster than [their] capacity to process it.”<sup>180</sup> Other studies document the effects of the “social comparison syndrome” that many social media sites foster.<sup>181</sup> Said one researcher, “If a person has a full view of their own life, but only sees others’ highlights, this social comparison can be understandably discouraging.”<sup>182</sup> And still other studies document the harmful effects of

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173. Jacobson, *supra* note 100, at 445.

174. *Id.* at 447.

175. *Id.* at 447–48.

176. See 2016 HERI SURVEY, *supra* note 88, at 12–13. See generally TWENGE, *supra* note 51, at 93–118. It is worth considering, too, that in general, the young adult population (aged 18–29 years) is at a “vulnerable precipice” where they are “particularly prone to experiencing mental illness” and that one in four young adults experiences a depressive state between the ages of eighteen and twenty-four. Strickland, *supra* note 141, at 11 (citing JON E. GRANT & MARC N. POTENZA, *YOUNG ADULT MENTAL HEALTH* 3–4 (2010)).

177. 2016 HERI SURVEY, *supra* note 88, at 12.

178. *Id.* at 13.

179. See generally Nicholas Kardaras, *Generation Z: Online and at Risk?*, *SCI. AM.* (Sept. 1, 2016), <https://www.scientificamerican.com/article/generation-z-online-and-at-risk/>.

180. Evans, *supra* note 147.

181. See, e.g., Amanda Lenhart, *Chapter 4: Social Media and Friendships*, in *Teens, Technology, and Friendship*, PEW RES. CTR. (Aug. 6, 2015), <http://www.pewinternet.org/2015/08/06/chapter-4-social-media-and-friendships/> (reporting that twenty-one percent of teens in a 2014–15 Pew Research survey said they felt worse about their own lives based on what others posted on social media); see also Strickland, *supra* note 141, at 30 (citing several studies showing that undergraduate students who had been using Facebook for a long period “perceived that others were happier and that life was not fair”).

182. Strickland, *supra* note 141, at 31.

cyberbullying.<sup>183</sup> In 2017, a longitudinal study found a negative correlation between Facebook use and well-being.<sup>184</sup> And the results of a recent survey decried the effects of Instagram, ranking it as “the worst social media network for mental health and wellbeing” because its photo-based platform is the most likely to generate “high levels of anxiety, depression, bullying and FOMO, the ‘fear of missing out.’”<sup>185</sup>

In fact, some have referred to Gen Z as “the loneliest generation.”<sup>186</sup> Twenge’s studies showed that teens who visited social networking sites every day or nearly every day were eleven percent more likely to be lonely than teens who spent time with friends in person.<sup>187</sup> According to the annual Monitoring the Future (MtF) surveys of high school students,<sup>188</sup> teens in 2015 were far lonelier than teens in 2011; says Twenge, “[t]eens are now lonelier than at any time since the [MtF] survey began in 1991.”<sup>189</sup> As one commentator put it, “Apart from the addictive nature of our new digital way of connecting, it does not seem to satisfy our deep-seated need for true human contact. Instead what it seems to have spawned is the illusion of social connection . . . .”<sup>190</sup> This is consistent with what psychologists call the “displacement” theory—the idea that “[p]eople who spend more time in sedentary behaviors (like social media use) have less time for face-to-face social interaction and physical activity, both of which have been proven to be protective against mental health disorders.”<sup>191</sup>

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183. See, e.g., Stephanie Pappas, *Social Media Cyber Bullying Linked to Teen Depression*, SCI. AM. (June 23, 2015), <https://www.scientificamerican.com/article/social-media-cyberbullying-linked-to-teen-depression/> (describing several studies, all of which reached the conclusions that cyberbullying and depression go hand in hand and that the more cyberbullying a teen experiences, the more severe the symptoms of his or her depression).

184. Holly B. Shakya & Nicholas A. Christakis, *Association of Facebook Use with Compromised Well-Being: A Longitudinal Study*, 185 AM. J. EPIDEMIOLOGY 203, 208 (2017).

185. Amanda MacMillan, *Why Instagram Is the Worst Social Media for Mental Health*, TIME (May 25, 2017), <http://time.com/4793331/instagram-social-media-mental-health/>; see also Strickland, *supra* note 141, at 28.

186. See, e.g., Sarah Berger, *Gen Z Is the Loneliest Generation, Survey Reveals, but Working Can Help*, CNBC (May 2, 2018, 9:59 AM), <https://www.cnbc.com/2018/05/02/cigna-study-loneliness-is-an-epidemic-gen-z-is-the-worst-off.html>; Katrina Trinko, *Gen Z Is the Loneliest Generation, and It's Not Just Because of Social Media*, USA TODAY (May 3, 2018, 7:58 PM), <https://www.usatoday.com/story/opinion/2018/05/03/gen-z-loneliest-generation-social-media-personal-interactions-column/574701002/>.

187. TWENGE, *supra* note 51, at 80.

188. For the results of the 2011 and 2015 Monitoring the Future surveys (as well as the surveys for all other years), see *Publications*, MONITORING THE FUTURE, <http://monitoringthefuture.org/pubs.html#refvols> (last visited Dec. 28, 2018).

189. TWENGE, *supra* note 51, at 97.

190. Kardaras, *supra* note 179; see also Strickland, *supra* note 141, at 27 (“[S]ocial media is so seductive because it allows for the illusion of companionship without the demands of friendship.”).

191. Strickland, *supra* note 141, at 15.

In sum, Gen Z students are not just digital natives; they have become “digital labourers.”<sup>192</sup> The latter term reflects the reality that while Gen Z has grown up with technology literally at its fingertips and is more adept at using it than prior generations (who might be called “digital immigrants”<sup>193</sup>), Gen Z students are also aware of the grip it has on their lives.<sup>194</sup> Gen Z members have described the “relentless nature” of social media and the “information overload” that is part and parcel of the technologically advanced world they have inherited.<sup>195</sup> Certainly, it seems that Gen Z students are not necessarily better learners because of the availability of technology at their fingertips; in fact, their constant reliance on their smartphones for almost every educational and social purpose is a serious barrier to their learning that legal educators must determine how to overcome.<sup>196</sup>

#### B. Gen Z Students Are Weaker Than Students of Prior Generations in Critical Reading, Thinking, and Writing

This observation likely comes as no surprise to most educators; for years, teachers have been bemoaning the fact that “today’s students” cannot write, cannot analyze information critically, and cannot problem-solve.<sup>197</sup> The moans seem to be growing louder in the halls of law schools, where professors observe a noticeable decline in students’ ability to engage in the critical thinking necessary to work through a particular legal problem to arrive at a reasonable solution.<sup>198</sup> It seems clear that

many of our matriculating students’ undergraduate experiences . . . have been woefully deficient in building more complex critical-thinking and

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192. Evans, *supra* note 147.

193. Dalton, *supra* note 148, at 409. Presumably many law professors are “digital immigrants” who, while not averse to learning about technological advances, are not as fluent in using it as their students.

194. Evans, *supra* note 147. Evans’s article describes the ambivalence that many Gen Z members feel about “a life that’s become increasingly digitalized” and notes that “the question of whether teens want to be on social media is one we haven’t yet explored.” *Id.*

195. *Id.*

196. For a discussion of strategies legal educators can use to address this problem, see *infra* Section V.C.

197. See generally Flanagan, *supra* note 52; Caroline L. Osborne, *The State of Legal Research Education: A Survey of First-Year Legal Programs, or “Why Johnny and Jane Cannot Research”*, 108 LAW LIBR. J. 403 (2016); Cathaleen A. Roach, *Is the Sky Falling? Ruminations on Incoming Law Student Preparedness (and Implications for the Profession) in the Wake of Recent National and Other Reports*, 11 LEGAL WRITING: J. LEGAL WRITING INST. 295 (2005); Susan Stuart & Ruth Vance, *Bringing a Knife to the Gunfight: The Academically Underprepared Law Student and Legal Education Reform*, 48 VAL. U. L. REV. 41 (2013).

198. See generally Flanagan, *supra* note 52; Ruth Vance & Susan Stuart, *Of Moby Dick and Tartar Sauce: The Academically Underprepared Law Student and the Curse of Overconfidence*, 53 DUQ. L. REV. 133 (2015).

problem-solving skills. As a result, there is inherent resistance—and increasingly so—to changing to a more difficult learning modality in law school that is alien to most and difficult for many. This dilemma is further exacerbated by the poor performers' overconfidence in their undergraduate skills and therefore their particular resistance to change.<sup>199</sup>

Complicating matters further, many Gen Z students are not skilled at self-assessment, which “is especially crucial in higher education and professional school settings, particularly as some schools move to a problem-based model of instruction”<sup>200</sup> emphasizing clinical and other experiential opportunities.

Unlike the Langdellian case method, which focuses on appellate cases and introduces students to clients' problems at the end—instead of the beginning—of the case, the problem-solving method starts at the beginning of a case—before a student knows all the facts, learns the client's goals, narrows the issues, clarifies the identity of the client, and considers the options. The case method only gives examples of how others, i.e., judges, resolved the client's problem; instead of focusing on judge-centered thinking, problem solving focuses on exposing students to lawyers' thinking processes and roles. A problem-solving approach also involves collaborative work and creative thinking.<sup>201</sup>

Gen Z students may come to law school with an overconfidence in their own critical thinking skills and a corresponding tendency to move too quickly through the problem-solving process. And this overconfidence may be accompanied by an inclination to resist feedback that would help them become agents of their own learning.<sup>202</sup>

Perhaps this begs the question: Are Gen Z students—including law students—really any different than their predecessor generations in this regard? Research suggests the answer to this question is *yes*. There are at least four aspects of Gen Z students' education and upbringing that set them apart from prior generations of students, the confluence of which makes for a perfect storm as they begin the difficult work required of law students.

First, Gen Z students are the first to emerge from the No Child Left Behind program,<sup>203</sup> where the emphasis on standardized testing led to a

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199. Vance & Stuart, *supra* note 198, at 152.

200. *Id.* at 148 (quoting David Dunning et al., *Flawed Self-Assessment: Implications for Health, Education, and the Workplace*, 5 PSYCHOL. SCI. PUB. INT. 69, 85 (2004)).

201. Kathleen Elliott Vinson, *What's Your Problem?*, 44 STETSON L. REV. 777, 779 (2015).

202. Vance & Stuart, *supra* note 198, at 152.

203. The No Child Left Behind Act of 2001 took effect in 2002 and was first implemented in the 2002–2003 school year. See 20 U.S.C. § 6301 (2012). In that school year, the oldest Gen Z students were about seven years old and thus were in the early years of elementary school. For a law student's view of how No Child Left Behind has impacted traditional and modern

devaluing of critical thinking and reasoning.<sup>204</sup> No Child Left Behind led many schools to emphasize reading proficiency, often at the expense of critical thinking and writing instruction.<sup>205</sup> Now, as these students move into undergraduate and graduate school, their professors' expectations "can present dissonance for students who have been rewarded throughout primary and secondary education for performing well on standardized tests and are now expected to think critically, contextualize learning, and clearly write about their learning . . . ."<sup>206</sup>

Second, Gen Z students went through elementary and secondary school at a time when the trend was toward more science, technology, engineering, and math (STEM) classes—a trend that was important then because workplace technology was on the rise.<sup>207</sup> But that trend, many educators say, created an imbalance; to make room for the STEM classes, many classes that focused on other essential skills, including critical thinking, writing, and problem-solving, were eliminated or de-emphasized.<sup>208</sup>

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legal instructional methods, see Christopher W. Holiman, Comment, *Leaving No Law Student Left Behind: Learning to Learn in the Age of No Child Left Behind*, 58 *How. L.J.* 195 (2014).

204. See generally Becker, *supra* note 38, at 18–22.

205. See Valerie Strauss, *The Real Reasons So Many Young People Can't Write Well Today—by an English Teacher*, WASH. POST (Nov. 8, 2017), [https://www.washingtonpost.com/news/answer-sheet/wp/2017/11/08/the-real-reasons-so-many-young-people-cant-write-well-today-by-an-english-teacher/?utm\\_term=.4f9ea101a0bb](https://www.washingtonpost.com/news/answer-sheet/wp/2017/11/08/the-real-reasons-so-many-young-people-cant-write-well-today-by-an-english-teacher/?utm_term=.4f9ea101a0bb). Strauss reposted a post by Justin Parmenter, a seventh-grade language arts teacher in Charlotte, North Carolina, who stated that "the level of fear that teachers experience around balancing curriculum escalated sharply with the boom in standardized testing brought about by NCLB. The resulting teach-to-the-test culture has led to a marked decline in the quality of our students' writing." *Id.*

206. Becker, *supra* note 38, at 20 (quoting Tenniel L. Trolian & Kristin S. Fouts, *No Child Left Behind: Implications for College Student Learning*, 16 *ABOUT CAMPUS* 2, 5 (2011)).

207. See generally Alexandra Ossola, *Is the U.S. Focusing Too Much on STEM?*, ATLANTIC (Dec. 3, 2014), <https://www.theatlantic.com/education/archive/2014/12/is-the-us-focusing-too-much-on-stem/383353/>.

208. See, e.g., Patricia Cohen, *A Rising Call to Promote STEM Education and Cut Liberal Arts Funding*, N.Y. TIMES (Feb. 21, 2016), <https://www.nytimes.com/2016/02/22/business/a-rising-call-to-promote-stem-education-and-cut-liberal-arts-funding.html>. It appears employers are beginning to recognize that the heavy emphasis on STEM skills has come at a cost. For example, a tax talent leader at Ernst & Young (EY) recently wrote,

[EY] believe[s] a wider, more diverse range of disciplines needs to be added to the original STEM equation, including economics, law, and liberal arts, among others . . . . [T]he trend toward STEM—important ten to twenty years ago as workplace technology was on the rise—now needs to be balanced with a greater focus on other essential skills, including: critical thinking; strategic planning; [and] problem-solving . . . .

Martin Fiore, *Reimagining the Future of Work: Talent-First Strategy Positions Your People for Unpredictable Journeys*, TAX EXECUTIVE (Sept. 21, 2017), <http://taxexecutive.org/reimagining-the-future-of-work/>. In fact, a new movement is afoot: the STEAM movement, which focuses on reintegrating the arts into the STEM curriculum. See, e.g., John Maeda,

Third, many Gen Z students are products of the “earlier is better, wire the brain, and baby genius” methodology of parenting that resulted in part from a misunderstanding of brain science about how learning could be accelerated.<sup>209</sup> They have been conditioned to be performance oriented,<sup>210</sup> and thus have “poor forms of adaptive coping when the presence of a challenge or the possibility of failure exists, a lack of intrinsic motivation, and an inability to abstractly process information.”<sup>211</sup> Gen Z’s lack of exposure to situations in which failure is a possibility is particularly problematic, according to some educational psychologists: “[T]he acquisition of problem-solving skills is the direct result of children’s immature, incomplete, and often incorrect attempts to engage with the world that trigger authentic feedback and consequences . . . . Indeed, ‘failure’ and overcoming failure are essential events that trigger the neurological development that underpins thinking ability.”<sup>212</sup>

And fourth, Gen Z students’ constant use of smartphones interferes with their critical thinking skills. Gen Zers have access to enormous, almost unlimited amounts of information, but they do not know how to effectively sift through it or critically evaluate it.<sup>213</sup> Says one Stanford professor, “The more we become used to just sound bites and tweets the less patient we will be with more complex, more meaningful information . . . . [W]e might lose the ability to analyze things with any depth and nuance.”<sup>214</sup>

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*STEM to STEAM: Art in K-12 Is Key to Building a Strong Economy*, EDUTOPIA (Oct. 2, 2012), <https://www.edutopia.org/blog/stem-to-steam-strengthens-economy-john-maeda>.

209. Stephen Camarata, *The Emerging Crisis in Critical Thinking*, PSYCHOL. TODAY (Mar. 21, 2017), <https://www.psychologytoday.com/us/blog/the-intuitive-parent/201703/the-emerging-crisis-in-critical-thinking>.

The mid- to late-1990s witnessed the rise of misguided attempts to artificially accelerate brain development in children. Parents began force-feeding infants and toddlers special “educational” DVDs and flash cards in the hopes of taking advantage of unique features of the developing brain to “hardwire genius” by the age of three—or even younger. Since then, it has become increasingly clear that the brain science of “critical periods” and “neural plasticity” has been grossly misunderstood and that efforts to artificially harness these important features of brain development by accelerating and distorting real-world learning beyond all reason are not producing the promised results. Recent years have seen only an acceleration of this trend, with parents and teachers adopting rote learning and “baby genius” style activities.

*Id.*

210. Becker, *supra* note 38, at 18.

211. *Id.* at 20–21.

212. Camarata, *supra* note 209.

213. Kurt Meyer, *Teaching Legal Research to Today’s Digital Natives*, 21 AALL SPECTRUM 12, 14 (2017).

214. *Generation Z and Learning*, *supra* note 152 (quoting Dr. Elias Aboujaoude, Director of Stanford University’s Impulse Control Disorders Clinic).

Statistics about the reading habits of Gen Z students are a sobering confirmation that critical reading is not a habit, much less a priority, for most of them.<sup>215</sup> A Common Sense Media study reported that American teenagers are less likely to read for fun the older they get.<sup>216</sup> It is not surprising, then, that by the time they get to college<sup>217</sup> (and law school), most Gen Z students are reading complex material only when they are required to, and they are probably not reading it as carefully or as thoughtfully as they should (think power-browsing and multi-tasking).<sup>218</sup> Again, this could be a byproduct of their smartphone “addiction”; as one writer put it, Gen Z students are accustomed to reading “scraps, excerpts, articles, messages, pieces of information from everywhere and from nowhere.”<sup>219</sup> And this reading deficit is particularly acute when they are required to read complex material that requires critical thought in hard copy; such a requirement “frustrates their smartphone sense of being everywhere at once. Suddenly, they are stuck on that page, anchored, moored, and many are glum about it. Being unconnected makes them anxious and even angry.”<sup>220</sup>

Statistics about Gen Z students’ writing experiences prior to college are even more alarming. A 2015 study of American middle schools by the Education Trust revealed that

less than 10% of assignments required writing longer than a single paragraph, and nearly 20% of assignments required no writing at all. In

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215. David Denby, *Do Teens Read Seriously Anymore?*, NEW YORKER (Feb. 23, 2016), <https://www.newyorker.com/culture/cultural-comment/books-smell-like-old-people-the-decline-of-teen-reading> (“Reading has lost its privileged status; few kids are ashamed that they’re not doing it much.”). And we cannot fault teens too much, because to a lesser degree, this is true for adults too. See Jordan Weissman, *The Decline of the American Book Lover*, ATLANTIC (Jan. 21, 2014), <https://www.theatlantic.com/business/archive/2014/01/the-decline-of-the-american-book-lover/283222/> (citing a 2013 Pew Research Center study in which nearly a quarter of American adults reported that they had not read a single book in the last year). Twenge notes that although the advent of the e-book reader did result in an uptick in book reading among both adults and children in the late 2000s, it declined again in the 2010s, after the smartphone came onto the scene. TWENGE, *supra* note 51, at 60.

216. Denby, *supra* note 215; see also Dalton, *supra* note 148, at 426, 430 (noting that Millennials, including Net Gen, “spend less than 5,000 hours reading before college” and that “literary reading has declined by 28% in 18 to 34 year olds since 1982”).

217. TWENGE, *supra* note 51, at 61 (citing the annual HERI American Freshman Survey); see also Shalina Chatlani, *Are Modern Standards Breeding a Decline in Cultural Literacy?*, EDUC. DIVE (June 30, 2016), <https://www.educationdive.com/news/are-modern-standards-breeding-a-decline-in-cultural-literacy/421401/> (citing a 2016 report by Renaissance Learning that only 9% of high school students read texts above a middle school complexity level of 8, “leaving students ill-prepared for college level reading at about 13”).

218. For a discussion of power-browsing and multi-tasking among Gen Z students, see *supra* notes 153–155 and accompanying text.

219. Denby, *supra* note 215.

220. *Id.*

fact, only 1% of assignments required students to think for extended periods of time—the kind of thinking required to plan, draft, revise and publish meaningful writing.<sup>221</sup>

This deficit is poignantly confirmed in a 2013 Pew Research Center survey of 2,462 Advanced Placement (AP) and National Writing Project (NWP) teachers.<sup>222</sup> Of the 2,462 AP and NWP teachers surveyed, the majority rated their students' writing skills as "good" or "fair" (as opposed to "excellent" or "very good") in many specific areas; these included reading and digesting long or complicated texts; synthesizing content or information from multiple sources into a cohesive piece of work; constructing a string argument; effectively organizing and structuring writing assignments; using a tone and style appropriate for their intended audience; and appropriately citing and/or referencing content.<sup>223</sup> This was true even though "the population of middle and high schoolers they work with skew[ed] heavily toward the highest achievers."<sup>224</sup>

These teachers reported that in light of the great extent to which students today engage in what many see as "informal" writing (texting, for example), formal writing is more important than ever.<sup>225</sup> One teacher said,

There is great purpose and value in teaching students to write long and formal texts. Again, there are a whole lot of ideas that cannot be reduced simply without serious distortion or reduction. Consequently, developing complex ideas and thinking often requires longer texts. Writing is a demonstration of thinking, after all. So the deeper and more complex the thinking, the more that is reflected in the writing. As for formal texts, academia certainly requires a greater level of formality but so does a lot of work in the political, legal, and commercial world. Formal writing is almost always a factor that can be used for exclusion. Inability to write formal texts potentially robs students of voice and power. Arguably more important is the ability to recognize and adjust to the context that is

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221. Strauss, *supra* note 205 (citing SONJA BROOKINS SANTELISES & JOAN DABROWSKI, EDUC. TRUST, CHECKING IN: DO CLASSROOM ASSIGNMENTS REFLECT TODAY'S HIGHER STANDARDS? (2015), [https://edtrust.org/wp-content/uploads/2014/09/CheckingIn\\_TheEducationTrust\\_Sept20152.pdf](https://edtrust.org/wp-content/uploads/2014/09/CheckingIn_TheEducationTrust_Sept20152.pdf)).

222. KRISTEN PURCELL ET AL., PEW RES. CTR., THE IMPACT OF DIGITAL TOOLS ON STUDENT WRITING AND HOW WRITING IS TAUGHT IN SCHOOLS 1 (2013), <http://pewinternet.org/Reports/2013/Teachers-technology-and-writing> (follow "Complete Report PDF" hyperlink). Almost all of the teachers surveyed (95%) taught in public schools, and the participants comprised a wide range of subject areas, experience levels, geographic regions, school type, socioeconomic level, and community type. *Id.* at 8–9. Again, the students in these teachers' classes who were high schoolers in 2013 would be among the oldest members of Gen Z, and some of them would be arriving in law school right now.

223. *Id.* at 4.

224. *Id.* at 8.

225. *Id.* at 21.

appropriate for a given purpose. So knowing when and how to write with greater formality is an essential skill.<sup>226</sup>

When asked, “What is the biggest challenge today in teaching your students to write well?” these teachers responded as many current law professors might. One teacher said, “The biggest challenge is to get students to slow down, think carefully, and revise their writing.”<sup>227</sup> Another said, “Encouraging students to take their time planning what they want to write. Students are always in a hurry to just write what they know and then show you. I want my students to show relationships in the content of what they write. Don’t just throw an answer out there.”<sup>228</sup> Said another,

Getting them to really read and analyze what they are supposed to be writing about. They want the quick answer. They don’t want to have to search for it. They don’t want to have to analyze it. They want to go to Google, type a term in and find the info. They are not interested in really understanding that info.<sup>229</sup>

Interestingly, despite the importance these teachers placed on formal writing, the Pew survey revealed that the writing tasks they most commonly assigned were short essays and journaling, both relatively informal genres,<sup>230</sup> a finding that is consistent with those of the Education Trust study mentioned above.<sup>231</sup> Research papers were assigned by seventy-seven percent of the teachers, but generally only once in the relevant academic year, 2011–2012.<sup>232</sup> Of course, as some teachers rightly noted, length is not always synonymous with complexity of thought;<sup>233</sup> but it is hard to imagine how students could improve significantly in critically reading and analyzing complex material, synthesizing ideas, and planning, drafting, and revising their writing without getting regular practice in tackling longer, more formal assignments.

Statistics about Gen Z students’ writing experiences in college are harder to come by, but we can infer from the comments of college writing professors that they see the same deficits in Gen Z students’ writing that their high school

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226. *Id.* at 22.

227. PURCELL ET AL., *supra* note 222, at 62.

228. *Id.*

229. *Id.*

230. *Id.* at 14.

231. *See generally* SANTELISES & DABROWSKI, *supra* note 221.

232. PURCELL ET AL., *supra* note 222, at 14.

233. *Id.* at 23. Some teachers in the study debated the value of longer textual expression today, not just for students but for society as a whole. *Id.* As many digital tools encourage shorter, more concise expression, these teachers questioned whether mastering more traditional writing styles will be critical for their students moving forward. *Id.* Said one teacher, “While these skills may be valued in standardized testing and in the college and university settings, there was some debate about how useful these skills are beyond those two arenas.” *Id.*

teachers described. John C. Maguire, a veteran writing professor who maintains a blog called [readablewriting.com](http://readablewriting.com),<sup>234</sup> says that “[m]illions of young men and women sit in freshman composition classrooms each fall semester, but . . . nearly half will write just as badly in their junior years as when they started college.”<sup>235</sup> John Warner, a first-year college writing instructor, put it this way:

Many students arrive in the college classroom with writing processes stunted by a near-exclusive diet writing in the context of standardized assessment. They are armed with the five-paragraph essay and an ability to parrot existing information. The shift to writing analysis and argument is very, very difficult, and a semester (or even a year) is not enough time for this to happen.<sup>236</sup>

In law school, Gen Z students’ lack of critical reading, thinking, and writing skills might manifest itself in a number of ways. In the legal research context, these students may be able to find a great deal of information quickly and easily; their access to Google from a very young age has made them excellent “finders.”<sup>237</sup> However, they will likely struggle more than their predecessors to make sense of what they are finding. At a basic level, they may have trouble distinguishing legitimate sources (primary authority or law review articles from prominent legal scholars, for example) from non-legitimate sources (blog posts written by law students or articles in Wikipedia, for example).<sup>238</sup> On a deeper level, they may have difficulty placing the information they are finding into a larger conceptual framework—a problem that legal research professors say is exacerbated by the prevalence of computer-assisted legal research.<sup>239</sup> As one professor has explained it,

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234. READABLE WRITING, <http://readablewriting.com> (last visited Dec. 19, 2018).

235. Valerie Strauss, *Why So Many College Students Are Lousy at Writing—and How Mr. Miyagi Can Help*, WASH. POST (Apr. 27, 2017) (reposting a blog post by Professor Maguire), [https://www.washingtonpost.com/news/answer-sheet/wp/2017/04/27/why-so-many-college-students-are-lousy-at-writing-and-how-mr-miyagi-can-help/?utm\\_term=.43486405f9c9](https://www.washingtonpost.com/news/answer-sheet/wp/2017/04/27/why-so-many-college-students-are-lousy-at-writing-and-how-mr-miyagi-can-help/?utm_term=.43486405f9c9).

236. John Warner, *A First-Year Writing Instructor Can Only Do So Much*, SLATE (Dec. 18, 2015, 7:32 AM), [http://www.slate.com/articles/life/inside\\_higher\\_ed/2015/12/college\\_writing\\_requires\\_skills\\_that\\_cannot\\_be\\_taught\\_in\\_one\\_semester.html](http://www.slate.com/articles/life/inside_higher_ed/2015/12/college_writing_requires_skills_that_cannot_be_taught_in_one_semester.html).

237. See, e.g., Toree Randall, *Meet Me in the Cloud: A Legal Research Strategy That Transcends Media*, 19 LEGAL WRITING: J. LEGAL WRITING INST. 127, 133 (2014) (“[M]ost students come to law school overconfident in their research skills because they are fairly adept at the simple task of gathering information.”).

238. See, e.g., Meyer, *supra* note 213, at 14 (“[Gen Z] students will be adept multitaskers but may have problems prioritizing what to focus on . . . . Students, now more than ever, need to be reminded of the importance of preliminary analysis and accumulating background knowledge with reliable secondary sources before trying to find answers. They also need to be consistently coached on how to evaluate legal research resources.”).

239. See, e.g., Yasmin Sokkar Harker, *“Information Is Cheap, But Meaning Is Expensive”*: *Building Analytical Skill into Legal Research Instruction*, 105 LAW LIBR. J. 79, 83 (2013).

In print-based research, there are formatting and organizational cues that indicate the structure of the content. For example, a treatise section is located within the organizational structure set forth by the treatise table of contents. Just by flipping through the pages to find the section, the researcher receives information about where that topic fits in a conceptual hierarchy. In online research, especially when using keyword searching, those cues are removed, leaving the researcher to sort out the structure by herself.<sup>240</sup>

In the classroom, Gen Z students may be more uncomfortable with the Socratic method than prior students; they may intuitively suspect that their reading and understanding of the cases is deficient, and they may experience an almost visceral fear of being called on.<sup>241</sup>

They may also struggle to take notes effectively; even if they are able to remain attentive to the lecture or discussion, they may not have the critical thinking skills required to identify what is important enough to write down and what can be omitted.<sup>242</sup> For confirmation of this particular struggle, we have only to look at our students' increasing use of their smartphones to take pictures of "the whiteboard, blackboard, PowerPoint slides, handouts, samples, and just about anything and everything else."<sup>243</sup> Professor Dyane O'Leary posits that "it is foolish to outright reject the smartphone as an educational device for today's students."<sup>244</sup> But she questions the effectiveness of picture note taking as an effective learning tool for two main reasons. First, "[j]ust as hundreds of PowerPoint slides could be overwhelming as a review tool for even a top law student, so too would hundreds of individual picture images—textbooks, pages, flowcharts, whiteboard notes, professor handwritten comments—especially when revisited days or weeks or months later."<sup>245</sup> Second,

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240. *Id.* (citing *Remarks of the Honorable John G. Roberts, Jr., Chief Justice, Supreme Court of the United States*, 57 *DRAKE L. REV.* 1, 9 (2008)).

241. Jacobson, *supra* note 100, at 458–59 (arguing that some students become so stressed in the Socratic setting that "they absorb nothing except the sound of their internal voice chanting, 'please don't call on me, please don't call on me'").

242. One sign of this difficulty is students' clamor for their professors to post their PowerPoint slides. See, e.g., Maryellen Weimer, *Does PowerPoint Help or Hinder Learning?*, *FAC. FOCUS* (Aug. 1, 2012), <https://www.facultyfocus.com/articles/teaching-professor-blog/does-powerpoint-help-or-hinder-learning/> (reporting that eighty-two percent of students she surveyed said they "always," "almost always," or "usually" copy the information on their professors' PowerPoint slides, and pointing out that for many students, this habit of copying PowerPoint slides has supplanted traditional notetaking).

243. Dyane O'Leary, *Picture This: Tackling the Latest Trend in Digital Note Taking*, 24 *LAW TCHR.* 2 (2017).

244. *Id.* at 3.

245. *Id.*

snapping a picture of something does not give the brain an opportunity to process the information and engage in the level of mental mapping necessary to store it for later recall. In essence, students could end up using their smartphones as a sort of “external” memory device, outsourcing the very type of mental gymnastics necessary to achieve the “think like a lawyer” goal.<sup>246</sup>

In the legal writing context, Gen Z law students may be unprepared in a number of ways. They may lack an understanding of the steps in the legal writing process generally;<sup>247</sup> they may be unable to critically read and analyze the authorities relevant to the assignment;<sup>248</sup> they may struggle with working methodically and carefully through the analysis of the legal issues (and perhaps even with identifying the issues);<sup>249</sup> and they may find it challenging to put forth the sustained effort that is required to draft, revise, edit, and polish legal documents, especially lengthy ones.<sup>250</sup>

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246. *Id.* at 3–4.

247. See Miriam E. Felsenburg & Laura P. Graham, *A Better Beginning: Why and How to Help Novice Legal Writers Build a Solid Foundation by Shifting Their Focus from Product to Process*, 24 REGENT U. L. REV. 83, 99–100 (2011) (noting that novice law students are unlikely to recognize the importance of pre-writing steps to their analytical process and to the validity of their analysis before they begin drafting).

248. Jane Bloom Grise, *Critical Reading Instruction: The Road to Successful Legal Writing Skills*, 18 W. MICH. U. COOLEY J. PRAC. & CLINICAL L. 259, 261 (2017) (“[M]any students have not been exposed to the critical reading skills that are necessary for law school success. Furthermore, the first-year curriculum often does not provide sufficient instruction in critical reading.”); Montana, *supra* note 133, at 448 (“Law professors build their instruction on a false belief that new law students have the foundation in critical reading and stamina to get through complex and lengthy reading assignments. Accordingly, law school instruction does not line up with students’ true abilities.”).

249. The IRAC paradigm that is so familiar to law professors as the vehicle for conducting and communicating legal analysis is often confusing to novice law students. See Laura P. Graham, *Why-RAC? Revisiting the Traditional Paradigm for Writing About Legal Analysis*, 63 KAN. L. REV. 681, 695–96 (2015) (arguing that IRAC is “problematic for 1Ls because using IRAC effectively requires new law students to tap into a set of subsidiary skills that, for many, may still be poorly developed”).

250. See, e.g., Terri L. Enns & Monte Smith, *Take a (Cognitive) Load Off: Creating Space to Allow First-Year Legal Writing Students to Focus on Analytical and Writing Processes*, 20 LEGAL WRITING: J. LEGAL WRITING INST. 109, 109–10 (noting that the fact that a legal writing instructor is focused on teaching *processes* “does not automatically mean that the student is learning them” and exploring how “cognitive load impedes first-year law students’ ability to learn analytical and writing processes at the same time that students are producing written analysis for a grade”).

### C. Generation Z Students Say They Prefer Face-to-Face Communication, but They Also Say They Prefer to Work Alone Rather Than in Groups

In terms of how Gen Z students best communicate with their teachers and their classmates, they present something of a contradiction. On one hand, a majority of Gen Z members profess to prefer in-person communication over technology-based communication.<sup>251</sup> If this were true, it would go a long way in helping educators offer quality instruction to each individual student in their classes. Our brains are designed for social interaction rather than virtual interaction,<sup>252</sup> and face-to-face communication provides the “immediacy” of verbal and non-verbal behaviors that allows us to connect with each other most effectively.<sup>253</sup> Thus, Gen Z’s expressed preference for in-person communication suggests that it should be easy for educators—including law professors—to build the kind of close working relationships with our students that will allow us to have a great impact on their intellectual and professional development.

However, even if Gen Z members do prefer in-person communication (a point that is not universally conceded),<sup>254</sup> the fact is that they are neither as comfortable with it nor as skilled at it as their predecessor generations.<sup>255</sup> A

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251. See Deep Patel, *8 Ways Generation Z Will Differ from Millennials in the Workplace*, FORBES (Sept. 21, 2017, 11:52 AM), <https://www.forbes.com/sites/deepatel/2017/09/21/8-ways-generation-z-will-differ-from-millennials-in-the-workplace/#30f3bbf576e5> (stating that fifty-three percent of Gen Zers say they prefer in-person discussion over instant messaging or email); Dan Schawbel, *Gen Y and Gen Z Global Workplace Expectations Study*, MILLENNIAL BRANDING (Sept. 2, 2014), <http://millennialbranding.com/2014/geny-genz-global-workplace-expectations-study/>; see also Ken Tysiac, *What You Need to Know as Gen Z Enters the Workforce*, J. ACCOUNTANCY (May 22, 2017), <https://www.journalofaccountancy.com/news/2017/may/generation-z-enters-workforce-201716711.html> (putting the figure much higher, at eighty-four percent).

252. Levy, *supra* note 158, at 273.

253. Merritt, *supra* note 165, at 48.

254. Seemiller and Grace note that while Gen Z students may crave face-to-face communication, the fact remains that most of their communication is done through technology. SEEMILLER & GRACE, *supra* note 1, at 60–61. The Gen Z members who have recently entered the workforce appear to validate this fact. See, e.g., Mark Kaelin, *Microsoft Survey: Gen Z Prefers to Communicate Via Chat, but Gets Stressed About New Tools*, TECHREPUBLIC (May 1, 2018, 9:45 AM), <https://www.techrepublic.com/article/microsoft-survey-gen-z-prefers-to-communicate-via-chat-gets-stressed-about-new-tools/> (“[T]he youngest members of the enterprise workforce, Gen Z, prefer to collaborate using text and chatting applications[,] [s]ubstantially more than any of the other age groups.”).

255. See SEEMILLER & GRACE, *supra* note 1, at 61 (Gen Z’s constant use of technology “does not give them as much opportunity to hone their skill sets to communicate effectively in person; the result is that they lack strong interpersonal skills”); TULGAN & RAINMAKER THINKING, INC., *supra* note 85, at 8 (advising employers of Gen Zers to “make a heavy investment” in teaching interpersonal communication skills that are “way too often missing in the young workforce”); Lisa Rabasca Roepe, *5 Ways Gen Z Can Ask Their Manager for Help with Communication Skills*, FORBES (Mar. 28, 2017, 10:39 AM),

recent article in the *Journal of Accountancy* reported that eighty-four percent of Gen Z members surveyed said they preferred communicating face-to-face with a boss, but they also said that they preferred those in-person meetings to last five minutes or less.<sup>256</sup> The same is true for phone conversations; sixty-five percent of Seemiller and Grace's study subjects said they dislike or only somewhat like making voice phone calls.<sup>257</sup> Even email, the preferred method of communication for Millennials, is a form of communication Gen Z is not very familiar with or very adept at.<sup>258</sup>

Rather, most Gen Z students rely heavily on texting to communicate with parents and peers,<sup>259</sup> and many have already cycled through one short text messaging technology to another.<sup>260</sup> In fact, as Seemiller and Grace note, Gen Z members can carry on an entire conversation using only emojis.<sup>261</sup> This reliance on texting has already led some employers to express doubts about whether Gen Z members will be able to communicate effectively in the workplace.<sup>262</sup>

Generation Z therefore presents educators with a challenge when it comes to choosing the best method for communicating with its members. If we accept that Gen Z students prefer in-person communication, then what? Should we cut back on our use of email for out-of-class communications? If we do use email to communicate with our students, are we relying on a communication method that is uncomfortable for them? And what about texting? While some texting platforms for educators do exist,<sup>263</sup> texting as a regular method of communication has not yet been widely accepted among legal educators as a preferred method. Perhaps this is because texting is

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<https://www.forbes.com/sites/lisaroepe/2017/03/28/5-ways-gen-z-can-ask-their-manager-for-help-with-communication-skills/#8bca83c7bb2d> (citing a recent survey from generational consulting firm BridgeWorks reporting that "74 percent of Gen Z admit that communicating in person or by phone doesn't come naturally to them").

256. Tysiac, *supra* note 251 (stating that Gen Z members "want their communication in sound bites and quick").

257. SEEMILLER & GRACE, *supra* note 1, at 59.

258. See Meyer, *supra* note 213, at 14 (noting that although email has been a standard form of communication for business use for a long time, "familiarity with email can no longer be assumed"). For example, Meyer noted his "students' increasing propensity for simply responding to previous emails with short replies whenever someone initiated a conversation about a new topic, as if we were texting." *Id.*; see also SEEMILLER & GRACE, *supra* note 1, at 60 ("[Gen Z students] view email . . . as a communication method that takes too much time between responses and is more formal.").

259. SEEMILLER & GRACE, *supra* note 1, at 58 (finding that one in three Gen Z students reports sending more than 3,000 texts per month, roughly 100 a day).

260. Meyer, *supra* note 213, at 14.

261. SEEMILLER & GRACE, *supra* note 1, at 59 (observing "[h]ow oddly full circle human communication has come in looking back to the days of symbols drawn on cave walls").

262. See, e.g., Cameron & Pagnattaro, *supra* note 93, at 324; Roepe, *supra* note 255.

263. One such platform, Remind.com, claims that over 2.5 million teachers use its app. REMIND, <https://www.remind.com/> (last visited Nov. 11, 2018).

perceived as less professional than speaking in person or sending an email. Perhaps it is because texting is not well-suited for communicating the kind of complex, detailed information that law professors often need to share with their students. Perhaps it is because texting implies a level of familiarity with the recipients that makes most law professors uncomfortable.<sup>264</sup>

Gen Z students also present challenges in terms of how they communicate with their peers in the classroom setting. Many educators have only recently become comfortable with the teaching methods that seemed to work well for Millennials, but all indications are that many of those methods will not work well for Gen Z. A prime example is the use of group work. Millennials thrive on group work, and those who teach and work with them have labored to create more collaborative classrooms and work environments.<sup>265</sup> But now, as the Millennials give way to Gen Z, that may have to change yet again; Gen Z students, it seems, prefer to work alone.<sup>266</sup> As Seemiller and Grace discovered, Gen Z students want “learning that’s practical, facilitated learning, independent work, solo work that leads to group work, setting their own pace, self-reflection.”<sup>267</sup> This is somewhat ironic: “They form huge communities and a constant communication loop with people they have never met, and never will meet, on the net; paradoxically this generation are collaborative, chatty and social on the net, yet in the ‘real world’ they tend to be less well able to develop personal relationships.”<sup>268</sup> In sum, “they want to be around others but not work with them.”<sup>269</sup>

To understand this trait, it might be helpful to visualize two students sitting side by side, each with their earbuds in and each working on their own laptop. To many Gen Z students, this is collaboration. They are each working independently on the same project; later, when they both feel satisfied with

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264. See generally Karen Costa, *The Desire Path of Texting*, INSIDE HIGHER ED (Sept. 18, 2015), <https://www.insidehighered.com/views/2015/09/18/essay-why-faculty-members-should-text-their-students> (describing professors who are “texting holdouts” as either “genuinely—and legitimately—concerned about giving up a part of their minds and selves to texting technology” or concerned that texting “will send a (negative) message of informality to their students”).

265. See generally Sophie M. Sparrow & Margaret Sova McCabe, *Team-Based Learning in Law*, 18 LEGAL WRITING: J. LEGAL WRITING INST. 153 (2012); Janet Weinstein et al., *Teaching Teamwork to Law Students*, 63 J. LEGAL EDUC. 36 (2013); Melissa H. Weresh, *Uncommon Results: The Power of Team-Based Learning in the Legal Writing Classroom*, 19 LEGAL WRITING: J. LEGAL WRITING INST. 49 (2014).

266. See SEEMILLER & GRACE, *supra* note 1, at 178–79; Hope, *supra* note 56, at 7; Meyer, *supra* note 213, at 15.

267. Hope, *supra* note 56, at 7 (citing remarks of Seemiller and Grace at the 2016 annual meeting of the Association of American Colleges and Universities). Gen Z students do not prefer “an information dump, group work only, creative or imaginative processes . . . They want to be around others but not work with them.” *Id.*

268. *Generation Z and Learning*, *supra* note 152.

269. Hope, *supra* note 56, at 7.

their independent work, they will compare notes and complete the project. If this paradigm is true, what does that mean for us as legal educators? A chorus of voices over the past decade or more has sung the praises of collaboration as a tool for law students' learning;<sup>270</sup> does that song no longer resonate in light of the stated preferences of this new generation of law students?

Some commentators see Gen Z's complex communication preferences as but one aspect of a broader need to be catered to. Many Gen Z students have become accustomed to instant gratification,<sup>271</sup> and these students "fully expect their families and schools will respect and cater to their desires and choices."<sup>272</sup> Many Gen Z students view education as a commodity; this is partly due to the influence of their parents, who "argued over their children's grades, chose their classes, and blamed the teacher for their child's poor performance."<sup>273</sup> It is also partly due to a "hyper-custom" mentality nourished by personalized marketing that has given them opportunities for customized experiences as consumers.<sup>274</sup> In fact, many Gen Z students have come through college in programs that allowed them to create their own majors.<sup>275</sup>

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270. See, e.g., A. Rachel Camp, *Creating Space for Silence in Law School Collaborations*, 65 J. LEGAL EDUC. 897, 902–07 (2016) (chronicling the rise of collaborative learning in legal education); Roberta K. Thyfault & Kathryn Fehrman, *Interactive Group Learning in the Legal Writing Classroom: An International Primer on Student Collaboration and Cooperation in Large Classrooms*, 3 J. MARSHALL L.J. 135, 146 (2009) (noting that the 2007 Stuckey Report on "Best Practices" in legal education recommended that professors encourage collaboration among students).

271. See, e.g., *Generation Z and Learning*, *supra* note 152; Modo Labs Team, *supra* note 143 ("[Gen Z members] have come to expect an experience, whether with technology, social media or education, that is uniquely their own.").

272. David F. Lancy, *The Emergence of the iGen: The Fearful Progeny of the Neontocracy*, PSYCHOL. TODAY (Dec. 24, 2017), <https://www.psychologytoday.com/us/blog/benign-neglect/201712/the-emergence-the-igen>.

273. Becker, *supra* note 38, at 32.

274. Tysiac, *supra* note 251; see also Fiore, *supra* note 208 (noting that new ways of working—"virtual and contingent employees and contractors such as gig and crowdsourced workforces"—are a "great fit" with Gen Z employees' "preferences for more flexibility in their work lives"). Perhaps this is one reason that more than half of Gen Zers say they want to write their own job descriptions, and sixty-two percent want to customize their own career paths. Tysiac, *supra* note 251.

275. *Id.*; see Sue Shellenbarger, *Can't Pick a College Major? Create One*, WALL STREET J. (Nov. 17, 2010, 12:01 AM), <https://www.wsj.com/articles/SB10001424052748703628204575618622095004264> (citing data from the College Board that "more than 900 four-year colleges and universities allow students to develop their own programs of study with an adviser's help, up 5.1% from five years ago"). Several websites provide prospective college students with lists of colleges and universities that allow students to create their own majors. See, e.g., *Twenty Best Undergrad Programs That Allow You to Design Your Own Major*, C. CHOICE, <https://www.collegechoice.net/best-bachelors-programs-design-your-own-major/> (last visited Nov. 7, 2018); Sarah Wright, *Universities That Let Students Create Their Own Major*, STUDY, [https://study.com/articles/Universities\\_That\\_Let\\_Students\\_Create\\_Their\\_Own\\_Major.html](https://study.com/articles/Universities_That_Let_Students_Create_Their_Own_Major.html) (last visited Nov. 7, 2018).

In law school, this desire to be catered to might manifest itself in a resistance to the rigor and the perceived rigidity of instruction. For example, some Gen Z students may balk at a legal writing or other assignment that requires them to invest large chunks of time over a prolonged period, claiming that they “don’t work well that way.”<sup>276</sup> Some Gen Z students may resist their professors’ efforts to provide constructive feedback (sixty-two percent of Gen Z members say that the “ideal length of a feedback session is five minutes or less”),<sup>277</sup> and when we do deliver criticism, many Gen Z students will likely disengage, because their “genuine yet flawed perception of [their] own abilities” makes it difficult for them to accept our honest assessment of their skills (or lack of skills) in completing knowledge-based tasks.<sup>278</sup> In short, Gen Z students are accustomed to having control over their learning environment and receiving encouragement and positive feedback—two things that are sometimes hard to come by in the law school setting, especially in the early going.

The picture painted here of Generation Z as learners may seem daunting to legal educators, perhaps prompting the question of where to begin when they walk through the doors of our law schools. But we must avoid the temptation to treat “today’s law students” as somehow “less than” their predecessors. Instead, we must identify methods of teaching and reaching them that allow us to capitalize on the strengths of their peer personality and shore up the weaknesses, all while staying true to the fundamental purposes and proven pedagogies of legal education.

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276. This may be partly due to a deficit in time management skills; there is strong anecdotal evidence that today’s law students need help in this area. One can find a plethora of articles, websites, books, and other resources devoted to helping law students develop effective time management skills. See, e.g., Eddie Bermudez, *Five Time Management Tips for Law Students*, NAT’L L. REV. (May 2, 2017), <https://www.natlawreview.com/article/five-time-management-tips-law-school-students>; Amanda Germentz Hanson, *Time Management Tips for Law Students*, LAW SCH. TOOLBOX (Oct. 12, 2016), <https://lawschooltoolbox.com/time-management-tips-law-students/>; Susan Landrum, *Time Management and Law School Success*, LAW SCH. ACAD. SUCCESS (Aug. 17, 2014, 8:35 AM), <https://lawschoolacademicsuccess.com/2014/08/17/time-management-and-law-school-success/>. But Gen Z students’ pushback against complex assignments that require deep concentration over prolonged periods may also reflect the blurring of the lines between work and play that technological advances have created. See, e.g., Tysiac, *supra* note 251. Tysiac notes that in the workplace, a manager “may receive pushback if demanding [Gen Z employees’] full attention from 9 to 5.” *Id.* Tysiac quotes David Stillman, a generational expert, who said in a May 2017 speech to the governing council of the American Institute of Certified Public Accountants: They’re going to say, ‘Well, then why is it OK for you to email me at 8 o’clock at night and expect an answer?’ . . . . They don’t believe in work-life balance. They look at work-life blend, where I get to do my work and my life at all times. *Id.*

277. *Id.*

278. Vance & Stuart, *supra* note 198, at 146.

## V. REACHING AND TEACHING GENERATION Z LAW STUDENTS

The arrival of Generation Z in law schools is not a reason for panic. Rather, it calls for a comprehensive yet measured evaluation of whether, and to what extent, legal educators need to adjust established methods of educating previous generations of law students to fit the peer personality and learning characteristics of Gen Z. This part of the article suggests five areas in which such adjustments are warranted—emphasizing critical reading, encouraging writing across the curriculum, using technology thoughtfully in the classroom, assigning collaborative work carefully, and promoting student wellness more intentionally—and collects some of the current wisdom regarding what such adjustments might entail.

### A. Incorporate Critical Reading Instruction in Every Law School Course

Perhaps the most transformative effort we can make to help Gen Z students succeed in law school is to teach them to be expert legal readers.<sup>279</sup> Law school teachers know that close, active reading is the foundation to building competency in understanding legal rules, explaining legal principles, identifying issues, solving problems, and advocating persuasively.<sup>280</sup> But, as noted in Part IV of this article, Gen Z students come to law school classrooms with two particular barriers to their reading success: (1) lack of practice in reading complex or lengthy pieces of writing and (2) over-reliance on technology.<sup>281</sup> Studies show that many novice law students have “deep insecurity and anxiety” about reading.<sup>282</sup>

Yet many law professors overestimate students’ reading ability; “they assume that students’ post-college literacy skills include the ability to read and comprehend complex legal opinions” and “view their roles as refining—rather than introducing—these skills.”<sup>283</sup> To meet the educational needs of

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279. Montana, *supra* note 133, at 434.

280. *Id.*; see also MIRIAM E. FELSENBERG & LAURA P. GRAHAM, THE PRE-WRITING HANDBOOK FOR LAW STUDENTS: A STEP-BY-STEP GUIDE 47–51 (2013).

281. Montana, *supra* note 133, at 434. Montana suggests that grade inflation at the undergraduate level has “reinforce[d] their misconception that they are exceptional at critical thinking, reading, and writing. Thus, when they are pushed to revisit these skills as part of their basic legal training, they either resist or collapse under the pressure.” *Id.* at 439; see also Grise, *supra* note 248, at 261 (citing one beginning law student as saying that “reading cases during the first semester was analogous to looking for a purple dinosaur without knowing what a dinosaur was or what the color purple looked like”).

282. Grise, *supra* note 248, at 270 (noting that these students “often blame themselves for their reading comprehension challenges rather than attributing their difficulties to the complexity of the texts”).

283. Montana, *supra* note 133, at 447–48 (quoting Courtney G. Lee, *Changing Gears to Meet the “New Normal” in Legal Education*, 53 DUQ. L. REV. 39, 42 (2015)); see also Grise, *supra* note 248, at 269–70.

Gen Z, law professors must abandon this assumption, and, in the same way that educators have focused on writing across the curriculum to address deficiencies in students' writing skills, they must incorporate reading across the curriculum to address deficiencies in students' reading skills.

Experts in legal reading have suggested many concrete strategies for building critical reading skills in new law students; here I list some of the most common strategies.

First, law professors should scaffold reading assignments so that students can adapt gradually to the rigor of close, active reading.<sup>284</sup> Just as a novice runner is unprepared for a marathon, many novice Gen Z law students are unprepared for lengthy reading assignments at the beginning of their courses. By starting them out with short reading assignments, and then gradually increasing the amount of reading, professors increase the likelihood that students will develop the habit of reading slowly and deeply, rather than reading quickly or skimming (or "power-browsing").

Second, professors should be explicit about the relevance of the text to the subject being taught and its relationship with past and future readings.<sup>285</sup> Law professors cannot rely solely on information in their syllabi or textual cues in their casebooks to do this "connecting"; students likely attend more closely to professors' oral instruction than they do to information presented passively in a syllabus or a table of contents in a casebook. And it takes only a moment at the end of class for professors to tell students why they are assigning a certain portion of text and where that text fits into the bigger picture.

Third, professors should demonstrate how students should approach assigned material. Especially at the beginning of the semester, professors should share with their students how they recommend that students should approach reading and dissecting cases and statutes. Professors can walk through cases with students, showing them the strategies that they use, as expert legal readers, to maximize both reading efficiency and reading comprehension.<sup>286</sup> Such modeling could take many forms: professors might distribute a case with sample annotations (or a case brief) and discuss how they went about making notes on the case; they might guide students through the process of creating a visual such as a case chart, showing them along the way how to distill and record critical information from the cases; professors might even simply read through a case out loud, helping students see how each paragraph connects to the legal issue treated in the case.<sup>287</sup> A Gen Z

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284. Montana, *supra* note 133, at 451.

285. *Id.* at 448–49.

286. *Id.*; see also Jennifer M. Cooper, *Smarter Law Learning: Using Cognitive Science to Maximize Law Learning*, 44 CAP. U. L. REV. 551, 583–85 (2016).

287. See FELSENBURG & GRAHAM, *supra* note 247, at 89–100 (providing beginning law students with an in-depth explanation of why creating helpful visuals to record their

student who sees critical reading modeled by each of her professors will recognize that expert legal readers do not approach reading assignments without a method, and she will see that the method may vary from one subject to another and from one kind of authority to another.

Fourth, professors should give students opportunities to practice reading both in print and online. Professors should teach students to be active readers, interacting with the text whether it is in print or online. In general, it is easier for students to learn to read interactively when they are reading in print, where they can highlight,<sup>288</sup> make annotations, and mark up the text in ways that suit their learning preferences. Professors should consider providing hard copies of any materials they assign that are not in their students' textbooks, at least in the early going, so that they can practice interacting with the text in these ways.<sup>289</sup> If students are assigned reading that must be completed online, professors should show them techniques they can use on their laptops to interact with the text, such as colored highlighting, using flashing text, altering the fonts, enclosing text in boxes, adding margin comments, and so on.<sup>290</sup> Professors can even tap into Gen Z students' technological savvy by taking class time to allow them to teach each other about online interactive reading strategies.

It is no longer sufficient to expect that critical reading skills can be taught in legal writing classes or academic success programs, as has been the default at many schools for quite some time.<sup>291</sup> Rather, all faculty must commit to

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understanding of the authorities is a key component of pre-writing and suggesting effective techniques for creating such visuals); Montana, *supra* note 133, at 452.

288. Professors may even need to give their students instruction in good highlighting technique. It is not uncommon to observe new law students mindlessly highlighting line after line or developing elaborate color schemes for highlighting various parts of a case, without realizing that they are still not actively engaging with the text. See John Dunlosky et al., *Improving Students' Learning with Effective Learning Techniques: Promising Directions from Cognitive and Educational Psychology*, 14 PSYCHOL. SCI. PUB. INT. 4, 19 (2013) ("Marking too much text is likely to have multiple consequences. First, overmarking reduces the degree to which marked text is distinguished from other text, and people are less likely to remember marked text if it is not distinctive . . . . Second, it likely takes less processing to mark a lot of text than to single out the most important details.").

289. I recognize that providing students with paper copies of reading material is less environmentally friendly than permitting them to read online. I also recognize that the proliferation of e-books (which are often less expensive than traditional texts) makes online reading an attractive option for law students. I do not advocate prohibiting students from reading online or via e-book when that option makes sense; I am suggesting only that in the first weeks and months of law school, when Gen Z students' critical reading skills may be quite undeveloped, professors should design their reading assignments carefully, and there might be many instances when the advantages of making students read in print outweigh other practical considerations.

290. Dalton, *supra* note 148, at 435–36.

291. Mary Beth Beazley, *Better Writing, Better Thinking: Using Legal Writing Pedagogy in the "Casebook" Classroom (Without Grading Papers)*, 10 LEGAL WRITING: J. LEGAL

teaching these skills across all courses and all three years of law school. Fortunately, there is a growing body of scholarly work in this area that can assist professors in this effort. For example, Professor Jane Bloom Grise's 2017 article, *Critical Reading Instruction: The Road to Successful Legal Writing Skills*,<sup>292</sup> describes her process of developing critical reading instruction materials for each of three stages: before reading, during reading, and after reading.<sup>293</sup> And Professor Ruth Ann McKinney's excellent book, *Reading Like a Lawyer*, contains specific exercises that students can work through to become faster legal readers without sacrificing their comprehension of the material.<sup>294</sup> Given the fundamental importance of critical reading to the work of law students (and lawyers), surely it is worth sacrificing some of professors' valuable class time to strengthen students' proficiency in this skill.

#### B. Commit to Giving Students Opportunities to Write Across the Curriculum

Not only is reading across the curriculum essential to Gen Z law students' success; *writing across the curriculum* is equally essential. As noted above, Gen Z students have not grown up having the kind of rigorous writing experiences in their secondary and post-secondary education that many of their law professors had;<sup>295</sup> indeed, if law professors have lamented the poor writing skills of Millennials, that lament will likely get louder as Gen Z students arrive. Yet, as is the case with critical reading, critical writing is a foundational skill for the work of a lawyer. Thus, teaching critical writing

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WRITING INST. 23, 29–30 (2004) (“[F]aculty who teach Legal Writing are *not* teaching an ‘other’ subject matter. On the contrary, there is a strong intersection between writing and thinking, and both faculty who teach legal writing courses and faculty who teach casebook courses are teaching students how to think like lawyers. Even more unfortunately, this otherness is also counterproductive to the law school’s mission: when Legal Writing courses and the faculty who teach them are treated as outliers in the educational venture of the law school, all faculty lose a valuable opportunity for sharing teaching methods that could benefit both law students and the practice of law.”); *see also* Melissa J. Marlow, *It Takes a Village to Solve the Problems in Legal Education: Every Faculty Member’s Role in Academic Support*, 30 U. ARK. LITTLE ROCK L. REV. 439, 500 (2008) (noting that the responsibility for remedying student achievement problems has often been laid at the door of academic support professionals and arguing that creating an environment that maximizes student learning “cannot be delegated to the academic support faculty. Success can only be found by every single faculty member signing on to the task.”).

292. *See generally* Grise, *supra* note 248.

293. *Id.* at 275–81.

294. RUTH ANN MCKINNEY, *READING LIKE A LAWYER: TIME-SAVING STRATEGIES FOR READING LAW LIKE AN EXPERT* (2d ed. 2012).

295. *See supra* Section IV.B.

across the curriculum must be a top priority for legal educators moving forward.

Writing across the curriculum (WAC) is not a new concept, of course; educators have long been advocating it as a way to improve student learning in many educational contexts.<sup>296</sup> Yet in many law schools, writing instruction is still viewed primarily as the job of legal writing professors, rather than as the collective responsibility of all law school faculty across all aspects of students' law school experience.<sup>297</sup> This remains true despite more than a decade of overtures by legal writing faculty to casebook faculty inviting collaboration in developing an integrated approach to teaching legal writing.<sup>298</sup> This siloed approach to teaching writing skills must give way to a more comprehensive approach if professors are to teach Gen Z students to be excellent legal writers.

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296. See, e.g., Andrea McArdle, *Writing Across the Curriculum: Professional Communication and the Writing that Supports It*, 15 LEGAL WRITING: J. LEGAL WRITING INST. 247, 247–48 (2009) (“[WAC] . . . originated in Britain at the secondary school level in the 1960s, and was adapted to undergraduate higher education in the United States in the 1970s.”). McArdle suggests that while law schools have recognized the importance of teaching writing in preparing students to be “practice-ready,” they often have not recognized the theoretical focus of WAC, “‘writing to learn’ (writing as a mode of learning).” *Id.* at 248. She also notes that law schools usually do not “differentiate writing according to the ‘transactional,’ ‘expressive,’ and ‘poetic’ functions that WAC scholarship has identified, much less to afford students regular opportunities to write within each of these categories.” *Id.* at 248–49.

297. Fortunately, this has begun to change in recent years, with many law schools exploring ways to provide more writing instruction in contexts other than the legal writing classroom. See, e.g., Suzanne J. Schmitz & Alice M. Noble-Allgire, *Reinvigorating the 1L Curriculum: Sequenced “Writing Across the Curriculum” Assignments as the Foundation for Producing Practice-Ready Law Graduates*, 36 S. ILL. U. L.J. 287 (2012) (describing Southern Illinois University Law School’s model); Susan E. Thrower, *Teaching Legal Writing Through Subject-Matter Specialties: A Reconception of Writing Across the Curriculum*, 13 LEGAL WRITING: J. LEGAL WRITING INST. 3 (2007) (describing DePaul’s model).

298. See, e.g., Adam Lamparello & Charles E. MacLean, *A Proposal to the ABA: Integrating Legal Writing and Experiential Learning into a Required Six-Semester Curriculum That Trains Students in Core Competencies, “Soft” Skills, and Real-World Judgment*, 43 CAP. U. L. REV. 59 (2015); Nancy Levit, *The Theory and the Practice—Reflective Writing Across the Curriculum*, 15 LEGAL WRITING: J. LEGAL WRITING INST. 253 (2009); Pamela Lysaght, *Writing Across the Law School Curriculum in Practice: Considerations for Casebook Faculty*, 12 LEGAL WRITING: J. LEGAL WRITING INST. 191 (2006); Pamela Lysaght & Cristina D. Lockwood, *Writing-Across-the-Law-School Curriculum: Theoretical Justifications, Curricular Implications*, 2 J. ASS’N LEGAL WRITING DIRECTORS 73 (2004); Melissa J. Marlow, *Law Faculties: Moving Beyond Operating as Independent Contractors to Form Communities of Teachers*, 38 OHIO N.U. L. REV. 243 (2011); McArdle, *supra* note 296; Carol McCrehan Parker, *Writing Is Everybody’s Business: Theoretical and Practical Justifications for Teaching Writing Across the Curriculum*, 12 LEGAL WRITING: J. LEGAL WRITING INST. 175 (2006); Schmitz & Noble-Allgire, *supra* note 297; Thrower, *supra* note 297.

In adopting WAC, law schools can draw from a variety of approaches that have proved successful at peer institutions in recent years. Here, I describe some of these approaches.

First, every law school course should include at least one substantial writing exercise (other than a final exam) on which students receive timely feedback. While this approach may cause some faculty to chafe at a perceived intrusion upon their academic freedom, it is workable as long as “faculty members [have] wide discretion in the timing and substance of the WAC assignments for their particular courses.”<sup>299</sup> The required writing exercise could be as simple as an IRAC-type analytical exercise or a practice exam question; or it could be more complex, such as a memo, brief, client letter, contract clause, complaint, motion, or other document that mirrors what a new lawyer might be asked to do in the substantive area the class covers.<sup>300</sup>

Second, professors should ask students to write reflective pieces throughout the semester. While journaling and other exploratory writing practices have become common in clinics and other experiential learning courses,<sup>301</sup> there are compelling reasons to use them throughout the law school curriculum. First, they help students see that writing is “a conduit to absorbing, understanding, and seeing multiple dimensions of subjects”—a view of writing that should enhance their written work in every course.<sup>302</sup> Second, in a doctrinal course, reflective writing exercises provide opportunities for students to assess how well they have comprehended the doctrinal law, legal issues, and ethical responsibilities inherent in that course.<sup>303</sup> Specifically, professors can ask students to keep journals or diaries: (1) “to articulate doctrinal understandings or to develop illustrative scenarios to make sure they understand a point of law”; (2) to describe how particular readings or class discussions impacted their perception of the substantive area; and (3) to organize and revise information gleaned through class discussion.<sup>304</sup> Professors can ask students to write a poem about a particular case,<sup>305</sup> or a blog post describing the impact of a recent case on a particular substantive area; the possibilities are many.

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299. Schmitz & Noble-Allgire, *supra* note 297, at 295.

300. *Id.*

301. Levit, *supra* note 298, at 261.

302. *Id.*

303. *Id.* at 263.

304. *Id.* at 264.

305. *Id.* at 264–66. Levit’s article includes a poem written by a student of Professor Andrew McClurg about *Katko v. Briney*, a case he assigned in his Torts class. *Id.* at 266. According to McClurg, the poetry exercise “caused students to hone in on the fundamental principles for which *Katko* stands, as well as to express the moral outrage they felt about [the defendant’s] inability to use deadly force in defense of property.” Levit, *supra* note 298, at 266 (quoting Andrew J. McClurg, *Poetry in Commotion: Katko v. Briney and the Bards of First-Year Torts*, 74 OR. L. REV. 823, 824–25 (1995)).

Contrary to what many doctrinal professors believe, these exploratory writings are “not vague or abstract or sterile—they are detailed, contextualized, and concrete. When students are asked to write poems, essays, or op eds, their writing becomes animated, thoughtful, nuanced, and engaged.”<sup>306</sup> Narrative writing “draw[s] on larger values that animate law, such as questions of responsibility, equity and policy that might otherwise go unasked and unnoticed” and “encourages exploration of the creative dimensions of a lawyer’s work.”<sup>307</sup> For professors who are concerned that exploratory writing will undermine students’ efforts to learn the formal structures of professional legal writing, some reflections could take the form of more traditional genres such as judicial opinions or interoffice memos. Affording students these kinds of writing opportunities helps familiarize them with the discourse structures of these genres without the added “cognitive burdens” that come with the typical legal writing assignment.<sup>308</sup>

Third, professors can incorporate Multistate Practice Tests (MPTs) and bar exam essays into their class curriculum. As more states adopt the Uniform Bar Exam (UBE),<sup>309</sup> law professors have a perfect opportunity to promote WAC while also giving students much-needed practice on bar exam skills. In particular, professors can require students to complete MPTs, a key component of the UBE.

According to the website of the National Conference of Bar Examiners (NCBEX),

The MPT is designed to test an examinee’s ability to use fundamental lawyering skills in a realistic situation and complete a task that a beginning lawyer should be able to accomplish. The MPT is not a test of substantive knowledge. Rather, it is designed to evaluate certain fundamental skills lawyers are expected to demonstrate regardless of the area of law in which the skills are applied. . . . The MPT requires examinees to (1) sort detailed factual materials and separate relevant from irrelevant facts; (2) analyze statutory, case, and administrative materials for applicable principles of law; (3) apply the relevant law to the relevant facts in a manner likely to resolve a client’s problem; (4) identify and resolve ethical dilemmas, when present; (5) communicate effectively in writing; and (6) complete a lawyering task within time constraints. These skills are tested by requiring examinees to perform one or more of a variety of lawyering tasks.<sup>310</sup>

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306. *Id.* at 267.

307. McArdle, *supra* note 296, at 253.

308. *Id.* at 254–55.

309. As of this writing, thirty-three states have adopted the UBE, and twelve of the seventeen states that have not done so use the MPT as part of their bar exam. *Jurisdictions That Have Adopted the UBE*, NAT’L CONF. OF B. EXAMINERS, <http://www.ncbex.org/exams/ube/> (last visited Mar. 10, 2019).

310. *Id.*

Examinees receive a task memo, a case file, and library of authorities, and they have ninety minutes to complete the writing task, which might be “a memorandum to a supervising attorney, a letter to a client, a persuasive memorandum or brief, a statement of facts, a contract provision, a will, a counseling plan, a proposal for settlement or agreement, a discovery plan, a witness examination plan, or a closing argument.”<sup>311</sup>

Although the MPT is not designed to test substantive knowledge, professors can easily adapt the format of MPTs into writing exercises that reinforce core concepts while giving students practice in critical reading, thinking, and writing.<sup>312</sup> The NCBEX maintains a bank of previous MPT questions that professors can access,<sup>313</sup> and professors can also convert their own materials into MPT-style assignments. For first-year law students, the ninety-minute time frame may be too short to allow for meaningful work; but by the second and third years, students should be approaching the point that they can work within a shorter time frame, and they will reap the benefits of being required to do so when they later begin their formal bar prep.

Of course, any effort to incorporate WAC into a school’s curriculum comes at a cost. Giving students a meaningful writing assignment requires significant planning and preparation of materials; it may also require allocating class time to explain the assignment, to have students complete the assignment, and/or to go over the students’ work on the assignment. And it can also require spending hours outside of class reading and commenting on students’ work. Indeed, this last requirement is perhaps the main reason faculty members object to including more writing assignments in their courses.<sup>314</sup> But there are many ways professors can minimize the “interruptions” and “burdens” associated with including writing as a course component.

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311. *Id.*

312. Indeed, many professors already do so. See Ben Bratman, *Improving the Performance of the Performance Test: The Key to Meaningful Bar Exam Reform*, 83 UMKC L. REV. 565, 602 & 608 n.269 (2015) (citing articles discussing how the MPT can be effectively incorporated into clinical, legal writing, and doctrinal classes).

313. *Jurisdictions That Have Adopted the UBE*, *supra* note 309.

314. See, e.g., Beazley, *supra* note 291, at 26 (“Integrating Legal Writing teaching methods does not mean that all faculty must begin assigning and individually critiquing writing assignments, although others have suggested that. Instead, . . . the educational theories behind Legal Writing teaching methods should be adapted for use in casebook courses . . . . [T]his integration will result in students doing more writing, but it *will not* result in casebook faculty doing the hours of individualized critique that are the hallmark—and one of the chief benefits of—the Legal Writing course.”); see also Michael R. Koval & R. Michael Garner, *I Don’t Do Writing: A Model for Overcoming Faculty Resistance to Using Writing Assignments in the Classroom*, 15 ATLANTIC L.J. 120, 143 (2013). Interestingly, though Koval and Garner are business professors, the model they offer is based on exercises that could be assigned in a Legal Environment course. *Id.* at 136–42.

First, while providing individual written feedback on each student's work is invaluable, not every writing assignment must be "graded" in this way. Feedback can be delivered to the class as a whole, either orally or in writing, and where it is appropriate, annotated sample answers can be shared with students. Second, writing assignments can be designed to require only a short-written product, reducing the amount of time professors must spend evaluating them. Third, professors can reuse writing assignments, especially ungraded ones, and can share successful assignments with other professors, reducing the amount of time required to plan and prepare materials.

In sum, regardless of what form the exposure takes, Gen Z students, perhaps more than their predecessor generations, need constant exposure to writing opportunities, and those opportunities need to be carefully scaffolded, both within individual courses and across all courses. Making this happen for Gen Z students will help them become comfortable with the idea of writing as a professional skill that they must develop well, and it will enhance their intellectual readiness for practice; after all, "writing is thinking on paper."<sup>315</sup>

### C. Use Technology Thoughtfully and Perhaps More Sparingly

A third major area of focus in preparing to educate Gen Z law students must be the way professors use technology in the classroom. I am not a curmudgeon when it comes to technology; I realize that today's law students will need to master certain technologies as they prepare to enter the profession. For example, no law student's education would be complete without instruction in using legal research platforms like Westlaw, Lexis, and Bloomberg. And it seems wise to introduce our students to certain technologies designed for (or particularly well-suited to) law practice, such as e-discovery tools, document-review programs, and cloud computing. Many law schools have begun to add courses in the law and technology area, and this is as it should be.<sup>316</sup> In fact, it is as it *must* be; in 2012, a Comment to Rule 1.1 of the Model Rules of Professional Responsibility was amended to advise that lawyers "should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology."<sup>317</sup>

But adding courses on law and technology is not the same thing as bringing more technology into the law school classroom; while the former is

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315. WILLIAM ZINSSER, *ON WRITING WELL* VII (5th ed. 1994).

316. See, e.g., Jane Croft, *Lawyers Must Learn to Embrace Technology*, *FIN. TIMES* (Nov. 20, 2016), <https://www.ft.com/content/aa77a9ec-9ace-11e6-8f9b-70e3cabccfae> (describing programs at several law schools, including Georgetown, Vermont, and Northwestern).

317. MODEL RULES OF PROF'L CONDUCT r. 1.1 cmt. 8 (AM. BAR ASS'N 1983). For a persuasive argument that law schools need to improve and increase their delivery of technological skills, see John M. Facciola, *A Judicial Perspective: Technological Competence and the Law Schools*, 2015 J. PROF. L. 119, 119–20 (2015).

now a best practice, the latter may not always be. As explained above, Gen Z students' constant use of technology is causing a cognitive overload that impairs their ability to pay attention, their working memory, and their higher-level thought processes.<sup>318</sup> So, creating lesson plans that rely more heavily on technology, just to cater to Gen Z students' status as digital natives, is counter-productive.<sup>319</sup> Rather, "[t]o maximize our effectiveness as teachers . . . the most successful strategy is a hybrid approach that combines the best of established classroom practices with new technologies that fill a niche better than existing options."<sup>320</sup>

Practically speaking, what might this hybrid approach to teaching with technology look like in the Gen Z era? A number of law professors have recently considered this question and have made concrete recommendations, some of which I will outline briefly.

First, laptop use in class should be limited to activities in which the professor is having students use their laptops as part of an in-class exercise or is otherwise actively managing their use.<sup>321</sup> Research indicates that when it comes to taking notes, writing them by hand promotes learning better than typing them on a laptop.<sup>322</sup> Studies show that the physical act of writing things down enhances memory and that students who take notes by hand have better comprehension and recall than laptop users.<sup>323</sup> Moreover, as noted above, Gen Z students may find it difficult to concentrate on the class discussion when there are so many other things they can attend to—checking email, skimming Twitter, tracking an Amazon order, etc.—on the screen right in front of them.<sup>324</sup> In a compelling 2016 article, Professor James Levy posits that learning science makes a limited-use, carefully monitored laptop policy “the only policy that strikes the right balance between the value laptops have as an interactive learning tool and our evolutionary programming, which makes it nearly impossible for the caveman brain to resist the distractions they cause.”<sup>325</sup>

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318. *See supra* Section IV.A.

319. *See* Levy, *supra* note 158, at 279 (noting that researchers have found that new technology may enhance student interest but that does not lead to better learning outcomes unless the teacher is also able to leverage it into more effortful work, which suggests that adopting new technology solely for the purpose of better motivating students may actually be counterproductive if it is not otherwise well-suited to the particular learning objective).

320. *Id.* at 305.

321. *See, e.g., id.* at 281–82.

322. *Id.* at 299.

323. *Id.*

324. *See supra* Section IV.A.

325. Levy, *supra* note 158, at 299. Says Levy, “No teacher, no matter how interesting, can simultaneously fight the Darwinian survival imperative served by a distracted brain *and* the evil minions of Silicon Valley.” *Id.* at 281–82.

Second, visual technologies like PowerPoint should be used only when they can adequately communicate course material “in all its complexity and nuance” better than non-visual alternatives.<sup>326</sup> A well-chosen, meaningful visual can often work as a chunking technique that helps students process a large amount of information that would otherwise overwhelm their working memory, and it can also deepen students’ understanding by serving as a reference point to anchor further discussion at a later point.<sup>327</sup> So, PowerPoint need not be jettisoned upon the arrival of Gen Z students. But their short attention span makes it essential that when creating PowerPoints, professors limit the special effects (sounds and animations) to those that relate directly to the content of the slides. Otherwise, professors are creating needless distractions that students cannot ignore, and perhaps more significantly, they are overwhelming students’ working memory such that the underlying point is lost.<sup>328</sup> For the same reasons, professors should avoid creating slides that contain too much text; otherwise, students’ working memories will be impaired when they try to read the words to themselves while also listening to professors’ explanation—just the type of “multitasking” that is really “task-switching.”<sup>329</sup> As Professor Levy aptly notes, professors should not “overlook the whiteboard” as a better alternative to PowerPoint in many instances; “using the whiteboard more closely follows the natural rhythm of a conversation between teacher and students.”<sup>330</sup>

Third, in classroom situations where critical reading is required, professors should emphasize reading in print as an alternative to reading on screens. Increasingly, research is confirming anecdotal evidence that “print is more compatible with the higher-ordered, critical thinking and reading skills we teach in law school.”<sup>331</sup> Professor Levy describes several of these studies, including one showing that “students reading print outperform those reading screens on tests that measure both comprehension and retention”;<sup>332</sup> one showing that print is a “more immersive experience” compared to screens and

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326. *Id.* at 287.

327. Merritt, *supra* note 165, at 51–52. Professor Merritt’s article was written in 2008, when PowerPoint was still a fairly “new” technology, but her advice about using it effectively is still relevant—perhaps more so than ever—today, as we welcome Gen Z into our classrooms.

328. *Id.*

329. Levy, *supra* note 158, at 289. Moreover, says Levy, “[r]educing class material to a set of pithy bullet points by word and deed contradicts [the] vital lesson” that “thinking like a lawyer” requires seeing complexity where others do not—that is, “peel[ing] away the layers to expose additional issues and nuance.” *Id.*

330. *Id.* at 290.

331. *Id.* at 293.

332. *Id.* at 293–94 & 305 n.314.

e-reading devices;<sup>333</sup> and one showing that students reading screens may be less likely to finish the material and, if they do finish it, they are less likely to re-read it.<sup>334</sup> This is not to say that professors should never ask students to read something on screens; rather, they should be conscious of when they do so, reserving that reading technique for relatively straightforward material that does not require a high level of attention to comprehend and absorb.

Fourth, professors should avoid “entertaining students with fun media tools, e.g. YouTube clips, music, and photos” unless they are directly and specifically related to the concept being taught.<sup>335</sup> Otherwise, these “fun tools” simply consume precious working memory and distract students from learning.<sup>336</sup>

Fifth, professors should provide opportunities for students to receive individual feedback on their work in face-to-face meetings, not just electronically. Many law professors—even those who are “digital immigrants”—have transitioned to grading and commenting on students’ work electronically, and there is no doubt that e-commenting has attractive benefits, not the least of which is that it can be a big time-saver.<sup>337</sup> And Gen Z students are no doubt well-acquainted with digital feedback, having received it frequently in middle school, high school, and college. But as previously described in this article, Gen Z students say that they desire more face-to-face communication, even though they may not be very skilled at it.<sup>338</sup> Law professors can capitalize on this desire by setting aside some time for one-on-one, face-to-face conferences that provide much needed interpersonal interaction and also teach Gen Z students how to receive constructive criticism well. (Remember, Gen Z students are often resistant to criticism and prefer to receive feedback in five-minute doses.) Of course, professors need not abandon digital feedback altogether; indeed, there may be instances where it makes perfect sense to deliver feedback using one of the many available digital platforms. I am suggesting only that the peer personality of Gen Z students has primed them perfectly for reaping the benefits of occasional in-person conferencing.

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333. *Id.* at 294, 305 n.317. This may be true because students are “more transported by the material” and because print “lacks the distractions of electronic media such as hyperlinks and email that pull the reader away from the text.” Levy, *supra* note 158, at 296–97.

334. *Id.* at 295, 305 n.320.

335. Kim, *supra* note 158, at 103.

336. *Id.*

337. Anna P. Hemingway, *Accomplishing Your Scholarly Agenda While Maximizing Students’ Learning (A.K.A. How to Teach Legal Methods and Have Time to Write Too)*, 50 DUQ. L. REV. 545, 578 (2012); see also Samantha A. Moppett, *Control-Alt-Incomplete?*, 12 CHI.-KENT J. INTELL. PROP. 77, 111–19 (2013) (reviewing several then-available tools for facilitating e-commenting).

338. See *supra* Section IV.C.

Finally, professors should deliberately schedule time away from technology for their students. Studies show that Gen Z students “already know there is a problem with screen addiction, and many of them want relief.”<sup>339</sup> Law school classrooms can be a place where students find that relief, even if only occasionally.<sup>340</sup> Since many of the skills law students need to develop—critical reading, analytical precision, and sound written communication, to name just a few—can be taught without using technology, as described above, creating lesson plans that do not require its use ought to be a regular practice. Professors can make this easier for themselves and for their students by deliberately explaining to them the science that supports “unplugging” and showing how it will benefit them.<sup>341</sup>

The chief takeaway from the literature on technology and learning—including Gen Z law students’ learning—is that “[m]edia and technology must be our tools, not our masters.”<sup>342</sup> As Professor Levy sums it up in his excellent 2016 article on using technology in the law school classroom, “[C]lassroom practices informed by an understanding of how the brain learns will always be more successful than approaches based on observations about students’ changing technology habits . . . . [T]he fundamentals of teaching

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339. *Q & A with Michael Mercier, President of Screen Education, supra* note 146. For an account of an interesting study of teenaged campers who were unable to access their smartphones for an entire week, see *Trending . . . ? Gen-Z Relieved by Smart Phone Disconnect*, 35 *LAW. PC* 9 (2018). According to Michael Mercier, whose organization, Screen Education, conducted the experiment, 92% of the campers said they experienced “gladness” from being without their phones, and 83% said they considered having gone without their phones “an important life experience.” *Id.* Mercier reports that “[m]any campers discussed the experience of face-to-face communication as though it were a novel one.” *Id.*

340. A discussion of whether professors should ban or limit the use of laptops and smartphones in class is beyond the scope of this article. Professor Levy’s article contains a good summary of the arguments that have been made for and against laptop use in the classroom. Levy, *supra* note 158, at 279–85. Of course, any such policy should not apply to students with learning differences who need to use technology to accomplish certain learning tasks. See Ruth Colker, *Universal Design: Stop Banning Laptops!*, 39 *CARDOZO L. REV.* 483, 491 (2017) (noting that “the disability literature clearly indicates that some students with disabilities will benefit from laptop use in a classroom,” and suggesting that any ban on laptop use, even if it is relaxed for students with disabilities, has the potential to stigmatize disabled students and to force them to “self-identify as ‘disabled’ merely to take advantage of a learning style that [they have] developed over the years”).

341. Some educators have also embraced the practice of giving students “technology breaks” during the class period—for example, a two-minute break after thirty minutes of class, during which students can check email and social media. See, e.g., Newell, *supra* note 147, at 799 (describing various kinds of technology breaks and questioning their usefulness).

342. Jacobson, *supra* note 100, at 461. In the workplace, this is called “command-driven” use of media, where the employer “takes control of (at least some of) the virtual ethos.” TULGAN & RAINMAKER THINKING, INC., *supra* note 85, at 8–9.

students to be good critical thinkers have not changed much at all over time.”<sup>343</sup>

#### D. Plan Collaborative Work Carefully

In the last decade, as Millennials occupied most of the seats in law school classrooms, legal educators have sought to capitalize on Millennials’ preference for a collaborative learning environment.<sup>344</sup> Group work has long been part of the fabric of Millennials’ education and “is routinely understood as one of the most effective learning methods based on the principles that learning is ‘inherently social’ and ‘an active process.’”<sup>345</sup> In law schools, collaborative learning has long been a part of clinical programs, and now, it has become more commonplace in traditional doctrinal classes as well.<sup>346</sup> Many law professors put students in pairs or groups for class presentations, drafting exercises, peer editing, and a host of other teaching and learning activities.

In particular, Team-Based Learning (TBL) is used by a growing number of law school teachers.<sup>347</sup> In TBL,

the professor’s role is to plan the course, including creating assignments to enable students to prepare for class, constructing assessments, and designing individual classes. During class, instead of taking center stage and having students focus primarily on the professor, professors guide and facilitate students working together to apply course material.<sup>348</sup>

TBL groups typically consist of permanent teams of five to seven students, ideally “as heterogeneous as possible.”<sup>349</sup> Advocates of TBL point to its many benefits, including promoting student achievement through deeper understanding of the law; teaching students to work collaboratively as part of a team, an essential professional skill; and promoting the integration of knowledge, skills, and values learning.<sup>350</sup>

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343. Levy, *supra* note 158, at 305.

344. Camp, *supra* note 270, at 898.

345. *Id.*

346. *Id.* at 897–98.

347. For two thorough discussions of TBL in the law school context, see Sparrow & McCabe, *supra* note 265, and Weresh, *supra* note 265.

348. Sparrow & McCabe, *supra* note 265, at 157; *see also* Weresh, *supra* note 265, at 52–53.

349. Sparrow & McCabe, *supra* note 265, at 196–97; *see also* Camp, *supra* note 270, at 908 (“Including multiple perspectives can improve the success of the collaborative experience because of the varied experiences group members bring to the problem being considered and to the process being used.”).

350. Sparrow & McCabe, *supra* note 265, at 162–63, 170.

Most of our Millennial law students are comfortable in the collaborative setting, making it natural for law professors to embrace TBL and other less structured group work. But as noted above, the new generation of law students—Gen Z—does not share the Millennials’ preference for collaborative work.<sup>351</sup> Gen Z students are competitive and independent; they “do not want to depend on other people to get their work done,” and they prefer to work alone and “be judged on their own merits rather than those of their team.”<sup>352</sup>

So, how should law professors approach the idea of collaborative learning in classrooms composed of both Millennial and Gen Z students? Must professors abandon TBL and other collaborative learning approaches just as they have become comfortable with them? The better answer seems to be *no*; given that collaboration will be expected of Gen Z law graduates when they enter the professional world (where many of their colleagues and superiors will be Gen Xers and Millennials),<sup>353</sup> legal educators would be unwise to eliminate collaborative learning simply to cater to the preferences of Gen Z.

Moreover, according to Seemiller and Grace, Gen Z students *are* open to group work on a task; but they want (and need) adequate time to work on the task solo first.<sup>354</sup> This suggests that group work (and even more formal approaches like TBL) can be used effectively, but perhaps not exclusively and perhaps with some adjustments to increase Gen Z students’ comfort level with working together.

Tim Carter, in an article describing best practices for teaching Gen Z members who plan to enter the teaching profession, describes what a classroom might look like when the learning environment is “blended” to benefit Gen Z students:

For example, a classroom might involve students working independently along the perimeters with their mobile 1:1 device. They could then move into small group settings to share what was gained independently and to discuss various factors that might benefit the group and identify shortfalls of information or skills. The teacher might have an area available where s/he can meet with students individually or in small groups to discuss the information and to query students concerning their understanding or ability pertaining to the knowledge or skill being developed. This

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351. See *supra* Section IV.C.

352. Patel, *supra* note 251; see also Tysiac, *supra* note 251.

353. Camp, *supra* note 270, at 909 (“Many law students who work for firms, governmental agencies, or legal service providers are expected to work on teams or within specialized groups . . . . The modern practice of law is one with increasing collaborative opportunities.”).

354. Hope, *supra* note 56, at 7 (citing Meghan Grace); see also Carter, *supra* note 15, at 5 (“Following a simpler model of doing collaborative work without the opportunity for individual work may very well frustrate [Gen Z] learners.”).

environment would involve interaction with multiple resources independently and socially.<sup>355</sup>

And the practice of blending individual learning time with group learning time is not only conducive to Gen Z students' learning; it also sends a message to all students, of whatever generation, that the professor "values the students who use deliberation, contemplation and quiet reflection—characteristics of many successful, and often introverted, leaders—as much as the student who routinely contributes to the class with reliable, quick participation."<sup>356</sup>

In her recent article, *Creating Space for Silence in Law School Collaboration*, Rachel Camp suggests four group techniques that law professors can employ to promote collaboration while respecting a variety of learning perspectives;<sup>357</sup> these techniques seem particularly appropriate for law school classrooms where some (or even most) of the students belong to Gen Z and prefer to work independently.

First, Camp advocates "brainwriting"—a "written brainstorming process" that allows each student to write his or her ideas on paper before sharing them orally in a group setting.<sup>358</sup> After students are assigned to a group for a particular task, the professor provides each student with a "brainwriting template" in grid format; at the top is a space to write the problem the group is being asked to consider, and the grid has a row for each group participant and columns for their ideas.<sup>359</sup> Each participant is then given a set amount of time to generate written options for solving the problem and to record them on the template; once time is called, participants pass their templates to the person on their right.<sup>360</sup> Each participant then views the ideas written by others and builds on those or adds his or her own.<sup>361</sup> The process concludes when each student has his or her own template back; at that point, when each individual participant is primed to share, the group has an oral conversation

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355. Carter, *supra* note 15, at 5.

356. Camp, *supra* note 270, at 899 ("'Collaborative work methods cannot improve the work of lawyers unless they approach their work with an understanding of the value and limits of collaboration and with good collaborative skills.' While collaboration can vastly improve product and an individual's experience, when it becomes a mandate and with preset ideas for success that are disconnected from the participants or the study and mastery of learning, collaborative requirements can lessen effects.") (quoting Sue Bryant, *Collaboration in Law Practice: A Satisfying and Productive Process for a Diverse Profession*, 17 VT. L. REV. 459, 485 (1993)).

357. See generally Camp, *supra* note 270.

358. *Id.* at 926.

359. *Id.*

360. *Id.*

361. *Id.*

“about the specific ideas that emerged during the writing process and which ideas are worth exploring further.”<sup>362</sup>

Second, Camp advocates “chalk talks” that, despite their name, do not require chalkboards.<sup>363</sup> For the chalk talk Camp describes in her article, she asked students to email her a short statement describing an assumption they had at the beginning of the semester that was challenged by their clinical experience.<sup>364</sup> She chose excerpts from several statements that seemed to reflect common themes and reproduced each of them on a separate piece of easel paper and taped the easel papers to the wall of her seminar room.<sup>365</sup> She gave each student a different colored marker and gave the students approximately twenty minutes to walk around the room, read each excerpt, and write any reactions to either the excerpt or to other students’ comments.<sup>366</sup> Thus, the chalk talk is a “silent conversation; talking is not permitted while students are reading, reflecting on, and reacting to the excerpts. The end result is what one might expect following an oral conversation—support for some ideas; generation of new ideas; and disagreement about others.”<sup>367</sup>

Third, Camp advocates “nominal group techniques” (NGT)—a five-step process that “facilitates interaction, but after incorporating intentional silence.”<sup>368</sup> In the NGT process, (1) the professor identifies a problem for participants to consider; (2) each participant silently writes down ideas for a set amount of time; (3) in groups, participants share their ideas in a round-robin format, and a group member or the professor captures them on the board or collects and distributes the ideas later; (4) the class discusses each of the ideas (or a select few ideas they want to learn more about); and (5) participants vote on and rank the ideas and either continue to discuss the best ideas or move forward with the top-ranked idea.<sup>369</sup>

Fourth, Camp advocates “cyberstorming and other forms of electronic brainstorming.”<sup>370</sup> For example, one member of a group might brainstorm and record her thoughts about a particular problem or question and send them by email to another group member, who then adds his ideas and emails a third group member, and so on. Camp posits that “electronic groups have been proved to generate better results than oral, interactive groups.”<sup>371</sup>

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362. *Id.* at 926–27.

363. Camp, *supra* note 270, at 928.

364. *Id.*

365. *Id.*

366. *Id.*

367. *Id.* at 928–29.

368. *Id.* at 930 (noting that variations from the five steps do occasionally occur).

369. Camp, *supra* note 270, at 930.

370. *Id.* at 931.

371. *Id.*

Whether legal educators use Camp's ideas or adapt some of their own tried and true collaboration strategies, their goal should be to encourage collaboration but in a very intentional way that allows Gen Z students to also have some time for the independent thinking and working they seem to prefer. Achieving this goal may require law professors to spend time specifically training students on how to work in teams or groups. For example, one group of law professors who routinely employ teamwork in their courses has instituted "Saturday teamwork training" sessions early in their courses; during these sessions, they "do team-building exercises, conduct conflict resolution exercises, teach teamwork theory, and have students write their team charters."<sup>372</sup> The professors report that this training is effective because it allows them to "teach the teamwork stages before the students experience them and to discuss the qualities required for effective teamwork."<sup>373</sup>

E. Create Opportunities for Students to Practice Mindfulness and Educate Them About Good Self-Care

Finally, and perhaps most critically, law schools must prepare to help Gen Z students maintain their physical, mental, and emotional health in the high-stress environment of law school. As we have seen, Gen Z students report unheard-of levels of anxiety, depression, and loneliness, all of which could be barriers to their law school learning and to their professional growth.<sup>374</sup> Removing these barriers will require a multi-faceted approach that requires the participation of administrators, faculty, the students themselves, and the practicing bar.

One facet of this approach is making use of resources that are already available at law schools (and at the universities where many law schools are situated). At law schools affiliated with universities, Gen Z students who are able to recognize their own physical, mental, and emotional difficulties should be encouraged to seek out their universities' student health centers and counseling centers, where trained professionals can work with them on a regular basis to teach them coping strategies. These same professionals should be enlisted to train law school administrators and faculty to recognize

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372. Weinstein et al., *supra* note 265, at 59.

373. *Id.*

374. See *supra* Section III.B.3. These problems are prevalent in the profession, not just in law schools. See, e.g., *Lawyers' Alcohol-Use Study: Implications, Next Steps Discussed*, A.B.A. (Feb. 26, 2016), [https://www.americanbar.org/news/abanews/aba-news-archives/2016/02/joint\\_study\\_identifi/](https://www.americanbar.org/news/abanews/aba-news-archives/2016/02/joint_study_identifi/). Fortunately, all fifty states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and some international legal groups all have lawyer assistance programs to help lawyers address these problems. See *Directory of Lawyer Assistance Programs*, A.B.A., [https://www.americanbar.org/groups/lawyer\\_assistance/resources/lap\\_programs\\_by\\_state/](https://www.americanbar.org/groups/lawyer_assistance/resources/lap_programs_by_state/) (last visited Nov. 13, 2018).

symptoms of depression, anxiety, and addiction in law students and to provide them with protocols for ensuring that students seek help. At law schools that do not have such resources available, serving Gen Z students may necessitate hiring a full-time staff member (or several) whose sole responsibility is helping students connect with health care professionals in the community who can offer them treatment and counseling.

A second facet of the approach to addressing Gen Z law students' wellbeing is incorporating opportunities to practice mindfulness throughout their law school experience. Mindfulness has been defined in a number of ways. One definition is "present awareness"—that is, "an experiential practice and a way of being more attuned and responsive to present moment concerns."<sup>375</sup> Another definition is "a moment-to-moment awareness of one's experience without judgment."<sup>376</sup> Mindfulness as it is practiced today "represents a Western secularized version" of ancient meditation practices.<sup>377</sup> These practices "'center on learning to stay focused on our breathing and, when distracted, acknowledging the distraction and redirecting our attention back to the breathing in a nonjudgmental way.' If one learns how to do this with her breathing, she then can keep her attention on any other specific object."<sup>378</sup>

Mindfulness in legal education has been a topic of growing interest for several years.<sup>379</sup> Mindfulness practices have been proven to "reduce stress, improve physical and mental health, increase attention and focus, and even improve academic performance."<sup>380</sup> The first two of these effects are much needed in the legal profession; as the ABA has recognized, many lawyers

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375. Katrina June Lee, *A Call for Law Schools to Link the Curricular Trends of Legal Tech and Mindfulness*, 48 U. TOL. L. REV. 55, 58 (2016) (quoting Scott L. Rogers, *The Role of Mindfulness in the Ongoing Evolution of Legal Education*, 36 U. ARK. LITTLE ROCK L. REV. 387, 389 (2015)).

376. Shailini Jandial George, *The Cure for the Distracted Mind: Why Law Schools Should Teach Mindfulness*, 53 DUQ. L. REV. 215, 220 (2015) (quoting Daphne M. Davis & Jeffrey A. Hayes, *What Are the Benefits of Mindfulness? A Practical Review of Psychotherapy-Related Research*, 48 PSYCHOTHERAPY 198, 198 (2011)).

377. Katerina P. Lewinbuk & Christy Gilbert, *Law Student Heal Thyself: Teaching Mindfulness as a Legal Skill*, 41 J. LEGAL PROF. 37, 39 (2016).

378. *Id.* (quoting Katerina P. Lewinbuk, *Mindfulness Matters in Law School*, TEX. B. BLOG (Feb. 23, 2015), <http://blog.texasbar.com/2015/02/articles/news/mindfulness-matters-in-law-school/>).

379. See Scott L. Rogers, *The Role of Mindfulness in the Ongoing Evolution of Legal Education*, 36 U. ARK. LITTLE ROCK L. REV. 387, 388 (2015) (noting that in the fifteen years before he published his 2014 article, there had been more than 100 articles in law reviews, bar journals, and national periodicals discussing the benefits of mindfulness in legal education and the profession).

380. Lewinbuk & Gilbert, *supra* note 377, at 40.

struggle with drinking, depression, anxiety, suicidal thoughts, and general unwellness, and these problems often first begin to manifest in law school.<sup>381</sup>

This will almost certainly be true for Gen Z students; as explored above, they have grown up in a world where news accounts of tragic events are pushed at them over their smartphones 24/7; where their parents have endeavored to shelter them from failure and from uncomfortable new ideas; and where tech addiction often causes them to be lonely, sleep deprived, and depressed.<sup>382</sup>

Teaching mindfulness practices to Gen Z students holds promise as a strategy for helping them manage these stressors, to be sure, but it also holds promise as a way to combat the attention deficit that many Gen Z students bring to law school with them as a result of “multimedia multitasking.” Mindfulness “helps increase a person’s ability to pay attention to attention, to ‘notice that you are not noticing what you should’ and then to correct one’s focus.”<sup>383</sup> Put another way, mindfulness training allows students to practice concentrating, which helps them “refine [their] capacity to focus and maintain attention on an object,” which in turn causes “corresponding changes to the brain regions associated with attention.”<sup>384</sup> And significantly for Gen Z students, mindfulness training has been shown to permit people to “switch between objects of attention more fluidly.”<sup>385</sup> If professors design their courses in a way that minimizes students’ need to multitask (task-switch) and reduces their temptation to do so, as suggested above, and professors intentionally help students enhance their ability to attend to their learning by incorporating mindfulness training into Gen Z students’ educational experience, professors will enable them to achieve greater success (and greater satisfaction) as they navigate the stressful environment of law school.<sup>386</sup>

A small number of law schools now offer formal mindfulness courses, some for credit, and a larger number teach mindfulness in less formal, non-

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381. Teresa Kissane Brostoff, *Meditation for Law Students: Mindfulness Practice as Experiential Learning*, 41 *LAW & PSYCHOL. REV.* 159, 159–60 (2017).

382. See *supra* Section III.B.

383. Lee, *supra* note 375, at 61 (emphasis in original).

384. Scott L. Rogers & Jan L. Jacobowitz, *Mindful Ethics and the Cultivation of Concentration*, 15 *NEV. L.J.* 730, 732 (2015).

385. George, *supra* note 376, at 223, 225 (describing study results showing that “intensive meditation training ‘can produce lasting and significant improvements in the efficient distribution of attentional resources among competing stimuli, even when individuals are not actively using the techniques they have learned’”) (quoting Rachel Jones, *Learning to Pay Attention*, 5 *PUB. LIBR. SCI. BIOLOGY* 1188, 1189 (2007)).

386. For an excellent new treatment of the benefits of incorporating mindfulness training throughout the law school experience, see KATHLEEN ELLIOT VINSON, SAMANTHA ALEXIS MOPPETT & SHAILINI JANDIAL GEORGE, *MINDFUL LAWYERING: THE KEY TO CREATIVE PROBLEM SOLVING* (2018).

credit formats.<sup>387</sup> Some law professors now begin class with short mindfulness exercises, and traditional courses such as negotiation, dispute resolution, and professional responsibility are being redesigned to include mindfulness components.<sup>388</sup> For example, at the University of Dayton School of Law, students can take a two-credit course, *Sustaining Practices for the Legal Profession*, described as follows:

This course provides an overview of the ways mindfulness meditation and other contemplative practices are being integrated into the legal profession. Students will develop their own contemplative practice and participate in exercises to develop the skills of concentrating without distraction, listening, developing empathy, emotional regulation, reflection and self-critique. Through readings and discussion, students will explore the relationship between these skills and the traditional legal practice skills, conflict resolution, creative problem-solving, social justice, professionalism and ethics, and dispute resolution. Students will also read current scholarship related to law student and lawyer distress and wellbeing, neuroscience and meditation, and the growing role of the contemplative practices in the legal profession.<sup>389</sup>

And at Wake Forest University School of Law, students can take a one-credit course, *Mindfulness for Lawyers*, designed to “introduce students to the practice of meditation and explore the ways that contemplative practices can help to develop skills that are directly relevant to the work of a lawyer.”<sup>390</sup> The classes are “enriched by presentations from lawyers, physicians, psychologists and others who have integrated the meditative perspective with their law practice” and “from neuroscientists who have studied the effects of contemplative practices on our brains, or minds.”<sup>391</sup>

There is a wealth of information available to administrators and professors who wish to incorporate mindfulness training at their law schools, and a detailed discussion of best practices is beyond the scope of this article. Here, I intend simply to suggest that the arrival of Gen Z students at law schools presents a golden opportunity for professors to explore how to harness the power of mindfulness training to help Gen Z students manage their anxiety and fear and develop better attention and memory skills.

And there is one other facet of the approach to fostering wellness in Gen Z students that merits a brief mention: law schools must become “safe spaces”—but not necessarily in the sense that Gen Z students have come to

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387. See George, *supra* note 376, at 242–43; see also Mindfulness Affinity Group, AALS Balance Section, Spreadsheet Describing Mindfulness Courses at U.S. Law Schools (2018) (compiled by Susan Wawrose) (on file with author).

388. Lee, *supra* note 375, at 59–60.

389. *Id.*

390. Mindfulness Affinity Group, *supra* note 387.

391. *Id.*

use the term. How law schools should respond to the “safe spaces” movement described above<sup>392</sup> is an interesting question that must be left for exploration in another article. Here, I would advocate another kind of “safe space” within law schools—the space for students to fail safely. As noted above, the parents of Gen Z students, commonly known as co-pilot parents, have worked to protect them from failure at all costs, even in their college years.<sup>393</sup> This sets Gen Z law students up for great distress and unhappiness when they experience the inevitable failures—small and large—that are inherent in the process of legal education. Law schools thus must think proactively about how to train Gen Z students to re-think their conceptions of failure.

In her recent article, *Framing Failure in the Legal Classroom: Techniques for Encouraging Growth and Resilience*, Professor Kaci Bishop makes a compelling case for embracing “failure pedagogy” in law schools.<sup>394</sup> Professor Bishop defines failure as “whatever feels like failure to the person experiencing it”—it might be failing a course, but it might also be failing to understand an assigned reading, or failing to give a correct response to a professor’s question in class, or failing to receive the praise for their legal writing that they have always received for their prior writing.<sup>395</sup> Students’ fear of failing in these ways can paralyze them and hinder their learning and can even persist into their professional lives, where it may jeopardize their ability to represent their clients zealously and creatively.<sup>396</sup>

Professor Bishop argues that law schools should “reinforce a growth mindset and help students embrace failure for the powerful learning tool it is.”<sup>397</sup> She encourages professors to “foster failure” in classrooms rather than “leaving it to fester”<sup>398</sup> and suggests a number of strategies for doing so. First, she recommends that professors “let[] students know explicitly that we have high expectations for them and their work *and* that we expect them to make mistakes.”<sup>399</sup> For example, professors who regularly use the Socratic method should explain to students that they *want* them to struggle with puzzling through the questions asked, because that struggle helps them develop their critical legal thinking skills.<sup>400</sup> Second, Professor Bishop suggests that legal educators should help contextualize failure by “helping students understand that not all failures are equal.”<sup>401</sup>

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392. See *supra* Section III.B.4.

393. See *supra* Section III.B.4.

394. Kaci Bishop, *Framing Failure in the Legal Classroom: Techniques for Encouraging Growth and Resilience*, 70 ARK. L. REV. 959 (2018).

395. *Id.* at 962, 979.

396. *Id.* at 959, 973.

397. *Id.* at 985.

398. *Id.*

399. *Id.* at 987.

400. Bishop, *supra* note 394, at 988.

401. *Id.* at 991.

Some failures are praiseworthy, not blameworthy, and we should want to encourage these praiseworthy failures in our classroom. Many of our students would be relieved to be exposed to the spectrum of failure and to be explicitly encouraged to engage in these praiseworthy and intelligent failures. By contextualizing some kinds of failure as praiseworthy, we can encourage our students to take risks in their thinking, ask questions, try out different hypotheses about the reasoning or holding in a case, and push the bounds of their understanding of the law.<sup>402</sup>

Third, Professor Bishop recommends that professors provide students with feedback—both oral and written—in a way that encourages a growth mindset.<sup>403</sup> She advocates using “growth language”; for example, the word *yet* (as in, “While you understood one part of the court’s rationale, you have *yet* to account for some of the court’s reasoning”) is powerful because it “emphasizes the incremental theory of intelligence.”<sup>404</sup> Similarly, the word *and* is powerful as a “growth-laden substitute” for the more negative word *but* (as in, “You’ve expressed this idea clearly in class, *and* now you need to work on communicating it clearly in writing.”).<sup>405</sup>

Gen Z law students may tend to resist criticism, but receiving critical feedback is essential to their learning. Gen Z law students may be unaccustomed to failure, but that failure is a powerful learning tool if students experience it in a “safe space.” Novice Gen Z students will more easily acquire the critical thinking, reading, and writing skills they lack if professors promote the growth mindset by giving them permission to fail, and they will develop the resilience and confidence they will need later to succeed in the profession.

## VI. CONCLUSION

I believe that knowledge of social conditions, of the present state of civilization, is necessary in order properly to interpret the child’s powers. The child has his own instincts and tendencies, but we do not know what these mean until we can translate them into their social equivalents. We must be able to carry them back into a social past and see them as the inheritance of previous race activities. We must also be able to project them into the future to see what their outcome and end will be.<sup>406</sup>

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402. *Id.*

403. *Id.* at 994.

404. *Id.* at 997 (noting that the word *yet* “packs in what the student has done, what the student still needs to do, and my belief that she is capable of doing it”).

405. *Id.* at 998–99.

406. John Dewey, *My Pedagogic Creed*, 54 SCH. J. 3, 77–80 (1897).

With these words, written well over a century ago, the great American educator and philosopher John Dewey gave a prescient nod to the important role generational influences play in the task of educating young students. Even those who do not subscribe to the specifics of Strauss and Howe's generational theory (or who reject generational theory altogether) would, it seems, have to concede that teachers—including law professors—will be more effective if they understand the peer personality and learning characteristics of their students.

That premise is the foundation upon which I have undertaken to build this article's treatment of Generation Z. The article thus comes not from a place of criticism and censure, where "today's students" are automatically viewed as less intelligent, less capable, less prepared, less (fill in the blank). Rather, it comes from a place of optimism and caring, where "today's students" are viewed through the lens of the rapidly changing culture in which they have been raised and the challenges those changes have created.

It has only been two years since the first Gen Z students entered law school, but legal educators will be welcoming Gen Zers into law school classrooms well into the 2030s. I believe Gen Z students will usher in an exciting new era in legal education; their diversity, their global focus, and their desire to be instruments of social change should energize those of us who are tasked with preparing students to enter the legal profession and to be advocates for the cause of justice. And while time will tell whether all of the early descriptions of Gen Z students are accurate, law schools would be wise to study those early descriptions to identify some of the most fertile areas for change and growth in how we design legal education for this new generation. In this way, we can begin to make gradual adjustments to ensure that when Generation Z goes to the legal workplace, they are equipped with the tools they need to survive and thrive.