

REIMAGINING LEGAL EDUCATION: BRIDGING TRADITION AND INNOVATION

Vickie S. Carlton¹

The landscape of legal education is undergoing a profound transformation, shaped by rapid advancements in technology, globalization, and shifting demands within the legal profession. When I graduated from law school in 2003, the process of legal research and education looked vastly different. Hours spent in the law library meticulously Shepardizing case law have been replaced by a few keystrokes that provide near-instant access to legal authorities through electronic databases. The emergence of artificial intelligence and other cutting-edge technologies has further revolutionized how lawyers and students interact with the law, placing unprecedented resources at their fingertips. These technological changes are only part of the story. The way students learn and process information has also evolved dramatically, challenging the traditional law school model that relies heavily on the Socratic method and case law analysis. While these time-honored approaches remain valuable, they are no longer sufficient to meet the demands of today's legal marketplace or the learning preferences of Millennial and Gen Z students. Today's learners thrive in dynamic, interactive environments that emphasize collaboration, practical problem-solving, and real-world application. This shift necessitates a reimagining of law school pedagogy to better align with modern realities. At the same time, the legal profession itself is changing. Law firms, government agencies, and public interest organizations increasingly expect new graduates to be "practice-ready", proficient in legal research and writing, client counseling, negotiation, and ethical decision-making. Gone are the days when law firms assumed responsibility for teaching these skills during the first years of practice. Now, the onus is on law schools to bridge the gap between academic theory and professional practice, ensuring that graduates can hit the ground running.

This article contends that the integration of simulated learning experiences into the law school curriculum offers a powerful solution. By combining traditional doctrinal teaching with experiential learning, law schools can create an active learning environment that prepares students for the complexities of modern legal practice. Simulated courses provide students with opportunities to develop practical skills, engage in critical

¹ Associate Professor at Atlanta's John Marshall Law School.

thinking, and build professional judgment in a controlled setting. This approach not only enhances the student learning experience but also positions graduates for success in an increasingly competitive and globalized legal market. This article begins by examining the historical context of legal education, tracing the evolution of traditional teaching methods and identifying their limitations in addressing contemporary challenges. It explores how the expectations of legal employers have shifted, emphasizing the skills and attributes now deemed essential for new attorneys. The discussion then turns to the legal academy's response, highlighting reformist efforts aimed at bridging the gap between theory and practice. A key focus of this article is the alignment of law school pedagogy with the learning preferences of today's students, particularly Millennials and Gen Z. Strategies for fostering active, engaging, and collaborative learning environments are explored, with a particular emphasis on the role of simulation-based education. The article evaluates the benefits and drawbacks of these innovative approaches, addressing criticisms and practical challenges associated with their implementation. Finally, the article concludes by offering best practices and recommendations for integrating simulated courses into the law school curriculum. It also reviews recent innovations and initiatives within legal education, including programs designed to produce practice-ready graduates. By balancing the intellectual rigor of traditional methods with the practical demands of modern legal practice, law schools can better serve their students, the profession, and society at large. In rethinking legal education, the time has come to embrace a more holistic approach, one that values both tradition and innovation. By adapting to the needs of today's learners and the realities of the profession, law schools can ensure their graduates are not only knowledgeable in legal theory but also equipped to thrive in the ever-evolving legal landscape.

I. LAW SCHOOL PEDAGOGY, A HISTORICAL PERSPECTIVE: THEN AND NOW

From the beginning of time, the traditional and universally accepted method of teaching law was grounded in what is referred to as the Socratic Method, a pedagogical tool dating back to ancient Athens.² This method of instruction, also known as *elenchus* or the *elenctic method*, adopted its name from the philosopher Socrates (470-399 BCE).³ Socrates engaged in a question and answer approach with his apprentices in order to encourage his

² Gregory Vlastos, *The Socratic Elenchus*, in *OXFORD STUDIES IN ANCIENT PHILOSOPHY* 127 (1983).

³ *Id.*

apprentice to first state a position on a particular issue and then by utilizing a series of follow-up questions, Socrates would implore the student to think more deeply about the issue or subject matter to arrive at a logical conclusion, and generally not one in which the student would have reached without the use of this probing method of question-and-answer exchange. Socrates lived in the first Information Age when literacy allowed ideas to be transmitted through the written word.⁴ Most of the information that is known about Socrates has been learned from Plato, the ancient Greek philosopher and student of Socrates (c. 470-399 BCE).⁵ Plato presented an excellent example of Socrates' teaching method in *The Republic*, a Socratic dialogue written by Plato around 380 BC in which Plato explores the topic of justice by describing various actual and hypothetical approaches to government.⁶ Plato provides an excellent sample of Socrates' teaching style in this excerpt:

[Socrates:] Tell me . . . what it is that you affirm about justice.
[Polemarchus:] That it is just to render each his due ...
[F]riends owe it to friends to do them some good and no evil
...
[Socrates:] But how about this-should one not render to enemies what is their due?
[Polemarchus:] By all means ... there is due and owing from an enemy to an enemy ... some evil.
[Socrates:] To do good to friends and evil to enemies, then, is justice[?] ..
[Polemarchus:] I think so....
[Socrates:] Do not men make mistakes in this matter so that many seem good to them who are not and the reverse?
[Polemarchus:] They do.
[Socrates:] For those, then, who thus err the good are their enemies and the bad their friends?
[Polemarchus:] Certainly.
[Socrates:] But all the same it is then just for them to benefit the bad and injure the good?

⁴ Matt Hlinak, *The Socratic Method 2.0*, 31 J. LEGAL STUD. EDUC.1, 1–20 (Winter 2014); Alfred Burns, *Athenian Literacy in the Fifth Century B.C.*, 42 J. HIST. IDEAS 371 (1981).

⁵ Plato, born Aristocles around 427 BCE, was an ancient Greek philosopher of the classical period. Plato is considered one of the most influential thinkers in the history of philosophy. Plato founded the Academy in Athens, which is often regarded as the first university in the Western world, see Constance C. Meinwald, Plato, Greek Philosopher, *Britannica* (Feb. 11, 2024), <https://www.britannica.com/biography/Plato>.

⁶ Plato, *THE REPUBLIC OF PLATO* (Allan Bloom trans., Basic Books 2d ed. 1991).

[Polemarchus:] It would seem so.

[Socrates:] But again the good are just and incapable of injustice.

[Polemarchus:] True.

[Socrates:] On your reasoning then it is just to wrong those who do not do injustice.

[Polemarchus:] Nay, nay, Socrates ... the reasoning can't be right.⁷

As demonstrated by this exchange, the student is presumed developing important oral advocacy skills while also being required to think on her feet. However, Socrates did not engage in this method of teaching in a classroom of one-hundred students or more. His teachings were personal and individualized, exploring legal analyses on a one-on-one basis, which is vastly different from the way that the Socratic method is used in law school classrooms today.⁸ According to scholar Ronald Gross, Socrates was a “slow, careful thinker.”⁹ When Socrates engaged his students in dialog, he often had to ask them “to slow down so that he could understand what they were saying.”¹⁰

So how did legal educators travel from Socrates’ one-on-one exploration of a legal issue to the cold calling technique employed in today’s law school classroom? In 1870, Christopher Langdell, a law school professor and subsequent dean of Harvard Law School, introduced the use of lectures and texts that incorporated the question-answer dialogue.¹¹ The often-articulated goal of the Socratic method is to ensure that students come to class prepared, as failing to do so risks public embarrassment and potential ridicule by their competitive peers.¹² However, critics of the Socratic method point out its most obvious flaws:

⁷ Plato, *THE REPUBLIC*, bk. I, 331d–335e at 7-13 (Allan Bloom trans., Basic Books 2d ed. 1991).

⁸ Chloe Sovine-Dyroff, *Introverted Lawyers: Agents of Change in the Legal Profession*, 36 *GEO. J. LEGAL ETHICS* 111, 132 (2023) (citing Ronald Gross, *SOCRATES’ WAY: SEVEN KEYS TO USING YOUR MIND TO THE UTMOST* 40 (2002), quoting Linda Meyer, founder of Meyer Learning Center in Denver).

⁹ Ronald Gross, *SOCRATES’ WAY: SEVEN KEYS TO USING YOUR MIND TO THE UTMOST* 7 (Jeremy P. Torch/Penguin 2002).

¹⁰ *Id.*

¹¹ Michael P. Harvey-Broughton II, *Ending the Chill of Cold Calling: A Multimodal Solution to the Pitfalls of the Socratic Method*, 16 *DREXLR* 359 (2024).

¹² Orin S. Kerr, *The Decline of the Socratic Method at Harvard*, 78 *Neb. L. Rev.* 113, 117 (1999).

Even in its gentler forms, though, the Socratic method used in law school classrooms today “often scars students for life.” At best, the method is ineffective and grounded in assumptions that all students learn in the same way. For many students the mere “possibility that they will be called on can be incapacitating.” Instead of listening to the content of the classroom discussion, many students spend the entire class trying to anticipate what the professor might ask next. At its worst, the Socratic method is “cruel and psychologically abusive,” subjecting students to “public degradation, humiliation, ridicule, and dehumanization.” “Professors expect immediate responses based on the assumption that the student on-call has completed the assigned reading and prepared adequately for class.” And “the overall tenor can be competitive and judgmental.” It is not unheard of for students to become physically ill or vomit in class. One prominent Harvard professor has been quoted as saying, “[n]o one has ever died because of the Socratic method.” But, as Heidi Brown aptly asks, “[i]s this really the appropriate standard of care?”¹³

While the law school experience has been historically designed to teach students to “think like a lawyer,” by imploring the Socratic method whose goal is to encourage critical thinking, the question that must be pondered is whether the goal of thinking like lawyer produces a well-rounded law graduate prepared to truly engage in the multi-faceted requirements of today’s legal practice. And while the Socratic method is still being widely used as an effective tool for engaging in legal analysis and will not be entirely abandoned, law schools must address whether this method has outlived its usefulness. As times change, generations change, and more critically the way students learn has changed, law school pedagogy must also evolve to meet the demands of the modern legal landscape.

II. THE CHANGING LEGAL LANDSCAPE AND WHAT LAW FIRMS ARE LOOKING FOR IN NEWLY MINTED LAWYERS

Comprehensive readiness gained through the study of legal doctrine remains the cornerstone of legal education. Accordingly, most law schools

¹³ Heidi K. Brown, *The “Silent but Gifted” Law Student: Transforming Anxious Public Speakers into Well-Rounded Advocates*, 18 LEGAL WRITING: J. LEGAL WRITING INST. 291, 292–93 (2012).

continue to ascribe to the conviction that analyzing appellate cases in doctrinal courses is an adequate teaching approach. As noted by Carrie Menkel-Meadow, Distinguished Professor of Law at the University of California Irvine, the casebook method of teaching prevails, “[i]f one looked at the schoolroom, the hospital, the police station, the prison, or the business office of the nineteenth century, and then compared it to today’s institutions, one would see more change in each of these than in the law school classroom.”¹⁴ Unfortunately, legal education has not experienced a substantial change in nearly 150 years. It’s an odd state of affairs, considering how much actual practice has changed in that time. Educators increasingly believe law school education needs a refresher course of its own. “In the complex global and technological practice of the 21st century, they say, law school education should combine theoretical and practical teaching, incorporate more business skills, and focus on inculcating a range of leadership, ethical, and reasoning skills.”¹⁵

Rigidly focusing on the doctrinal disciplines while refusing to acknowledge the complexities demanded in the legal practice, does a disservice to the law student by failing to provide them with the required skills beyond legal analysis necessary for practice in the modern law firm environment. Moreover, law schools are facing significant pressure from economic concerns and increasing expectations from the legal market to graduate “practice-ready” lawyers. As a result, significant curricular reforms are being adopted by law schools, and clinical legal education is gaining more attention. To achieve the goal of graduating practice-ready lawyers, law schools must combine the traditional case teaching method with experiential learning, where the curriculum focuses on doctrine and training professionals.

The legal landscape and indeed the profession as a whole was unwillingly and drastically reshaped by what is now known as the Great Recession of 2008-2009.¹⁶ The Great Recession refers to the economic downturn caused by a combination of factors related to the housing market,

¹⁴ Carrie Menkel-Meadow, *Taking Law and _____ Really Seriously: Before, During and after “The Law”*, 60 Vand. L. Rev. 555, 578–79 (2007).

¹⁵ See, Professionalism in the 21st Century, Center on the Legal Profession, Harvard Law School March/April 2015, <https://clp.law.harvard.edu/knowledge-hub/magazine/issues/professionalism-in-the-21st-century/preparing-lawyers-for-practice/>.

¹⁶ Eli Wald, *The Great Recession and the Legal Profession*, 41 FLA. ST. U. L. REV. 541 (2014).

financial sector practices, and broader economic imbalances.¹⁷ During that time, there were an unprecedented number of law-firm layoffs, salary decreases, de-equitizing of long-term partners, and most importantly hiring-freezes resulting in a significant number of unemployed law school graduates nationwide.¹⁸ Over half of all the full-time, long-term bar passage required jobs that were lost between the Class of 2007 and the Class of 2011 were lost out of Big Law alone.¹⁹ According to the National Association for Law Placement (NALP), the overall employment rate for new law school graduates fell from 91.9% in 2007 to 85.6% in 2011, marking the lowest rate since 1994.²⁰ As a result, law firms required fewer entry level lawyers making the competition for these entry-level openings even more competitive with Big Law causing the greatest trickle-down effect in the market. Changes in Big Law hiring practices have created widespread disruptions in the entry-level legal job market, significantly influencing employment opportunities for law graduates across all sectors. Historically, the prestige of a law school and the academic standing of its graduates have been the primary determinants of employability in legal positions. Top graduates, often with the strongest credentials, have traditionally pursued roles in Big Law due to its reputation for offering high salaries, prestigious cases, and opportunities for professional growth. This preference has long shaped the hiring pipeline for new lawyers. When Big Law reduces its hiring, as seen in recent years, the effects ripple throughout the legal job market. The most credentialed graduates, who would have otherwise secured positions in Big Law, seek employment in other sectors. These candidates, being highly competitive, often displace less well-credentialed peers who would have occupied those roles. This displacement continues down the employment hierarchy, ultimately leaving the least employable

¹⁷ Eli Wald, *The Great Recession and the Legal Profession*, 78 FORDHAM L. REV. 2051 (2010).

¹⁸ In 2009, law firm hiring was at historic lows, see Gerry Shih, *Downturn Dims Prospects Even at Top Law Schools*, N.Y. TIMES (Aug. 26, 2009), <https://www.nytimes.com/2009/08/26/business/26lawyers.html>; Nat'l Ass'n for Law Placement, *Class of 2011 Law School Grads Face Worst Job Market Yet—Less Than Half Find Jobs in Private Practice, Employment for the Class of 2011: Selected Findings 1* (2012), <http://www.nalp.org/uploads/Classof2011SelectedFindings.pdf>; Joe Palazzolo, *Law Grads Face Brutal Job Market*, WALL ST. J. (June 25, 2012), <https://www.wsj.com/articles/SB10001424052702304458604577486623469958142>.

¹⁹ This decline was particularly pronounced in large law firms, commonly referred to as “Big Law”, which experienced substantial reductions in hiring during this period. For a comprehensive analysis of the legal profession's transformation during this time, see Wald *supra* note 17.

²⁰ Nat'l Ass'n for Law Placement, *Class of 2011 Law School Grads Face Worst Job Market Yet—Less Than Half Find Jobs in Private Practice, Employment for the Class of 2011: Selected Findings* (2012), <https://www.nalp.org/uploads/Classof2011SelectedFindings.pdf>.

candidates with few options, pushing them into less desirable or non-legal positions, or even unemployment.²¹ The contraction of Big Law hiring disproportionately affects the larger legal ecosystem. Graduates who might have pursued alternative career paths are forced to compete in a saturated market, fundamentally altering the types of jobs available to all law graduates. As a result, the ripple effects of reduced hiring in Big Law highlight the fragility of the entry-level legal employment market and the cascading challenges that stem from its reliance on this traditional hiring structure.

The Great Recession profoundly impacted the legal profession, fundamentally altering the traditional business models of many law firms, particularly Big Law. Firms faced increased client resistance to high-end billing rates, forcing a shift away from longstanding practices of billing clients for extensive hours of work at premium rates. In this new landscape, law firms began prioritizing efficiency and cost-effectiveness, placing a premium on candidates who were “practice-ready” and could contribute immediately with minimal need for supervision or extensive training. This shift underscored the growing demand for legal professionals who possessed practical, hands-on experience and the ability to navigate the complexities of legal practice from day one.²² The article titled *What Legal Employers Want...and Really Need: Report from a Conference at Boston College Law School* presents insights from a conference held at Boston College Law School, focusing on the skills and attributes that legal employers seek in new graduates. The discussion emphasized the importance of practical skills, professionalism, and adaptability in the evolving legal market. Employers highlighted the need for graduates who are not only academically proficient but also possess strong communication abilities, ethical judgment, and the capacity to work collaboratively. The report underscores the gap between traditional legal education and the competencies required in practice, advocating for curricular reforms to

²¹ Bernard A. Burk, *What's New About the New Normal: The Evolving Market for New Lawyers in the 21st Century*, 41 FLA. ST. U. L. REV. 541 (2014).

²² The call to produce graduates with well-developed legal skills has been sustained over many years. *see, e.g.*, AM. BAR ASS'N, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM 8 (1992) [hereinafter MACCRATE REPORT]; Roy Stuckey et. al., BEST PRACTICES FOR LEGAL EDUCATION (2007), http://www.cleaweb.org/Resources/Documents/best_practices-full.pdf; William A. Sullivan et. al, EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 28 (2007) [hereinafter Carnegie Report. *see also* Wald *supra* note 16.

better prepare students for the demands of the legal profession.²³ Since the Great Recession the legal profession has recovered to some degree; however, hiring practices after the Great Recession have not returned to the levels in which they were.²⁴ This post-recession adjustment is what is referred to as the “New Normal” and reflects a downward adjustment in the hiring of entry-level associates and accompanying salaries for many years to come.²⁵ With fewer positions available in Big Law, those candidates were taking positions in medium to smaller niche or boutique law-firms pushing out the lesser-credentialed candidates making it even more critical for entry-level lawyers to graduate with practice-ready skills that serve to differentiate them from their competitors vying for the same positions. In 2021, law firms began hiring at an accelerated rate, but the hiring frenzy was short-lived when in 2022, news of massive layoffs and hiring freezes

²³ Elisabeth A. Keller, et. al., *What Legal Employers Want...and Really Need: Report from a Conference at Boston College Law School*, THE SECOND DRAFT, (Apr. 1, 2011), <https://lira.bc.edu/work/sc/3bf55494-b45a-45c0-be76-727a7985c561>.

²⁴ *Law Firm Hiring Has Not Rebounded Evenly Across Major Markets Following the Recession*, NALP (Dec. 2019), <https://www.nalp.org/1219researchcollins>.

²⁵ The phrase “New Normal” has been widely used to describe significant shifts in various industries, including the legal profession, especially following events like the Great Recession and the COVID-19 pandemic. Mark Cohen, a prominent legal industry expert and CEO of Legal Mosaic, has extensively discussed the transformative changes in law firm operations, hiring practices, and client demands during this period. He emphasizes the move towards efficiency, technology integration, and alternative legal service models within the legal industry. See Mark A. Cohen, *The New Normal: Why It Matters to Legal Consumers, Providers, and Regulators*, Legal Mosaic (Oct. 15, 2020), <https://www.legalmosaic.com>. While Cohen has provided in-depth analyses of the evolving legal landscape, it's important to note that he did not originate the term “New Normal.” This phrase has been applied across various contexts to denote significant and lasting changes in standard practices. In the legal industry, the “New Normal” refers to leaner operations, a heightened focus on efficiency and technology, increased utilization of alternative legal service providers, and evolving talent pipelines within law firms. These developments have led to a reevaluation of traditional business models and have had a profound impact on hiring practices and law firm structures. The legal profession continues to adapt to these changes, striving to meet the evolving needs of clients in a rapidly changing environment. See Ari Kaplan, *How the Legal Profession Has Embraced the “New Normal”*, THOMSON REUTERS’ LEGAL GEEK (Jan. 13, 2021), <https://www.thomsonreuters.com/en-us/posts/legal/legal-geeks-uncertain-decade-pt1-future/>; Mark A. Cohen & Richard Susskind, *Debate on the Future of the Legal Industry*, LEGAL MOSAIC (Sept. 10, 2020), <https://www.legalmosaic.com/richard-susskind-and-mark-cohen-debate-the-future-of-the-legal-industry/>; Financial Times, *Law Firms Adapt to Cover Expanding Legal Risk*, FIN. TIMES (Feb. 12, 2022), <https://www.ft.com/content/c716b154-f732-49a4-b206-92cee6a75e52>.

were once again prevalent in the legal market.²⁶ Predictably, “falling demand, declining profits, and rising expenses” had once again negatively impacted law-firm hiring in 2023, “with more layoffs likely as clients tighten their belts and move work to lower-priced firms.”²⁷

Determining what law firms are looking for in recent graduates is difficult to gauge. A focus group study conducted in 2009 (the “Study”) by Susan C. Wawrose, Director, Graduate Law Programs and Professor of Lawyering Skills at the University of Dayton School of Law, shed some initial light on what law firms were looking for in new hires. The Study addressed the questions of: (1) what legal employers expected from recent law school graduates; and (2) what skills and competencies employers value most in new hires.²⁸ The employers’ comments fell into two main categories. First, the most prominent preference for newly hired attorneys was for those who had “well-developed professional or soft skills, such as a strong work ethic, willingness to take initiative, the ability to collaborate well with colleagues and clients, and the ability to adapt to the demands of supervisors.”²⁹ Second, the Study found that employers were interested in hiring graduates with strong fundamental practice skills, including legal research, written and verbal communication, and analysis. “When it comes to these fundamental skills, employers have high expectations.”³⁰ The skills developed from a well-designed simulation includes the ability to play in the sandbox with other students. This skill was highlighted in the Study as being fundamentally important. The ideal law school graduate works well with colleagues and clients. The “ideal law school graduate” should be “enthusiastic and personable,” have a “positive attitude,” be able to “work well with others,” including colleagues, clients and other “people

²⁶ Rebecca King-Newman, *What’s Hot, or Not, in 2023*, The Vault, (Feb. 1, 2023), citing U.S. Bureau of Labor Statistics Occupational Outlook Handbook, *see* <https://www.bls.gov/ooh/legal/lawyers.htm#tab-6>.

²⁷ Karen Sloan, *Law Firms Face Daunting 2023 Amid Falling Profits and Demand*, REUTERS (Jan. 10, 2023), <https://www.reuters.com/legal/legalindustry/law-firms-face-daunting-2023-amid-falling-profits-demand-2023-01-10/>.

²⁸ Susan C. Wawro’s, *What Do Legal Employers Want to See in New Graduates?: Using Focus Groups to Find Out*, 39 OHIO N.U. L. REV. 505 (2013), *available at* [http://law.onu.edu/sites/default/files/Wawrose%20\(FINAL%20PDF%205-17\).pdf](http://law.onu.edu/sites/default/files/Wawrose%20(FINAL%20PDF%205-17).pdf). The focus groups were one component of a larger research project that was designated the Bench & Bar Outreach Project. The employers who participated in this project were nineteen Dayton-area attorneys. All but three were graduates of the University of Dayton School of Law, and their practice experience at the time ranged from five to thirty-five years with the mean at fourteen years. *Id.* at 515.

²⁹ *Id.* at 522.

³⁰ *Id.*

completely outside the realm of law.”³¹ The inability to do so “can make working relationships really challenging.”³²

In a 2015 survey conducted by the University of Baltimore School of Law, law firms were asked questions such as “[h]ow would you describe the ideal recent graduate?”; “[w]hat weaknesses do you see in recent hires?”; and “[w]hat are your expectations for new attorneys’ writing skills, and analytical skills?”³³ The overall findings in this study revealed that legal employers preferred to hire a graduate who had received some training in their area or practice “as both cost-cutting pressures from clients as well as increased demands on experienced attorneys’ time make it difficult, if not impossible, to invest substantial amounts of time and money in training a new attorney. In addition, smaller firms want to hire new attorneys with basic business skills and an interest in the business of law, as their business models require that associates develop clients and generate revenue earlier in their careers than what was expected a decade ago.”³⁴ Around that same time, a survey conducted by BARBRI, the well-known bar exam preparation company, found that perceptions of being “practice ready” differed between lawyers-to-be and prospective employers. While two-thirds of third-year law students believed that they had obtained “sufficient practice skills” during law school and were ready to practice law “right now,” only 56 percent of practicing attorneys surveyed shared that belief.³⁵ In addition, the American Bar Association (the “ABA”) has also recognized the need to graduate practice ready lawyers and mandates learning outcomes and objectives that law schools are required to incorporate into its law school curricula. The ABA was founded in 1878 with the goal of advancing the rule of law across the United States, and among other important objectives, to provide law school accreditation for those schools who meet a minimum set of standards promulgated by the Council of the Section of Legal Education and Admissions to the Bar.³⁶

³¹ *Id.* at 529.

³² *Id.*

³³ Jill Green, *The Times They Have-A-Changed*, 50-Jun MDBJ 14 (2017). The survey included large law firms, solo firms, non-profits, governmental agencies, in-house counsel, and the judiciary. The method employed included in person meetings with an aim towards informing the law school’s curriculum and professional development programming.

³⁴ *Id.* at 16.

³⁵ Harvard Law School, Center on the Legal Profession, *Learning the Business Side of Law* (March/April 2015), <https://clp.law.harvard.edu/knowledge-hub/magazine/issues/professionalism-in-the-21st-century/learning-the-business-side-of-law-practice-ready-graduates/>.

³⁶ See American Bar Association at: <https://www.americanbar.org/>. The ABA is one of the largest voluntary professional societies in the world. The current mission of the ABA is to

Law schools, in turn, are responsible for ensuring that they operate in compliance with ABA standards in order to maintain accreditation status.³⁷ ABA Standard 301 sets forth the Objectives of Program for Legal Education. ABA's Standard 301 provides:

- (a) A law school shall maintain a rigorous program of legal education that prepares its students, upon graduation, for admission to the bar and for effective, ethical, and responsible participation as members of the legal profession.
- (b) A law school shall establish and publish learning outcomes designed to achieve these objectives.³⁸

ABA Standard 302 sets forth the learning outcomes referenced in Standard 301 (b) that law schools must adopt:

A law school shall establish learning outcomes that shall, at a minimum, include competency in the following:

- (a) Knowledge and understanding of substantive and procedural law;
- (b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context;
- (c) Exercise of proper professional and ethical responsibilities to clients and the legal system; and
- (d) *Other professional skills needed for competent and ethical participation as a member of the legal profession* (emphasis added).³⁹

be the national representative of the legal profession, promote excellence in law, and to promote justice in the United States and abroad. *Id.*

³⁷ ABA accreditation serves as a mark of quality and legitimacy for law schools. It demonstrates that the school meets certain standards of excellence in legal education, including faculty qualifications, curriculum, resources, and facilities. Employers, state bar associations, and other institutions typically recognize ABA-accredited law schools as providing a solid legal education. Graduating from an ABA-accredited law school is often a requirement for eligibility to sit for the bar exam in many states. State bar associations typically require applicants to have graduated from an accredited law school as part of the process of becoming licensed to practice law. Without ABA accreditation, graduates may face additional hurdles or restrictions in pursuing their legal careers.

³⁸ American Bar Association Standards and Rules of Procedure for Approval of Law Schools, 2023-2024, Standard 301, Objectives of Program of Legal Education.

³⁹ American Bar Association Standards and Rules of Procedure for Approval of Law Schools, 2023-2024, Standard 302, Learning Outcomes.

The ABA provides additional guidance to law schools by interpreting the meaning of “other professional skills” pursuant to Standard 302(d): “[f]or the purposes of Standard 302(d), other professional skills are determined by the law school and may include skills such as, interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and self-evaluation.”⁴⁰

III. EDUCATIONAL RESPONSES TO CHANGING THE LEGAL LANDSCAPE - THE REFORMISTS ERA

Recognizing the gap between legal theory and the professional skills necessary to practice law, educators, lawyers, and legal professional organizations have called for a radical shift in legal education from an emphasis on doctrinal courses to incorporating more skills and values into the traditional legal education scheme. The cry for change in how law students are educated began over ninety years ago when Jerome Frank launched the Legal Realism movement with his book titled *Law and the Modern Mind*⁴¹ which called for the complete abolition of law schools in favor of clinical lawyer schools.⁴² According to Robert W. Gordon, Chancellor Kent Professor Emeritus of Law and Legal History at Yale Law School, Jerome Frank was “one of the most prominent lawyers and legal intellectuals of his time.”⁴³ Another jurisprudential scholar associated with legal realism was Karl Llewellyn. Llewellyn has been deemed one of the twenty most cited American legal scholars of the 20th century.⁴⁴ Karl Llewellyn advanced the theory that law should reflect the reality of society.⁴⁵ Llewellyn and his realist colleagues found that traditional case-by-case analysis had very little resemblance to the real world and was

⁴⁰ *Id.* at Standard 302-1.

⁴¹ Jerome Frank, *LAW AND THE MODERN MIND* (1930).

⁴² Frank published two articles in 1933 calling for the creation of clinical lawyer-schools. See Jerome Frank, *Why Not A Clinical Lawyer-School?*, 81 U. PA. L. REV. 907 (1933); Jerome Frank, *What Constitutes a Good Legal Education?*, 19 A.B.A. J. 723 (1933). In 1947, Frank repeated his plea for clinical lawyer-schools, noting that his proposals had garnered little support in the intervening years. See Jerome Frank, *A Plea for Lawyer-Schools*, 56 Yale L.J. 1303 (1947). For a discussion of Frank's ideas within the context of the history of clinical legal education, see George S. Grossman, *Clinical Legal Education: History and Diagnosis*, 26 J. LEGAL EDUC. 162, 166 (1973-1974).

⁴³ Yale Law School, *Historical Profile: Jerome N. Frank*, <https://law.yale.edu/yls-today/news/historical-profile-jerome-n-frank> (Feb. 8, 2024).

⁴⁴ Fred R. Shapiro, *The Most-Cited Legal Scholars*, 29 J. LEG. ST. 409, 413 (Jan. 2000).

⁴⁵ Allen R. Kamp, *Between-the-Wars Social Thought: Karl Llewellyn, Legal Realism, and the Uniform Commercial Code in Context*, 59 ALB. L. REV. 325 (1995).

disconnected from how lawyers in the real world practiced from day to day.⁴⁶

A. *The Cramton Report*

Although the ideas advanced by these great thinkers failed to gain significant traction in advancing these recommended changes in the world of legal academia, the movement towards educational reform continued onward in 1979 when the ABA commissioned a team of lawyers and legal educators to evaluate the effectiveness of legal education and to offer recommendations on how to better prepare graduates for professional practice. This report, known as the “Cramton Report” so named after Dean Roger Cramton and chair of the task force, advanced the legal realism themes that recognized the weaknesses of traditional legal education.⁴⁷ The Cramton Report pointed out the insufficiencies associated with the doctrinal approach to teaching, intimating that this method fails to give adequate attention to teaching legal skills and professionalism. The Cramton Report recommended that law schools could better prepare its students for practice by “developing some of the fundamental skills underemphasized by traditional legal education” and “shaping attitudes, values, and work habits critical to the individual’s ability to translate knowledge and relevant skills into adequate professional performance.”⁴⁸

B. *The MacCrate Report*

In August 1992, the ABA revisited its educational reform mission when it commissioned another task force aimed at improving education in American law schools. The 1992 task force: *ABA’s Task Force on Law Schools and the Profession: Narrowing the Gap*” issued its report entitled Statement of Fundamental Lawyering Skills and Professional Values, more commonly known as the “MacCrate Report” named after the chair of the

⁴⁶ Gerard J. Clark, *Report of the Task Force on Law Schools and the Profession: Narrowing the Gap by the American Bar Association Section of Legal Education and Admissions to the Bar*, 27 SFLR 1153 (Fall, 1993). For an overview of legal realism, See Wilford E. Rumble, *AMERICAN LEGAL REALISM: SKEPTICISM, REFORM, AND THE JUDICIAL PROCESS* (1968); William Twining, et. al., Cambridge University Press; 2012. For a brief critique, See Lon L. Fuller, *THE LAW IN QUEST OF ITSELF*, The Foundation Press, Inc., Chicago (1940).

⁴⁷ Section of Legal Educ. and Admissions to the Bar, Am. Bar Ass’n, Report and Recommendations of the Task Force on Lawyer Competency: The Role of Law Schools vii (1979). The chair of the task force was Dean Roger Cramton.

⁴⁸ *Id.*

task force, New York lawyer, Robert MacCrate (hereinafter the “Report”).⁴⁹ The Report contains a comprehensive set of recommendations with an aim towards improving the education provided by American law schools. The Report was developed to address the issues in the present system of training professionals as it deemed the system inadequate and called for radical change in law schools and proceeded to challenge the Bar to participate in the training of new lawyers. Pointing out that law schools overemphasized doctrine and underemphasized skills and values, the Report was built on the need for a radical shift in legal education away from doctrine and toward skills and values to help prepare law graduates for practice.⁵⁰

Chapter five of the Report is essential in explaining the importance of incorporating fundamental lawyering skills and professional values in the law school curricula by suggesting that lawyers needed training in the following skills: legal analysis and reasoning, factual investigation, legal research, problem-solving, communication, negotiation, counseling, litigation and alternative dispute resolution procedures, recognizing and resolving ethical dilemmas, and organization and management of legal work.⁵¹ Recognizing that the traditional law school curriculum had been doing a respectable job of developing practice-ready skills and improving the courses to incorporate other essential skills, the Report made additional recommendations that called for changes in the law school teaching system. For instance, the Report emphasized that effective skills instruction requires more than simply incorporating exercises into existing courses. It identified three core components of meaningful skills education: the development of the concepts and theories underlying the skill being taught, the opportunity for students to engage in the performance of lawyering tasks with appropriate feedback, and the reflective evaluation of student performance by a qualified assessor. These components, the Report observed, would necessitate increased individualized interaction between instructors and students and raised important questions about whether law schools have the institutional resources and faculty capacity to implement such training effectively.”⁵² Therefore, according to the Report, these training requirements would require more individualized student-instructor interaction. This, in turn, raised another critical question: whether institutions would have adequate resources to meet this need and whether

⁴⁹ Robert MacCrate, *An Educational Continuum: Report of the Task Force on Law Schools and the Profession: Narrowing the Gap*, ABA Section on Legal Education and Admission to the Bar, American Bar Association: Chicago (1992).

⁵⁰ *Id.* at 135-137.

⁵¹ *Id.*

⁵² *Id.* at 234-235.

law professors, who typically focus more on their specialized subjects than on educational methodology, would be motivated to engage in skills-based teaching.

The Report also highlighted the importance of value and stressed the need for improved instruction as a key element in advancing its objective of elevating the profession and better serving the public. It recommended including other soft skills that would be important to the success of a well-balanced lawyer. These skills included the ability for the law student to “promot[e] justice, fairness and morality in one’s daily practice by, among other things, ensuring legal services to the indigent, and selecting employment that will allow the lawyer to develop as a professional and to pursue his or her professional and personal goals.”⁵³ The pursuit of these goals would obviously mandate sensitive individualized counseling for all students. The Report also examined the professional development process, starting with the choice to pursue a legal career, and offered recommendations for each stage along that path. For example, the Report noted that bar exams discourage the teaching and learning of essential skills such as problem-solving, negotiation, counseling, and factual investigation, as these skills are not assessed in traditional exams. It also highlighted that the bar exam’s focus shapes law school curricula by prioritizing substantive law courses while sidelining those focused on lawyering skills. Consequently, law students tend to select courses that align with bar exam content rather than those aimed at developing practical legal skills.⁵⁴ Although the Report is primarily directed at law schools, it calls for the participation of the bar in the training of young lawyers. The Report points out the weakness in the educational process at the point of transition from law school to the profession. It encourages the profession to participate in the training of the “neophyte” lawyer by various means including in-house training programs, apprenticeships, and what it calls transition programs, which primarily involve post-graduate skills programs.⁵⁵ The Report remains a significant document in legal education although there have been no formal updates or revisions made to the original 1992 recommendations. Nevertheless, ongoing discussions, critiques, and new movements in legal education that relate to some of the core themes and recommendations from the Report continue to be addressed.⁵⁶

⁵³ *Id.* at 140-141.

⁵⁴ *Id.* at 331-333.

⁵⁵ *Id.* at 334-336.

⁵⁶ Russell Engler, *The MacCrate Report Turns 10: Assessing its Impact and Identifying Gaps We Should Seek to Narrow*, 8 CLINICAL L. REV. 109 (2001).

C. *The Carnegie Report*

Fifteen years after the MacCrate Report was issued, rumblings from lawyers, judges, and the public regarding lawyer competency and how lawyers are educated continued to be a topic of discussion and debate. In response to those concerns, another study emerged in 2007 in a book titled *Educating Lawyers: Preparation for the Profession of Law*, commonly referred to as the “Carnegie Report.”⁵⁷ The Carnegie Report was developed by the Carnegie Foundation (the “Foundation”) as a part of a series on the topic of professional education.⁵⁸ The study is unique in that it was grounded in the direct observation of the education process. Over the span of two academic semesters, a research team visited 16 law schools in the United States and Canada, both public and private.⁵⁹ The study was conducted by the Foundation’s then President Lee S. Shulman and issued through its Preparation for Professions Program. The Carnegie Report “examines the dramatic way that law schools develop legal understanding and form professional identity. The study captures the special strengths and weaknesses of legal education, and its distinctive forms of teaching.”⁶⁰

The study employed a comparative framework using three universal strands of professional education that were designated as formative apprenticeships: (1) intellectual training to learn the academic knowledge base and the capacity to “think like a lawyer”; (2) transmitting to students the practice-ready skills to practice in the profession; and (3) providing new lawyers with effective ways to adopt the ethical standards, social roles, and responsibilities of the profession.⁶¹ The study found that there is much room for improvement in the teaching methodologies being used by most law schools (*i.e.* the Socratic Method), “[t]he dramatic results of the first year of

⁵⁷ See, The Carnegie Foundation for the Advancement of Teaching, *Educating Lawyers: Preparation for the Profession of Law* at: http://archive.carnegiefoundation.org/publications/pdfs/elibrary/elibrary_pdf_632.pdf.

⁵⁸ William M. Sullivan, *After Ten Years: The Carnegie Report and Contemporary Legal Education*, 14 U. ST. THOMAS L.J. 331, 333 (Spring, 2018). “Rather than a stand-alone survey of the field, *Educating Lawyers* “developed as part of a larger set of investigations into education for various professions. The program carried out studies of the preparation of engineers, Jewish and Christian clergy, nurses, and physicians, as well as an examination of how undergraduate business programs included liberal education in their curricula. The studies shared two premises: that all fields of professional education would benefit from the application of the insights of modern learning research and that careful comparison of approaches among the several professional fields could yield valuable insights for each of them.”

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

law school's emphasis on well-honed skills of legal analysis should be matched by similarly strong skill in serving clients and a solid ethical grounding. If legal education were serious about such a goal, it would require a bolder, more integrated approach that would build on its strengths and address its most serious limitations."⁶² The study resulted in five key findings:

1. ***Law School Provides Rapid Socialization into the Standards of Legal Thinking.*** The study found that in a relatively short period of time, law schools are effective at teaching students to develop a distinctive habit of "thinking like a lawyer" during the first phase of the legal educational journey.
2. ***Law Schools Rely Heavily on One Way of Teaching to Accomplish the Socialization Process.*** The first-year curricula are taught primarily through a single form of teaching: the case-dialogue method. However, the study points out that the consequence of such a standardized approach results in a "striking conformity in outlook and habits of thought among legal graduates."⁶³
3. ***The Case-Dialogue Method of Teaching Has Valuable Strengths but Also Unintended Consequences.*** While the case-dialogue teaches students to dissect a case from a legal point of view, this approach is abstract and removed from its natural context. Thus, students are told to set aside their desire for justice and not allow moral concerns or compassion for people to cloud their legal analysis. However, when placed in the context of an actual lawyer-client encounter, a lawyer would be required to think through not only the legal aspects of the case, but also to address the social or ethical aspects of those legal conclusions.
4. ***Assessment of Student Learning Remains Underdeveloped.*** The study acknowledges the importance of assessing student competence from the law school entrance exams through passage of the bar exam. Yet, the study found that use of formative assessments which focuses on supporting students in learning rather than ranking, is rarely used by law schools. The study recommended that formative assessments directed toward

⁶² *Id.*

⁶³ *Id.*

enhanced learning should be a primary form of assessment in legal education.

- 5. *Legal Education Approaches Improvement Incrementally, Not Comprehensively.*** The study criticizes the law schools' approach to improving legal education, noting that the academy has engaged in a lack of responsiveness on this issue despite the well-reasoned pleas of the national bar and others. The study highlights that law schools have regulated practical legal skills teachings to a place of subordination in the overall legal education scheme. Even where efforts towards including practice-ready skills have been addressed, it has been in a piecemeal manner (referred to as an "additive strategy") rather than in the comprehensive integrated way that it deserves.⁶⁴

Almost 34 years later and building on recommendations from both the MacCrate and Carnegie Reports, the National Conference of Bar Examiners (NCBE) has reimagined the bar exam as "NextGen," set to launch in July 2026. The NextGen bar exam shifts from the traditional model of memorization to one focused on practical legal skills and integrated knowledge, better aligning with modern legal practice.⁶⁵ NextGen represents a major shift in bar testing, moving away from memorizing legal rules and toward tasks that mirror real-world lawyering. This new format will emphasize legal research, analysis, writing, client counseling, and negotiation while reducing the emphasis on rote memorization. Candidates will be allowed to use certain legal resources, reflecting a focus on application and critical thinking.⁶⁶ NextGen represents a major shift in bar testing, moving away from memorizing legal rules and toward tasks that mirror real-world lawyering. This new format will emphasize legal research, analysis, writing, client counseling, and negotiation while reducing the emphasis on rote memorization. Candidates will be allowed to use certain legal resources, reflecting a focus on application and critical thinking.⁶⁷ All U.S. jurisdictions currently using the Uniform Bar Exam (UBE) including over 40 states, the District of Columbia, and several U.S. territories are expected to adopt the NextGen exam. While NextGen will replace the UBE as the national standard, each state's adoption details may

⁶⁴ *Id.*

⁶⁵ Nat'l Conference of Bar Examiners, NextGen Bar Exam of the Future, *NCBE*, <https://nextgenbarexam.ncbex.org/>

⁶⁶ *Id.*

⁶⁷ *Id.*

vary, and further updates will be provided as the launch date approaches.⁶⁸ Key features of the NextGen bar exam include:

1. **Skills Integration:** Combines legal knowledge with practical skills like research, analysis, writing, client counseling, and negotiation.
2. **Reduced Memorization:** Allows candidates to use certain legal resources, focusing on critical thinking and application.
3. **Fewer Subjects:** Covers fewer law areas but emphasizes depth and real-world problem-solving.
4. **Unified Structure:** Consolidates components (MBE, MEE, and MPT) into a more cohesive exam structure.
5. **Collaborative Development:** The NCBE has incorporated feedback from legal educators and practitioners to ensure the exam reflects current legal needs.⁶⁹

IV. ALIGNING LAW SCHOOL PEDAGOGY WITH THE LEARNING PREFERENCES OF THE GENERATION

Who are the Millennials and how do they most effectively grasp legal doctrine? This section will explore whether the recommendations urged by the MacCrate Report and the Carnegie Report, if applied, could play a vital role in improving learning outcomes, bar passage rates, hiring rates, and practice in the profession for the generation of students currently attending law school. A generation can be understood as a group or cohort that shares birth years, age, location, and significant life events at critical developmental stages.⁷⁰ A generation typically refers to groups of people born over a 15-20-year span and therefore it must be acknowledged that determining generational cutoff points is not an exact science. Researchers in this area have identified the Millennial generation as those who were born between the years 1982 and 2000.⁷¹ However, the Pew Research

⁶⁸ *Id.*

⁶⁹ Nat'l Conference of Bar Examiners, About the NextGen Bar Exam, *NCBE*, <https://www.ncbex.org/exams/nextgen/about-nextgen>

⁷⁰ Betty R. Kupperschmidt, *Multigeneration Employees: Strategies for Effective Management*, 19 *THE HEALTH CARE MANAGER* 65, 65-76 (September 2000).

⁷¹ Neil Howe & William Strauss, *MILLENNIALS RISING: THE NEXT GREAT GENERATION* 4 (Vintage Books 2000).

Center,⁷² an organization that has been studying the Millennial generation for more than a decade, has concluded that the year 1996 is the last birth year for the Millennial generation. Whereas Neil Howe and William Strauss, who have been credited with coining this generation as “Millennials” point to the years between 1982 and 2004 as being the Millennial generation.⁷³ This article focuses primarily on Millennials as those law school students born between the years 1982 and 2004 as a basis for discussing learning styles and preferences.⁷⁴ Noting that due to the overlapping of years for those designated to be in one generation or another, there are undoubtedly some Generation Z (hereinafter “Gen Z”) law students, typically identified as persons born between 1995 and 2010, attending law school currently, and I will touch upon the similarities and differences between the learning styles of these two generations.⁷⁵

According to Howe and Strauss, Millennials are unlike any other youth generation in living memory.⁷⁶ They are more numerous, more affluent, better educated, and more ethnically diverse than previous generations.⁷⁷ For today’s students to acquire complex problem-solving, critically reflexive analytical thinking, and succinct communication skills in appropriately technology-assisted contexts, legal educators will have to engage in teaching styles designed to capture and keep the attention of the Millennial law student. Millennials and Gen Z students have a reputation for having short attention spans, and alarmingly are said to have the shortest

⁷² The Pew Research Center is a nonpartisan fact tank that informs the public about trends shaping the world by engaging in demographic research, opinion polling, content analysis, and other data driven research. See www.pewresearch.org.

⁷³ William Strauss & Neil Howe, *GENERATIONS: THE HISTORY OF AMERICA’S FUTURE* (William Morrow & Co. 1991).

⁷⁴ Email from Rebecca Milter, Director of Admissions, to Author (Oct. 13, 2023) (on file with the author). Student data from Atlanta’s John Marshall Law Admissions Council show the average age of first-year law students from 2019-2023 was 28 years old thus having birth years between 1991-1995.

⁷⁵ Laura P. Graham, *Generation Z Goes to Law School: Teaching and Reaching Law Students in the Post-Millennial Generation*, 41 U. ARK. LITTLE ROCK L. REV. 29 (Fall, 2018), citing Seemiller & Meghan Grace, *Generation Z Goes to College* xxi (2016), note 1; *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., Mary Ann Becker, *Understanding the Tethered Generation: Net Gens Come to Law School*, 53 DUQ. L. REV. 9, 14 (2015), at 18 (referring to Gen Z as “Net Gens” and calling them “the final Millennial generation”).

⁷⁶ Strauss & Howe, *supra*, note 76.

⁷⁷ Thomas Nichols & Meghan Wright, *Generational Differences: Understanding and Exploring Generation Z*, 2017–2018 OFFICERS PRESIDENT PRESIDENT-ELECT 177 (2018).

attention spans of any of the previous generations. Current research suggests that the average attention span for Millennials is twelve seconds, while the average attention span for Gen Z is only eight seconds.⁷⁸ According to neuroscientists, the impact of being constantly tethered to technology has resulted in a weakening of the brain cells needed for logical reasoning and memory function. 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.’”⁷⁹ Although most of us would be hard-pressed to live without the use of our beloved technological devices, that use comes at a high price. 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.”⁸⁰ Accordingly, the effort to keep these generations engaged in the classroom and comprehending the materials being covered is no longer business as usual. Educating Millennials and Gen Z requires more than the employment of the Socratic Method. Professors of law must find new ways to engage the students, meeting them where they are and connecting the legal doctrine dots in a way that speaks to their method of learning, reasoning, comprehension, and memory recall. Research suggests that these generations benefit from active learning strategies, such as engaging in short-term projects where professors provide guidance and feedback. These methods effectively break down complex information into smaller, manageable portions, capturing and sustaining Millennials' attention while fostering better comprehension.⁸¹

Moreover, significant events and cultural shifts have collectively influenced the values, priorities, and behaviors of the Millennial generation. Millennials grew up during a time of rapid technological advancements, witnessing the rise of the internet, smartphones, and social media and their outlook on education is significantly informed by their relations with technology. Since technology is a constant presence in their lives, Millennials as well as the Gen Z generation are constantly connected to classmates, friends, and parents, even in the classroom, and communicate

⁷⁸ Graham, *supra* at note 78.

⁷⁹ Graham, *supra* note 78, at 148, citing Kari Mercer Dalton, *Their Brains on Google: How Digital Technologies Are Altering the Millennial Generation's Brain and Impacting Legal Education*, 16 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)).

⁸⁰ *Id.*

⁸¹ Joan Catherine Bohl, *Generations X and Y in Law School: Practical Strategies for Teaching the “MTV/Google” Generation*, 54 LOY. L. REV. 775, 789-90 (2008).

with them in an ongoing stream of text messages and e-mail.⁸² One key difference between Millennials and the Gen Z generation is that Gen Z is the first generation to enter adolescence with access to smartphones.⁸³ This generation of law students tend to value clarity and structure in their educational experiences. They prefer well-defined learning objectives and often focus on understanding precisely what is required to excel academically. This emphasis on explicit expectations extends to grading policies, where they may prioritize meeting minimum requirements rather than exceeding them. Millennials also appreciate recognition for their efforts and tend to believe that success is achievable by all, provided there is equal opportunity and clear guidance. Additionally, Millennials often display confidence and independence in their approach to learning but also enjoy working collaboratively. They see teamwork as both practical and enjoyable, allowing them to share responsibilities and accomplish tasks more efficiently. Growing up in an era where participation was frequently rewarded, this generation has been associated with a strong preference for immediate feedback and consistent acknowledgment of their contributions. This need for frequent reinforcement carries over into law school, where they expect regular and prompt evaluations of their progress. Growing up in a time where everyone was a winner as long as they showed up, participated, and completed the task or assignment, both Millennials and Gen Zs have been classified as the “participation trophy” generations. The need for instant gratification and praise carries over to their law school environment and manifests in the need for immediate and constant feedback.⁸⁴

According to Professor Palmer, the coordinator of First-Year Legal Research and Writing at Stetson University College of Law, there are seven core traits that define the Millennial generation,⁸⁵ including “special,

⁸² Northern Illinois University, *Generation Z: Characteristics and Implications for Educators*, Center for Innovative Teaching and Learning, <https://www.niu.edu/citl/resources/guides/instructional-guide/generation-z.shtml>.

⁸³ Shalini 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) (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”), <https://www.theatlantic.com/magazine/archive/2017/09/has-the-smartphone-destroyed-a-generation/534198/>.

⁸⁴ Susan K. McClellan, *Externships for Millennial Generation Law Students: Bridging the Generation Gap*, 15 CLINICAL L. REV. 255, 268–270 (2008).

⁸⁵ Jason S. Palmer, *“The Millennials Are Coming!”: Improving Self-Efficacy in Law Students Through Universal Design in Learning*, 63 CLEV. ST. L. REV. 675, 676 (2015),

sheltered, confident, team-oriented, conventional, pressured, and high-achieving.” Millennials have been frequently referred to as “[t]he Entitlement Generation,” insofar as “they want it all, they want it now, and they believe they deserve it.”⁸⁶ Moreover, Millennials are often associated with attributes such as a lack of self-sufficiency and entitlement due to the commonly known child-rearing referred to as “helicopter parenting.” “Helicopter parenting” is a term used to describe a phenomenon of a growing number of parents, obsessed with their children’s success and safety, who vigilantly hover over them, sheltering them from mistakes, disappointment, or risks, insulating them from the world around them.⁸⁷ The Millennials’ outlook on education is, however, very positive. While this generation has been often criticized for their need for instant gratification, Millennials have “high expectations for their career, including pay, opportunities for advancement, fulfilling work, and work-life balance.”⁸⁸ As such, the good news is Millennials are capable of great achievements as demonstrated by the “Young Invincibles.” In 2009, a group of Millennial law students formed an advocacy group whose aim was to ensure that the voices of young people were heard in the national debate over healthcare reform.⁸⁹ The Young Invincibles, now a well-funded, reputable national organization, was instrumental in advocating for President Biden’s “Plan B” Debt Relief Proposal for Student Debt Cancellation, among other important societal initiatives.⁹⁰

citing Joan Catherine Bohl, *Generations X and Y in Law School: Practical Strategies for Teaching the ‘MTV/Google’ Generation*, 54 LOY. L. REV. 775, 790 (2008).

⁸⁶ *Id.*; *supra* note 17, at 682.

⁸⁷ See Nancy Gibbs, *The Growing Backlash Against Overparenting*, TIME MAG. (Nov. 20, 2009), <http://www.time.com/time/magazine/article/0,9171,1940697,00.html>. Helicopter parenting is a phenomenon that involves parents of all races, ages, and regions. “Invasive parenting,” “over parenting,” “aggressive parenting,” “modern parenting,” “smothering mothering,” and “snowplow parents” are some of the terms used interchangeably with helicopter parents. Gaia Bernstein & Zvi Triger, *Over-Parenting*, 44 U.C. DAVIS L. REV. 1221, 1231 (2011) (quoting Hara E. Marano, *A Nation of Wimps*, PSYCHOL. TODAY (Nov.-Dec. 2004), at 58, available at <https://www.psychologytoday.com/us/articles/200411/nation-wimps> (quoting an anonymous patient)).

⁸⁸ Ron Alsop, *The Trophy Kids Grow Up: How the Millennial Generation is Shaking Up the Workplace* (2008), *See also*, Karen K. Myers & Kamya Sadaghiani, *Millennials in the Workplace: A Communication Perspective on millennials’ Organizational Relationships and Performance*, 25 J. BUS. & PSYCHOL. 225 (2010).

⁸⁹ Young Invincibles was co-founded by Ari Matusiak, Aaron Smith, Julia Smith, Jacob Wallace, Jennessa Calvo-Friedman, and Scott Brainard. Jen Mishory and Rory O’Sullivan are founding staff members. Rory O’Sullivan was a student of author Emily Benfer’s in the Georgetown Law Center Federal Legislation & Administrative Clinic.

⁹⁰ Young Invincibles, *Press Releases / Statements - Young Invincibles*, YI, <https://younginvincibles.org/newsroom/press-releases-statements/>.

Millennials and Gen Z law students, nearly universally connected to the internet and many reliant solely on smartphones for connectivity, bring a distinctive mindset into classrooms. They sit, screens open, eyes glazed. Their fingers flit across keyboards, not always in sync with the rhythm of learning. It's not that they're lost; they're just... elsewhere. How do you reach them? It's more than a question of enhancing case discussions or delivering engaging lectures. It's about survival, theirs, yours, and the essence of the law school experience. Law school has long demanded focused attention, but what happens when attention can't hold? With research suggesting that Millennials' average attention span is twelve seconds and Gen Z's just eight, how can they endure hours of legal theory and precedent? They require more: hands-on tasks, real-world applications, and learning strategies that align with how they've adapted to the digital age. Many have become accustomed to immediate answers, constant input, and instant feedback, qualities at odds with the traditional, deliberative legal process. This isn't to say they can't learn. Rather, the way they've learned to learn has outpaced the way law is traditionally taught. Professors can't simply revert to old methods, ignoring the data and the distracted stares, pretending students absorb information like those of decades past. The connection between teacher and student, between lawyer and law, is fraying at the edges. To preserve it, law schools must adapt. Consider this: almost all Millennials now use the internet, with 19% relying exclusively on smartphones for online access. Professors standing before Millennial and Gen Z students during traditional lectures often observe blank stares, drooping eyelids, or disengaged students tuned into their screens. While these screens may appear to host course materials, students are often surfing the net instead. The challenge isn't just to capture their attention but to engage them meaningfully, enhancing their retention and elevating the law school experience.

Law school is a formative chapter in a lawyer's life, akin to the milestone of kindergarten in shaping early education. Just as many fondly recall their kindergarten teacher, law school can be memorable without being intimidating or monotonous. As academic institutions, law schools must take on the responsibility of teaching students in ways that resonate with their unique characteristics and learning preferences. Research shows millennials and Gen Z students favor diverse, interactive learning strategies, with a strong preference for audio-visual platforms, application-based learning, and hands-on tasks. These approaches cater to their demand for instant access, feedback, and results. Traditional Socratic methods, while valuable, may no longer suffice on their own. The law school experience

must evolve to meet students where they are, leveraging modern tools and techniques to bridge the gap between digital-age learners and the timeless discipline of law.

V. ADVANTAGES AND BENEFITS OF SIMULATED LAW SCHOOL LEARNING FOR THE MILLENNIAL AND GEN Z GENERATIONS

Use of learning methodologies and technology in the classroom is important in engaging the short attention spans of current law students. Millennials are visual and kinesthetic learners who prefer to experience the world through multimedia and not print. Law professors must reassess traditional teaching methodologies in order to engage the millennial learner. Incorporating visual materials like PowerPoints, adding collaborative experiences, role playing, brainstorming, simulations, and group projects are vital tools to engage the millennial and Gen Z law student. No longer can law school professors teach in the way that they learned. It is imperative that law professors meet millennial students in their hyper-connected world. Admittedly, I was particularly drawn to the idea that if I had successfully navigated law school by being subject to the Socratic method, which I admittedly thought was akin to hazing, then my students should also be subject to this teaching style as a rite of passage. However, it became evident to me over the years that this in-the-box approach to teaching was not serving my students very well. For example, the first-year required course of The Federal Rules of Civil Procedure is a six-credit course taught over the course of two semesters: Civil Procedure I is taught in the Fall semester, and Civil Procedure II is taught in the Spring semester.⁹¹ Overall, students have opined that learning civil procedure is one of the most difficult first year courses because it is rule-based and abstract. I often hear students asking “why do I have to learn this? I’m never going to use this information.”

In past years, I have taught the federal rules course using the traditional Socratic method for both semesters—methodically marching through the case law, using case law to interpret the rules, and dissecting appellate and supreme court opinions. As I watched the contorted faces of my students attempt to grapple with concepts of personal jurisdiction, venue, and the ever-complex joinder of parties and claims, I began to consider ways in which I could make learning the rules more practical and demonstrate applicability in real-life scenarios. Hence began my personal journey of exploring ways to better engage my students and to make my civil procedure course pop with vitality and excitement. As a fairly new law

⁹¹ AJMLS Required Course Curriculum, 2023-2024 school year.

professor, these ideas were internally instinctive. I knew I had to make the mostly ancient case law relevant. In that vein, I relied on the use of PowerPoint presentations that incorporated YouTube videos of depositions, for example, taken of well-known celebrities when exploring discovery methods. I would also incorporate clips from reality television shows and found a process server reality show particularly useful for demonstrating how service of process really works in real-life litigation. Further research in the Journal of Legal Education revealed that I was far from alone on this journey to create more effective learning opportunities for my students as evidenced by the MacCrate report and other initiatives to find more effective teaching methods. Over the years, I began to incorporate a simulated civil case into my civil procedure course. The response of my students has been phenomenal. Suddenly, the students could understand first-hand how to apply the rules in a competitive hands-on exercise that required them to follow the flow of a litigation from the initial filing of the complaint to discovery and motions practice, oral arguments, through settlement negotiations. Students have found that engaging in a life-like litigation not only enhanced their understanding of the litigation process, but the documents created during the course could be used as writing samples for prospective employers.

VI. CONCERNS AND CRITICISMS OF SIMULATED LEARNING

The incorporation of simulated learning into the law school curricula has been gaining some traction as the legal academy is slowly beginning to grasp the importance of responding to the needs of the current student population, changes in technology, including with the introduction of artificial intelligence. Several law schools across the United States have integrated simulation-based learning into their curricula to provide students with practical, hands-on experience and prepare them for the realities of legal practice. For instance, Columbia Law School offers simulation courses where students engage in activities such as examining witnesses, introducing evidence, presenting oral arguments, and drafting contracts.⁹² UCLA School of Law has implemented over two dozen simulation courses focusing on essential lawyering skills, allowing students to make strategic judgments and execute decisions professionally.⁹³ Yale Law School provides opportunities for students to participate in negotiating exercises, document-drafting tasks, and other practice-based activities under expert

⁹² Columbia Law School, Simulation Courses, <http://www.law.columbia.edu>.

⁹³ UCLA School of Law, Experiential Learning Opportunities, <http://www.ucla.edu>.

supervision.⁹⁴ Boston University School of Law incorporates a six-week transaction-based simulation into its required "Lawyering Skills" course for first-year students, helping them develop practical skills early in their legal education.⁹⁵ Similarly, Elon University School of Law's Litigation Skills Program engages students in simulation-based learning, enabling them to develop analytical and oral advocacy skills through mock trials.⁹⁶ These programs exemplify the growing emphasis on experiential learning in legal education, equipping students to navigate the complexities of legal practice through real-world simulations.

However, changes to incorporate simulated learning as a standard in the law school curricula has been painstakingly slow primarily due to a simple resistance to change supported by various criticisms and concerns. One such criticism is that developing and implementing high-quality simulated learning experiences, where students actively engage in legal work in clinical settings or through simulations, is a time-consuming undertaking. The constraints of the curriculum limit the time available to cover course materials, making it challenging to allocate more time for active engagement in simulated learning. For instance, Lawrence Grosberg's incorporation of *The Buffalo Creek Disaster* to contextualize the study of civil procedure encountered constraints in both passive and active applications. Although Grosberg utilized a combination of active and passive methods, the approach leaned heavily on passive strategies, such as providing pleadings as examples rather than having students actively draft them, a task that would have demanded significant time for active learning.⁹⁷ A thorough review of learning time and the design of simulated learning activities is necessary to ensure adequate time for active problem-solving in clinical settings or simulations.

Moreover, many classroom instructors are resistant to change, continuing to rely on traditional Socratic methods that emphasize passive learning techniques such as lectures and case studies. Even among those who have embraced change, there is an ongoing struggle to incorporate more active learning into their teaching. An examination of our teaching methods in civil procedure reveals a minimal use of active teaching materials and limited student engagement in active learning. It is incumbent

⁹⁴ Yale Law School, Simulation Courses and Practice-Based Activities, <http://www.yale.edu>.

⁹⁵ Boston University School of Law, Lawyering Skills Program, <http://www.bu.edu>.

⁹⁶ Elon University School of Law, Litigation Skills Program, <http://www.elon.edu>.

⁹⁷ Lawrence M. Grosberg, *The Buffalo Creek Disaster: An Effective Supplement to a Conventional Civil Procedure Course*, 37 J. Legal Educ. 230 (1987).

on us to adopt more active learning strategies through better-structured and applied simulation exercises.⁹⁸ Today's students have quick and ready access to vast amounts of information through technology, diminishing the value of simply relaying facts in the classroom. As one scholar noted,

“Much of the research on millennials and Generation Z suggests that professors who have information and pass on knowledge are viewed as close to useless by today's students. In order to engage these students, we need to provide context and demonstrate how information and knowledge is useful in current and relevant ways. That's not their fault. Knowing stuff is no longer a big deal but the creative use of the information everyone has access to is what's important today.”⁹⁹

Professors can leverage this reality by reimagining classroom time as an opportunity to apply that readily available knowledge in practical, hands-on scenarios, rather than relying on the traditional Socratic method. This approach not only engages students but also equips them with skills to creatively and effectively utilize the information in legal practice.

Active teaching and learning in law schools have been promoted for over three decades, and civil procedure instructors have access to a variety of excellent context-focused active teaching materials.¹⁰⁰ However, these materials often fail to fully embrace active-learning techniques. Many of them also lack sufficient structure and guidance, resulting in students spending excessive time deciphering assignments and completing organizational tasks rather than focusing on the substance of their

⁹⁸ Gerald F. Hess, *Seven Principles for Good Practice in Legal Education*, 49 J. LEGAL EDUC. 401 (1999). “Students' activity increases as they take notes, monitor their own level of understanding, write questions in their notes, ask questions in class, and organize and synthesize concepts. They are even more active when they discuss concepts or skills, write about them, and apply them in a simulation or in real life.”

⁹⁹ Rory D. Bahadur, *Become Obsolete Graciously: Please Stop Blaming Our Students*, INST. FOR L. TEACHING & LEARNING (Nov. 7, 2017), <https://lawteaching.org/2017/11/07/become-obsolete-graciously-please-stop-blaming-our-students/>.

¹⁰⁰ E.g., Michael Vitiello, *Civil Procedure Simulations: Bridge to Practice* (2d ed. 2023); David B. Oppenheimer, *Using a Simulated Case File to Teach Civil Procedure: The Ninety-Percent Solution*, 65 J. LEGAL EDUC. 817 (2016); Robert L. Jones, *Experiencing Civil Procedure: Why (and How) I Teach a Simulation-Driven First Year Course*, 24 WASH. U. J.L. & POLLY 221 (2007); and Philip G. Schrag, *The Serpent Strikes: Simulation in a Large First-Year Course*, 38 J. Legal Educ. 221 (1988).

learning.¹⁰¹ Simulated learning also presents assessment challenges, as traditional Socratic assessment methods like exams and papers may not effectively capture students' abilities to apply legal principles in practical contexts. There is a need to structure simulated learning to ensure it provides reliable and valid assessment methods in law schools. Furthermore, simulation exercises where students draft written or oral arguments often lack structure and detailed instructions. Simulated learning in law schools must be carefully structured to ensure it serves as a reliable and valid method of assessment. Many simulation exercises, particularly those involving the drafting of written or oral arguments, often lack sufficient structure and detailed guidance. For instance, the casebook by Subrin, Minow, Brodin, Main, and Lahav includes several simulation-based activities, but its eight drafting exercises are notably unstructured.¹⁰² For example, Exercise 11 directs students to prepare a motion to amend a complaint; however, the associated case file appendix does not provide instructions for constructing a supporting brief and omits exemplars entirely.¹⁰³ As a result, professors must offer additional guidance to prevent students from devoting excessive time to formatting issues rather than engaging with the substantive aspects of the task. Large class sizes add another layer of complexity to effectively implementing simulation exercises. In classes with 50 or more students, it becomes particularly challenging to design simulations that ensure each student takes on an active and meaningful role. Moreover, organizing students into groups or "mock law firms" introduces additional difficulties, particularly when it comes to evaluating individual performance fairly and accurately within a collaborative setting.

In addition to the logistical challenges of incorporating simulated learning into law school courses—such as time, structure, and oversight—some critics maintain that the current legal education system is already effective and does not require significant changes. Professor Anthony V. Alfieri, a faculty member at the University of Miami School of Law and the Dean's Distinguished Scholar Director, strongly advocates for maintaining traditional legal education methods. In his article, *Against Practice*, Alfieri defends a theory-centered approach to legal education, arguing that law schools should prioritize teaching students to think like

¹⁰¹ Michael Vitiello, *Using a Simulated Case File to Teach Civil Procedure: The Ninety-Percent Solution*, 65 J. LEGAL EDUC. 817, 818 (2016).

¹⁰² Stephen N. Subrin, et al., *Civil Procedure: Doctrine, Practice, and Context* (5th ed. 2016).

¹⁰³ *Id.*

lawyers and understand the theoretical foundations of the law.¹⁰⁴ Alfieri has expressed significant concerns about shifting legal education towards practical training, fearing that such changes risk undermining critical pedagogies. He essentially argues that overemphasizing practical skills could reduce students to legal technicians, detracting from their ability to critically engage with diverse perspectives and social justice issues. Alfieri contends that case-dialogue pedagogy has been refined over time and that changes, such as incorporating clinical programs, may diminish intellectual rigor.¹⁰⁵ He posits that law schools should focus on theoretical and experimental learning while leaving practical skill development to law firms and on-the-job training. From this perspective, clinical programs may encourage narrow thinking, reinforcing social norms rather than fostering progressive change.¹⁰⁶

By 2016, Alfieri's views showed signs of evolution. In *Rebellious Pedagogy and Practice*, he acknowledges the potential of integrating practical methodologies to address systemic inequities and prepare students for the demands of modern legal practice. Alfieri advocates for combining theoretical rigor with practice-based approaches to enhance equity and cross-cultural understanding.¹⁰⁷ This shift highlights a more nuanced understanding of the complementary roles of theory and practice in legal education. While Alfieri's insights into the importance of intellectual development remain valuable, I disagree with his earlier concerns that incorporating simulation harms women and minorities. On the contrary, simulation exercises that focus on client communication and empathy enable students from diverse backgrounds to draw upon their unique cultural and life experiences. These skills are not only vital for effective lawyering but also create opportunities for greater inclusion and responsiveness in the legal profession. Additionally, while traditional teaching methods have successfully prepared students to pass bar exams, they often leave graduates underprepared for the realities of legal practice. Simulation-based learning bridges this gap, equipping students with practical tools to navigate the complexities of the profession and better serve their clients.

¹⁰⁴ Anthony V. Alfieri, *Against Practice*, 107 MICH. L. REV. 1073 (2009).

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ Anthony V. Alfieri, *Rebellious Pedagogy and Practice*, 23 CLINICAL L. REV. 5, 8–13 (2016).

VII. STRATEGIES TO OVERCOME CONCERNS AND CRITICISMS OF SIMULATED LEARNING

Most professors of law instinctively know that incorporating simulated exercises into the course would be an effective and even fun way to engage the current student body of Millennials and Gen Z students. Granted, it is easier to do what has always been done in the past. The idea of restructuring a course that has been taught by a professor for many years in the past is no easy sell. However, we owe it to this new generation of students to provide them with a relatable learning experience that will allow them to appreciate the law and its application to the real world in ways that we as students of older generations never did. For example, the ideal way to teach pleadings in a Civil Procedure course, especially after students have thoroughly analyzed *Twombly* and *Iqbal*,¹⁰⁸ is to challenge them with a simulated case. In this exercise, students apply their knowledge to determine whether the court can exercise jurisdiction over their client, identify the appropriate court for filing, assess whether venue is proper, and evaluate whether their complaint can survive a motion to dismiss. Simultaneously, incorporating simulation and active learning not only reinforces their understanding but also ensures that the course material is covered effectively and efficiently.

David B. Oppenheimer, Clinical Professor of Law at the University of California, Berkeley, has proposed an innovative approach to teaching civil procedure by organizing courses around a simulated case file. This method, known as the “90% complete strategy,” provides students with nearly complete pleadings and briefs, allowing them to focus on the most analytically demanding aspects of the assignments, such as determining whether facts meet the plausibility standard.¹⁰⁹ By removing some of the preliminary drafting burdens, students can direct their efforts toward critical legal analysis and application. To enhance the realism of simulated learning, Oppenheimer suggests incorporating trial-level documents, including legal filings, transcripts, and exhibits, which reflect the materials used by practicing attorneys.¹¹⁰ He also encourages students to attend court sessions to observe “law and motion” hearings. Oppenheimer notes that these experiences often leave students impressed, particularly when they encounter real arguments referencing cases such as *Swierkiewicz*, *Twombly*,

¹⁰⁸ *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662 (2009).

¹⁰⁹ David B. Oppenheimer, *Using a Simulated Case File to Teach Civil Procedure: The Ninety-Percent Solution*, 65 J. LEGAL EDUC. 817–18 (2016).

¹¹⁰ *Id.* at 819.

and *Iqbal*.¹¹¹ According to Oppenheimer, these practical observations provide invaluable context and deepen students' understanding of procedural rules. Collaboration is another key element of Oppenheimer's approach. By assigning students to work in teams for each assignment, the simulations foster a cooperative learning environment that mirrors the dynamics of legal practice. This teamwork aligns with the twenty-six effectiveness factors identified by Shultz and Zedeck, which highlight collaboration as a crucial skill for successful lawyering.¹¹² Oppenheimer emphasizes two foundational principles for structuring simulation learning: students learn best by doing and through contextual experiences. His strategy addresses diverse learning styles and prepares students to engage with the complexities of legal practice in a meaningful and practical way.

Although Oppenheimer's 90% solution addresses many challenges in incorporating a simulated learning experience into a civil procedure course, I prefer to allow my students to fully draft complaints, motions, and briefs. Participation in the simulated case constitutes twenty percent of the students' grade, making it highly competitive. Students must sign a "Law Firm Agreement" agreeing to work collaboratively, to adhere to the Professional Rules of Conduct, and resolve disputes internally before consulting with the professor. Litigation tasks are assigned individually within the firm to ensure active participation. For example, during the complaint drafting process, two members research relevant law and causes of action, two or more draft the complaint, and others review it for accuracy, style, and grammar. Each firm has a registered agent for service of process. The rules governing the simulation are outlined in the syllabus, which each student signs. Firms are paired against each other as plaintiff's and defense counsel, fostering a competitive environment. Upperclassmen volunteer as litigants and witnesses, adding realism to the simulation.

To reduce confusion and save time in drafting complaints or motions, I provide sample documents from actual cases I have litigated. Class time is devoted to reviewing these documents, allowing for discussion and Q&A sessions. Each firm submits a motion for summary judgment and presents oral arguments. The simulation concludes with settlement negotiations, and comparing settlements often sparks lively discussions. To ensure full participation, students must complete both a self-evaluation and a peer evaluation of the litigation tasks performed. This reflection and

¹¹¹ *Id.* at 820.

¹¹² *Id.* at 822; Marjorie M. Shultz & Sheldon Zedeck, *Predicting Lawyer Effectiveness: Broadening the Basis for Law School Admission Decisions*, 36 LAW & SOC. INQUIRY 620 (2011).

feedback are invaluable for improving the simulation in future classes. This simulated experience equips students with practice-ready skills such as drafting legal documents, researching law, assessing case merits, strategizing litigation, conflict resolution, client interviewing, communication, oral advocacy, and negotiation. These skills make graduates attractive hires for law firms and with valuable skills that can be used during summer internships. Admittedly, incorporating a simulated case requires additional time to review the students' work and provide feedback. Moreover, additional time is needed to manage the case docket and to issue orders and ruling on motions. Moreover, some class time is taken to discuss each phase of the litigation process as well as time devoted to interviewing clients, providing guidance and instruction, providing feedback on the students' written product, taking witness statements, depositions, and the presentation of oral arguments. While incorporating a simulated case into a law school course may be time-consuming, the benefits far outweigh the investment. Simulated cases engage students actively, providing hands-on experience that builds essential skills for a demanding legal career. This approach not only makes learning more enjoyable but also deepens students' understanding of why they are learning specific concepts. As a result, students become more practice-ready and attractive to law firms, giving them a competitive edge in a crowded legal job market.

VIII. BEST PRACTICES AND TEACHING RECOMMENDATIONS

Building upon the foundational insights of the MacCrate and Carnegie Reports, the Clinical Legal Education Association (CLEA) published *Best Practices for Legal Education* (hereinafter *Best Practices*), a comprehensive guide aimed at enhancing the preparation of law students for professional practice. The book has been described as “[a] Vision and [a] Road Map” for how law schools can most effectively equip students for the demands of the legal profession.¹¹³ The origins of *Best Practices* trace back to 1987, when Justice Rosalie Wahl of the Minnesota Supreme Court, then Chair of the ABA Section of Legal Education and Admissions to the Bar, convened the National Conference on Professional Skills and Legal Education.¹¹⁴ The conference sought to address the state of professional skills instruction in American law schools. Professor Roy Stuckey, co-chair of the conference and later the principal author of *Best Practices*, articulated the goal of the initiative: “[t]o develop through a dialogue a consensus

¹¹³ Roy Stuckey et al., *Best Practices for Legal Education: A Vision and a Road Map* 3 (Clinical Legal Educ. Assn. 2007).

¹¹⁴ *Id.* at 4.

understanding about the present state of professional skills instruction in American law schools.”¹¹⁵

Robert MacCrate, in the foreword to *Best Practices*, highlighted the significant collaborative effort that led to the publication. In 2001, CLEA established a committee of scholars, chaired by Professor Stuckey, to draft a “Statement of Best Practices for Legal Education.” Over five years, this committee synthesized extensive research and dialogue into a cohesive vision for legal education.¹¹⁶ This vision emphasized an integrated approach that combines substantive law, practical skills, and market knowledge, recognizing that legal education must prepare students to function as members of a client-centered public profession.¹¹⁷ Professor Stuckey and his collaborators embarked on an ambitious project to redefine legal education. As noted in *Best Practices*, “[i]n the history of legal education in the United States, there is no record of any concerted effort to consider what new lawyers should know or be able to do on their first day in practice or to design a program of instruction to achieve those goals.”¹¹⁸ The publication aims to bridge this gap by proposing strategies to improve skills training, ensuring that graduates are equipped not only to succeed in law practice but also to lead fulfilling and healthy professional lives.¹¹⁹

Chapter 5 of *Best Practices* provides detailed recommendations for creating effective simulation-based courses. The book highlights that the best practices established for experiential and clinical courses are equally applicable to simulation-based learning.¹²⁰ Professor Roy Stuckey, the principal author, designed a roadmap to address the needs of modern students, emphasizing the importance of clarity and feedback in these educational experiences.¹²¹ Key recommendations for simulation-based courses include:

- **Clear Objectives and Feedback:** Instructors should provide explicit and widely disseminated learning objectives and assessment criteria to guide student engagement and expectations.¹²²

¹¹⁵ *Id.*

¹¹⁶ Robert MacCrate, Foreword to *Best Practices for Legal Education*, *supra* note 1, at v.

¹¹⁷ Stuckey et al., *supra* note 1, at 5.

¹¹⁸ *Id.* at 6.

¹¹⁹ *Id.* at 7.

¹²⁰ Stuckey, *supra* note 116, at 115-122.

¹²¹ *Id.* at 116.

¹²² *Id.*

- **Purpose-Driven Simulations:** Simulation exercises should target specific educational goals, such as building practical skills, developing legal professionalism, and fostering sound judgment. These exercises should address identified gaps in student knowledge, such as negotiation dynamics or motion practice strategies.¹²³
- **Grounded in Theory:** Each simulation should be based on well-articulated theories of legal practice. A clear understanding of the real-world implications allows students to analyze, manipulate, and engage with legal concepts effectively.¹²⁴
- **Balancing Complexity:** Simulations should strike an appropriate balance between realism, detail, and usability. Overly complex simulations risk overwhelming students, whereas moderate uncertainty challenges students to think critically and exercise professional judgment.¹²⁵
- **Debriefing and Reflection:** Structured opportunities for reflection enable students to internalize lessons learned during simulations. Debriefing sessions, journals, and class discussions provide forums for analyzing cognitive, performative, and emotional aspects of their experiences.¹²⁶
- **Feedback and Evaluation:** Providing timely and constructive feedback on student performance is essential for reinforcing learning objectives and encouraging growth.¹²⁷

Stuckey emphasizes that simulations, when structured effectively, can teach students essential legal skills while also honing their reasoning, professionalism, and judgment. This approach ensures that simulations are not only engaging but also rigorous and reflective of real-world legal challenges. These principles align closely with the preferences of Millennial and Gen Z learners, who value clear direction, interactive learning, and real-world applications. Simulations offer students the opportunity to practice essential skills in a controlled, supportive environment, fostering their ability to navigate complex legal scenarios. Incorporating

¹²³ *Id.* at 117.

¹²⁴ *Id.* at 118.

¹²⁵ *Id.* at 120-121.

¹²⁶ *Id.* at 122.

¹²⁷ *Id.* at 123.

simulation-based learning is essential for producing practice-ready lawyers. While *Best Practices* and reports like MacCrate and Carnegie were published years ago, their guidance remains highly relevant and provides a solid foundation for modern legal education. These resources emphasize the importance of aligning teaching methods with the practical realities of legal practice, making them critical for preparing students to succeed in the evolving legal landscape. This alignment is especially important with the introduction of the NextGen Bar Exam scheduled to launch in 2026.¹²⁸ The NextGen Bar Exam moves away from traditional rote memorization and instead evaluates practical skills, such as legal writing, client counseling, negotiation, and problem-solving.¹²⁹ By emphasizing experiential learning and simulation-based exercises, law schools can better prepare students not only for this new exam but also for the demands of modern legal practice. Adopting these methods, guided by resources like *Best Practices*, will ensure students are equipped to transition seamlessly from law school to professional environments, meeting the needs of clients and the broader legal community.

IX. LOOKING FORWARD- LAW SCHOOL INNOVATIONS AND INITIATIVES

Continuing to engage task forces, local and national bar associations, and legal scholars in improving the delivery of legal education has fostered innovations that enhance new lawyers' understanding of the law, the legal profession, and practical applications. One notable example is the New Hampshire Bar Association (NHBA), which has made significant strides in advancing legal education through initiatives aimed at producing practice-ready law graduates. The NHBA, in partnership with the University of New Hampshire School of Law and the New Hampshire Supreme Court, established the Daniel Webster Scholars Program in 2005.¹³⁰ This groundbreaking program offers select second- and third-year law students an opportunity to integrate practical, clinical, and experiential learning into their legal education while working toward licensure.¹³¹ Participants in the program bypass the traditional bar examination upon meeting specified requirements, including rigorous assessments of their legal skills and professionalism throughout their law school tenure.¹³² The

¹²⁸ Nat'l Conf. of Bar Exam'rs, *The NextGen Bar Exam: What You Need to Know* (2023), <https://www.ncbex.org>.

¹²⁹ *Id.* at 3-4.

¹³⁰ University of New Hampshire School of Law, *Daniel Webster Scholar Honors Program*, <https://law.unh.edu>.

¹³¹ *Id.*

¹³² *Id.*

Daniel Webster Scholars Program exemplifies how collaboration between law schools and bar associations can innovate legal education. By focusing on experiential learning and professional development, the program equips students with the practical tools and knowledge necessary for the demands of legal practice.¹³³ This initiative reflects a growing trend toward aligning legal education with real-world practice, accelerating the path to licensure while ensuring that graduates are well prepared to serve clients and the legal community.

In addition to the New Hampshire Bar Association's Daniel Webster Scholars Program, numerous state bar associations and legal organizations across the United States have launched initiatives aimed at bridging the gap between legal education and real-world practice. These programs focus on experiential learning, mentorship, and skill development to better prepare law graduates for the demands of legal practice. A few notable examples include:

1. California State Bar's Practical Training of Law Students (PTLS) Program:

The State Bar of California administers the PTLS program, which enables law students to gain practical experience through placements with judges, government agencies, and nonprofit organizations. By offering hands-on training and mentorship, the program enhances students' preparedness for legal practice.¹³⁴

2. Washington State Bar Association's Law Clerk Program:

The Washington State Bar Association sponsors a Law Clerk Program, allowing law students to work under the direct supervision of licensed attorneys in various settings, including law firms, government agencies, and corporate legal departments. This initiative facilitates the development of practical skills and fosters valuable mentorship relationships.¹³⁵

3. Oregon State Bar's Practical Skills Training Requirement:

The Oregon State Bar requires new lawyers to complete 15 hours of practical skills training during their first year of practice. This mandate ensures that recently admitted attorneys possess essential

¹³³ New Hampshire Bar Association, *Collaborating for Legal Education Innovation*, <https://nhbar.org>.

¹³⁴ State Bar of California, *Practical Training of Law Students Program*, <https://www.calbar.ca.gov>.

¹³⁵ Washington State Bar Association, *Law Clerk Program*, <https://www.wsba.org>.

skills to effectively represent clients and navigate the legal profession.¹³⁶

4. Colorado Supreme Court's Legal Residency Program:

The Colorado Supreme Court introduced the Legal Residency Program, offering recent law graduates the opportunity to gain practical experience as apprentice attorneys under the guidance of seasoned mentors. This program accelerates the development of critical legal skills and enhances professional readiness.¹³⁷

5. Utah Supreme Court's Licensed Paralegal Practitioner (LPP) Program:

Although primarily designed for non-lawyers, the Utah Supreme Court's LPP Program allows individuals without a law degree to provide limited legal services under the supervision of licensed attorneys. This innovative initiative not only broadens access to legal services but also offers practical experience to aspiring legal professionals.¹³⁸

These programs and initiatives, among others, reflect a growing recognition within the legal profession of the importance of practical skills training and experiential learning in preparing law students for successful legal careers. By offering opportunities for hands-on experience, mentorship, and skill development, these initiatives aim to produce competent and practice-ready lawyers capable of meeting the needs of clients and the legal community.

X. CONCLUSION

The evolution of legal education is no longer a choice but an imperative. As the legal profession continues to grow more complex and interconnected, law schools must adapt their pedagogy to meet the demands of both students and the profession. The integration of simulated learning into the law school curriculum presents a powerful opportunity to bridge the longstanding gap between theory and practice. By combining traditional doctrinal instruction with experiential and simulation-based learning, law

¹³⁶ Or. State Bar, *New Lawyer Practical Skills Requirement*, <https://www.osbar.org>.

¹³⁷ Colo. Supreme Court, *Legal Residency Program Overview*, <https://www.coloradosupremecourt.us>.

¹³⁸ Utah Supreme Court, *Licensed Paralegal Practitioner Program*, <https://www.utcourts.gov>.

schools can cultivate the skills, judgment, and professionalism necessary for graduates to succeed in today's legal landscape.

Programs like the Daniel Webster Scholars Program and initiatives by bar associations across the country demonstrate the value of integrating hands-on experiences into legal education. These innovations not only enhance students' practical capabilities but also provide a clearer path to licensure and professional readiness. The shift toward experiential learning is further underscored by the impending launch of the NextGen Bar Exam in 2026, which emphasizes practical skills such as legal writing, client counseling, and negotiation. This reform reflects the growing recognition that legal education must prepare students for the realities of modern practice, not merely for theoretical examinations.

Critics of this shift often argue that practical training comes at the expense of intellectual rigor or that it risks reinforcing existing inequities within the profession. However, as this article has argued, simulation-based education does not diminish the academic foundation of legal studies. Instead, it builds upon it, offering students a richer and more comprehensive understanding of the law in action. Moreover, the incorporation of simulations that focus on empathy, client communication, and cultural competence provides opportunities to amplify diverse perspectives and address inequities in the legal system.

As law schools reimagine their curricula, they must strive for balance by preserving the strengths of traditional methods while embracing the innovations necessary for the future. This balance will not only enhance student learning but also ensure that law graduates are equipped to navigate an increasingly dynamic legal profession. By adopting best practices and fostering collaboration among legal educators, practitioners, and bar associations, the academy can lead the way in creating practice-ready lawyers who are both skilled and ethical advocates.

The journey to reform legal education is challenging but necessary. It requires a commitment to continuous dialogue, experimentation, and refinement. Yet, the rewards are undeniable. By embracing a holistic approach to legal education that values both tradition and innovation, law schools can fulfill their mission of preparing graduates who are ready to meet the demands of the profession and to serve the public good. In doing so, they not only secure the future of legal education but also contribute to the advancement of justice in society. To fully capitalize on the benefits of simulation-based learning, it is imperative for educators, administrators, and

policymakers to take deliberate and proactive steps. Law schools must prioritize the integration of innovative teaching strategies that align with the evolving demands of the legal profession. This requires allocating resources to support simulation programs, fostering collaboration among institutions to share best practices, and encouraging faculty to embrace these modern pedagogical methods. By doing so, we can better equip the next generation of lawyers with the skills and competencies needed to succeed in a dynamic and challenging legal landscape. Now is the time to ensure legal education evolves in step with the profession, preparing students not just to enter the field but to lead it.