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VOLUME 6

LEGAL WRITING: 2035

In the fall of 2025, the Vermont Law and Graduate School hosted the New England Legal Writing Conference, with the theme “Legal Writing: 2035.”

This theme urged presenters to imagine the future of legal writing, both its promises and its perils. The five essays published here explore a wide range of topics, but common refrains are the presence of artificial intelligence in legal practice and legal education, the challenges faced by Generation Z and first-generation law students, and the role of creativity and clinical education in preparing those students to become effective, resilient legal professionals.

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Proceedings is an online journal published by the University of Oregon School of Law, beginning in 2020. Its aim is to amplify presentations made at regional and national conferences, workshops, and webinars, on topics relevant to teaching legal writing, legal research, and related areas, and to those teaching and writing in the discipline.

PROCEEDINGS

VOLUME 6

TO DISCLOSE OR NOT TO DISCLOSE THE USE OF GENERATIVE ARTIFICIAL INTELLIGENCE IN LAW PRACTICE

COLIN M. BLACK¹

I. Introduction

Generative artificial intelligence (GAI) is here. Lawyers encounter it in research platforms, drafting applications, document review systems, and educational settings, often as part of products they already use. As with prior technological shifts, GAI's rapid integration has prompted questions about professional responsibility, particularly whether and when lawyers must disclose their use of GAI tools.

These ethical questions are not new. The legal profession has previously navigated significant changes in practice brought about by new technologies such as email, online legal research platforms, and electronic discovery tools.² In each instance, the profession relied on existing ethical rules rather than creating entirely new regulatory regimes.³ While GAI is more powerful and less transparent than many of the predecessor tools, it presents a familiar professional obligation to determine how established ethical duties apply to evolving methods of lawyering.

The duty of disclosure has practical consequences for lawyers, courts, and clients that merit careful attention. Courts have issued orders

¹ Colin M. Black is an Associate Professor of Legal Writing at Suffolk University Law School. This essay is based on a presentation at the New England Legal Writing Conference at Vermont Law and Graduate School in September 2025. As a prudent disclosure, the author used various artificial intelligence tools at various stages of this project, including presentation design, image generation, outlining, brainstorming, wordsmithing, grammar, and spelling.

² ABA Comm. on Ethics & Pro. Resp., Formal Op. 99-413 (1999); see also *Model Rules of Pro. Conduct* r. 1.1 cmt. 8 (Am. Bar Ass'n 2025); see, e.g., *Zubulake v. UBS Warburg LLC*, 229 F.R.D. 422 (S.D.N.Y. 2004).

³ See ABA Formal Op. 99-413, *supra* note 2; *Model Rules of Pro. Conduct* r. 1.1 cmt. 8; see, e.g., *Zubulake*, 229 F.R.D. at 432–33.

addressing the use of GAI in filings, and bar associations have released ethics opinions analyzing lawyers' obligations when using these tools.⁴ Scholars and commentators have debated whether transparency requires lawyers to affirmatively disclose their reliance on GAI in legal work.⁵ Much of this discussion has been framed as a binary choice, disclose or do not disclose, sometimes obscuring the more fundamental ethical inquiry that precedes it.

Before asking whether disclosure is required, lawyers must first ask what their existing professional duties demand when using any tool that affects accuracy, confidentiality, cost, or professional judgment. This essay advances a straightforward thesis: GAI does not create new professional duties, but it intensifies existing ones. The core ethical obligation governing the use of GAI is not disclosure as a default practice, but verification as a universal one. Lawyers remain ultimately responsible for their work product regardless of the tools employed. Disclosure, by contrast, is required only in defined circumstances; when mandated by court rule or policy, when material to a client's decision-making, or when necessary to ensure truthful billing or avoid misrepresentation.⁶

Framing the issue in this way situates GAI within the profession's broader ethical tradition. Increased technological capability has long been understood to heighten rather than diminish professional responsibility. By grounding the disclosure debate in existing doctrine and professional norms, this essay offers a practical framework for lawyers, judges, and educators seeking to apply disclosure principles to powerful new GAI tools.

⁴ See *In re Marla C. Martin*, Case No. 24 B 13368, 2025 WL 2017224 (N.D. Ill. July 18, 2025).; ABA Comm. on Ethics & Pro. Resp., Formal Op. 512 (2024); State Bar of Cal. Standing Comm. on Pro. Resp. & Conduct, *Practical Guidance for the Use of Generative Artificial Intelligence in the Practice of Law* (2023), <https://www.calbar.ca.gov/sites/default/files/portals/0/documents/ethics/Generative-AI-Practical-Guidance.pdf>.

⁵ Samantha E. Dorey & James C. Truxaw, *Cover Story: Duty to Disclose the Use of AI in Legal Research and Writing: "Was This Drafted Using Artificial Intelligence (AI)?"*, 67 *Orange Cnty. Law.* 32 (2025); Jonah B. Perlin, *How the Billable Hour Can Survive Generative AI*, 5 *Stetson Bus. L. Rev.* 42 (2024); Nicholas Mignanelli, *The Legal Tech Bro Blues: Generative AI, Legal Indeterminacy, and the Future of Legal Research and Writing*, 8 *Geo. L. Tech. Rev.* 298 (2024).

⁶ Standing Order Regarding Artificial Intelligence, Judge Michael Baylson, E.D. Tex. (2023), <https://www.paed.uscourts.gov/sites/paed/files/documents/procedures/Standing%20Order%20Re%20Artificial%20Intelligence%206.6.pdf>; *Model Rules of Pro. Conduct* r. 1.4 (2025); ABA Formal Op. 512, *supra* note 4.

II. Premises

This essay is premised on the following well-settled principles of professional responsibility.

First, it assumes good faith lawyering. The use of GAI to deceive a court, fabricate authority, or mislead a client is already prohibited by rules governing dishonesty, fraud, and misrepresentation.⁷ Nothing about GAI alters those baseline prohibitions. Where a lawyer employs any tool in bad faith, the ethical violation is clear, and the technology itself adds little to the analysis.

Second, responsibility for legal work is nondelegable. Lawyers remain accountable for their work product regardless of whether it is drafted by a junior associate, prepared with the assistance of a nonlawyer, or generated with the aid of technological tools.⁸ Professional responsibility rules have long required supervising lawyers to ensure that work performed on their behalf complies with ethical obligations.⁹ GAI does not re-allocate or negate this responsibility. Even when artificial intelligence assists in drafting or analysis, the lawyer remains the responsible professional.

Third, verification is a baseline obligation. Duties of competence and candor require lawyers to review, understand, and confirm the accuracy of legal and factual assertions before relying on them or presenting them to others.¹⁰ This obligation predates GAI and applies regardless of the source of information or degree of assistance. The duty of verification assumes particular importance precisely because these GAI tools can produce text that appears authentic while still containing inaccuracies or fabrications.

Fourth, verification and disclosure are conceptually distinct ethical inquiries. Verification concerns the lawyer's internal obligation to ensure accuracy and compliance with professional rules. Disclosure concerns whether information about the lawyer's methods must be shared externally with a client or tribunal. Treating disclosure as a default response to GAI use risks obscuring the more fundamental duty to verify.

⁷ *Model Rules of Pro. Conduct* rr. 3.3(a)(1), 8.4(c) (2025).

⁸ *Id.* at rr. 5.1, 5.3; r. 1.1 cmt. 8.

⁹ *Id.* at r. 5.1 & cmt. 1; r. 5.3.

¹⁰ *Id.* at rr. 1.1, 3.1, 3.3(a)(1).

Finally, this analysis treats GAI as part of an ongoing professional evolution rather than a departure from settled ethical conduct. The ethical rules governing lawyers were designed to accommodate changes in practice methods and technology over time.¹¹ GAI is undoubtedly powerful and, in some respects, qualitatively different from other tools, but it does not require abandonment of established professional norms. The goal is not to invent new duties, but to apply existing obligations to a new form of legal tools.

III. The Tool versus the Source

Lawyers have long relied on tools without displacing professional judgment. Research platforms, drafting and editing software, and human assistants all support the production of legal work while leaving responsibility and decision making with the lawyer. Professional responsibility doctrine has consistently treated such aids as instrumental rather than authoritative.¹² And, unlike authority and sources, tools rarely trigger our professional obligation to disclose.

Treating legal tools as instruments emphasizes the distinction between assistance and authority. Tools assist lawyers in organizing information, generating language, or identifying issues, but they do not supply legal judgment or relieve the lawyer of authorship. Even when tools materially shape the form or efficiency of legal work, the lawyer remains the source of the legal conclusions presented. Mere use of GAI does not alter the allocation of responsibility. Although its outputs may appear complete or authoritative, they carry no independent legal weight and derive their legitimacy solely from the lawyer's review, verification, and adoption of the output. Treating GAI as anything other than a tool risks blurring the line between assistance and authority that has long anchored ethical accountability in legal practice.

¹¹ *Id.* at pmb1. ¶¶ 1, 6; r. 1.1 cmt. 8; Am. Bar Ass'n Comm'n on Ethics 20/20, *Introduction and Overview* (2012), https://www.americanbar.org/content/dam/aba/administrative/ethics_2020/20120508_ethics_20_20_final_hod_introduction_and_overview_report.authcheckdam.pdf.

¹² See *Model Rules of Pro. Conduct* r. 1.1 cmt. 8; Am. Bar Ass'n Comm'n on Ethics 20/20, *Introduction and Overview* (2012), *supra* note 11; Andrew M. Perlman, *The Legal Ethics of Generative AI*, 57 *Suffolk U. L. Rev.* 345 (2024).

Admittedly, GAI complicates the discussion because it produces text rather than merely retrieving or organizing existing materials. Unlike traditional legal research platforms, it does not provide direct access to primary authority that can be independently examined. And, unlike human assistants, it operates without transparency into its process and cannot sufficiently explain how a particular output was generated.¹³

However, conceptualizing GAI as a tool rather than a source offers necessary clarification. Legal sources are authoritative materials that carry independent legal weight and can be cited as such. GAI does not produce authority in this sense, even when its output can accurately describe legal doctrine or references real cases.¹⁴ Importantly, the relevant authority remains the underlying law, not the tool that assisted in drafting.

This distinction has practical ethical consequences. Treating GAI as a source risks obscuring the lawyer's role as the author and decision maker responsible for the analysis presented. By contrast, treating GAI as a tool preserves the established principle that lawyers may delegate tasks but not responsibility.

GAI nevertheless warrants heightened attention because of its capacity to generate persuasive text, including plausible but incorrect citations. For that reason, the duty of verification assumes particular importance when artificial intelligence is used. This duty flows not from the novelty of the technology, but from longstanding obligations of competence and candor.

Treating GAI as a tool also clarifies the disclosure inquiry. Lawyers are not ordinarily required to disclose the use of research databases, drafting software, or internal assistants unless required by rule or material to the client or tribunal.¹⁵ When GAI functions in a comparable role and its use does not affect confidentiality, accuracy, cost, or decision making, disclosure is not ethically compelled.

¹³ See Harry Surden, *Machine Learning and Law*, 89 Wash. L. Rev. 87, 88–91 (2014); Perlman, *The Legal Ethics of Generative AI*, *supra* note 12; Dana Remus & Frank Levy, *Can Robots Be Lawyers? Computers, Lawyers, and the Practice of Law*, 30 Geo. J. Legal Ethics 501, 508–12 (2017).

¹⁴ *Id.*

¹⁵ See *Model Rules of Pro. Conduct* r. 1.4 cmt. 5; ABA Formal Op. 512, *supra* note 4; Am. Bar Ass'n Comm'n on Ethics 20/20, *Introduction and Overview* (2012), *supra* note 11.

IV. Four Primary Ethical Concerns

Although GAI does not create new professional duties, its use implicates several established ethical obligations in ways that demand increased attention. Discussions of GAI and professional responsibility most frequently converge around four concerns: confidentiality, accuracy, candor and supervision, and billing fairness. What distinguishes GAI from prior legal technologies is not merely its efficiency, but its capacity to generate complete, persuasive text that appears authoritative. This feature blurs the line between assistance and authorship in ways that heighten the risk of unverified reliance. As a result, the ethical concerns implicated by its use are not novel in kind, but intensified in degree.

The first ethical concern, the duty of confidentiality, applies fully when lawyers use GAI tools. Lawyers must take reasonable steps to safeguard client information and to understand the risks associated with third-party service providers.¹⁶ Disclosure and client consent may be required where the use of a particular tool creates a meaningful risk that confidential client information will be disclosed or reused.¹⁷ The inquiry turns on risk and reasonableness rather than on the mere use of an GAI tool.¹⁸

Second, accuracy obligations raise ethical concerns that lie at the center of professional responsibility concerns surrounding GAI. Lawyers are prohibited from making false statements of law or fact to tribunals or others regardless of how those statements are generated.¹⁹ Courts have made clear that reliance on GAI does not excuse the submission of inaccurate or fabricated authority.²⁰ The ethical failure arises not from using GAI, but from relying on its output without verification.

Verification in this context requires more than a perfunctory review. It expects that the lawyer independently confirm legal authority, factual assertions, and analytical conclusions as though no assistance had been used. The obligation is satisfied neither by trusting the apparent

¹⁶ *Model Rules of Pro. Conduct* r. 1.6(c) & cmt. 18.

¹⁷ *Id.* at r. 1.6(a); ABA Formal Op. 512, *supra* note 4.

¹⁸ ABA Formal Op. 512, *supra* note 4; Perlman, *The Legal Ethics of Generative AI*, *supra* note 5.

¹⁹ *Model Rules of Pro. Conduct* rr. 3.3(a)(1), 4.1(a).

²⁰ *Mata v. Avianca, Inc.*, No. 22-CV-1461 (PKC), 2023 WL 4114965, at *1–3 (S.D.N.Y. June 22, 2023); Standing Order on Artificial Intelligence, *In re Use of Artificial Intelligence*, No. 3:23-mc-104 (N.D. Tex. June 2023).

sophistication of the output, nor by assuming that widely used tools are inherently reliable. The ethical failure lies not in using the tools, but in the abdication of the lawyer's judgment.

Third, ethical duties of candor and supervision further constrain the use of GAI. Lawyers must ensure that representations made to courts and others are truthful and not misleading, and lawyers with supervisory authority must establish reasonable measures to ensure that work performed on their behalf complies with ethical obligations.²¹ Reasonable supervision may include training, internal policies, and review protocols tailored to the capabilities and limitations of GAI tools.

Finally, the use of GAI also implicates duties relating to fees and billing fairness. Professional responsibility rules require that fees be reasonable and that billing practices not involve misrepresentation.²² While GAI may reduce the time required to complete certain tasks, it does not alter the obligation to charge fairly or to avoid misleading representations about the nature of the work performed.

These ethical concerns operate primarily as internal constraints on professional conduct. They regulate how lawyers use GAI, not whether its use must be affirmatively disclosed. Conflating these internal obligations with external disclosure requirements risks collapsing distinct ethical inquiries into a single, overbroad mandate. However, only after these baseline duties are satisfied does the separate question of disclosure arise.

V. Disclosure as Exception Rather Than Default

Disclosure obligations relating to GAI arise only in defined circumstances: when mandated by a court rule or policy, when material to client's decision-making, or when necessary to ensure truthful billing and avoid misrepresentation. Ethical analysis therefore begins not with the novelty of the technology, but with the source and scope of the duty of disclosure itself.

Framing disclosure as a question of professional judgment rather than ethical compulsion also aligns with how lawyers routinely manage other forms of assistance. Lawyers do not typically disclose the use of junior associates, contract attorneys, research databases, drafting and

²¹ *Model Rules of Pro. Conduct* rr. 3.3, 4.1, 5.1–5.3.

²² *Id.* at r. 1.5.

editing software, or internal workflows, even though these inputs may meaningfully contribute to the final work product. In each case, the ethical focus remains on the lawyer's supervision, verification, and responsibility for the result. GAI fits comfortably within this traditional workflow. Where its use does not alter the substance of legal advice, compromise confidentiality, mislead a tribunal, or affect a client's informed decision making, nondisclosure is neither deceptive nor unethical.

At the same time, recognizing that disclosure is not categorically required does not diminish disclosure's potential value in appropriate contexts. Professional judgment includes anticipating how a client or tribunal may reasonably understand, evaluate, or rely upon a lawyer's work. Where the use of GAI plays a visible role, carries heightened risk, or could affect trust, expectations, or perceived accountability, transparency may serve important professional ends. In these circumstances, disclosure may operate not as a corrective to ethical deficiency, but as an exercise of judgment consistent with the lawyer's role as counselor, officer of the court, and fiduciary.

However, our ethical obligations require disclosure in three circumstances. First, disclosure is required when mandated by court rule, standing order, or binding policy.²³ Courts possess authority to regulate filings and practice before them, including imposing disclosure requirements related to the use of GAI. When such mandates exist, compliance is obviously required. At the same time, the existence of disclosure requirements in some courts does not create a generalized ethical duty applicable in all forums. Ethical compliance requires attention to the specific jurisdiction.

Disclosure is also required when the use of GAI is material to a client's informed decision making. Professional responsibility rules require lawyers to communicate information necessary for clients to make informed choices about the representation.²⁴ The use of GAI may be material where it meaningfully affects confidentiality risk, litigation

²³ *Id.* at rr. 3.3, 4.1, 5.1–5.3; Fed. R. Civ. P. 11(b); Standing Order on Artificial Intelligence, *In re Use of Artificial Intelligence*, No. 3:23-mc-104 (N.D. Tex. June 2023).

²⁴ Model Rules of Pro. Conduct r. 1.4(b).

strategy, costs, or the nature of legal advice provided.²⁵ Materiality does not arise merely because a GAI tool is used in a lawyer's workflow. The inquiry focuses on impact rather than novelty.

Finally, disclosure is required to ensure honest billing and to avoid misrepresentation. If the use of GAI alters the basis on which fees are calculated or represented, disclosure may be necessary to prevent misleading the client.²⁶ By contrast, when billing accurately reflects the agreed upon fee structure and the value of the services provided, the use of GAI does not independently trigger a disclosure obligation.

VI. Prudent but Not Required Disclosure

Professional responsibility rules distinguish between conduct that is required and conduct that is advisable as a matter of professional judgment.²⁷ Disclosure of GAI use often falls into this latter category. While the rules mandate disclosure in specific circumstances, they also leave room for lawyers to decide when transparency is prudent even if not strictly required. The allowance for discretion reflects a broader feature of professional regulation. Ethical lawyering is not reducible to mechanical compliance, but depends on context-specific judgment informed by experience, norms, and the interests of clients and tribunals.

This distinction between mandatory and discretionary conduct has long structured professional responsibility doctrine. The rules of professional conduct establish minimum requirements while presupposing that lawyers will exercise judgment beyond those baselines in light of context, professional norms, and relational considerations.²⁸ Disclosure decisions frequently operate in this discretionary space. The absence of a categorical disclosure obligation does not imply indifference to transparency, but rather reflects the profession's reliance on lawyers to assess when additional disclosure advances trust, accuracy, or

²⁵ *Id.*; ABA Formal Op. 512, *supra* note 4; *Practical Guidance For the Use of Generative Artificial Intelligence In The Practice of Law*, State B. Cal. Standing Committee on Prof. Resp. & Conduct, <https://www.calbar.ca.gov/Portals/0/documents/ethics/Generative-AI-Practical-Guidance.pdf> (last accessed July 25, 2024); Dorey & Truxaw, *Duty to Disclose the Use of AI in Legal Research and Writing: "Was This Drafted Using Artificial Intelligence (AI)?"*, *supra* note 5.

²⁶ Model Rules of Pro. Conduct r. 1.5; Perlin, *How the Billable Hour Can Survive Generative AI*, *supra* note 5.

²⁷ Model Rules of Pro. Conduct Pmbl. and Scope (Am. Bar Ass'n 2025).

²⁸ *Id.*

institutional integrity without imposing unnecessary burdens or confusion.

Prudent disclosure may be appropriate where the use of GAI plays a substantial or visible role in shaping legal analysis, strategy, or presentation. In such circumstances, disclosure may help manage expectations, promote trust, or avoid misunderstanding. Disclosure may be particularly necessary where a client or court might reasonably assume that the work product reflected exclusively human drafting or judgment. Similarly, disclosure may be advisable where a lawyer anticipates heightened scrutiny of the work product or where transparency would advance the client's interests. In these settings, disclosure functions as a professional choice grounded in judgment, not as a categorical ethical mandate.²⁹

At the same time, professional responsibility doctrine cautions against transforming prudence into obligation. Routine use of GAI for background drafting, research, organization, brainstorming, or stylistic refinement, when the output is fully reviewed, verified, and adopted by the lawyer, does not ordinarily implicate client interests or tribunal integrity. Recent debate surrounding new Rule 18.3 of *The Bluebook* illustrates the confusion that can arise when the use of GAI is mischaracterized as a source requiring citation rather than as a drafting tool subject to professional judgment.³⁰ That debate reflects the risk of conflating internal methods of production with matters that bear on professional responsibility or adjudicative reliability. Citation rules exist to identify authoritative sources and enable verification, not to regulate the tools lawyers use to generate text. Treating GAI as a source rather than as a drafting tool obscures the lawyer's role as the accountable author of legal analysis and invites disclosures that add little substantive value while increasing confusion about attribution and responsibility. Properly understood, disputes over citation practice reinforce the importance of preserving the distinction between disclosure as an exercise of professional judgment and disclosure as a mandatory ethical

²⁹ See generally ABA Formal Op. 512, *supra* note 4; Perlman, *The Legal Ethics of Generative AI*, *supra* note 5.

³⁰ Susan Tanner, *Disclose, Don't Cite AI: Why You Should Ignore Bluebook Rule 18.3*, <https://drsusantanner.medium.com/disclose-dont-cite-ai-why-you-should-ignore-bluebook-rule-18-3-17f34a65533e>

duty. Ethical analysis remains focused on outcomes not on the mere presence of a particular technology in the lawyer's workflow.

This distinction between prudent and required disclosure reinforces the central premise of this essay. GAI does not eliminate the need for professional judgment. GAI amplifies it. Lawyers must decide not only how to use these tools responsibly, but also when transparency serves the interests of clients, courts, and the profession without transforming discretion into duty.

VII. Conclusion

The introduction of GAI has intensified longstanding questions about professional responsibility without fundamentally altering their answers. The core duties that govern legal practice remain firmly in place. What has changed is the speed and scale at which tools can assist lawyers in producing legal work, increasing both the benefits of ethical use and the consequences of imprudence.

Verification rather than disclosure is the universal ethical obligation associated with GAI. Lawyers remain responsible for their work product regardless of how it is produced. Disclosure, by contrast, is context dependent and arises only when mandated by court rule or policy, when material to a client's informed decision making, or when necessary to ensure honest billing and avoid misrepresentation.

Approaching GAI through this lens brings the new technology into continuity with the profession's ethical tradition. Treating it as a tool rather than as a source of authority preserves the lawyer's role as the accountable decision-maker. By grounding the disclosure debate in materiality, verification, and existing doctrine, the profession can integrate GAI in a manner that is principled, practical, and faithful to its professional obligations.

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“WE WERE RAISED IN CRISIS”: TEACHING LEGAL WRITING TO A GENERATION FORMED BY UPHEAVAL

BENJAMIN AFTON CAVANAUGH¹

“Our sires’ age was worse than our grandsires’.
We, their sons, are more worthless than they; so in our turn
we shall give the world a progeny yet more corrupt.”²

We have been blaming the next generation for as long as there have been generations to blame.³ Complaints about young people lacking discipline, resilience, or seriousness appear in ancient texts and resurface whenever social or institutional change feels unsettling.⁴ Legal education is no exception. Contemporary conversations about law students often focus on what they supposedly do not do well. They struggle with focus, resist feedback, or fall short of the rigor prior generations remember from their own training. I have heard these critiques aimed at millennials and have caught myself expressing similar concerns about Generation Z. On reflection, however, this instinct feels like an easy explanation for a harder problem. It is far more comfortable to locate institutional discomfort in students than to examine how the world they inherited and

¹ Benjamin Afton Cavanaugh is an Assistant Professor of Law at University of Baltimore School of Law. This essay stems from his presentation at the New England Legal Writing Conference at Vermont Law and Graduate School on September 12, 2025.

² Horace, Book III of Odes (circa 20 BC).

³ Joe Gillard, *The 2,500-Year-Old History of Adults Blaming the Younger Generation*, History Hustle (Apr. 17, 2018), <https://historyhustle.com/2500-years-of-people-complaining-about-the-younger-generation/>.

⁴ *Id.*

the conditions under which they were educated shape what they bring into our classrooms.

That inquiry matters because Generation Z has come of age amid sustained instability. Climate anxiety, school lockdowns, mass shootings, racial reckoning, political polarization, and pandemic disruption have not been isolated events for these students, but a constant presence throughout their education. These experiences shape how students approach uncertainty, authority, and risk, precisely the skills we ask them to develop in legal writing courses. When students hesitate to take analytical risks, seek frequent reassurance, or struggle with ambiguity, those behaviors are often read as weaknesses. This essay argues that Gen Z students are better understood as products of context. They are learning to think like lawyers in a world that often feels unpredictable and unsafe, and that reality influences how they engage with feedback and institutional expectations.

Accordingly, this essay examines the formative experiences of Generation Z to assess how those experiences influence learning, with the goal of informing pedagogical reform grounded in context rather than deficit-based assumptions about student capability. The first section outlines the major social, political, and environmental events that shaped Generation Z's formative years. The second examines how those experiences affect critical thinking in the legal writing classroom. The final section offers concrete teaching strategies aimed at working more effectively with Gen Z students. The goal is not to excuse underperformance or romanticize generational difference, but to teach more intentionally and more accurately.

I. Understanding the Generations in Our Classrooms

To move beyond general claims about “this generation,” it helps to be precise about who we are actually talking about. Legal education currently sits at a generational inflection point. The students in our classrooms are no longer predominantly millennials, but are increasingly members of Generation Z, with Generation Alpha close behind. Before we can assess how Gen Z students think, learn, or struggle in legal writing and doctrinal courses, we first need a shared understanding of the generational landscape and the historical moment that shaped it. The

discussion below begins not with pedagogy, but with context, who these students are, when they grew up, and what they were exposed to during the years when their worldviews were still taking shape.

At present, law school classrooms are composed primarily of millennials (born 1981–1996) and Generation Z (born 1997–2010), though the balance is shifting rapidly.⁵ Millennials, now largely in their late twenties through early forties, have begun to move out of law school and into roles as practicing attorneys, professors, administrators, and parents. Generation Z, by contrast, now spans adolescence through early adulthood and increasingly dominates college and graduate education. While some Gen Z students are still in high school, many are already law students or early-career professionals, and their numbers continue to grow.⁶ Generation Alpha, born beginning in 2010, remains well outside graduate education but will eventually inherit the institutions being shaped in response to Generation Z's presence.⁷ Taken together, these age ranges make clear that the era of predominantly millennial law students is ending. For at least the next decade, Generation Z will form the core of law school populations, making it essential to understand not only how they learn, but the world that shaped them.

Much has already been written about Generation Z as a cohort. They are frequently described as diverse, authenticity-seeking, and deeply shaped by digital life.⁸ They are true digital natives who experienced an unprecedented shift in education toward online platforms.⁹ That shift, however, has also raised concerns about its impact on sustained attention and critical thinking skills, a point this essay will discuss. Understanding this research is essential to our ability to connect with and educate Gen Z

⁵ See 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, 37 (2018); see also Sarah Cottrell, *A Year-by-year Guide to the Different Generations*, Parents (Sept. 26, 2025), <https://www.parents.com/parenting/better-parenting/style/generation-names-and-years-a-cheat-sheet-for-parents/>.

⁶ See Graham, *supra* note 5 at 37.

⁷ See Cottrell, *A Year-by-year Guide to the Different Generations*, *supra* note 5.

⁸ See Joseph Hummel, *Here We Are, Now Entertain Us: One (Elder) Millennial's Thoughts on Methods and Means of Connecting with Gen Z in the Legal Writing Classroom*, 5.1 Proceedings 11, 11-12 (2025).

⁹ See Sally Terry Green, *Understanding the Tethered Generation: Net Gens Come to Law School*, 19 Legal Writing: J. Legal Writing Inst. 1 (2014).

students, both in law school and in legal practice.¹⁰ My aim here is not simply to synthesize existing generational commentary, but to look more closely at how Generation Z arrived at this moment, with an eye toward disrupting the reflexive assumption that this generation has had it easier or is somehow less capable than those who came before.

To appreciate that trajectory, it helps to pause and reflect on the passage of time itself. Consider what has happened in your own life since 1997. Think about the major events, local, national, and global, that shaped your worldview, altered your sense of safety, or gave you pause. Now imagine encountering those same events not as an adult with an established identity and coping mechanisms, but as a child or young adult whose understanding of the world was still forming. Although older generations experienced many of the same historical moments, they did so at very different stages of life. Generation Z encountered them earlier, often repeatedly, and in ways that are difficult for many millennials and older generations to fully relate to at the same intensity or scale.

With that framing in mind, it is worth tracing some of the defining events that shaped Gen Z's formative years. The oldest members of Generation Z were just infants when Google launched in 1998, and barely toddlers when the Columbine High School shooting occurred in 1999. For many millennials, Columbine was a shocking and formative moment precisely because it felt unprecedented, even though it was neither the first nor the deadliest school shooting in U.S. history.¹¹ What distinguished Columbine was its media saturation. It was the first school shooting broadcast live, accompanied by released planning materials and videos intended to inspire notoriety and imitation.¹² While Columbine marked a singular rupture for millennials, it became the starting point for something far more routine in Generation Z's experience. As Generation Z entered school, shootings at Red Lake High School in 2005 and Virginia

¹⁰ See *id.*; see also Tiffany Atkins, *#ForTheCulture: Generation Z and the Future of Legal Education*, 27 Mich. J. Race & Law 1 (2021).

¹¹ James Alan Fox, *25 years after Columbine shooting, schools are safe despite public perception of danger*, USA Today (Apr. 19, 2024, 5:09 a.m. ET), <https://cssh.northeastern.edu/policyschool/25-years-after-columbine-shooting-schools-are-safe-despite-public-perception-of-danger/>.

¹² *Id.*

Tech in 2007 followed.¹³ By the time the oldest Gen Z students reached high school, shootings at Oikos University and Sandy Hook Elementary School occurred in 2012 alone.¹⁴ In the years that followed, mass shootings at Marjory Stoneman Douglas High School and Robb Elementary School became part of a grim and familiar pattern.¹⁵ The list is impossibly long. The result was not only repeated exposure to violence, but the normalization of active shooter drills and a persistent message throughout Generation Z's education that no school was ever truly safe and that the absence of meaningful change reflected a lack of political will to make learning environments safer. For students, this normalized vigilance inevitably shaped how they approached institutional authority, personal risk, and the costs of being wrong.

During this same period, Generation Z was also growing up alongside a steady escalation in the frequency and severity of natural disasters, both in the United States and around the world. In 2005, Hurricane Katrina struck Louisiana, resulting in the deaths of approximately 1,800 people and exposing, in real time, the devastating consequences of government failure, racial inequality, and inadequate disaster response.¹⁶ Televised images of residents stranded on rooftops, abandoned in hospitals, and displaced for months afterward became part of the national consciousness.¹⁷ Katrina was followed closely by Hurricanes Rita and Wilma in 2005, both of which caused billions of dollars in property damage and additional loss of life. In 2008, Hurricane Ike devastated parts of the Texas coast, resulting in widespread destruction and nearly \$20 billion in damages. These were not isolated events, but part of a broader pattern that normalized large-scale catastrophe as a recurring feature of modern life. Growing up with this pattern reinforced the sense that systems often fail under pressure, a lesson that does not stay neatly confined to environmental awareness.

¹³ Gene Petrino, *A Timeline of School Shootings Since Columbine*, Security.org, <https://www.security.org/blog/a-timeline-of-school-shootings-since-columbine/> (last updated Sept. 26, 2025).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ See *Katrina Impacts, Hurricanes: Science and Society*, <https://www.hurricanescience.org/history/studies/katrinacase/impacts/index.html> (last visited Dec. 31, 2025).

¹⁷ See *id.*

Globally, the scale of destruction from natural disasters was even more difficult to comprehend. In 2004, the Indian Ocean tsunami became one of the deadliest natural disasters in recorded history, killing approximately 230,000 people across multiple countries.¹⁸ The Sumatra-Andaman earthquake that triggered the tsunami released energy equivalent to roughly 23,000 Hiroshima-type atomic bombs and caused a measurable shift in the earth's mass.¹⁹ Tsunami waves exceeded 100 feet in some areas and wiped out entire communities in minutes.²⁰ A few years later, in 2011, the Tohoku earthquake and resulting tsunami struck Japan with little warning, killing more than 18,000 people and disabling three nuclear reactors at Fukushima Daiichi.²¹ The ensuing nuclear meltdown demonstrated how natural disasters could cascade into technological and environmental crises.²² By the 2010s and into the 2020s, record-breaking numbers of weather-related disasters were occurring year after year, reinforcing the sense that instability was not episodic, but structural.²³

Overlaying these experiences has been an increasingly dire message from climate scientists about the future of the planet.²⁴ For years, leading experts have expressed profound fear and frustration about the state of Earth's climate and the persistent lack of political will to take meaningful action to mitigate its most catastrophic consequences.²⁵ One South African climate scientist captured this sentiment bluntly when stating, "I expect a semi-dystopian future with substantial pain and suffering for the people of the global south. The world's response to date

¹⁸ Sevil Omer, *2004 Indian Ocean earthquake and tsunami: Facts and FAQs*, World Vision (July 25, 2025), <https://www.worldvision.org/disaster-relief-news-stories/2004-indian-ocean-earthquake-tsunami-facts>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *See On This Day: 2011 Tohoku Earthquake and Tsunami*, NOAA, <https://www.ncei.noaa.gov/news/day-2011-japan-earthquake-and-tsunami> (last updated Mar. 10, 2025).

²² *Id.*

²³ See Adam B. Smith, *2010-2019: A Landmark Decade of U.S. Billion-Dollar Weather and Climate Disasters*, Climate.gov (Jan. 8, 2010), <https://www.climate.gov/news-features/blogs/beyond-data/2010-2019-landmark-decade-us-billion-dollar-weather-and-climate>.

²⁴ See Damian Carrington, *We Asked 380 Top Climate Scientists What They Felt About the Future...*, The Guardian (May 8, 2024 5:00 PM), <https://www.theguardian.com/environment/ng-interactive/2024/may/08/hopeless-and-broken-why-the-worlds-top-climate-scientists-are-in-despair>.

²⁵ *Id.*

is reprehensible.”²⁶ These are not fringe voices, but respected experts describing what they see as an unavoidable trajectory. For Generation Z, these warnings are not abstract predictions about a distant future. They describe a reality already unfolding during their childhood and adolescence. This persistent sense of impending harm has shaped how many Gen Z students think about long-term planning, stability, and whether institutions are capable of protecting them, all of which influence how they invest in education and professional identity.

War, political upheaval, and sustained attention to systemic injustice have further shaped the social and political environment in which Generation Z has grown up. Since the September 11, 2001, attacks, the United States has been engaged in nearly continuous armed conflict, including the wars in Iraq and Afghanistan, the war in Ukraine, and the ongoing conflict in Gaza following the October 7 Hamas-led attack in Israel. Alongside these wars, Generation Z has witnessed rapid and often destabilizing political change at home. Barack Obama was elected president in 2008, same-sex marriage became legal nationwide in 2015, and Donald Trump was elected in 2016. The 2020 election of Joe Biden was followed by the January 6 attack on the United States Capitol and widespread claims that the electoral process itself was untrustworthy. Trump’s reelection in 2024 and subsequent efforts to dismantle components of the federal government have only deepened a sense of political volatility. For Generation Z, political institutions have rarely appeared stable, predictable, or immune from crisis, a perception that shapes how authority and legitimacy are evaluated.

During this same period, long-standing systemic inequities, particularly racial disparities in police violence and gender-based discrimination, moved to the center of public discourse. While the history of racial injustice in policing extends far beyond the scope of this essay, several highly visible deaths brought national and global attention to the issue in unprecedented ways. The killings of Trayvon Martin, Tamir Rice, Michael Brown, Freddie Gray, George Floyd, and Breonna Taylor helped catalyze the rise of the Black Lives Matter movement and forced sustained public engagement with questions of race, power, and institutional

²⁶ *Id.*

accountability.²⁷ Around the same time, the #MeToo movement emerged, drawing widespread attention to sexual harassment and gender-based discrimination.²⁸ Although these conversations marked important moments of reckoning, the resistance to reform and the recurrence of these harms reinforced the perception that institutional change is slow, contested, and unreliable.

What distinguishes Gen Z's experience is not only the number or severity of these events, but the way they were encountered. Against this backdrop of violence, disaster, and political instability sits the rapid proliferation of technology that placed all of it constantly within reach. Google launched just as the oldest members of Generation Z were entering early childhood, followed by Facebook, the iPhone, Instagram, Snapchat, and TikTok in rapid succession.²⁹ Most recently, the rise of generative artificial intelligence has further accelerated the pace and volume of information. Unlike many millennials, who experienced at least part of childhood or adolescence before the dominance of digital life, Generation Z has grown up fully immersed in it. This constant exposure has reshaped attention, information processing, and expectations about immediacy, making sustained focus more difficult and heightening sensitivity to uncertainty.

Taken together, these overlapping forces have left many Gen Z students operating in a state of heightened vigilance.³⁰ Shaped by school violence, climate crisis, political unrest, and pandemic disruption, their attention is often oriented toward immediate and practical concerns rather than long-term abstraction. This context matters for education. It helps explain why some students struggle with sustained analytical focus, discomfort with ambiguity, or willingness to take intellectual risks. The next section turns to those challenges directly, examining how these

²⁷ See *Black and Brown Lives Matter: Cases of Police Killings and Assaults*, Univ. of San Diego Legal Research Center, <https://lawlibguides.sandiego.edu/policekillingsandassaults#s-lg-box-26478985> (last updated Dec. 9, 2025 1:55 PM).

²⁸ See *History & Inception*, Me Too, <https://metoomvmt.org/get-to-know-us/history-inception/> (last visited Dec. 28, 2025).

²⁹ See Corbin Ball, *1962-2022: A 60-Year Timeline of Events Technology Innovation*, Corbin Ball & Co., <https://www.corbinball.com/article/29-futurism/263-60yeareventtechtimeline> (last visited Dec. 28, 2025).

³⁰ See *New Poll: 94% of Gen Z Youth Report Experiencing Regular Mental Health Challenges*, Blue California (Sept. 30, 2025), <https://news.blueshieldca.com/2025/09/30/new-poll-94-of-gen-z-youth-report-experiencing-regular-mental-health-challenges>.

formative experiences may influence Gen Z students' approaches to critical thinking and legal analysis in the classroom.

II. Challenges in the Analytical Process

The cumulative effect of these social, technological, and educational shifts has been a measurable strain on the development of critical thinking skills. A steady stream of digital input, constant connectivity, and divided attention make deep thinking difficult to initiate and even harder to sustain. For many Gen Z students, attention has been shaped by rapid movement from one image, one post, or one video to the next. This environment rewards speed, responsiveness, and surface-level engagement, while offering fewer opportunities to practice sustained concentration, close reading, or reflective judgment. Over time, these habits shape not only how students consume information, but how they process complexity, tolerate ambiguity, and persist through cognitively demanding tasks.³¹

Layered onto these changes in attention is a parallel transformation in the structure of K–12 education itself. One of the most significant markers in this timeline is the passage of the No Child Left Behind Act in 2001, which reshaped educational priorities around standardized testing and measurable outcomes.³² The result has been an education system in which students are frequently over-tested and under-read.³³ On average, students now take approximately 113 standardized tests between pre-kindergarten and twelfth grade.³⁴ In grades three through eight alone, students may face between ten and twenty standardized tests per year, often not including additional assessments imposed on particular student populations.³⁵ While these tests were intended to promote accountability, they have also narrowed curricula

³¹ See Green, *supra* note 9 at 1; see also Atkins, *supra* note 10.

³² See Valerie Strauss, Kevin G. Welner & William J. Mathis, *The Answer Sheet: No Child Left Behind's Test-Based Policies Failed. Will Congress Keep Them Anyway?*, NEPC (Feb. 16, 2015), <https://nepc.colorado.edu/blog/no-child-left-behinds-test-based>.

³³ *Id.*

³⁴ Kimberly Hefling, *Do students take too many tests? Congress to weigh question*, PBS News (Jan. 17, 2015 12:31 PM EST), <https://www.pbs.org/newshour/education/congress-decide-testing-schools>.

³⁵ *Id.*

and crowded out opportunities for sustained reading, writing, and inquiry.³⁶

The decline in reading volume and depth is particularly striking.³⁷ Many students now enter higher education having never read a full-length book during high school.³⁸ Instead, their exposure to text has often been limited to excerpts, short articles, poems, or test-aligned passages designed to assess discrete skills rather than holistic understanding.³⁹ Even reading for pleasure has sharply declined. In 1976, the average high school senior planning to attend graduate school reported reading approximately eight books for pleasure per year.⁴⁰ That number dropped to five by 1996, and by 2022, it had fallen to just two.⁴¹ The result is an educational pipeline that emphasizes test performance over intellectual endurance, leaving many students unprepared for sustained reading, reflection, and synthesis by the time they reach law school.

These educational conditions collide directly with the demands of legal reasoning. Legal analysis is not a single skill, but a coordinated process of higher-order thinking. It requires identifying relevant issues, extracting governing rules from complex sources, evaluating facts, and applying law through reasoned judgment. In practice, legal analysis also requires students to tolerate uncertainty, hold competing interpretations in mind, and make defensible choices under conditions of ambiguity. Many Gen Z students struggle not because they lack intelligence or motivation, but because they have had fewer opportunities to practice integrating these skills over extended periods of time. The difficulty lies less in understanding isolated components of legal reasoning and more in sustaining the mental effort required to connect them.

Real-world lawyering further compounds these challenges. Client problems rarely arrive neatly packaged, and effective representation

³⁶ *Id.*

³⁷ See Thomas Vick, *The College Reading Decline: Why It Matters*, BYU (Feb. 25, 2025 1:58 PM), <https://politicalreview.byu.edu/the-college-reading-decline-why-it-matters>.

³⁸ Dana Goldstein, *Kids Rarely Read Whole Books Anymore. Even in English Class.*, New York Times (Dec. 12, 2025), <https://www.nytimes.com/2025/12/12/us/high-school-english-teachers-assigning-books.html>.

³⁹ *Id.*

⁴⁰ Jean M. Twenge, *Are books dead? Why Gen Z doesn't read*, Generation Tech (Mar. 5, 2024), <https://www.generationtechblog.com/p/are-books-dead-why-gen-z-doesnt-read>.

⁴¹ *Id.*

requires judgment, prioritization, and alignment with client goals, often under time pressure and emotional strain. For students whose educational experiences have emphasized immediate answers, external validation, and narrowly defined success metrics, this transition can be disorienting. What may appear as avoidance, overreliance on guidance, or reluctance to take analytical risks is often better understood as a predictable response to an educational system that rewarded certainty and speed over depth and deliberation.

Recognizing these dynamics is essential, but diagnosis alone is not enough. If legal educators accept that Gen Z students arrive shaped by digital saturation, test-driven schooling, and limited opportunities for sustained intellectual engagement, the question becomes how law schools should respond. The final section turns to that question, offering strategies for teaching Gen Z students more effectively by meeting them where they are while deliberately building the skills that legal analysis and professional practice demand.

III. Strategies for Educating Gen Z Students

Even if legal educators choose not to implement every strategy discussed below, developing a clearer understanding of what Generation Z has experienced and how those experiences shape their perceptions of institutions is valuable in its own right. Students do not enter law school as neutral actors. They arrive with expectations shaped by repeated exposure to institutional failure, inconsistent accountability, and public assurances that rarely resulted in meaningful change. That history informs how they interpret authority, feedback, and risk. Simply recognizing this context can shift how faculty read student behavior, moving away from frustration or judgment and toward curiosity and accuracy. The strategies that follow build on that understanding. They are not concessions to lowered expectations, but intentional responses designed to strengthen rigor, engagement, and professional development for students whose cognitive and emotional habits were formed under conditions very different from those of prior generations. In short, they are ways of teaching *with* the reality Generation Z brings into the classroom, rather than against it.

A. Cognitive overload requires simplification without dilution.

Many Gen Z students experience continuous partial attention, a state shaped by constant connectivity, crisis exposure, and information saturation. They are still capable of deep thinking, but that deep thinking often requires clearer entry points and more visible structure. When complex tasks appear all at once, students may struggle to know where to begin, even when they are capable of doing the work. In the legal writing classroom, this often appears when students are assigned a full memorandum or brief with a single due date and are expected to manage the entire analytical process on their own. Faced with that scope, some students stall, while others fixate on easily identifiable components, such as formatting or citations, rather than the substance of analysis. Simplifying structure while preserving substance can address this mismatch.

One effective approach is to require students to draft sections of a document incrementally, according to a clearly defined schedule. For example, students might submit an issue statement and brief case overview one week, a synthesized rule section the next, and a draft of the application section after that, with the final document assembled only after each component has been developed and refined. This staged process allows students to concentrate on one cognitive task at a time while still working toward a cohesive, sophisticated product. Visual scaffolds, checklists, and short recap materials help students orient themselves at each stage and reduce the mental energy spent figuring out what to prioritize. Similarly, when providing feedback, professors can explicitly direct students to focus on specific revision goals, such as strengthening rule explanations or sharpening analogical reasoning, thus modeling expert thinking and preventing cognitive overload. These strategies do not make the work easier. They make the path through the work clearer, enabling students to engage more fully in sustained analytical thinking.

B. Dialogue should be normalized.

Gen Z students have grown up in a world where authority figures were frequently exposed as fallible, self-interested, or untrustworthy. As a

result, many students approach institutions with skepticism. In the classroom, this skepticism can look like questioning, hesitation, or disengagement, but it is often a request for legitimacy rather than a rejection of expertise. In a legal writing course, for example, students may push back on rigid memo formats or ask why a particular organizational structure is required, not because they reject instruction, but because they want to understand how those conventions function in real practice. Faculty can respond productively by making their reasoning visible. A brief explanation that a particular structure mirrors how judges or supervising attorneys process information, or that a rule synthesis exercise develops skills used in drafting motions or advising clients, helps students connect classroom expectations to professional purpose.

Similarly, acknowledging that the law itself can be ambiguous, contested, or unjust validates students' instincts without undermining the legitimacy of legal analysis. When a professor openly names doctrinal tension or unresolved policy concerns, students are more likely to engage rather than withdraw. Low-stakes reflection prompts can further support this dialogue. Asking students to reflect briefly on which part of an assignment felt unclear, or what assumptions the law appears to make about the parties involved, signals that questioning is not only permitted but expected. Over time, this transparency builds trust, reframes authority as reasoned rather than hierarchical, and encourages students to invest more fully in the learning process.

C. Psychological safety must be embedded into rigor.

Many Gen Z students approach academic work with high levels of anxiety, shaped by years of high-stakes testing, public evaluation, and crisis-driven uncertainty. For these students, performance has often felt inseparable from judgment, and mistakes have carried outsized consequences. In this environment, rigor without psychological safety can produce paralysis rather than growth. Students may avoid taking analytical risks, over-rely on templates, or disengage when feedback feels final or unforgiving. Embedding psychological safety into rigorous coursework does not mean shielding students from challenge. It means making expectations legible and growth achievable so that students are willing to engage fully with difficult work.

In the legal writing classroom, this often begins with transparency about what mastery looks like and how it develops over time. Clear rubrics that break complex skills into identifiable components help students understand not only how they will be evaluated, but where they should focus their effort. Annotated examples of strong writing, paired with explanations of why those examples are effective, further demystify expectations. Opportunities for revision are particularly powerful in this context. When revision is framed as a routine and expected part of the learning process, rather than as a corrective measure for failure, students are more likely to experiment, reflect, and improve. For example, allowing students to revise a memorandum after receiving targeted feedback on analysis or organization signals that growth is valued over immediate perfection.

Faculty narratives about struggle or failure can also play an important role in reducing fear around feedback. Brief, intentional stories about a difficult law school assignment, a heavily edited draft, or an early professional misstep help humanize expertise and reframe competence as something developed through effort and iteration. Even small moments of vulnerability can lower the stakes of engagement and encourage students to see feedback as information rather than indictment. When students feel safe enough to try, revise, and try again, they are far more likely to engage in the sustained, reflective work that rigorous legal analysis requires.

D. Entry points into legal discourse should be reimaged.

Many students enter law school fluent in digital communication but disconnected from traditional legal discourse. They are accustomed to explaining ideas quickly, visually, and conversationally, yet often feel disoriented by the formality, density, and conventions of legal writing. Rather than treating this gap as a problem to be corrected, faculty can use it as an entry point into more formal analysis. Beginning with legal questions drawn from social media, popular culture, or current events helps students recognize that legal reasoning already exists in spaces they understand, even if it is expressed informally or imprecisely. This recognition can lower the barrier to engagement and reduce the intimidation that often accompanies doctrinal material.

Inviting students to translate doctrine into accessible language before formalizing it can further clarify understanding and surface misconceptions early. When students are asked to explain a legal rule as if responding to a post online or advising a non-lawyer, they must distill the core principle and identify what truly matters. This process often reveals gaps in comprehension that might remain hidden in more formal writing. From there, professors can guide students in refining that explanation into professional legal prose, making the transformation from informal reasoning to formal analysis explicit rather than assumed. Audio or video feedback can also be effective, particularly for students who struggle to interpret tone and nuance in written critique. Hearing feedback delivered in a human voice can reduce defensiveness, increase clarity, and encourage students to engage more thoughtfully with revision. These approaches do not replace formal legal writing. They function as on-ramps, easing students into unfamiliar discourse while respecting and leveraging the communicative skills they already possess.

E. Professionalism should be reframed to include resilience.

For many Gen Z students, professionalism feels synonymous with suppression, particularly the expectation that personal stress, identity, or uncertainty must be concealed to appear competent.⁴² A more inclusive framing emphasizes adaptability, reflection, and boundary-setting as core professional competencies rather than weaknesses.⁴³ Teaching students how to communicate respectfully under stress, how to set reasonable limits with clients or supervisors, and how to assess their own capacity prepares them more realistically for legal practice, where competing demands and emotional strain are common. Modeling these skills through role-play, guided language, and structured reflection helps students see professionalism as a set of learned behaviors rather than an innate disposition. In this framing, professionalism is not about flawless performance, but about sustaining competence, judgment, and ethical decision-making over time in demanding environments.

⁴² See Ara Arellano, *Opinion: Gen Z is changing the idea of professionalism for the better*, Daily Wildcat (May 9, 2025), <https://wildcat.arizona.edu/160819/opinions/o-gen-z-changing-professionalism/>.

⁴³ *Id.*

F. Classroom culture and relationships matter.

Finally, trust is not assumed. It must be built intentionally and reinforced over time. Small acts of recognition, transparency, and consistency signal to students that they are seen, respected, and taken seriously as developing professionals. Normalizing help-seeking and structured reflection reduces stigma and encourages engagement, particularly in environments where students may otherwise fear being judged for asking questions or struggling openly. Most importantly, high expectations should be framed as an expression of belief in students' potential rather than as a test of endurance. Gen Z students are not seeking lower standards. They are seeking meaning, competence, and reassurance that their effort has purpose. The task for legal educators is not to lower the bar, but to build a bridge sturdy enough for students to reach it.

Taken together, these strategies reflect a shift in posture rather than a departure from rigor. They ask legal educators to teach with a clearer understanding of the conditions that have shaped Generation Z's attention, trust, and learning habits, while remaining firmly committed to the intellectual demands of the profession. None of these approaches lowers expectations or excuses underperformance. Instead, they respond to the reality that students learn best when expectations are legible, purpose is visible, and growth feels possible. By aligning pedagogy with context rather than assumption, legal educators can better support Gen Z students in developing the analytical judgment, resilience, and professional identity that legal practice requires.

IV. Conclusion

Generation Z did not arrive in legal education as a blank slate, nor as a weaker version of prior cohorts, but as a generation formed by upheaval and raised in conditions that have reshaped attention, trust, and tolerance for uncertainty. Even when educators choose not to adopt new teaching strategies, simply understanding the lived experiences that shape Gen Z students can meaningfully change how we interpret their behavior in the classroom. When hesitation, anxiety, or resistance to feedback are viewed through a contextual lens rather than a deficit-based

one, frustration gives way to accuracy. From that foundation, pedagogical choices that emphasize structure, transparency, and iterative growth preserve rigor while making the work of analysis more accessible. Legal writing courses are particularly well positioned to model this approach, as they already demand close reading, careful reasoning, and deliberate revision. By resisting the ancient reflex to blame and instead teaching with an informed understanding of the world students bring with them, legal educators can prepare Generation Z not only to succeed in law school, but to develop the judgment, resilience, and ethical clarity the profession will require in the years ahead.

PROCEEDINGS

VOLUME 6

BEYOND TRADITIONAL SKILLS: INTEGRATING CLINICAL PRACTICE INTO THE 1L LEGAL WRITING CURRICULUM

REBECCA CHAPMAN¹

I. Converging Pressures

By now, it is neither provocative nor hyperbole to say that legal writing instruction stands at a crossroads. As AI tools increasingly handle routine legal research and document drafting, we are all being forced to reconsider which skills should be considered critical, which skills our students will be expected to know as attorneys, and how we should (or shouldn't) revise our curricula and pedagogy accordingly. This essay argues that integrating clinical work — particularly community-focused social justice work — into traditional Legal Research and Writing (LRW) courses develops essential “human” skills that AI cannot replicate while also reinforcing conventional legal writing competencies. Using clemency advocacy as a case study, this essay presents a semester-by-semester model showing how clinical integration not only enhances standard LRW instruction but also allows students to develop increasingly critical “soft” skills that will be highly in-demand in a future landscape dominated by automated tools, problem solving, client relationships, and community advocacy.

At the same time that legal education faces the rise of increasingly useful generative artificial intelligence (GenAI), it also faces pressure from the NextGen Bar Examination. These converging pressures—the rise of GenAI and the changes to the bar exam—create a huge shift in the staid critical skills commonly taught to every law student. The NexGen Bar

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Exam explicitly prioritizes practical lawyering skills over doctrinal memorization, emphasizing client counseling, cultural competency, and collaboration.² The rise of GenAI makes it ever more important that students develop not only traditional research and writing skills but also sharply honed critical thinking skills. GenAI can draft basic legal documents, conduct preliminary case research, and generate structured legal arguments. The convergence of these two external pressures is forcing a reconsideration of skills long considered “soft” or “secondary”: building client relationships, understanding community dynamics, translating legal concepts across cultural differences, and engaging in strategic advocacy.

II. Legal Research and Writing: Current and Future

Current LRW instruction is structured so that students learn critical legal writing and research skills through hypothetical fact patterns and academic writing assignments that, while pedagogically useful, leave gaps in practical preparation. This disconnect between classroom learning and practice reality has long been recognized. Students often report feeling unprepared for client interaction, uncertain about translating legal knowledge into practical advice, and unsure about navigating ethical and strategic complexities. Clinical programs address these concerns but typically serve only small percentages of students and occur after foundational courses are completed.

By embedding authentic legal work within existing LRW courses rather than creating separate programs, students continue learning conventional skills—case analysis, legal research, memorandum drafting, brief writing—but apply them to actual clients and community partners instead of hypothetical scenarios. This approach offers several advantages. First, real stakes motivate deeper student engagement than simulated problems can achieve. Second, authentic legal issues are invariably more complex than textbook scenarios, developing analytical skills that transfer effectively to practice. Most importantly, clinical integration naturally develops interpersonal and strategic competencies alongside technical skills. Students begin to develop their so-called “soft”

² Overview of Recommendations for the Next Generation of the Bar Exam, <https://nextgenbarexam.ncbex.org/overview-of-recommendations/>.

skills – skills that, thanks to the NextGen bar exam and the rise of GenAI, are now critical for every attorney.

III. Clinical Work on Clemency

Clemency work provides an ideal vehicle for 1L LRW curriculum integration. Understanding the legal framework within which clemency exists is essential, but accessible for 1Ls. Clemency broadly encompasses executive mercy that reduces or eliminates criminal penalties, but includes distinct mechanisms with different legal effects. While pardons, commutations, and reprieves are components of clemency work, this essay focuses specifically on commutations, which provide more appropriate learning opportunities while still serving clients with urgent needs. And it focuses on Massachusetts law, where I teach.

In Massachusetts, clemency authority rests with the governor, who may grant pardons, commutations, and reprieves.³ A pardon forgives the underlying conviction entirely, typically restoring civil rights and removing legal disabilities. Commutation, or clemency, reduces a sentence while leaving the conviction intact. A reprieve is a temporary hold on some aspect of conviction. Massachusetts clemency petitions are reviewed by the Parole Board, which conducts investigations and hearings for cases under serious consideration. The Board makes recommendations to the Governor, who has ultimate discretionary authority. Current guidelines consider not only individual rehabilitation evidence but also systemic factors including racial disparities and circumstances affecting domestic violence survivors.⁴

Importantly, Massachusetts law does not require legal representation for clemency petitions, making this appropriate for supervised student practice. While many advocates adopt formal brief structures, the administrative nature of clemency proceedings allows meaningful student participation without complex professional responsibility concerns.

³ Mass. Parole Bd., *Executive Clemency Process*, <https://www.mass.gov/info-details/executive-clemency-process>.

⁴ Governor Maura T. Healy, *Executive Clemency Guidelines*, <https://www.mass.gov/doc/executive-clemency-guidelines-healey/download>.

Because of the unique legal framework within which it exists, clemency advocacy offers unique pedagogical advantages. Unlike many legal practice areas, clemency work naturally suits student involvement while offering manageable complexity for novice lawyers. Clemency petitions face enormous systemic barriers, with incredibly low success rates. This reality makes clemency work “low stakes” in the best possible sense: students can engage meaningfully without bearing psychological pressure for specific outcomes. Likewise, every contribution potentially adds value, but no individual student bears sole responsibility for success or failure. At the same time, while the traditional “success” rates are low, other “successes” happen regularly and with ease. Students learn that success doesn’t begin and end with a court victory, but rather that effective, meaningful advocacy in and of itself is a victory. Making a client feel heard, supported, and advocated for is a win for both the client and the students.

More importantly, clemency work incorporates every skill taught in traditional LRW instruction, but with authentic urgency. Students research legal precedents, seeking actual arguments that might secure someone’s freedom. They learn how to review voluminous legal records, secondary sources, trial records, and more in order to create a compelling narrative as part of a persuasive petition for governors and parole boards making life-changing decisions. They interview clients, learning family histories and personal narratives that inform legal strategy. Clemency advocacy also connects students to social justice movements and community organizations. They work alongside reentry nonprofits, family advocacy groups, and grassroots campaigns, learning “movement lawyering”—understanding that legal change comes from community organizing, not just courtroom victories.¹⁰ This exposure teaches cultural competency, narrative construction, community engagement, and strategic thinking about power dynamics—precisely the skills that will distinguish lawyers in an AI-integrated profession.

Clinical work complements rather than competes with traditional learning objectives. Students still must master case analysis, legal research methodology, memorandum writing, and brief drafting, but pairing such traditional instruction with clinical work allows students the opportunity to immediately practice these skills in a real-world scenario.

Not only does the clemency work complement the traditional LRW instruction, but it also tracks seamlessly with the curriculum.

IV. Framework for Coordinating Clemency Work and LRW

The following framework demonstrates how I have taught LRW alongside clemency work and illustrates the ways in which the clinical work of writing a clemency petition perfectly complements the traditional skill development timeline. But the students learn traditional skills through authentic application rather than hypothetical scenarios. Significantly, the clemency work provides natural motivation for mastering research and writing techniques because students understand their work serves real purposes. The clinical component also develops interpersonal and strategic skills that complement technical legal training and prepare students for the NextGen bar exam and for practice in an AI world.

MONTH	KEY SKILLS FOCUS	LRW SKILLS	CLEMENCY WORK
SEPTEMBER	Foundation building	Case reading, CREAC structure	Understanding clemency
OCTOBER	Research basics	Legal research, memo drafting	Getting to know clients, researching cases and histories
NOVEMBER	Writing, revision & collaboration	Memo revision, peer feedback	Petition drafting, team feedback
JANUARY	Persuasive writing	Brief writing introduction	Narrative building
FEBRUARY	Advanced persuasion, advanced research and writing	Motion to Suppress brief	Petition development
MARCH	Oral advocacy	Oral argument	Community presentation
APRIL	Completing a piece of writing	Final brief	Project handoff or submission

September focuses on foundation building, where students learn basic case reading and legal analysis while simultaneously gaining

understanding of clemency processes. This parallel development allows students to see how doctrinal learning connects to actual legal problems from the beginning of their legal education. In addition to the traditional topics of legal precedent, hierarchy of courts, learning how to read a case, students also read about the jurisprudential theories underlying clemency—understanding the non-neutrality of law, the use of narrative and metaphor by legal actors, formal rights and entrenched inequality, and the role of lawyers in transformative justice. This foundation establishes the broader context for their work throughout the year.

October emphasizes research basics as students develop legal research skills while investigating actual clemency cases. In LRW, they are working on their “open” memo, practicing their research and writing through the hypothetical objective memo format. In their clinical work, students meet their clients through transition memos and previous work, and sometimes through in-person or Zoom meetings, gaining understanding of mass incarceration while beginning to research clemency in general. In both aspects of the course, they begin organizing and outlining for future research and work, as well as beginning to learn and practice how lawyers communicate—reading, writing, and talking with peers, supervisors, and even clients.

November introduces the collaborative revision processes, where students receive feedback from instructors, teaching assistants, and peers while incorporating input from community partners and clients. Students revise both their open memo and their clemency work. This multi-source feedback more accurately reflects legal practice, where lawyers must respond to diverse stakeholders with different expertise. Students drill down on real petition work, incorporating edits and new information from research and clients. They are learning the critical skills of taking and using feedback, editing, and collaborating with peers—skills that will serve them throughout their careers.

The spring semester builds toward sophisticated advocacy skills. January introduces persuasive writing through traditional brief-writing instruction while students work on developing compelling narratives for clemency petitions. This parallel development helps students understand how legal argument and storytelling complement each other in effective advocacy. Students strengthen petitions and build narratives while

beginning to think about presentation. The connection between persuasive legal writing and authentic narrative construction becomes concrete.

February advances both traditional and clinical skills as students work on complex legal briefs (like a Motion to Suppress) while developing full clemency petitions integrating legal argument, factual narrative, and strategic advocacy. Students meet with clients, organize community presentations, and finalize work products. They are learning the differences between objective writing and persuasive writing, organizing persuasive briefs, and conducting advanced research.

March focuses on oral advocacy through both traditional moot court exercises and authentic community presentations. Students learn to adapt communication styles for different audiences—legal professionals in the classroom and community advocates, family members, and formerly incarcerated individuals in real-world settings. Students present their work to partner organizations and clients, learning to explain legal concepts and advocacy strategies to diverse audiences.

April concludes with project completion and transition planning. Students finalize traditional assignments and clinical work products, learning to bring complex projects to completion while preparing materials for continuation by future students or community partners. The focus is on perfecting work and ensuring continuity—passing off project work and getting it ready for the next round of students. This teaches responsibility not just to individual clients but to ongoing advocacy efforts.

V. Benefits of Integrating Clemency into LRW

As the month-by-month overview demonstrates, integrating clinical clemency work into the LRW curriculum allows students to develop “soft” legal skills that complement traditional “hard” legal skills. Through client interaction, they learn interviewing techniques, active listening skills, and cultural sensitivity. Through community partnership, they develop collaborative problem-solving abilities and learn to work within established organizational structures while contributing their unique skills. Perhaps most importantly, students learn to translate legal concepts for diverse audiences. Clemency work requires communicating

with incarcerated clients who may have limited formal education, family members navigating complex emotional terrain, and community advocates bringing different expertise. Students learn to collect all this information and translate it into a compelling legal narrative that will be persuasive to both the Parole Board and the Governor, and to the larger non-legal community. This translation skill—making legal knowledge accessible and actionable for non-lawyers—will become increasingly valuable as AI handles routine research and writing.

Students also develop project management and organizational skills essential for modern practice but rarely emphasized in traditional legal education. Clemency cases span months or years, involve multiple stakeholders with different priorities, and require coordination between legal research, factual investigation, and advocacy strategy. Students learn to manage complex, long-term projects while balancing multiple responsibilities and deadlines.

The combination of traditional legal skills with these interpersonal and strategic competencies creates more complete preparation for legal practice. Students graduate not only able to research and write, but equipped to build relationships, manage complex projects, work collaboratively across difference, and engage strategically in advocacy efforts extending beyond individual cases.

Clinical integration serves broader goals than skill development in individual courses. This pedagogical approach contributes to professional identity formation, helping students understand law as a tool for addressing community-identified problems rather than an abstract intellectual exercise. Additionally, as an added bonus, students see in their first months of law school firsthand how the criminal legal system impacts real people's lives, how systemic racism operates through ostensibly neutral procedures, and how lawyers can work in solidarity with communities seeking change. Students who understand law's role in either perpetuating or challenging systemic injustice are better prepared to make ethical choices throughout their careers. Clemency work naturally connects students to broader movements for criminal justice reform and prison abolition. Students learn about mass incarceration's racial and economic dimensions, understand how clemency fits within larger advocacy strategies, and see how legal work supports community

organizing efforts. This exposure to movement lawyering—the understanding that lawyers should support rather than lead social justice work—provides important lessons about professional humility and community accountability. Students learn that their role is not to “save” clients but to provide specific legal skills in service of client-defined goals and community-led movements.

VI. Conclusion

Legal education must evolve to prepare students for a profession transformed by AI and changing practice demands as well as for the NextGen bar exam. Integrating clinical work into first-year legal research and writing instruction offers a practical approach to this challenge, developing both traditional legal skills and the interpersonal competencies that distinguish effective lawyers in an AI-integrated profession. The implementation model presented here demonstrates that clinical integration enhances rather than displaces conventional instruction. Students master case analysis, legal research, and persuasive writing while developing client interaction skills, cultural competency, and strategic advocacy abilities. This comprehensive preparation better serves graduates, communities, and the profession's future.

The framework offered here provides one possible pathway forward, adaptable to different institutional contexts while maintaining intellectual rigor. It challenges legal education to bridge the gap between classroom learning and practice demands, preparing graduates not merely to practice law as it exists today, but to lead the profession's evolution toward more effective, more just, and more community-responsive legal advocacy.

Students who come to law school motivated by social justice commitments deserve education that honors and develops those values. Clinical integration into LRW courses provides one way to maintain student engagement while developing the full range of skills tomorrow's lawyers need. When students see their legal writing work contributing to actual freedom for incarcerated people, supporting community organizing efforts, and challenging systemic injustice, they develop both technical competence and ethical commitment to using law as a tool for positive change.

PROCEEDINGS

VOLUME 6

CREATIVITY AS AN ANTIDOTE TO ANXIETY AND A BLUEPRINT FOR RESILIENT LAWYERING

KERRY FULHAM¹

It is a first-year legal writing classroom in early October. The first memorandum assignment is due in a matter of days. For many students, this memorandum is the first real writing task of law school—the first graded assignment that feels consequential, irreversible, and defining. Laptops are open. Casebooks are stacked. The room carries a familiar tension: the quiet vigilance of people who know they are being evaluated but are not yet sure how.

Anxiety is at an all-time high. Students have spent weeks learning new rules, new vocabulary, and new ways of thinking. They are expected to write with confidence before they feel it, to analyze doctrine before they fully trust their understanding or intuition. The blank page looms large. For some, the assignment feels less like an invitation and for others, more like a threat.

At the front of the room, instead of a checklist or a reminder about citation, a single sentence appears on the board:

The library was empty except for . . .

Underneath it, a note: *Five minutes. Write. No stopping.*

¹ Kerry Fulham is an Assistant Professor of Legal Writing at Brooklyn Law School. This essay grows out of her presentation at the Vermont Law and Graduate School conference, *Legal Writing 2035: Bringing Creativity Back to the 1L Classroom*. She is deeply grateful to her current students, whose bravery and resilience in experimenting with five-minute creative writes became the foundation for the reflections shared here.

The room pauses and students share confused glances. This is not what students expect in a legal writing class, least of all in the days before their first memorandum is due. But the instruction stands. Five minutes. Pens move. Keyboards click. The room settles into a different kind of focus.

Some students write about the hum of fluorescent lights. Others imagine a night watchman, a forgotten book, a single desk lamp glowing in the stacks. None of it will be graded. None of it will be shared unless they choose. When the timer ends, the writing stops. Only then does the class turn to the memorandum.

What those five minutes accomplish is modest and profound. No one's anxiety disappears. No doctrine is mastered. But something has shifted. Students have written. They have started. They have produced words under constraint and survived the experience. The blank page no longer feels absolute.

My essay argues that short, low-stakes creative writing exercises can help first-year law students regulate anxiety, overcome blank-page paralysis, and build long-term resilience. Drawing on neuroscience, creativity research, and classroom experience, it contends that creativity is not a distraction from rigorous legal training, but a cognitive tool that helps students manage anxiety, initiate work, and build resilience during the most demanding stages of legal education.²

I. Anxiety and the 1L Reality

Legal education stands at an inflection point. Conversations about *Legal Writing 2035* often focus on technology: generative AI, adaptive research platforms, automated citation systems. Those tools are real, and they will change how lawyers work. But they will not change that law is, at its core, a human profession built on persuasion, empathy, and judgment. As machines take over more mechanics, what remains most valuable is what machines cannot replicate: creativity and human connection.

² The author plans for this essay to serve as the foundation for a larger article.

If we want students to carry those qualities into practice, we must teach them early. Yet many first-year students arrive in our classrooms not only inexperienced in legal discourse but also anxious, sometimes paralyzed, at the prospect of beginning.

Anxiety is not just a background condition of modern life; it is a defining feature of the 1L experience.³ Law school is stressful by design, but the level of anxiety among first-year students has reached crisis levels.⁴ Nationally, about 31% of U.S. adults will experience an anxiety disorder in their lifetime, and nearly 20% report one in the past year.⁵ Among law students, the numbers are higher still: surveys have shown between 40% and two-thirds of law students reported significant anxiety symptoms, and nearly one in four screened positive for severe anxiety.⁶ And anxiety is not some neutral condition: it narrows cognition, fuels perfectionism, and makes the blank page feel insurmountable.⁷

³ See generally, e.g., Amy B. Levin, *The Kids Aren't Alright*, 78 ARK. L. REV. 351 (2025) (documenting elevated rates of anxiety, depression, stress, and substance misuse among law students and early-career attorneys).

⁴ *Id.* at 360-63; see *What is Causing the Deterioration in Law Student Mental Health and What Can Law Schools Do?*, ABA: Comm'n on Disability Rts. (Jan. 21, 2025), <https://www.americanbar.org/groups/diversity/disabilityrights/news/what-causing-deterioration-law-student-mental-health/> (interviewing Amy B. Levin on declining law student mental health and ways law schools and faculty can aid student well-being).

⁵ *Any Anxiety Disorder*, Nat'l Inst. of Mental Health, <https://www.nimh.nih.gov/health/statistics/any-anxiety-disorder> (last visited Jan. 16, 2026); Kayla Crane, *Anxiety in America: Key Statistics & Trends in 2025*, S. DENVER THERAPY (Aug. 25, 2025), <https://www.southdenvertherapy.com/blog/anxiety-statistics-2025>. About one in five U.S. adults (19.1%) meet the criteria in a given year, and about one in three (31.1%) will experience an anxiety disorder sometime in their life. The National Institute of Mental Health's ("NIMH") use of "any anxiety disorder" combines conditions like panic disorder, generalized anxiety disorder, agoraphobia, specific phobia, social anxiety disorder, and (in the older survey years used by NIMH's charts) post-traumatic stress disorder and obsessive-compulsive disorder. *Id.*; see also *Anxiety Disorders*, NAT'L ALL. ON MENTAL ILLNESS, <https://www.nami.org/about-mental-illness/mental-health-conditions/anxiety-disorders/> (last visited Jan. 16, 2026) (listing anxiety disorders).

⁶ Julia Brunette Johnson, *Most Law Students Struggle With Mental Health, Survey Says*, Nat'l Jurist (Mar. 6, 2023), <https://nationaljurist.com/most-law-students-struggle-with-mental-health-survey-says/>; *Law Student Mental Health Day: The Data is in on the Mental Health Crisis in Legal Education*, Screening for Mental Health (Oct. 31, 2025), <https://mentalhealthscreening.org/law-student-mental-health-day-the-data-is-in/#>; Jerome M. Organ, David B. Jaffe & Katherine M. Bender, *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. Legal Educ. 116, 137-38 (2016).

⁷ Martha Beck, *Beyond Anxiety: Curiosity, Creativity, and Finding Your Life's Purpose* 4-12, 14-18 (2025) (describing anxiety as a self-reinforcing cognitive and physiological spiral).

Legal writing amplifies these pressures. Unlike doctrinal courses, where assessment may be delayed until a final exam, legal writing requires students to produce sustained written work early and often. They are asked to synthesize new rules, compare cases, and write in a professional register—all while still learning the vocabulary of the law itself. The result is a cognitive and emotional bottleneck: students feel both overwhelmed by inputs (reading, research, rules, the IREAC/CREAC paradigm) and underprepared to produce outputs (memos, briefs, oral arguments).

Neuroscience and psychology suggest a counterintuitive intervention: activate creativity. Drawing on Martha Beck’s “creativity spiral” and research on arts-based anxiety reduction, this essay maintains that five-minute creative writes can serve as both an immediate state shift and a long-term skill builder. Far from “fluff,” these short, low-stakes exercises are grounded in neuroscience. As Martha Beck and others have argued, anxiety and creativity operate like opposing spirals: when one is activated, the other quiets.⁸ By deliberately toggling students into a creative state, we can (1) regulate anxiety in the moment, (2) jumpstart drafting, and (3) over time help students build what has been called the “I can do hard things” muscle. Thus, teaching creativity early in law school is a pragmatic way to future-proof law students for practice, where human creativity must remain central.

II. Martha Beck’s “Creativity Spiral” and the Neuroscience of Reset

The relationship between anxiety and creativity is neurological, behavioral, and self-reinforcing. As Martha Beck explains in *Beyond Anxiety*, anxiety operates as a spiral rather than a static emotional state: once activated, the brain cycles repeatedly through threat detection, catastrophic interpretation, and physiological alarm, with each loop intensifying the next.⁹ Anxiety spirals keep the brain in survival mode: the amygdala heightens threat detection, the left hemisphere loops through self-critical

⁸ *Id.* at 8-18, 23-25, 114-18 (contrasting anxiety spirals with creativity spirals).

⁹ *Id.*

narratives.¹⁰ The result is a narrowing of cognition in which the mind becomes highly efficient at monitoring danger and generating fear-based narratives, while losing access to exploratory, integrative, and imaginative modes of thought.¹¹

A central insight of Beck's framework is that anxiety cannot simply be reduced or eliminated; it must be replaced.¹² Because "[n]ature abhors a vacuum," relaxing anxiety circuits without redirecting cognitive activity merely creates conditions for anxiety to reassert itself.¹³ Beck emphasizes that the human mind is "endlessly generative," constantly producing meaning, prediction, and explanation; absent intentional redirection, that generative capacity defaults toward threat construction.¹⁴ Anxiety thus persists not because individuals lack discipline or insight, but because cognitive space vacated by momentary calm is rapidly refilled by familiar fear-based patterns.

Modern professional education inadvertently reinforces this dynamic. Beck observes that Western culture, and particularly high-achievement environments, systematically trains individuals in analytical, verbal, left-hemisphere modes of thinking while offering few structured practices for shifting into alternative cognitive pathways.¹⁵ Over time, individuals become neurologically fluent in worry: able to generate explanations, anticipate negative outcomes, and rehearse self-critical narratives with speed and precision.¹⁶ What remains underdeveloped is the capacity for cognitive recovery—the ability to disengage from threat monitoring and re-enter a more flexible, generative state.

Beck's concept of the "creativity spiral" offers a functional counterweight. Where anxiety spirals constrict attention, creativity spirals expand it. Creativity, as Beck defines it, is not artistic talent

¹⁰ *Id.* at 4-12, 14-18 (explaining left-hemisphere dominance in anxious cognition and narrative generation).

¹¹ *Id.*

¹² *Id.* at xxiii ("Anxiety can't just be ended. It must be *replaced*.").

¹³ *Id.* (discussing the "vacuum" problem in anxiety reduction).

¹⁴ *Id.* (describing the mind as "endlessly, unstopably generative").

¹⁵ *Id.* at xxv, 210 (critiquing Western cognitive training's overemphasis on analytical thought).

¹⁶ *Id.* at xxiii, 9-12, 14-18.

but a mode of cognition characterized by curiosity, sensory engagement, associative thinking, and imaginative exploration.¹⁷ Creativity spirals engage right-hemisphere networks associated with imagination and divergent thinking, which in turn dampen the anxious loop.¹⁸ They redirect mental energy away from prediction and control toward discovery and connection, thereby interrupting the anxiety loop without directly confronting or suppressing it.¹⁹

This displacement mechanism is critical. Beck cautions that attempts to reason one's way out of anxiety often fail because the same left-hemisphere systems generating fear narratives are tasked with silencing them, creating a recursive feedback loop.²⁰ Creative engagement operates differently. By recruiting imagination, embodied awareness, and non-linear association, the brain occupies cognitive bandwidth that would otherwise be consumed by hyper-vigilance. The brain moves from survival mode into what Beck describes as a state of openness and learning readiness.²¹ This framing has a liberating implication for teaching. If anxiety can silence creativity, then the inverse is also true: activating creativity, even briefly, can suppress anxiety.

Empirical research aligns with this account. Large-scale reviews by the World Health Organization surveying hundreds of studies have found consistent associations between arts participation and reductions in anxiety, stress, and psychological distress, alongside improvements in wellbeing.²² Parallel findings appear in randomized controlled trials examining expressive writing, music engagement, and movement-based therapies, each demonstrating measurable anxiety reductions relative to control

¹⁷ *Id.* at 23-25, 114-20 (defining creativity as a cognitive mode rather than artistic output).

¹⁸ *Id.* at 8-18, 23-25, 114-18 (contrasting anxiety spirals with creativity spirals).

¹⁹ *See id.*

²⁰ *Id.* at 17-18, 36-38 (explaining why reasoning with anxiety often intensifies it).

²¹ *Id.* at 50-103 (describing the shift from threat orientation to openness and learning).

²² *See generally* Daisy Fancourt & Saoirse Finn, *What Is the Evidence on the Role of the Arts in Improving Health and Well-Being? A Scoping Review*, World Health Organization (2019), <https://www.who.int/europe/publications/i/item/9789289054553>.

conditions.²³ Even brief creative interventions—such as short periods of free writing or visual art—have been shown to reduce anxiety, suggesting that the creativity spiral does not require prolonged immersion to be effective.²⁴ These creative tasks stimulate brain regions involved in associative thinking and self-expression, while down-regulating regions linked to hyper-vigilance and fear.

For first-year law students, this neurological “toggle” can be decisive. Legal education reliably activates the very cognitive patterns that sustain anxiety: constant evaluation, adversarial reasoning, precision under time pressure, and high-stakes performance with delayed feedback. Within that environment, even a five-minute creative intervention—a low-stakes free write, a sensory observation exercise, or an imaginative prompt—can function as a neurological reset. Such practices may not eliminate the systemic pressures of legal education, but they do offer an accessible reset: lowering the immediate anxiety spike, proving to students that they can produce under constraint, and priming them to approach legal writing tasks with calmer, more flexible minds.

The pedagogical implication is significant. If anxiety suppresses creativity, and creativity in turn dampens anxiety, then creative practices are not ancillary to legal writing instruction; they are enabling conditions. Brief, intentional creative resets allow students to exit survival mode and re-enter analytical tasks with

²³ Joke Bradt, Cheryl Dileo & Minjung Shim, *Music Interventions for Preoperative Anxiety*, Cochrane Library: Cochrane Database of Systematic Reviews (Jun. 6, 2013), <https://www.cochranelibrary.com/cdsr/doi/10.1002/14651858.CD006908.pub2/full>; A.J. Webb, *Expressive Arts Therapy for Anxiety Disorders: Reducing Stress and Improving Coping Skills*, AUTHOREA (Aug. 12, 2023), <https://www.authorea.com/users/650796/articles/659668-expressive-arts-therapy-for-anxiety-disorders-reducing-stress-and-improving-coping-skills>.

²⁴ See also Francesco Monaco, et al., *Reducing State and Trait Anxiety Through Art Therapy in Adolescents with Eating Disorders: Results from a Pilot Repeated-Measures Study*, 14 J. Clin. Med. 8-9 (2025), <https://pmc.ncbi.nlm.nih.gov/articles/PMC12347131/>. See generally James W. Pennebaker & Joshua M. Smyth, *Opening Up by Writing It Down: How Expressive Writing Improves Health and Eases Emotional Pain* (3d ed. 2016) (describing how expressive writing exercises can help people heal emotional wounds, feel a greater sense of well-being, decrease stress, improve relationships, and boost immune systems). Even simple visual-arts activities like coloring mandalas have produced short-term reductions in state anxiety. See Nancy A. Curry & Tim Kasser, *Can Coloring Mandalas Reduce Anxiety?*, 31 Art Therapy 81, 83-84 (2005).

greater openness, resilience, and intellectual risk-tolerance. In this sense, creativity is not a retreat from rigor. It is a neurological tool—one that makes rigorous legal thinking possible under pressure.

III. Three Core Benefits of Five-Minute Creative Writes

The promise of five-minute creative exercises is not that they transform anxious students into serene artists. The promise is more modest and, in practice, more powerful: these exercises offer a reset, a way of building habits that counteract the most common blocks of the 1L year. Drawing on research on creativity, anxiety regulation, and learning under pressure, this Section identifies three core benefits of short creative writes: (1) immediate anxiety reduction through state shift, (2) disruption of blank-page paralysis through constrained production, and (3) cultivation of resilience, or the “I Can Do Hard Things” muscle, through repeated exposure to novelty.

A. Shutting Down Anxiety in Its Wake.

When students sit down to write in a state of heightened anxiety, their cognitive bandwidth contracts. They monitor for errors rather than exploring possibilities, and the blank page feels like a threat.²⁵ This reaction is predictable. Anxiety narrows attention and prioritizes survival-oriented monitoring, crowding out the associative and imaginative processes required for generative thinking.

Creative prompts interrupt this pattern by activating curiosity, even briefly. As Beck explains, curiosity and creativity engage cognitive pathways that are incompatible with sustained threat vigilance. When students turn their attention toward an imaginative task—describing a place, inventing a voice, or responding to a playful constraint—their mental state shifts. They enter what creativity researchers often describe as a short flow cycle: attention narrows onto a single task, time feels bounded,

²⁵ See Beck, *supra* note 7, at 4-18, 23-25, 114-18.

and the inner critic recedes.²⁶ Importantly, the effect does not depend on artistic talent or emotional disclosure. The shift arises from the redirection of attention itself.

This state shift is particularly valuable in legal education, where students are repeatedly asked to perform under evaluative pressure. A five-minute creative write does not eliminate the structural sources of anxiety, but it lowers the immediate physiological and cognitive spike. In doing so, it primes students to approach subsequent legal writing tasks from a calmer, more flexible cognitive posture—one in which risk-taking and idea generation become possible again.

B. Curing Blank-Page Syndrome.

Creative prompts also counteract one of the most persistent barriers to student writing: paralysis at the point of starting.²⁷ Blank-page syndrome thrives in environments where performance expectations are high and error costs feel catastrophic.²⁸ Students delay writing not because they lack knowledge, but because beginning feels unsafe.²⁹

Five-minute creative writes disrupt this paralysis through constraint. The task is deliberately limited in scope and time—five minutes, no extensions. Within that boundary, students almost always produce text. The product may be messy or incoherent, but

²⁶ *Id.*

²⁷ Kaci Bishop, *Framing Failure in the Legal Classroom: Techniques for Encouraging Growth and Resilience*, 70 Ark. L. Rev. 959, 959 (2017-2018) (“In law school, a fear of failure can paralyze students and hinder their learning.”).

²⁸ See Andrea McArdle, *Teaching Writing in Clinical, Lawyering, and Legal Writing Courses: Negotiating Professional and Personal Voice*, 12 Clinical L. Rev. 501, 502-03 (2005-2006) (discussing the discouragement and consequent anxiety felt by novice legal writers, which can produce “profound self-doubt” and “a kind of writing paralysis”); see also Robin S. Wellford-Slocum, *The Law School Student-Faculty Conference: Towards a Transformative Learning Experience*, 45 S. Tex. L. Rev. 255, 264, 269, 285-89 (2004) (discussing the findings of cognitive science on the effect of anxiety and lowered confidence on perception and performance, especially in relation to more complex intellectual work); *id.* at 335 (“Other students are so afraid of failure that their fear literally paralyzes their efforts to commit their pre-drafting analysis to writing.”). See generally Anne Lamott, *Bird by Bird: Some Instructions on Writing and Life* (1995). Lamott addresses a common experience of most writers: the paralyzing effects of facing a blank page. This is especially terrifying for those plagued by perfectionism and a fear of failure when faced with a new subject. *Id.*

²⁹ Muriel Harris, *Teaching One-to-One: The Writing Conference*, 85-87 (1986) (discussing various causes of writer’s block).

its existence matters. Research on creativity and learning suggests that constrained production lowers activation energy and reduces avoidance by shifting the goal from quality to completion.³⁰

This experience has immediate transfer value. The act of having written something demonstrates that starting is possible even under imperfect conditions. Over time, students internalize a crucial professional habit: words first, editing later. That habit maps directly onto legal writing tasks, where early drafts are indispensable but often avoided. Creative prompts thus function as low-stakes rehearsals for disciplined production.

C. Training the “I Can Do Hard Things” Muscle.

Each creative prompt asks students to do something unfamiliar: write from an unexpected perspective, imagine an implausible scenario, or engage playfully with language. Success in these exercises—measured simply by completion—builds adaptability.

Beck’s research on creativity spirals highlights why this matters. Repeated exposure to novelty, when paired with successful completion, trains the brain to tolerate uncertainty without panic.³¹ Over time, unfamiliarity itself becomes less threatening. Students begin to associate new tasks with curiosity rather than dread, confidence rather than avoidance. This shift is cumulative. As Beck observes, consistently choosing creativity over anxiety expands an individual’s sense of competence and adaptability.³²

³⁰ See Shelby Cholett, *Productive Constraints (AKA: Get Sh*t Done)*, <https://pedagogicalrefinery.com/fullblog/2021/5/21/productive-constraints#:~:text=C.,greater%20within%20this%20confined%20area> (last visited Feb. 5, 2026) (“[P]roductive constraints . . . may help us move past the over-thinking phase and into the doing phase.”).

³¹ See Beck, *supra* note 7, at 23-25, 114-20 (describing how repeated engagement with creativity reduces fear of novelty); see also Steve Magness, *Do Hard Things: Why We Get Resilience Wrong and the Surprising Science of Real Toughness*, 29, 31-32, (2022) (arguing that resilience is developed through supported exposure to novel challenges rather than stoicism or suffering). *Id.* at 25-28, 29, 31-32, 34-36, 38 (drawing on performance science and athlete coaching to explain how confidence and adaptability emerge from repeated engagement with difficult but manageable tasks).

³² See Beck, *supra* note 7, at 23-25, 114-20 (describing how repeated engagement with creativity reduces fear of novelty).

In the law school context, this adaptive confidence readily transfers. Students begin to believe: *If I can write a postcard from Mars, I can also brief Pennoyer v. Neff*. The analogy is not trivial. Both tasks involve entering uncertainty, generating structure where none is given, and trusting oneself to produce something workable. By repeatedly practicing success under low-stakes unfamiliarity, students build what might be called the “I can do hard things” muscle—a willingness to attempt difficult intellectual tasks without certainty of success. Or simply, resilience.

D. A Pragmatic Case for the 1L Curriculum.

Taken together, these three benefits—state shift, productivity under constraint, and resilience—offer a pragmatic case for incorporating creative writes into the first-year curriculum. These exercises do not compete with doctrinal rigor or analytical precision, but they do support them. By helping students exit survival mode, start writing sooner, and approach unfamiliar tasks with greater confidence, five-minute creative writes provide conditions under which legal writing instruction can be more effective.

These creative exercises are not simply enrichment or a wellness exercises. Rather, they are pedagogical tools grounded in cognitive science, helping students learn how to think, write, and persist under pressure.

IV. Implementation Mechanics

The appeal of five-minute creative writes lies in their simplicity. They do not require new materials, grading rubrics, or curricular overhaul. They require only a timer, a short prompt, and a willingness to hold the space. Here are some ideas to keep in mind as you consider implementing this exercise in your classrooms.

Frequency and Placement: Once per week at the start of class is ideal. My class meets twice per week, but I only do the creative writing exercise at the beginning of one of those classes. Doing the

exercises even once a month can be effective if timed before major assignments.

Framing: Emphasize that their writing is not graded and not about talent.

Prompt Design: Prompts should be simple and flexible to invite engagement. See Appendix A for a sample list of prompts.

Classroom Mechanics: Timer visible, optional background music, and one or two volunteers to share their work.

Safety and Inclusion: No personal disclosures are required. If no one volunteers to share, you can just transition to the course material.

Time Constraint: Five minutes means five minutes.

V. Making the Time: Pushback and Tradeoffs

Legal writing professors already carry extraordinary teaching loads. We teach predictive and persuasive writing, oral advocacy, research, citation, professional identity, and, increasingly, technology literacy. Each year seems to add a new expectation, rarely paired with additional time. Against that backdrop, proposals to add “one more thing” understandably generate resistance.

I do not dispute that pressure. And still, I choose to spend five to seven minutes once a week on these creative writes. I make this choice because the return on investment is disproportionate. Five minutes at the start of class often saves hours later in the semester. Students begin assignments earlier, approach drafting with less paralysis, and arrive at conferences with fuller, more workable drafts. Below, student feedback addresses concerns about adopting this practice, which tend to fall into the categories of time, rigor, and engagement.

We don't have time. Five minutes once a week represents less than three percent of total class hours. My students repeatedly described those minutes not as lost instructional time, but as a reset that made the remainder of class more productive. As one student put it, the exercises helped them “drown the noise and stress of law school” and “get the brain rolling” before turning to

doctrine. Another noted that the creative writes offered space to “unlock my subconscious and check in with how I’m authentically faring.” In other words, the exercises functioned less as an add-on than as a cognitive warm-up.

This isn’t real legal writing. Students consistently identified direct transfer from the creative writes to core legal writing skills, particularly early drafting. One student explained that the prompts taught them to “just write something out—you can always delete later, just get started,” a mindset they explicitly carried into memo drafting. Others reported that the exercises helped them “get out of law mode” just enough to reengage creatively, even when coming from nontraditional backgrounds. The value was not creativity for its own sake, but fluency, momentum, and reduced fear at the point of entry.

Ungraded means ignored. In practice, the absence of grading was central to the exercises’ effectiveness. Students described the prompts as a space where perfectionism loosened its grip. One noted, “I loved this but didn’t always love it, which is how I know it was effective. It nudged me out of my perfectionist comfort zone.” Another reflected that the low-stakes structure allowed them to relax, breathe, and reset before class. Participation credit was sufficient to sustain engagement; judgment-free space enabled risk-taking.

VI. Measuring Impact: Student-Reported Outcomes

Rather than formal assessment, impact was measured through anonymous reflections after class and in end-of-semester exit tickets, informal observation, and student self-reporting.³³ Three themes emerged with striking consistency, aligning directly with the project’s core premises.

³³ This project does not claim causal proof or generalizability. The evidence offered here is intentionally modest. Data were collected through anonymous reflections after class and in end-of-semester exit tickets, informal classroom observation, and student self-reports over a single semester in a first-year legal writing course. The goal is not to quantify outcomes, but to document how students experience anxiety, initiation, and risk-taking in real time—and how small pedagogical interventions can meaningfully shift those experiences.

A. Interrupting Anxiety Before It Takes Hold.

Students repeatedly described the exercises as a way to shift their emotional state at the start of class. They used phrases like “reset,” “calm down,” “stop and breathe,” and “clear my mind.” Several students admitted initial skepticism, especially those who identified as “hyper-stressed” or non-creative. Over time, many reframed the exercises as essential rather than indulgent, noting that anxiety is both normal and manageable—and that learning this early mattered. One student wrote that the prompts taught them that “anxiety is manageable and you can still succeed,” a lesson they planned to carry forward into finals and beyond.

B. Circumventing Blank Page Paralysis.

Students explicitly connected the prompts to overcoming procrastination and fear of starting. One described the exercises as helping “circumvent my procrastination tendencies by forcing me to start something,” making engagement feel less daunting and less high-stakes. Others noted that learning to write imperfectly, quickly, and without judgment translated directly to legal drafting. The blank page became less threatening once writing itself was decoupled from evaluation.

C. Strengthening the ‘I Can Do Hard Things’ Muscle.

Perhaps most striking was how many students framed the exercises as practice in discomfort. Some did not always enjoy the prompts. They found them emotionally challenging, awkward, or unfamiliar. And yet, those moments were often described as the most valuable. One student observed that the prompts sometimes “hit an emotional nerve,” forcing them to confront feelings they usually postpone—feelings that were “ultimately holding me back.” Others emphasized how stepping outside their comfort zone, sharing work aloud, and hearing classmates’ responses built confidence and community. The exercises did not eliminate difficulty; they normalized it.

The point of this intervention is not to add assessment burden or transform legal writing into creative writing. It is to recognize that anxiety, paralysis, and perfectionism are not peripheral to legal education—they are central barriers to learning. Five minutes invested weekly can ripple outward: interrupting anxiety before it compounds, lowering the threshold for starting hard tasks, and strengthening students' confidence in their ability to do difficult, unfamiliar work. Those skills endure long after the semester ends.

VII. Why Creativity Belongs in the Future of Legal Education

Generative AI can draft case briefs, organize research, and mimic a professional tone (albeit, not well!). These tools will inevitably reshape how we teach mechanics. But they cannot replicate judgment, empathy, or rhetorical agility. As the profession shifts, these distinctly human skills will only grow more valuable.

Creativity is central to that skill set. Persuasion requires imagination. Advocacy requires narrative cognition: selecting, sequencing, and framing facts in ways that resonate. Yet legal education often sidelines creativity, teaching students that their imaginative capacities are irrelevant to “serious” analysis.

The five-minute creative write offers a quiet corrective. It reminds students that creativity is not fluff but a professional skill. It reduces anxiety in the short term, builds adaptable writers in the medium term, and trains resilient advocates in the long term.

To overlook creativity in our 1L classrooms is to cede the very skills that will distinguish human lawyers from their technological counterparts. To embrace it—even for five minutes a week—is to prepare students for a future in which human imagination, not machine output, is the hallmark of effective advocacy.

VIII. Conclusion

Legal writing professors are asked to do an extraordinary amount. Our syllabi are full, our students are anxious, and the stakes feel higher every year. Against that backdrop, it might seem frivolous to devote five minutes of precious class time to a creative exercise that will never appear on an exam.

And yet, that small investment yields disproportionate returns. Five minutes of low-stakes writing can toggle students out of anxiety spirals and into learning mode. It can cure blank-page paralysis. Most of all, it can build the “I can do hard things” muscle—a habit of resilience that supports students across a lifetime of lawyering.

The future of legal writing will undoubtedly involve more technology. But technology alone will not define the next generation of lawyers. Human imagination, empathy, and rhetorical agility will. If we want our students to thrive in 2035 and beyond, we must teach them not only how to use emerging tools but also how to access the creative capacities that distinguish human advocacy. Five minutes a week is enough to start.

Appendix A: Creative Writing Prompts for the Legal Writing Classroom

(Each designed for 5 minutes, no editing, keep pen moving.)

Fall Semester – New Beginnings

1. **Yesterday / Today / Tomorrow** – In three short sections, capture a moment from yesterday, something about today, and what you imagine for tomorrow.
2. **Your First Day** – Describe your first day of law school . . . as if it happened in another century or on another planet.
3. **The Law That Doesn't Exist** – Invent a law that would make your life easier this week and write about the first case that uses it.
4. **The Coffee Testimony** – Write a sworn affidavit in defense of your morning coffee habit.
5. **The Case of the Missing Briefcase** – Begin with that title and write the first paragraph of the “opinion.”
6. **Exhibit A in Motion** – Describe a single leaf falling without using the word “fall” or “leaf.”

Midterm Season – Stress & Resilience

7. **Five Things** – List five tiny moments from your week that made you smile, then turn one into a three-sentence scene.
8. **Letter from Future You** – It's the night before finals. Future you writes back to present you with encouragement and advice.
9. **The Silent Stacks** – “The library was empty except for...”
10. **The Defense (of You)** – Write a pep talk you wish someone would give you today.
11. **The Casebook Map** – “I opened the casebook, and there it was: a map.”
12. **If Law School Were Weather** – Describe law school today as a weather report, using as many sensory details as possible.
13. **Rule of Three** – Write three short, vivid sentences that each start with “In this place...”
14. **Closing Argument for a Nap** – Convince the “jury” you deserve one.

Finals & Winter Break

15. **The Hallway Whisper** – You overhear two professors talking about the upcoming exam/memo. Write what they say.
16. **Snow in the Library** – Imagine it’s snowing inside the law library. Describe the scene and what happens next.
17. **One Word, Many Meanings** – Choose one legal term (e.g., “consideration,” “appeal”) and write three very different meanings for it in non-legal contexts.
18. **Haiku, Pursuant to Email** – Turn your last email into a haiku.
19. **Your Brain on Finals** – A short poem of 5–7 lines capturing the feeling.
20. **The Cocoa Argument** – Write a closing argument for why hot cocoa is superior to coffee.

Spring Semester – Fresh Starts & Growth

21. **The Lost Footnote** – Write what happens when you find a mysterious footnote in your textbook that’s not supposed to be there.
22. **The Case of the Overturned Umbrella** – Start with that as your headline and go wherever it takes you.
23. **The Elevator Opening Statement** – “The elevator doors opened and there was...”
24. **The Time Case** – Argue for or against daylight saving time as if for SCOTUS.
25. **A New Rule** – Create a “Rule” for your life in the style of a statute or FRCP rule – then add one paragraph applying it to a funny, fictional scenario.

Moot Court / ADR / Job Hunt

26. **The Opposing Counsel’s Diary** – You find your moot court opponent’s journal. Write one entry.
27. **Object Sustained** – Pick an everyday object on your desk and imagine it giving testimony.
28. **The Settlement Offer** – Write the opening line of a negotiation where the stakes are entirely personal, not legal.
29. **Dream Job, Redacted** – Describe your dream job without naming it.

30. **The Interview Door** – “When I opened the interview room door, I realized...”

End of Year / Finals

31. **Midnight in the Library** – Write a 50-word story set in the library at midnight.
32. **Audio Exhibit: Stress** – Describe the sound of stress without naming the source.
33. **The Final Brief** – “The last case brief I ever wrote...”
34. **Walking Free** – Write a short poem about walking out of your last 1L exam.
35. **The Last Page** – Write the final paragraph of your future memoir about your 1L year.

General Creative Writing Prompts

Sensory & Atmosphere

1. **The First Sound** – Start with the very first sound you hear when you wake up.
2. **Rain on the Roof** – Capture the mood of a storm without naming the weather
3. **The Color That Followed Me** – Describe a single color as if it were a companion.
4. **The Last Light** – Describe the very last light you see before true darkness.

Character & Perspective

5. **Left Behind** – Write about an object abandoned in a public place
6. **A Stranger’s Shoes** – Describe a day in the life of someone based only on their shoes.
7. **The Photograph Speaks** – Give voice to a photograph tucked inside an old drawer.
8. **The Empty Chair** – Tell the story of who used to sit there.

Memory & Imagination

9. **The Window Seat** – Describe what you see out a window that isn’t yours.
10. **The Lost Key** – Begin with: “I almost threw it away, but something stopped me.”

11. **Recipe for Memory** – Write a recipe that recalls a moment, not a meal.
12. **Crossing the Bridge** – Imagine what lies on the other side of a bridge you've never crossed.

Abstract & Playful

13. **Clock Without Hands** – Write about a place where time does not exist.
14. **Echoes** – Write a piece where the last word of each sentence becomes the first word of the next.
15. **Map Without Roads** – Create a map that charts feelings, not places.

Appendix B: Class Weekly Feedback Form

Section _____

Please put a tally in whichever column resonates with you today

Class	Hate doing this. Can we just focus on the law?	Like doing this, but not in every class.	Love doing this! Appreciate the brief moment of creativity.
Class one			
Class two			
Class three			
Class four			

Appendix C: End of Semester Exit Tickets

Section: _____

1. Please mark one with an X below.

Hated this exercise. Can we not do this in the spring: _____

Like this exercise, but I liked that we only did it about once a week: _____

Loved this exercise, would like to do it every class period: _____

2. Please give me honest feedback about the creative writing prompts we've incorporated this semester. I'll be using this anonymous feedback for the essay (and eventual article) I'm writing about the fusion of creativity and anxiety. Write as much or as little as you'd like in the space below.

PROCEEDINGS

VOLUME 6

FIRST-GENERATIONS LAW STUDENTS AT A CROSSROADS: PRESERVING ACCESS AND SUCCESS IN A CHANGING LEGAL EDUCATION LANDSCAPE

PATRICIA JONES WINOGRAD¹

I. The Changing Landscape in Legal Education

The seismic shifts occurring in legal education—and higher education, generally—are now well-known and widely recognized. What began over five years ago with a pandemic necessitating cataclysmic changes to the way we meet law students’ needs has been eclipsed by sweeping changes since influencing every aspect of legal education. Key developments, including the proliferation of artificial intelligence, broad changes to the ABA’s professional standards,² and the adoption of the NextGen bar exam by a majority of jurisdictions,³ have transformed what students need to learn and how they need to learn it.

¹ Professor Winograd is a Clinical Professor of Law at LMU Loyola Law School. She thanks Vermont Law and Graduate School for hosting the 2025 New England Legal Writing Conference, which gave us pause to consider the longer-term implications of emerging developments in the legal academy today. In particular, she thanks Catherine Fregosi and Greg Johnson for their help and support. She also wishes to acknowledge the many first-generation students who motivate her every day. You are an inspiration to me.

² Since 2022, the American Bar Association has required that law schools, among other things, provide law students “substantial opportunities” to develop a professional identity. See Neil W. Hamilton & Louis D. Billionis, *Revised ABA Standards 303(b) and (c) and the Formation of a Lawyer’s Professional Identity, Part 1: Understanding the New Requirements*, NALP BULLETIN+ (May 2022), <https://www.nalp.org/revised-aba-standards-part-1>. These changes have been accompanied by other changes mandating that law schools train students in anti-bias and cross-cultural competency. See, e.g., Louis D. Billionis & Neil W. Hamilton, *Revised ABA Standards 303(b) and (c) and the Formation of a Lawyer’s Professional Identity, Part 3: Cross-Cultural Competency, Equal Access, and the Elimination of Bias, Discrimination, and Racism*, NALP BULLETIN+ (Nov. 2022), <https://www.nalp.org/revised-aba-standards-part-3>.

³ More than forty jurisdictions have adopted the NextGen Bar Examination. A chart reflecting an up-to-date list of jurisdictions that have adopted or administered the Next Gen Bar can be found at: *NextGen UBE*, Nat’l Conf. of Bar Examiners, <https://www.ncbex.org/exams/nextgen> (last visited Mar. 8, 2026).

As if internal adaptations within legal education were not already disruptive, external shifts driven by today’s political and legal climate have compounded the instability. Starting with affordability, the path that previously laid the foundation for broad groups of students to pursue a law degree has been made more tenuous. Recent developments in Supreme Court jurisprudence directly and indirectly threaten access to legal education for diverse populations. Additionally, federal policy initiatives have all but eliminated, or have vastly restricted, programs and support that had once provided both a possible pipeline and needed resources for many pursuing degrees beyond post-secondary education.

No group of students is more vulnerable to the impacts of legal education’s turbulent changes than first-generation law students.⁴ For them, the law school experience already resembled a “firehose to the face.”⁵ While dramatic, this depiction is not hyperbolic but underscores the urgent nature of our calling to increase support for our first-gen students—now, and, in fact, to the extent that they still exist in our classrooms in ten years. Though none of us has a crystal ball to predict the future impact of these developments, there is much to anticipate—and perhaps, fear—in the future of some of law school’s most vulnerable students.

There are abundant reasons—including to broaden the face of our profession and close the widening access to justice gap—to do more to protect these “pioneers”⁶ (termed by Dean Anthony Varona of Seattle Law School) of our democracy. How can we attempt to rectify the potentially deleterious effects these changes will inevitably bring about? This piece addresses the nature of the worsening problem and proposes a range of micro “solutions” that may be adopted in the legal writing classroom that,

⁴ Though varying definitions exist, this article uses the definition set forth by the Law School Survey of Student Engagement (“LSSSE”). According to LSSSE, first-generation law students are those without a parent who holds a bachelor’s degree or higher. Chad Christensen, Jacquelyn Petzold & Meera E. Deo, LSSSE 2023 Annual Report: Focus on First-Generation Students 7 (2023), <https://lssse.indiana.edu/files/focus-on-first-generation-students-final.pdf>.

⁵ Jeb David Butler, *Understudied and Underserved: A Phenomenological Exploration of How First-Generation Students of Color Perceive Challenges and Supports During Law School* 73 (2024) (Ph.D. dissertation, UCLA), <https://escholarship.org/uc/item/1cp8s9jv#page=11>.

⁶ Anthony E. Varona, *Educating Pioneers: The Plight and Promise of Today’s First-Gen Law Students*, *Hum. Rtx. Mag.* 16, 16 (March 2025), <https://www.americanbar.org/content/dam/aba/administrative/crsj/human-rights-magazine/hr-v50n5-mar25-web.pdf>.

if nothing more, might blunt the worst conditions created or portended by the current legal landscape.

II. First-Gen Students: Who Are They and What Do We Know About Their Experience in Law School?

Any proposed solution must, of course, begin with understanding the constituent group. Notably, despite constituting approximately one-quarter of the law-student population—not an insignificant proportion, by any measure—first-generation law students are the least studied cohort in all of law school.⁷ In more ways than one, then, first-gen law students are largely “invisible.”⁸

Although research about first-gen experiences remains sparse, the Law School Survey of Student Engagement (“LSSSE”) recently published its first comprehensive and far-reaching report surveying more than 13,000 first-generation law students across seventy-five law schools.⁹ The survey’s notable data informs possible strategies to support first-gen students. For example, the survey revealed that, unlike their continuing-gen peers, first-generation law students:

- Are less likely to be awarded merit scholarships, are more likely to rely on loans, and tend to carry a heavier debt load¹⁰;
- Typically work harder, expending considerable time and effort in non-extra-curricular activities¹¹;
- Have greater obligations outside of law school, including that of caretaking duties in their extended and immediate families¹²;
- Spend less time dedicated to critical, curricular offerings that impact professional options post-law school¹³;

⁷ Christensen, Petzold & Deo, *supra* note 4, at 6.

⁸ *Id.* at 5 (Director’s Message).

⁹ *Id.* at 3.

¹⁰ *Id.* at 10.

¹¹ *Id.* at 12.

¹² *Id.* at 11.

¹³ *Id.* at 14.

- Come to law school with differing learning habits and attitudes¹⁴; and
- Often begin law school with slightly lower academic outcomes.¹⁵

LSSSE also reports that students of color from every racial group are more likely than White students to be first-gen.¹⁶ As measured by LSSSE, for example, 53% of Latinx respondents and 36% of Black respondents are first-gen compared to the 21% of White respondents.¹⁷ In other words, a healthy number of first-gen students represent a minority within a minority.

Beyond these demographic data, recent scholarship has attempted to home in on the qualitative aspects of first-gen law student experience. Though the LSSSE report boasts of equally positive experiences for both first-gen students and their non-first gen comrades, research confirms that any successes and gains experienced by first-gen students are made in the face of significant strain and untold barriers not shared by their continuing-gen peers. Indeed, the structural, cultural and psychosocial barriers overcome by our first-gen pioneers who complete their law school journey, as described below, recently have been more extensively documented.¹⁸

A. Structural and Academic Barriers.

Law school is riddled with institutional conditions that hinder first-generation students despite the outsized motivation, resilience, and talent they bring to our campuses. Upon entry, first-generation students are forced to acculturate into the norms and expectations of law school—which are neither transparent nor readily accessible. Among these protocols are high-stakes exams and rigid grading curves that often dictate interpersonal dynamics amongst students to the detriment of

¹⁴ *Id.* at 6 (Introduction); see also Lisa R. Pruitt & Nirav Bhardwaj, *Fostering First-Generation Student Success in Law School*, 75 Ala. L. Rev. 745, 766 (2024) (quoting the body of research by Nicole M. Stephens “based on the premise that students raised working-class tend to value and manifest interdependence while middle-class kids are raised to embrace and manifest independence”).

¹⁵ Christensen, Petzold & Deo, *supra* note 4, at 9.

¹⁶ *Id.* at 8.

¹⁷ *Id.*

¹⁸ See generally, e.g., Butler, *supra* note 5.

first-gen students.¹⁹ Pedagogical practices, such as the Socratic method,²⁰ further terrorize and alienate novice first-gen learners. Against this backdrop, students struggle to decode this unfamiliar learning context often without targeted and effective institutional support.²¹

The “hidden curriculum”²² of law school is hardly secret yet operates in both spoken and unspoken ways. Either way, law school speaks in code that first-gen students cannot initially decipher. On the one hand, what *is* explicit often assumes access to resources, baseline knowledge, and skills that first-generation students may lack.²³ To identify an oversimplified and incomplete example: a syllabus is made available at the beginning of each semester in a doctrinal course detailing subject matter categories and page numbers in a casebook students must read. Though seemingly straightforward, students often find out too late what lies beneath the syllabus—that it is insufficient evidence of the host of strategies, resources, mentors, feedback, and practice they will need to ensure success on the bet-the-career exam they will soon take.

On the other hand, what remains implicit privileges certain career trajectories over others and obscures critical information about legal career paths and professional expectations. For example, the importance of networks, mentorship, and institutional knowledge—each essential to professional advancement—is often apparent only to those already “in the know.”²⁴ Together, these dynamics can leave first-generation students with distorted conceptions of the legal profession and their place within it. At best, first-gen students struggle to form an accurate professional

¹⁹ *Id.* at 76-77.

²⁰ *Id.* at 72-75.

²¹ *See id.* at 86-90, 95-97.

²² Melissa Weresh documents, in painstaking detail, the multi-dimensional aspects of hidden curriculum from pedagogy to messaging that fail to inform first-gen students in a manner that allows them to take advantage of the integral and necessary tools of success. Melissa H. Weresh, *Hidden Lessons, Unforeseen Consequences: Interrogating the Hidden Curriculum in Legal Education and Its Impact on Students from Historically Underrepresented Groups*, 75 Ala. L. Rev. 655, 657 (2024).

²³ *Id.* at 658-60; *see also* Jesse McCain & Josipa Roska, “*It’s a Strength That I Draw From*”: First-Generation Background as a Cultural Resource in Law School, 3 J. First-Generation Student Success 71, 78-79 (2023) (quoting from students describing the inequities in legal knowledge that made first-generation students feel out of place in law school and struggle to relate to their peers).

²⁴ McCain & Roska, *supra* note 23, at 78.

identity²⁵; at worst, they experience feelings of invisibility, worthlessness, and erasure—both within law school and beyond it.

These structural impediments are not isolated phenomena but reflect the cumulative effects of earlier educational inequities. Like their higher-education predecessors, law schools both inherit and perpetuate gaps in support that many students—but, to a greater extent, first-generation students—have encountered throughout their academic trajectories.²⁶ Students from low-income and first-generation backgrounds often move through prior schooling environments characterized by uneven academic preparation, limited access to institutional guidance, and inadequate support infrastructures.²⁷ Across K–12 and undergraduate settings, these gaps may have manifested as under-resourced schools, limited exposure to rigorous coursework, insufficient academic advising, or counseling structures unable to provide sustained, individualized support.²⁸

When students enter law school, these earlier structural realities do not simply disappear²⁹; instead, they interact with and are often intensified by legal education’s own institutional realities. Costly gatekeeping mechanisms in the form of difficult standardized tests and exorbitant tuition with aid structures tied to prior performance that

²⁵ Weresh, *supra* note 22, at 663; see also David A. Grenardo, *What About Us? How Law Schools Can Help Historically Underrepresented Law Students Develop Their Professional Identities*, 75 *Mercer L. Rev.* 1483, 1504 (2024).

²⁶ See, e.g., Butler, *supra* note 5, at 17, 22-23; see also Jacqueline M. O’Bryant & Katharine Traylor Schaffzin, *First-Generation Students in Law School: A Proven Success Model*, 70 *Ark. Law. Rev.* 913, 914, 936-37 (2018); Kia H. Vernon, Dorothy D. Nachman & Don Corbett, *Bridging the Gap: Developing Pedagogical Solutions for Underrepresented Law Students*, 22 *Rutgers Race & L. Rev.* 37, 48-50 (2020); Susan Stuart & Ruth Vance, *Bringing a Knife to the Gunfight: The Academically Underprepared Law Student & Legal Education Reform*, 48 *Valparaiso Univ. L. Rev.* 41, 42-44 (2013) (“[E]merging empirical evidence reveals that fewer students possess the basic higher-order cognitive processes that the academy has assumed are the threshold educational attributes necessary for success in law school. . . . [H]igher education is not making up the deficits . . .”).

²⁷ Jennifer Engle & Vincent Tinto, Pell Inst. for the Study of Opportunity in Higher Educ., *Moving Beyond Access: College Success for Low Income, First-Generation Students*, 3-4, 19-21 (2008), <https://files.eric.ed.gov/fulltext/ED504448.pdf> (explaining “low-income and first-generation students are less likely to have access to and take a rigorous high school curriculum; they also tend to lack important study and time management skills, have less confidence in their academic abilities, and experience more difficulty navigating the bureaucratic aspects of academic life due to their lack of exposure to college”); see also Butler, *supra* note 5, at 4.

²⁸ Butler, *supra* note 5, at 19; see also Sandra L. Simpson, *Law Students Left Behind: Law Schools’ Role in Remediating the Devastating Effects of Federal Education Policy*, 107 *Minn. L. Rev.* 2561, 2576-79 (2023).

²⁹ O’Bryant & Schaffzin, *supra* note 26, at 931.

benefit wealthy students are only the tip of the iceberg.³⁰ These conditions are exacerbated by opaque expectations about academic and professional success that simply replicate the dismal and familiar dynamics in which access to information and support is unevenly distributed.³¹ In a prevailing do-it-yourself institutional culture—where students are expected to independently decode norms, processes, and career pathways—the absence of structured, proactive support can compound preexisting disparities rather than ameliorate them.

B. Cultural Barriers.

Cultural barriers further complicate assimilation and socialization into the pre-professional environment for first-gen students. Many first-generation students experience isolation³² due to the absence of peers and faculty that share similar backgrounds (another pattern that follows them from their undergraduate experiences). They may also lack a social or cultural “referent”³³ in the legal field to help them understand their learning context. A “deficit” in cultural and social capital³⁴ is perhaps the most often-cited limitation of the first-generation experience. Cultural capital involves know-how concerning the hegemonic norms and expectations that govern professional institutions.³⁵ Such knowledge, or “cultural capital,” is closely aligned with more privileged social classes.³⁶ “Social capital” is, of course, who you know.³⁷ Absence of either cultural or social capital can hamper a student’s ability to navigate law school and the legal profession altogether.³⁸ For a variety of structural reasons, first-generation and low-income students often enter law school without

³⁰ *Id.* at 932-33.

³¹ Butler, *supra* note 5, at 3-4, 6.

³² Melissa L. Jones, First Generation Law Students: Barriers to Success 69 (Jan. 1, 2021) (Ph.D. dissertation, University of Mississippi), <https://egrove.olemiss.edu/etd/2110/>.

³³ Butler, *supra* note 5, at 3.

³⁴ O’Bryant & Schaffzin, *supra* note 26, at 920-21, 923-26; McCain & Roska, *supra* note 23, at 74. There are several prevailing theories of social and cultural capital often cited in this context. For example, Tara Yosso is credited with developing a model of cultural capital that defines “community cultural wealth” as including six types of capital—aspirational, familial, social, navigational, resistant, and linguistic capital—all of which are valuable. Butler, *supra* note 4, at 42; Jones, *supra* note 32, at 4-7.

³⁵ McCain & Roska, *supra* note 23, at 74.

³⁶ *Id.*

³⁷ O’Bryant & Schaffzin, *supra* note 26, at 923.

³⁸ McCain & Roska, *supra* note 23, at 74-75.

either. The effects have the potential to be multidimensional, as first-gen students possess little to no capacity to leverage networks, mentors, or institutional resources in pursuit of a wide array of academic success or professional opportunities.³⁹

Racial and socioeconomic differences further stratify and culturally divide students on law school campuses.⁴⁰ First-gen students describe feeling like “outsiders”⁴¹ in their competitive environments, facing constant pressure to prove themselves in ways peers with greater social capital may not experience. Although the widespread presence of affinity groups may mitigate isolation for some, other students confront additional stratification even within those spaces.⁴² Finally, many first-generation students disclose feelings of imposter syndrome⁴³ and stereotype threat,⁴⁴ which can produce reluctance to engage as freely in academic spaces as their continuing-generation peers. Fearing that they may be seen as intellectually inferior, first-gen students routinely hesitate to volunteer their “funds of knowledge” and substantial assets derived from their unique identities and experiences.⁴⁵

Beyond structural and social challenges, first-generation law students often experience profound cultural dissonance between their home and institutional environments, in which the norms, values, and practices may differ vastly. This schism is further pronounced because of learning style⁴⁶ and communication differences that often distinguish home and law school life. Although some scholars have praised first-gen students’ resilience and resourcefulness in navigating law school, other researchers emphasize the stark mismatch between the interdependent learning styles many first-gen students bring and the independence, autonomy, and individual performance that pervades law school culture.⁴⁷

³⁹ Pruitt & Bhardwaj, *supra* note 14, at 765.

⁴⁰ Butler, *supra* note 5, at 55-57.

⁴¹ McCain & Roska, *supra* note 23, at 78-79.

⁴² Butler, *supra* note 5, at 60-65.

⁴³ Jones, *supra* note 32, at 42-44.

⁴⁴ Grenardo, *supra* note 25, at 1498-1502.

⁴⁵ McCain & Roska, *supra* note 23, at 74-75.

⁴⁶ Butler, *supra* note 5, at 75 (quoting students lamenting the absence of a love of learning or learning for learning’s sake).

⁴⁷ See, e.g., McCain & Roska, *supra* note 23, at 81-82; O’Bryant & Schaffzin, *supra* note 26, at 922-23.

C. Psychosocial Barriers.

The psychosocial challenges of the first-gen experience are perhaps the most acute—in part, because the psychosocial barriers to first-gen success not only stem from, but are exacerbated by, the structural and cultural phenomena described above. First-gen students report heightened stress, anxiety, and depression due to heavy financial,⁴⁸ familial, and cultural responsibilities—all of which they tend to shoulder alone given the unavailability of effective help and their reticence to seek it.

Groping around in the unfamiliar hallowed halls of law school destroys a hopeful first-gen students' sense of belonging. Mental and emotional pressures abound as a result of the limited sense of community they may feel, exclusion by their continuing gen-peers and an absence of role models or mentors. Because their families are unfamiliar with the demands of law school and struggle to understand their predicament, many students additionally report feelings of guilt for failing to meet family demands and difficulty explaining their needs to family.⁴⁹

Well-known phenomena such as imposter syndrome—the fear of being found out as an intellectual fraud despite one's obvious competence—and stereotype threat—the anxiety of potentially confirming negative stereotypes often associated with one's marginalized identity—haunt first-gen students from the moment they enter law school campuses.⁵⁰ This means that while first-gen students struggle to stay afloat in law school, they are all the while experiencing persistent self-doubt about their intellectual ability or worthiness to be in law school. The energy consumed by these feelings of doubt deplete the already-compromised cognitive resources of first-gen students, making it difficult for them to focus and stay on task. This psychological uncertainty further disincentivizes first-gen students from engaging in class or with their peers and professors—thereby depriving them of the ability to meaningfully level the playing field in their learning environments.

⁴⁸ Jones, *supra* note 32, at 40.

⁴⁹ Butler, *supra* note 5, at 82-84.

⁵⁰ Grenardo, *supra* note 25, at 1498-1502; Butler, *supra* note 5, at 53-55.

III. Recent External Factors Impacting Legal Education

The academic, social, and psychological environment of law school is already fraught and unforgiving for the first-gen student. Multiple and compounding barriers to success (discussed above) continually threaten their chances of success. Certain legal and political developments currently unfolding on the higher education horizon are likely to have an even more profound impact on first-generation students.

It goes without saying that the lingering effects of the COVID-19 pandemic continue to shape student experience. But, against an increasingly volatile legal and political backdrop, the cognitive, financial, and emotional demands of law school are poised to intensify. Among the most immediate pressures are recent legislative actions that severely limit federal loans long relied upon to finance legal education, thereby upending students' ability to shoulder the substantial debt associated with law school. In addition, developments at the federal and judicial levels—including the Supreme Court's decision in *SFFA v. Harvard*⁵¹ and related federal policy initiatives—are beginning to take shape, promising further challenges to legal education that, though gradual in their emergence, are likely to be deeply felt.

Regrettably, the cumulative impact of these developments potentially include (a) heightened stress driven by escalating financial and other pressures; (b) diminished cultural and social capital resulting from declines in the representation of students with shared lived experiences; (c) weakened peer support networks that are especially critical for first-generation students navigating law school culture; and (d) increased isolation and feelings of overwhelm within environments that already present steep learning curves for students without prior legal exposure or family guidance—conditions many first-generation students already experience.

Although articles have been and could be written on the significance of each of these developments, these current and potential events are briefly described below (and are explained solely for the

⁵¹ *Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll.*, 600 U.S. 181, 143 S. Ct. 2141 (2023).

purpose of giving some context to some additional challenges that will further jeopardize first-gen student success).

A. Post-COVID Academic Fragility.

The extent of COVID's lasting impact on today's law students has yet to be fully understood. Legal educators anecdotally report inexplicable differences in performance and outcomes among today's students compared with their pre-COVID predecessors. Research, in fact, confirms that declines in student outcomes are pervasive and that such declines are not limited to academic outcomes alone. Rather, impacts include a loss of critical, durable skills, too, including time management, self-motivation, critical thinking, and social interaction.⁵²

Some of COVID's most pernicious impacts have disproportionately affected students in lower socioeconomic districts.⁵³

[L]earning loss [resulting from COVID] has been exacerbated by class, racial, and ethnic inequalities. Lower-income students today are further behind upper-income students than they were five years ago. Black and Latinx students are also further behind Asian and white students than they were pre-pandemic, and those inequalities were already large to begin with.⁵⁴

As recently as 2024, researchers confirmed that gaps in learning outcomes continue, and will continue.⁵⁵ Although direct evidence of COVID's impact on current and future law students is difficult to find and generalize, some evidence already documents adverse outcomes in the experiences of first-generation bar examinees. Studies show, for example,

⁵²Gregg R. Davidson, Hong Xiao & Kristin Davidson, *Collapse of Pre-COVID-19 Differences in Performance in Online vs. In-Person College Science Classes, and Continued Decline in Student Learning*, EDUC. SCIS., (Nov. 20, 2024), at 13, <https://www.mdpi.com/2227-7102/14/11/1268>; Clara Turnage, *Impact of COVID-19 on Education Not Going Away, UM Study Finds*, UNIV. OF MISS. (Mar. 5, 2025), <https://olemiss.edu/news/2025/03/covid-19-impact-on-education/index.html>.

⁵³Elizabeth M. Ross, *Despite Progress, Achievement Gaps Persist During Recovery from Pandemic*, HARV. GRADUATE SCH. OF EDUC. (Jan. 31, 2024), <https://www.gse.harvard.edu/ideas/news/24/01/despite-progress-achievement-gaps-persist-during-recovery-pandemic> (explaining students in high-poverty school districts lost more ground than students in higher-income ones during the pandemic, and in most states, gaps that already existed "are wider than they were in 2019").

⁵⁴Maddy Gorrell, *Education Experts Break Down the Lingering Impacts and Unexpected Outcomes of COVID-19 Pandemic*, UC DAVIS OFFICE OF RESEARCH (Jul. 11, 2025), <https://research.ucdavis.edu/education-experts-break-down-the-lingering-impacts-and-unexpected-outcomes-of-covid-19-pandemic/>.

⁵⁵See Turnage, *supra* note 52; Davidson, Xiao & Davidson, *supra* note 52, at 13.

that first-generation women underperformed on the bar examination relative to their continuing-generation female peers, a disparity associated with heightened pandemic-related stress borne more acutely by first-generation women than by any other group.⁵⁶ All told, it is difficult to know what continuing COVID impacts we will witness in the legal academy but, to the extent that our pipeline of students for the foreseeable future will continue to be students educated during pandemic times, we should be on the lookout for compounding gaps in the analytical, communication and academic habits that legal education often assumes but rarely teaches.

B. The OBBA.

The recent passage of the One Big, Beautiful Act has also altered the landscape of public investment in higher education, with direct and indirect consequences for students from low-income and first-generation backgrounds. Specifically, the Act eliminates the availability of Graduate PLUS and Pell Grants (previously readily utilized by first-gen students) for graduate education, places an annual cap of \$50,000 and a cumulative cap of \$200,000 on federal loans, and destabilizes repayment and forgiveness mechanisms like Public Service Loan Forgiveness, heightening the uncertainty surrounding long-term affordability and financial security.⁵⁷ For first-generation students—who are more likely to rely on public benefits, need predictable loan repayment pathways, and weigh educational decisions against family financial responsibilities—these changes render law school a materially riskier endeavor, one that may be insurmountable. Relying on more expensive and harder-to-obtain private loans is often unworkable. As a result of the OBBA, financial precarity will not only prevent some prospective students from attending law school

⁵⁶ See Pruitt & Bhardwaj, *supra* note 14, at 777 (discussing Erin Freiburger et al., *The Impact of the COVID-19 Pandemic on First-Generation Women Test-Takers: Magnifying Adversities, Stress, and Consequences for Bar Exam Performance*, 79 J. Soc. Issues 878 (2022)).

⁵⁷ Steve Kennedy & Heather Atherton, *How Trump's "Big, Beautiful Bill" Will Make Law School Unaffordable For People Who Are Not Already Rich*, Balls & Strikes (July 29, 2025), <https://ballsandstrikes.org/legal-culture/grad-plus-loans-pell-grants-changes-law-school/>; *The "Big, Beautiful Bill" and its Unseen Impact: A Looming Crisis for Law Students and Access to Justice*, Md. Access to Just. Comm'n (Aug. 7, 2025), <https://www.mdaccesstojustice.org/news-insights/the-big-beautiful-bill-and-its-unseen-impact-a-looming-crisis-for-law-students-and-access-to-justice/>.

but will continue to shape the academic priorities, well-being, career choices, and professional identity formation of those who do enroll. At a minimum, the increased financial pressure will undoubtedly steer first-gen students into positions that offer immediate financial stability rather than allowing them to pursue a broad range of professional interests.

C. Students for Fair Admissions, Inc. v. President & Fellows of Harvard College.

Legal developments further jeopardize the continued robustness of first-generation law student populations, particularly as challenges to law school admissions policies have been mounted. In 2023, the Supreme Court handed down its decision in *SFFA v. Harvard*,⁵⁸ effectively eliminating race as a consideration in admissions. This year's admissions cycle was the first in which *SFFA*'s impacts were observable. Institutions of higher education have reported mixed results, with some indicating that they have experienced fewer diverse, first-gen voices in classrooms since the opinion was rendered.⁵⁹ Despite reported dips in diversity following the *SFFA* decision, some have suggested that lower-income applicants may be protected under race-neutral admissions policies and could even benefit if institutions increase attention to socioeconomic disadvantage.⁶⁰ Yet because a substantial share of first-generation students also come from underrepresented racial backgrounds, reductions in racial diversity may still indirectly limit access to legal education for first-generation students of color by narrowing the pipeline of Black, Latinx, and Indigenous applicants entering law schools.

SFFA has already compelled universities and law schools to take a host of prophylactic actions that may well destroy, or at least interrupt, any hope of restoring equity amongst first-gen, minoritized populations in legal education.⁶¹ Multiple institutions have shifted policies that even

⁵⁸ 600 U.S. 181, 143 S. Ct. 2141 (2023).

⁵⁹ Patrice Onwuka, *Early Results Are In: How Post-Affirmative Action Decision is Affecting Racial Minority Enrollment*, Philanthropy Roundtable (Oct. 31, 2024), <https://www.philanthropyroundtable.org/how-post-affirmative-action-decision-is-affecting-racial-minority-enrollment/>.

⁶⁰ *Id.*; Richard D. Kahlenberg, *New Avenues for Diversity After Students for Fair Admissions*, 48 J. College & Univ. L. 283, 319-20 (2023).

⁶¹ See Jothi Gupta, *Duke Recently Ended Its Scholarship Program for Black Students. What Have Other Universities Done?*, The Chronicle (Apr. 21, 2024, 6:44 p.m.),

facially benefit minoritized populations to avoid even the appearance of impropriety under SCOTUS's new pronouncement. These changes include pausing scholarships that previously benefitted first-gen students and first-gen students of color. For example, Duke, the University of Toledo, the University of Alabama, and the University of Texas at Austin are just a few of the schools that have announced the cessation of scholarship programs that previously provided resources and financial assistance for students who likely would fall in the first-gen bucket.⁶² Needless to say, a cessation of support at other levels in the academic tenure of first-gen students will have serious consequences.

D. Federal Retrenchment of Supportive Policy, Programs, and Initiatives.

Under the current administration, programs supporting racial minorities have been rolled back. As recently as November 2024, twenty-three states had succeeded in introducing or passing legislative bans prohibiting certain supportive policies, training, and preferences.⁶³ The federal retrenchment of formal diversity, equity, and inclusion programs (through executive orders, guidance changes, and threats to withdraw funding for race- or identity-based programs) has already led some institutions to scale back or eliminate offices and programs that formerly served the needs of many first-gen students; these anticipatory, administrative moves and funding shifts reduce incentives and resources for campus initiatives that directly support underrepresented and first-generation students.⁶⁴ When such offices, mentoring programs, or funding for Minority Serving Institutions or Hispanic Serving Institutions are cut, the most immediate impacts include diminished mentoring and academic support, fewer targeted financial and transition programs, and a chilling effect on culturally relevant curricula and campus climate work—outcomes that research links to lower persistence and completion for

<https://www.dukechronicle.com/article/2024/04/duke-university-recently-ended-scholarship-program-for-black-students-reginaldo-howard-memorial-scholarship-what-have-other-universities-done-dei-affirmative-action-race-based-supreme-court-decision>.

⁶² *Id.*

⁶³ Shaun Harper, *DEI Retrenchment on Campus Is Far Worse Than Maps Show*, Inside Higher Ed. (Nov. 20, 2024), <https://www.insidehighered.com/opinion/columns/resident-scholar/2024/11/20/dei-retrenchment-campus-far-worse-maps-show>.

⁶⁴ *Id.*

first-generation students. These cuts may well result in different rates of degree completion and other learning outcomes.

Ultimately, the current federal administration's rollback of first-gen forward initiatives has further narrowed the already-limited support structures available.⁶⁵ Reductions will manifest in fewer mentorship opportunities and diminished resources for community-building, both of which play a critical role in helping first-generation students navigate unfamiliar academic and professional environments. The possible elimination of pipeline programs will also weaken key entry points into higher education and the legal profession.⁶⁶ As these institutional supports recede at multiple stages of the educational pipeline,⁶⁷ first-generation identity risks becoming increasingly invisible—rendering students' distinct experiences and needs less legible to institutions that might otherwise intervene. Together, these developments not only constrain access to tangible resources but also signal a broader retreat from recognizing and addressing the structural conditions that shape first-generation students' educational trajectories.⁶⁸

IV. What Can We Do?

Change is afoot with so much at stake for our first-gen students. What can we, as legal writing professors do? Here are some easy suggestions.

⁶⁵ Naika Belizaire, *HBCU Students Like Me Are Losing Opportunities Under the Trump Administration's DEI Rollbacks*, Nat'l Partnership for Women & Families (Jun. 6, 2025), <https://nationalpartnership.org/hbcu-students-like-me-losing-opportunities-under-trump-administrations-dei>; *Eliminating DEI Programs in Schools and Universities Is an Economic and Educational Disaster in the Making*, EDTRUST (Feb. 17, 2025), <https://edtrust.org/press-room/eliminating-dei-programs-in-schools-and-universities-is-an-economic-and-educational-disaster-in-the-making/#:~:text=%E2%80%9CAnd%20it%20doesn't%20stop,must%20not%20let%20that%20happen.%E2%80%9D&text=EdTrust%20is%20committed%20to%20advancing,system%20where%20students%20will%20thrive>.

⁶⁶ Belizaire, *supra* note 65; *Eliminating DEI Programs in Schools and Universities Is an Economic and Educational Disaster in the Making*, *supra* note 65.

⁶⁷ Erin Gretzinger, et al., *Tracking Higher Ed's Dismantling of DEI*, Chronicle of Higher Educ. (Jan. 13, 2026), <https://www.chronicle.com/article/tracking-higher-eds-dismantling-of-dei>.

⁶⁸ *#AdvocateFirstGen: The Attack on DEI and Its Impact on Black First-generation Students*, FirstGen Forward (Mar. 5, 2024), <https://www.firstgenforward.org/advocacy/advocate-first-gen-the-attack-on-dei-and-its-impact-on-black-first-generation-students>.

A. Engage your first-gen students personally, explicitly, and directly, laying a foundation of care in your course.

Relationships are the sine qua non of support for first-generation students, especially those who lack social and cultural capital as they begin their law school journey.⁶⁹ Establish an early, authentic relationship, making it clear to all students—but especially your first-gen students—that you are there to support them. Incorporate routines and practices that increase touchpoints with first-generation students instead of relying on them to come to you.⁷⁰ With a solid foundation of care and explicit messaging letting them know that you will provide answers to their questions, first-gen students will inevitably feel less isolated and that the proverbial keys to the castle are within their reach.

B. Recognize, audit, and scrutinize how structural inequities and other identity-erasing conditions exist in your classroom across student demographics.

We cannot teach who we do not know, and we cannot know what we do not ask. Begin courses with surveys that seek to understand the background, challenges, and needs of your students. Surveying students will allow you to become more familiar with the cultural capital and assets they bring with them. This proactive investigation will furnish information that may inform ways you can bring students' assets into the classroom and in which you will be better prepared to scaffold lessons in a way that directly benefits your students.

C. Make the implicit explicit—with relentless attention to academic language and clear expectations.

No matter the knowledge base possessed by your continuing-gen or first-gen students, all students in the first-year curriculum deserve to receive a solid footing in the academic language of law school. Emphasizing academic language from the very beginning and

⁶⁹ Mariana T. Guzzardo et al., “*The Ones that Care Make all the Difference*”: *Perspectives on Student-Faculty Relationships*, *Innovative Higher Educ.*, Sept. 2020, at 44, <https://pmc.ncbi.nlm.nih.gov/articles/PMC7525228/>.

⁷⁰ Butler, *supra* note 5, at 69-70 (documenting positive first-gen experiences with faculty who created structured office hours).

illuminating any hidden information and skills can level the playing field. In addition, it will serve to prevent students from feeling unaware of the expectations.

D. Build social capital in your classrooms, including by creating strong communities of learners.

Social capital can be built, and learning culture is malleable. Research shows that when first-generation students encounter institutional environments characterized by a cultural mismatch between their interdependent backgrounds and the independent norms that dominate universities, targeted interventions can help them navigate these differences and draw on both cultural frameworks in ways that support academic success.⁷¹ Ultimately, reducing cultural mismatch in the first-year classroom may require intentionally fostering connections between first-generation and continuing-generation students. Structured opportunities for collaboration can help normalize multiple approaches to learning and engagement. Even absent large-scale institutional interventions, instructors can expand pedagogical strategies to include approaches that emphasize interdependence, collaboration, and shared problem-solving. Similarly, framing the classroom as a community of learners—and explicitly valuing collective intellectual work—can signal that multiple cultural orientations toward learning are legitimate and welcome.

The legal writing classroom is particularly well positioned to support such approaches, as the LRW classroom already lends itself to collaborative learning models such as communities of practice and structured learning communities.⁷² Whichever model you use, and whether in connection with a single assignment or something that carries

⁷¹ See generally Nicole M. Stephens, Stephanie A. Fryberg, Hazel Rose Markus, Camille S. Johnson & Rebecca Covarrubias, *Unseen Disadvantage: How American Universities' Focus on Independence Undermines the Academic Performance of First-Generation College Students*, 102 *J. of Personality & Soc. Psych.* 1178 (2012); Nicole M. Stephens, MarYam G. Hamedani & Mesmin Destin, *Closing the Social-Class Achievement Gap: A Difference-Education Intervention Improves First-Generation Students' Academic Performance and All Students' College Transition*, 25 *Psych. Sci.* 943, 944 (2014).

⁷² See generally Cristina D. Lockwood, *Improving Learning in the Law School Classroom by Encouraging Students to Form Communities of Practice*, 20 *Clinical L. Rev.* 95 (2013); Olympia Duhart, *Better Together: Building Community in the LRW Classroom*, 68 *St. Louis U. L.J.* 459 (2024); Sara J. Berman & Barrett L. Schreiner, *Teaching Strategies for Building Belonging and Creating Community in Online and In-Person Legal Education*, 57 *St. Mary's L.J.* 1 (2025).

through the year, the dividends for first-gen students will be huge.

E. Invite and use the cultural capital of your first-gen students.

McCain and Roska amplify the cultural wealth of first-gen students in their article, *“It’s a Strength that I Draw From”: First-Generation Background as a Cultural Resource in Law School*. In particular, McCain and Roska tout the power and agency first-generation students may draw upon to highlight “inequality and draw attention to the importance of diverse perspectives in spaces of marginalization.”⁷⁵ Calling students in to participate in their educational spaces by sharing their perspectives can amplify first-gen voices and reverse any stigma associated with their first-gen status. Careful preparation, including by building social capital and a strong community of learners (discussed above) where students share equally in their learning context, is a critical precursor to directly invoking first-gen agency in this way. If done correctly, however, it can be valuable for all.

F. Make mental health and wellness a priority, building routines such as grounding into your teaching practices.

Your first-gen students face a lot of pressure on a day-to-day basis, including as they move through various learning spaces in their courses. In the face of stereotype threat, imposter syndrome and other stressors, each day—even each class—presents a new opportunity to help center presence for them and to use techniques that allow them to bring renewed focus into the classroom. Don’t overlook even the small opportunities to integrate a grounding or mindfulness practice in your routine.

G. Leverage your knowledge of and access to resources, including academic and professional resources for the benefit of your first-gen students.

Whatever your own capital, share it. Find out what your students are interested in and make introductions that will help create capital for

⁷⁵ McCain & Roska, *supra* note 23, at 83.

them. Even the alumni base at your institution may provide fodder for a productive relationship. Attend programs and keep in touch with your students who might be in a position to help a student down the road.

H. Lean into teaching an inclusive brand of professional identity.

Legal writing professors can also support first-generation students by leaning more intentionally into the teaching of professional identity in ways that are inclusive of students' diverse backgrounds and experiences. Encouraging students to reflect on how their personal histories and perspectives inform their developing roles as lawyers can help broaden traditional conceptions of belonging within the profession. As David Grenardo's work⁷⁴ on professional identity formation suggests, the law school classroom provides an important space for helping students integrate their values, experiences, and aspirations into their emerging professional identities.

I. Integrate broad lawyering competencies and promote durable skills such as metacognition, self-regulation, and self-reflection into the legal writing curriculum.

Technical knowledge of the law is not the sole goal of law school. And first-gen students—like all students—can use an introduction to or refresher on other kinds of habits of mind, skills, and tools that help lawyers to work effectively. For years, the Carnegie Foundation and other researchers have emphasized the importance of a broad range of competencies that employers need and require.⁷⁵ In fact, we are now aware of a triadic relationship between technical knowledge, client-centered skills, and other durable skills. As Sandra Simpson details in her article, *Law Students Left Behind: Law Schools' Role in Remediating the Devastating Effects of Federal Education Policy*, “[b]y no fault of their own, students coming to law school have underdeveloped skills such as cognitive adaptability, self-regulation, and critical thinking, making

⁷⁴ See generally Grenardo, *supra* note 25.

⁷⁵ See generally, e.g., William M. Sullivan et al., *Educating Lawyers: Preparation for the Profession of Law* (Carnegie Foundation for the Advancement of Teaching 2007).

problem solving as a lawyer difficult.”⁷⁶ Intentionally teaching and helping students understand the components of metacognition and self-regulation will help them to set goals, follow through, and reflect on their processes in a way that will pave the way for a productive and satisfactory professional life.

J. Create space for first-gen students, especially in times of uncertainty.

Legal writing professors play an important role in fostering environments in which students from a wide range of backgrounds feel seen and supported. Curating accepting environments requires a willingness to approach the classroom with intellectual humility, openness to perspectives that differ from one’s own experiences, and a commitment to creating space for thoughtful dialogue about the challenges students encounter in navigating legal education. Given the pervasive feelings of invisibility among the first-generation constituency, it is especially important that we intentionally acknowledge and affirm first-generation identity. Doing so not only elevates its visibility within the classroom but also signals to students that this aspect of their background is a source of strength and pride. Moreover, providing students with opportunities to discuss the pressures they may be experiencing can support their well-being and help alleviate the stress and anxiety that often accompany the process of navigating legal education.

⁷⁶ Simpson, *supra* note 28, at 2561.