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#ForTheCulture: Generation Z and the Future of Legal Education

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#FORTHECULTURE: GENERATION Z AND THE FUTURE OF LEGAL EDUCATION

Tiffany D. Atkins*

Generation Z, with a birth year between 1995 and 2010, is the most diverse generational cohort in U.S. history and is the largest segment of our population. Gen Zers hold progressive views on social issues and expect diversity and minority representation where they live, work, and learn. American law schools, however, are not known for their diversity, or for being inclusive environments representative of the world around us. This culture of exclusion has led to an unequal legal profession and academy, where less than 10 percent of the population is non-white. As Gen Zers bring their demands for inclusion, and for a legal education that will prepare them to tackle social justice issues head on, they will encounter an entirely different culture—one that is completely at odds with their expectations. This paper adds depth and perspective to the existing literature on Generation Z in legal education by focusing on their social needs and expectations, recognizing them as critical drivers of legal education and reform. To provide Gen Z students with a legal education that will enable them to make a difference for others—a need deeply connected to their motivators and beliefs—law school culture must shift. Reimagining, reconstituting, and reconfiguring legal education to create a culture of inclusion and activism will be essential and necessary. Engaging in this work “for the culture” means getting serious about diversifying our profession by abandoning exclusionary hiring metrics, embedding social justice throughout the law school curriculum, and adopting institutional accountability measures to ensure that these goals are met. Gen Zers are accustomed to opposing institutions that are rooted in

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inequality; law schools can neither afford, nor ignore the opposition any longer. We must begin reimagining legal education now—and do it, for the culture.

TABLE OF CONTENTS

INTRODUCTION	117
I. “YOU’VE F*CKED WITH THE LAST GENERATION”; GEN Z CHARACTERISTICS AND BELIEFS.....	122
A. <i>Generational Theory and Sustainability</i>	122
B. <i>“The Young and the Relentless”: Generation Z on Activism and Diversity</i>	127
C. <i>Gen Z Motivators and Anti-motivators</i>	132
1. Making a Difference for Others.....	133
2. FOMO	135
3. Competition.....	136
II. “WE DON’T NEED TO REFORM THE SYSTEM . . . THE SYSTEM WAS NOT BUILT FOR US. WE NEED TO ABOLISH THE SYSTEM.”.....	138
A. <i>Representation Matters: Enough is Enough</i>	141
B. <i>Perception Matters: Stereotype Threat in Gen Z Law Students</i>	143
III. ‘BE THE CHANGE’ YOU WANT TO SEE IN YOUR LAW SCHOOL CLASSROOMS: REIMAGINING LEGAL EDUCATION.	149
A. <i>“Matter’ is the Minimum:” Supporting Gen Z Students of Color Equitably</i>	150
B. <i>Creating “Identity Safe” Institutions</i>	152
1. Revise Standard 302.....	152
2. Educate the Educators.....	154
3. Recruit, Retain, and Support Faculty of Color.	157
C. <i>Creating “Identity Safe” Classrooms</i>	160
1. Adopting Common Learning Outcomes.....	160
2. Focus on Experiential Learning.....	164
3. Curriculum Mapping as an Accountability Tool.....	167
CONCLUSION	169

INTRODUCTION

“For the Culture” is a term commonly used on social media platforms like Twitter and Instagram. Someone is said to be “doing it for the culture” when they “carry out a specific action for benefit of their shared culture,”¹ or when they do something they might not normally do, but “because the added value of doing it is high, [they] do it anyway.”² The phrase is also used to celebrate individual achievements when they advance the cause, visibility, or perception of one’s identity group.³

When I began researching this article in late 2018, my focus was on providing insight into the ways Generation Z would impact and change the way educators teach and mentor students—how we instruct students on the analysis and application of law and its importance on the legal profession. But then COVID-19 happened, closely followed by televised incidents of violence and police brutality in the Black community, and Black Lives Matter protests which sent the nation, and legal education, in a new, welcomed direction. “For the Culture” then took on a broader meaning. Law professors and administrators aren’t being asked to implement curricular changes *just* to appease incoming Gen Z⁴ students’ demands for equity and inclusion; these changes and shifts in legal education are designed to push the entire “culture” of legal education forward, producing a generation of forward-thinking lawyers—a benefit to all of us.

The spring of 2020 presented some very real challenges to law schools and professors in every discipline, around the world. In addition to the rise of COVID-19, which swept the country and forced law professors into emergency online instruction, we also witnessed the manifestation of another virus with deeper, lasting connections with our country: racialized violence, police brutality, and the killing of unarmed Black men and women by law enforcement officers. Following the killings of

1. *Do It for the Culture*, URBAN DICTIONARY (Mar. 7, 2017) <https://www.urbandictionary.com/define.php?term=Do%20It%20For%20The%20Culture> [<https://perma.cc/QRG2-R6P9>].

2. *For the Culture*, URBAN DICTIONARY (Nov. 28, 2018) <https://www.urbandictionary.com/define.php?term=For%20the%20Culture> [<https://perma.cc/ZGP9-NEG7>].

3. For example, if a Mexican-born filmmaker writes an original screenplay for a Spanish-language film starring Mexican women, utilizing mostly Mexican cast and crew, it could be said that this filmmaker did it “for the culture,” to challenge racist stereotypes and narratives about his country and to advance his community through art.

4. Generation Z is also referred to as iGen, Pluralists, or Homelanders. Gen Z is the most common name, which I will use throughout this article.

Ahmaud Arbery,⁵ Breonna Taylor,⁶ George Floyd,⁷ and others,⁸ protests erupted in nearly every city in America, and around the world.⁹ The “Fire Next Time” James Baldwin wrote of in his famous essay, had become the fire this time,¹⁰ and Gen Z law students were not putting it out. If anything, our youngest cohort stoked the flames to inferno-levels. They marched, protested, wrote passionate letters to their deans and college presidents, and demanded their faculty speak up against these atrocities in class.

This student-led activism brought about a reckoning of sorts. Faculties wrote statements, town-hall meetings were convened, and several Black, female, law school deans came together to create the AALS Law Deans Antiracist Clearinghouse Project¹¹ to encourage diversity and institutional equity at law schools around the country. But this response was markedly different than previous incidents of violence in the Black community and communities of color. When Alton Sterling and Philando Castile were killed within days of each other in the summer of 2016, their deaths sparked protests¹² and may have led to some conversation

5. Ahmaud Arbery was killed by two white men while jogging through a residential community in Georgia. Although not a police shooting, Arbery’s death led to protests and outrage around the country. See Ray Sanchez, *Ahmaud Arbery’s Tragic Final Run Grips an Anxious America*, CNN (May 24, 2020, 12:33 PM), <https://www.cnn.com/2020/05/24/us/georgia-ahmaud-arbery-killing-narrative/index.html> [https://perma.cc/9FK2-2C8V].

6. Richard A. Oppel, Jr., Derrick Bryson Taylor & Nicholas Bogel-Burroughs, *What We Know About Breonna Taylor’s Case and Death*, N.Y. TIMES (Sept. 15, 2020), <https://www.nytimes.com/article/breonna-taylor-police.html>.

7. Evan Hill, Ainara Tiefertäler, Christiaan Triebert, Drew Jordan, Haley Willis & Robin Stein, *How George Floyd Was Killed in Police Custody*, N.Y. TIMES (May 31, 2020), <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html>.

8. Li Cohen, *It’s Been Over 3 Months Since George Floyd Was Killed by Police. Police Are Still Killing Black People at Disproportionate Rates*, CBS NEWS (Sept. 10, 2020 at 4:39 PM), <https://www.cbsnews.com/news/george-floyd-killing-police-black-people-killed-164/> [https://perma.cc/MM25-V8B5].

9. Elliott C. McLaughlin, *How George Floyd’s Death Ignited a Racial Reckoning That Shows No Signs of Slowing Down*, CNN (Aug. 9, 2020, 11:31 AM), <https://www.cnn.com/2020/08/09/us/george-floyd-protests-different-why/index.html> [https://perma.cc/ZP9X-YTJJ].

10. Angela Onwuachi-Willig, *The Fire This Time*, THE RECORD: NEWS & STORIES FROM B.U. LAW, (June 1, 2020), <https://www.bu.edu/law/record/articles/2020/dean-angela-onwuachi-willig-commentary-the-fire-this-time/> [https://perma.cc/7MNQ-BZXS].

11. *Law Deans Antiracist Clearinghouse Project*, ASS’N AM. L. SCHS., <https://www.aals.org/antiracist-clearinghouse/> [https://perma.cc/9JV7-K3GY] (last visited Aug. 9, 2020).

12. Leah Donnelly, *Two Days, Two Deaths: The Police Shootings of Alton Sterling and Philando Castile*, NPR (July 7, 2016, 3:20 PM), <https://www.npr.org/sections/codeswitch/2016/07/07/485078670/two-days-two-deaths-the-police-shootings-of-alton-sterling-and-philando-castile> [https://perma.cc/H966-848U].

among students and faculty about how to respond, but there was much less visible or tangible momentum toward change.

Now consider the summer of 2020: in June, Nike, Twitter, the NBA, and other corporations declared Juneteenth a company holiday,¹³ when historically the Black liberation celebration was officially recognized as a holiday only in certain states,¹⁴ including its birthplace of Galveston, TX.¹⁵ The Quaker Oats brand removed Aunt Jemima pancake products from retailer shelves due to the origins of her depiction in slavery.¹⁶ State governors ordered monuments of slave holders and confederate soldiers to be removed, and on June 28, 2020, the state of Mississippi, considered by many to be an epicenter of racism and inequality,¹⁷ voted to retire its state confederate flag which had flown since the late 19th century.¹⁸ Following this, on July 13, the Washington Football Team announced that it would retire the name “Redskins” and rebrand itself,¹⁹ a decision that took more than 40 years of advocacy by Native American and Indigenous groups to achieve.²⁰

13. Yelena Dzhanova, *Here's a Running List of All the Big Companies Observing Juneteenth This Year*, CNBC (June 17, 2020, 4:19 PM), <https://www.cnbc.com/2020/06/17/here-are-the-companies-observing-juneteenth-this-year.html> [<https://perma.cc/63R5-LFMR>].

14. CONG. RSCH. SERV., JUNETEENTH: FACT SHEET (June 3, 2020), <https://fas.org/sgp/crs/misc/R44865.pdf> [<https://perma.cc/Y8A4-9SVJ>].

15. *The Historical Legacy of Juneteenth*, SMITHSONIAN NAT'L MUSEUM OF AF. AM. HIST. & CULTURE, <https://nmaahc.si.edu/blog-post/historical-legacy-juneteenth> [<https://perma.cc/2VHY-CPNJ>] (last visited Nov. 10, 2020).

16. Ben Kesslen, *Aunt Jemima Brand to Change Name, Remove Image That Quaker Says Is 'Based on a Racial Stereotype'*, NBC NEWS (June 17, 2020, 7:01 AM), <https://www.nbcnews.com/news/us-news/aunt-jemima-brand-will-change-name-remove-image-quaker-says-n1231260> [<https://perma.cc/6SDA-FU8V>].

17. Mississippi's legacy of racism and racial violence is well-known and has been the source of several songs, films, and documentaries. See NINA SIMONE, *MISSISSIPPI GODDAM* (Philips Records 1964); see also *MISSISSIPPI BURNING* (Orion Films 1988); Jesmyn Ward, *Racism Is 'Built into the Very Bones' of Mississippi*, ATLANTIC (Feb. 2018), <https://www.theatlantic.com/magazine/archive/2018/02/jesmyn-ward-mississippi/552500/> [<https://perma.cc/BJK3-A9R7>].

18. Paul LeBlanc, *Mississippi State Legislature Passes Bill to Remove Confederate Symbol from State Flag in Historic Vote*, CNN (June 29, 2020, 3:08 PM), <https://www.cnn.com/2020/06/28/politics/mississippi-flag-confederate-emblem/index.html> [<https://perma.cc/WQ92-KKEE>].

19. *Statement from the Washington Football Team*, WASH. FOOTBALL TEAM, (July 13, 2020, 9:00 AM), <https://www.washingtonfootball.com/news/washington-redskins-retiring-name-logo-following-review> [<https://perma.cc/L6WS-LB57>] (last visited Nov. 13, 2020).

20. Scott Allen, *A Timeline of the Redskins Name Changing Debate*, WASH. POST (July 13, 2020), <https://www.washingtonpost.com/graphics/sports/dc-sports-bog/2020/07/13/amp-stories/timeline-redskins-name-change-debate/>.

To be sure, these public displays of “wokeness” do not signify a true shift in the hearts and minds of all Americans; they may, however, indicate a resolve that the time for truth and reconciliation with America’s history has finally come. But why now? What was different about 2020? The momentum created by the recent protests—many led by Gen Z activists, students, and consumers—is the difference. Gen Z is moving this reckoning to the forefront of the American consciousness and they are doing it for the culture. Legal education cannot and should not remain untouched by this movement.

Making intentional structural changes in legal education, including *requiring* learning outcomes around cultural competence in all law schools and conducting curriculum mapping projects to ensure significant satisfaction of those outcomes is a start. Doing the cultural work of legal education reform will require much more reflection and imagination. We must consider all aspects of the law school experience and how to create an environment where all students thrive. This reimagining will require much more effort but doing something “for the culture” means acting for the benefit of a shared culture, which includes our social-justice minded Gen Z law students.

What we know about the newest demographic cohort to come of age is this: they are more tolerant, social-justice minded, and ethnically diverse than any previous generation.²¹ Nearly half of Gen Zers, (approximately 46 percent) identify as non-white,²² which presents both a challenge and an opportunity for law schools. This shift to a majority-minority population may lead to greater enrollment of students of color in law school, an opportunity many institutions have strived for over the years. However, many law schools are challenged by the task of creating inclusive environments where their minorities thrive. Gen Z students, described as “millennials on steroids,”²³ will bring their strong beliefs, distaste for traditional norms, and expectations for equity and representation into our classrooms, and ask us whether we are prepared to meet those expectations.

21. COREY SEEMILLER & MEGHAN GRACE, GENERATION Z GOES TO COLLEGE 6-17 (2016).

22. MAGID GENERATIONAL STRATEGIES, THE FIRST GENERATION OF THE TWENTY-FIRST CENTURY: AN INTRODUCTION TO THE PLURALIST GENERATION 6 (2014), <https://static1.squarespace.com/static/56d7388222482e1e2c87c683/t/56e0cdc2cf80a14684670194/1457573327672/MagidPluralistGenerationWhitepaper.pdf> [<https://perma.cc/GJA5-ZV2N>] (stating that 54 percent of Gen Zers identify as white, 24 percent Hispanic, 14 percent Black or African American, 4 percent Asian, and 4 percent other).

23. Libby Kane, *Meet Generation Z, the ‘Millennials on Steroids’ Who Could Lead the Charge for Change in the US*, BUS. INSIDER (Dec. 4, 2017, 10:08 AM), <https://www.businessinsider.com/generation-z-profile-2017-9> [<https://perma.cc/6ESS-83X4>].

The short answer is no. Many law schools, marshalled on by forward-thinking professors, began the hard work of diversifying their programs years ago, preparing their students to serve increasingly diverse communities through courses and experiences centered around cultural competence.²⁴ Others have not. For law schools to attract, retain, and buoy Gen Z students, the traditional structure of legal education, where professors “scare you, work you, and bore you to death”²⁵ must shift. Specifically, we must look for ways to provide more meaningful experiential advocacy opportunities throughout law school; hiring committees should broaden the qualifications and characteristics of those whom we trust and value to teach law students, providing more support for Black and ethnic minority²⁶ students; and faculties should set common standards for what we emphasize in our curriculum and student outcomes.

Part I of this paper will highlight Generation Z’s cultural, emotional, and social motivators—which are inapposite to the traditional ways law schools seek to motivate law students—to make the case for the implementation of more advocacy opportunities and social justice instruction. Part II will discuss current law school culture, identifying the areas where structural change is most needed to make the ‘matter’ in “Black Lives Matter” faculty statements more authentic. Part III offers several curricular and institutional recommendations aimed at creating learning environments that will attract Gen Z students and will also prepare them to practice law in a culturally sensible²⁷ manner—and doing it all, For the Culture.

24. See generally Cynthia M. Ward & Nelson P. Miller, *The Role of Law Schools in Shaping Culturally Competent Lawyers*, 89 MICH. BAR J. 16 (2010) (offering suggestions for embedding cultural competence throughout the law school curriculum); Sha-Shana Crichton, *Incorporating Social Justice into the 1L Legal Writing Course: A Tool for Empowering Students of Color and of Historically Marginalized Groups and Improving Learning*, 24 MICH. J. RACE & L. 251 (2019) (discussing the importance of incorporating social justice teaching in the law school to improve student performance and alleviate stress factors).

25. A common law school saying with no source, but described here: *Scare You to Death, Work You to Death, Bore You to Death*, NAT’L JURIST (Nov. 2, 2009, 8:11 AM), <http://www.nationaljurist.com/content/scare-you-death-work-you-death-and-bore-you-death> [https://perma.cc/4TVZ-TXA4].

26. Though the institutional challenges presented in this paper impact other identity groups in law schools, I center Black students and students of color based on Gen Z’s racial diversity as a generational cohort and their strong beliefs about racial diversity, equality, and representation. Implementing the changes suggested in this paper will, however, improve the law school experience for all student groups and should be implemented with an intersectional lens.

27. See Andrea A. Curcio, *Addressing Barriers to Cultural Sensibility Learning: Lessons from Social Cognition Theory*, 15 NEV. L. J. 537, 538 (2015); Bonnie L. Tavares, *Changing the Construct: Promoting Cross-Cultural Conversations in the Law School Classroom*, 67 J. LEGAL EDUC. 211 (2017).

I. “YOU’VE F*CKED WITH THE LAST GENERATION”²⁸;
GEN Z CHARACTERISTICS AND BELIEFS

To understand the impact Gen Zers will have on the culture of legal education and the broader world around us, we must begin by discussing relevant generational beliefs, characteristics, and motivations that will impact society. The post-Millennial generation, whom I refer to as Gen Z, (though some writers refer to this generation as iGen²⁹) has a birth year between 1995 and 2010.³⁰ Ranging in age from 8 to 25, this largest segment of the population accounts for roughly seventy-four million people, making one in four Americans a member of Generation Z.³¹ As the largest segment of our population, Gen Z’s beliefs matter; how they respond to social issues, politics, and the economy will have a tremendous impact on the future, not only in legal education, but in the business world as well.³²

A. *Generational Theory and Sustainability*

Although not a recognized science, generational theory has been gaining awareness since William Strauss and Neil Howe’s groundbreaking book, *Generations*, in 1991.³³ In it, Strauss and Howe define a generation as a “[group of] people born over a span of roughly twenty years or about the length of one life phase: childhood, young adulthood, midlife, and old age.”³⁴ According to the authors’ theory, these generations are shaped by “age location,” or a group’s participation in epochal events during a cycle, allowing for certain predictions about their behaviors or beliefs.³⁵ Strauss and Howe then identify the major generational cohorts between 1584 and 2001, the most contemporary of which are: Baby Boomers,

28. Achi Bachi (@shirinnaveed), TWITTER (June 5, 2020, 10:31 AM), <https://twitter.com/shirinnaveed/status/1268913326307905536>.

29. JEAN M. TWENGE, IGEN: WHY TODAY’S SUPER-CONNECTED KIDS ARE GROWING UP LESS REBELLIOUS, MORE TOLERANT, LESS HAPPY—AND COMPLETELY UNPREPARED FOR ADULTHOOD—AND WHAT THAT MEANS FOR THE REST OF US (2017).

30. SEEMILLER & GRACE, *supra* note 21, at 6.

31. TWENGE, *supra* note 29, at 10.

32. Wayne Elsey, *What Your Businesses Should Know about Generation Z*, FORBES (Nov. 20, 2019, 8:15 AM), <https://www.forbes.com/sites/forbesbusinessdevelopmentcouncil/2019/11/20/what-your-business-should-know-about-generation-z/#2a21b141410a> [<https://perma.cc/H3BP-NR7B>].

33. WILLIAM STRAUSS & NEIL HOWE, *GENERATIONS: THE HISTORY OF AMERICA’S FUTURE, 1584 TO 2069*, 32 (1991).

34. *Id.* at 32-33.

35. *Id.* at 32.

born between 1946 and 1966; Generation X, born between 1965 and 1980; and Millennials, born between 1982 and 2001.³⁶ Strauss and Neil did not include Generation Z in their writing, but contemporary theorists place their birth years between 1995 and 2010.³⁷

Although generational theory has drawn criticism³⁸ over the years, researchers rely on the study of similarities and differences between the cohorts to monitor trends over time and understand how individuals experience the world around them.³⁹ In education, generational theory helps us understand and anticipate the challenges our students will face when entering our classrooms. Annually, the Beloit Mindset List—which has been renamed the “Marist Mindset List”⁴⁰ since moving from Beloit College to Marist College in 2018—is shared across educational listservs to help educators understand our students by sharing their perspectives on

36. Although not acknowledged as a generational cohort by Strauss and Howe, Xennials, whom I mention in several places in this paper, are identified as a micro-generation between Gen Xers and Millennials with a birth year between 1977-1983. Characterized as possessing some of Gen X’s cynicism and less of Millennials characteristic optimism, Xennials’ “age location” is largely defined by the events of September 11, which occurred during adulthood for Xennials, but during elementary years for Millennials. See Ryan W. Miller, *Are You an Xennial? How to Tell if You’re the Microgeneration Between Gen X and Millennial*, USA TODAY (Dec. 20, 2018, 5:39 AM), <https://www.usatoday.com/story/news/nation/2018/12/20/xennials-millennials-generation-x-microgeneration/2369230002/> [<https://perma.cc/8NFF-VFDQ>]; Shana Lebowitz & Allana Akhtar, *There’s a Term for People Born in the Early 80’s Who Don’t Feel Like a Millennial or a Gen Xer*, BUS. INSIDER (Aug. 22, 2019, 12:51 PM), <https://www.businessinsider.com/xennials-born-between-millennials-and-gen-x-2017-11> [<https://perma.cc/74X9-MC5V>].

37. SEEMILLER & GRACE, *supra* note 21, at 6.

38. See e.g., Jessica Kriegal, *Why Generational Theory Makes No Sense*, FORBES, (Sept. 29, 2015, 6:00 AM), <https://www.forbes.com/sites/oracle/2015/09/29/why-generational-theory-makes-no-sense/#51d5c3458eaa> [<https://perma.cc/92ZM-WFQT>] (arguing that generational theory makes too many assumptions about individuals in an effort to “put them in a box”); see also Rebecca Onion, *Against Generations: Generational Thinking Is Seductive and Confirms Preconceived Prejudices, But It’s a Bogus Way to Understand the World*, AEON (May 19, 2015), <https://aeon.co/essays/generational-labels-are-lazy-useless-and-just-plain-wrong> [<https://perma.cc/TSW5-6YWT>] (describing generational theory as mysticism, “pseudoscientific mumbo-jumbo,” and closer to science fiction than actual theory).

39. PEW RSCH. CTR., U.S. POLITICS & POLICY, THE WHYS AND HOW’S OF GENERATIONS RESEARCH (Sept. 3, 2015) <https://www.pewresearch.org/politics/2015/09/03/the-whys-and-hows-of-generations-research/> [<https://perma.cc/F398-V94H>].

40. The Beloit Mindset List was an annual compilation begun by Beloit University faculty members Tom McBride, Ron Nief, and Charles Westerberg, each sharing the characteristics, beliefs, and traits of entering college freshman. The List was started in 2002 and was posted annually on www.mindsetlist.com/lists. In 2019, the Mindset List moved to Marist college. For Gen Z’s Mindset list from their birth year of 1995, 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, 38 (2018).

topics such as music, space travel, and the proper viewing order of the Star Wars films.⁴¹ Academics have relied on this list as a source of humor, nostalgia, and angst for many years: “with contributions from parents and academics around the world, the List has tracked cultural change, stimulated intergenerational conversation, and just made older people feel even older.”⁴²

Generational theory has other useful purposes in legal education beyond the Marist Mindset List; the theory can also help law schools analyze the sustainability of their programs, curriculum, and culture by considering how well these features align with their incoming Gen Z law students. This inquiry into sustainability is not a substitute for the introspection and reflection we should all undertake when reimagining the culture of our law schools, but it does offer an economic perspective on the importance of this cultural work.

Broadly defined, “sustainability” refers to “programs, initiatives, and actions aimed at the preservation of a particular resource.”⁴³ Human sustainability is focused on maintaining and improving human capital in society by making investments in health, education, and other services.⁴⁴ Accordingly, discussing Gen Z’s needs and expectations as the drivers of legal education’s economy for the next fifteen to twenty years is a practical and meaningful evaluation of law school sustainability as a resource; our willingness to make investments based on those expectations, an exercise in human sustainability.

The corporate world has already begun turning its attention to Gen Zers to predict trends and protect their brands. As consumers, many Gen Zers view how they spend their money as an extension of their activism, and they are willing to redirect their dollars to prove it. In a Morning Consult survey, more than 65 percent of survey responders either “strongly” or “somewhat” agreed with the following statements:

“How businesses react and express themselves on topics such as Black Lives Matter will permanently affect my decision on

41. *The 2020 Marist Mindset List*, MARIST COLL., <https://www.marist.edu/mindset-list> [<https://perma.cc/A9P6-NVDB>] (last visited Nov. 24, 2020).

42. Lee Shulman Bierer, *This Year’s College Freshmen See the Last Mindset List from Beloit*, COLLEGE ADMISSION STRATEGIES, <https://collegeadmissionsstrategies.com/this-years-college-freshmen-see-the-last-mindset-list-from-beloit/> [<https://perma.cc/3TTU-6S76>] (last visited Nov. 24, 2020).

43. RMIT University, *The Four Pillars of Sustainability*, FUTURE LEARN (2017), <https://www.futurelearn.com/courses/sustainable-business/1/steps/157438> [<https://perma.cc/8LCS-BS9L>].

44. *Id.*

whether or not to buy from them in the future,”⁴⁵ and “I will strongly consider the extent to which companies have delivered on the commitments they are making now in response to the Black Lives Matter movement when deciding whether or not to buy from them in the future.”⁴⁶

To sustain their businesses for the future, the corporate world has accepted Gen Z’s requirement to speak openly on social justice issues and has responded:

When the Supreme Court ruled in June 2015 that same-sex marriage was legal nationwide, Snickers tweeted a picture of a rainbow-wrapped candy bar inscribed ‘Stay who you are.’ AT&T turned its globe logo to rainbow hues, and American Airlines tweeted, “We’re on board. Diversity strengthens us all & today we celebrate #MarriageEquality.” It’s rare for companies to chime in on social issues, as they’d rather not alienate their customers. For a company like American, headquartered in Texas, that could be a lot of customers. But American and other companies are looking forward to an iGen future, seeking to appeal to the young consumers who will fuel their bottom line in years to come. Companies know that embracing equality is not just an expectation for iGen; it’s a requirement.⁴⁷

Assuming these same sentiments can be applied to Gen Z’s beliefs about spending and borrowing for higher education, they will bring many of these same expectations to our law schools; understanding and responding to them would be taking action designed to sustain the resource of legal education. If Gen Z students decide not to attend law school generally, or decline to enroll at particular law schools based on a failure to deliver on commitments toward diversity, equity, and inclusion, this is an unsustainable trend. “For the culture” means doing something that might not normally be done, but because the added value of doing it is so high, [you] do it anyway.”⁴⁸ In addition to understanding

45. MORNING CONSULT, HOW GEN Z IS RESPONDING TO THE BLACK LIVES MATTER PROTESTS AND THE IMPLICATIONS FOR BRANDS 15 (June 2020), <https://go.morningconsult.com/rs/850-TAA-511/images/Gen%20Z%27s%20Response%20to%20BLM%20and%20Implications%20for%20Brands.pdf> [https://perma.cc/ZNJ4-PU3S].

46. *Id.* at 16.

47. Twenge, *supra* note 29, at 227.

48. *Do It for the Culture*, URBAN DICTIONARY, *supra* note 1.

how Gen Zers learn in the classroom to make them better students,⁴⁹ knowing how to engage and connect with them by understanding what motivates, energizes, and empowers them as a generational cohort is both valuable and instructive.

Gen Zers have had a unique and diverse upbringing. They have known three U.S. presidents in their lifetime, including the first Black president, whose youthful, inclusive “Yes We Can” administration was followed by a deeply divisive presidential election in 2016, the reemergence of white nationalist groups, and increased acts of violence against communities of color. Gen Zers also witnessed the actions of their predecessors and peers when social justice movements like #BlackLivesMatter, #MeToo, and #TimesUp emerged. Following several school shootings, Gen Zers even organized and marshalled their own cause, #MarchForOurLives, to raise awareness on school shootings and gun violence.⁵⁰

Gen Zers were also affected by the Great Recession and its impact on their family and friends. Gen Zers saw their hard-working parents suffer job loss, foreclosure, and other hardships during the Recession, and developed a financially conservative attitude as a result.⁵¹ Having been surrounded by financial insecurity as adolescents, Gen Zers are very mindful about money⁵² and how they spend it. Education is valuable to Gen Zers,⁵³ but they are not willing to struggle under the weight of massive student loan debt like their Millennial and Xennial predecessors⁵⁴ whom they witnessed suffer high unemployment rates, despite advanced education.⁵⁵ Instead, Gen Zers will look for practical, cost-effective train-

49. See generally 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 (2018) (discussing Generation Z’s learning style and recommending classroom approaches to increase Gen Z learning).

50. Peter Jamison, Joe Heim, Lori Aratani & Marissa J. Lang, *Never Again! Students Demand Action Against Gun Violence in Nation’s Capital*, WASH. POST (Mar. 24, 2018, 7:00 PM), https://www.washingtonpost.com/local/march-for-our-lives-huge-crowds-gather-for-rally-against-gun-violence-in-nations-capital/2018/03/24/4121b100-2f7d-11e8-b0b0-f706877db618_story.html.

51. See SEEMILLER & GRACE, *supra* note 21, at 41.

52. *Id.* at 106.

53. *Id.* at 97–98.

54. *Id.* at 41–42; JEFFREY J. SELINGO, *THE NEW GENERATION OF STUDENTS: HOW COLLEGES CAN RECRUIT, TEACH, AND SERVE GEN Z*, CHRON. OF HIGHER EDUC. 1, 19 (2018), https://highland.edu/wp-content/uploads/2018/12/NewGenerationStudent_i.pdf [<https://perma.cc/7B5S-KJT4>].

55. SEEMILLER & GRACE, *supra* note 21, at 103.

ing that will prepare them for the job market,⁵⁶ provide practice-ready skills, and lead to meaningful work.⁵⁷

Assuming this data tracks and remains consistent for students considering law school, Gen Zers will seek higher education only *if* it fits their plan, and if it connects to their motivations, which include making a difference for others and advocating for something that they believe in.⁵⁸ A law degree can surely provide Gen Z students with the knowledge and skills to achieve these goals, which *may* lead to continued enrollment in law schools, but these students will expect an education that will enable them to tackle important social justice issues while they study and upon graduation.⁵⁹

While no theory or Mindset List can perfectly describe every law student born after 1995—Strauss and Howe caution against attributing generational beliefs or practices to *all* members of a cohort⁶⁰—Gen Zers have some common life experiences which will help us better understand their expectations and how they will impact legal education.

B. “*The Young and the Relentless*”:
Generation Z on Activism and Diversity.

Gen Zers are not only the most diverse generational cohort in US history, many also consider themselves activists, drawing inspiration from youth-led movements in American history.⁶¹ Time Magazine recognized the power of Gen Z activists in April 2018 when it featured five Gen Z teenagers on its cover who exemplified this quality. With the word “ENOUGH” in bold, white letters across the page,⁶² these teenagers made quite a statement: Jaelyn Corin, Emma Gonzalez, David Hogg, Cameron Kasky, and Alex Wind are all survivors of the February 2018 Parkland shooting; they are also Gen Zers. Born between 1999 and 2000,

56. *Id.* at 176.

57. *Id.* at 103.

58. *Id.* at 15.

59. SELINGO, *supra* note 54, at 19.

60. STRAUSS & HOWE, *supra* note 33, at 66–67 (quoting Spanish philosopher Jose’ Ortega Y Gasset, the authors acknowledge that there are many factors, including age location, that create commonality among generational cohorts, but that these beliefs and behaviors are not uniform among all members: “the generational experience is a dynamic compromise between the mass and the individual”).

61. *Mission & Story*, MARCH FOR OUR LIVES, <https://marchforourlives.com/mission-story/> [https://perma.cc/2A6D-QURE] (last visited Aug. 10, 2020).

62. Charlotte Adler, *The Young and the Relentless*, TIME (Mar. 22, 2018), <https://time.com/magazine/us/5210502/april-2nd-2018-vol-191-no-12-u-s/> [https://perma.cc/DH2H-XNMC].

these Parkland activists represent many of the characteristics common to their cohort.

Independent, accessible, open-minded, thoughtful, anxious, and nontraditional are just some of the words used to describe these young adults.⁶³ Kasky, Wind, and Corin started the #NeverAgain hashtag on Twitter the day after the Parkland shooting while sitting in Kasky's living room.⁶⁴ One month later, they had organized the March for Our Lives rally which drew over 800,000⁶⁵ supporters to Washington, DC to support gun reform.⁶⁶

In 140 characters on Twitter, these Gen Zers started an entire movement from their iPhones; a movement that continues to grow and encourage youth activism today:

Inspired by the Freedom Riders of the 1960s, we toured the country on the Road To Change. Along the way, we registered over 50,000 new voters. We also met with family members, community leaders, and survivors of gun violence across the country. . . . We'll never forget each story we heard and each ally we made in this fight for justice.⁶⁷

This is not to exaggerate Gen Z's role as activists, or to diminish the activism of previous generations; quite the contrary. As quoted above, Gen Zers likely inherited this activism and inclination toward "good trouble"⁶⁸ in part, based on their view of the civil rights movement and its impact on shaping the landscape of America. Their outrage at the continued racism and violence that permeates our society, coupled with the "B-S"⁶⁹ response by many of the "adults" in the room, has fueled their activism.

Not only are they outraged by the persistent acts of violence and racism, they know exactly what tools to use to activate a response to this outrage: social media and technology. Gen Zers not only believe that

63. SEEMILLER & GRACE, *supra* note 21, at 8; TWENGE, *supra* note 29, at 2-3.

64. Adler, *supra* note 62.

65. Jessica Durando, *March for Our Lives Could Be the Biggest Single-day Protest in DC's History* (March 24, 2018 1:00 PM), <https://www.usatoday.com/story/news/nation/2018/03/24/march-our-lives-could-become-biggest-single-day-protest-d-c-nations-history/455675002/> [<https://perma.cc/C634-F9S5>].

66. *Mission & Story*, *supra* note 61.

67. *Id.*

68. John Lewis (@repjohnlewis), TWITTER (Jul. 16, 2020, 11:44 AM), <https://twitter.com/repjohnlewis/status/1151155571757867011>.

69. *Florida Student Emma Gonzalez to Lawmakers and Gun Advocates: 'We Call BS'*, CNN (Feb. 17, 2018, 9:14 PM), <https://www.cnn.com/2018/02/17/us/florida-student-emma-gonzalez-speech/index.html> [<https://perma.cc/YS8Z-66E7>].

they can change the world, they understand how easy it is to do from your home.⁷⁰ Unlike the Civil Rights Movement, where leaders and activists had to rely on letters, phone calls, or word-of-mouth to mobilize, tweets and social media posts can be shared within seconds. It took weeks for the sit-in movement begun by four Black men from North Carolina A&T State University in Greensboro to gain momentum across the South and for other students to join them in desegregating other Woolworth lunch counters.⁷¹ Today, a text, tweet, or TikTok⁷² video could draw hundreds or thousands to the fight within seconds. For example, #BlackLivesMatter began with a tweet following the acquittal of Trayvon Martin's murderer in 2013.⁷³ Since then, it has been used over 11 million times on Twitter⁷⁴ and is the rallying cry for social justice activists and reform.

Gen Zers are also willing to mobilize to achieve justice and equality; in 2014, over twenty percent of Gen Zers reported that they had participated in a rally or protest, up from just eleven percent of Millennials who reported having participated in a demonstration before or during college.⁷⁵ A more recent poll conducted by Business Insider revealed that more than 77 percent of Gen Zers had participated in Black Lives Matter protests following the death of George Floyd,⁷⁶ and 62 percent were will-

70. SEEMILLER & GRACE, *supra* note 21, at 130.

71. Christopher Wilson, *The Moment When Four Students Sat Down to Take a Stand*, SMITHSONIAN MAG., (Jan. 31, 2020, 9:00 AM), <https://www.smithsonianmag.com/smithsonian-institution/lessons-worth-learning-moment-greensboro-four-sat-down-lunch-counter-180974087/> [<https://perma.cc/J69M-WZUK>].

72. TikTok is a video-sharing app popular among Gen Zers that allows them to record and post short videos and skits. Citing security risks with TikTok's Chinese-owned parent company, the 45th President of the United States threatened a ban on the platform on July 31, 2020. Negotiations to save the site began in August, and are currently in litigation. For a discussion of the potential ban and timeline of events, see Taylor Lorenz, *TikTok Ban? Creators and Fans Are Big Mad*, N.Y. TIMES (Aug. 2, 2020), <https://www.nytimes.com/2020/08/02/style/tiktok-ban-threat-trump.html>; Rachel Lerman, *TikTok creators successfully block U.S. app ban with lawsuit*, WASHINGTON POST (October 30, 2020), <https://www.washingtonpost.com/technology/2020/10/30/tiktok-ban-halted-injunction/>.

73. *Herstory*, BLACK LIVES MATTER, <https://blacklivesmatter.com/herstory/> [<https://perma.cc/92G6-VQ6B>] (last visited Aug. 10, 2020).

74. MONICA ANDERSON & PAUL HITLIN, PEW RSCH. CTR., SOCIAL MEDIA CONVERSATIONS ABOUT RACE 16 (2016), https://www.pewresearch.org/internet/wp-content/uploads/sites/9/2016/08/PI_2016.08.15_Race-and-Social-Media_FINAL.pdf [<https://perma.cc/JR7P-3B8P>].

75. SEEMILLER & GRACE, *supra* note 21, at 143.

76. Dominic-Madori Davis, *The Action Generation*, BUS. INSIDER (June 10 2020, 9:12 AM), <https://www.businessinsider.com/how-gen-z-feels-about-george-floyd-protests-2020-6> [<https://perma.cc/WUC7-TGPW>].

ing to be arrested in support of equality for Black Americans.⁷⁷ Gen Zers are standing together for the culture to secure a future that we all can believe in.

In addition to social justice activism, Gen Zers also feel very strongly about diversity.⁷⁸ Based on their exposure to different cultures through technology and their own social circles,⁷⁹ Gen Zers expect to live, work, and learn among people who are different from them.⁸⁰ Although this inclusion is their expectation, some research studies offer a more diverse take on expectation versus preference among some Gen Zers.

More than half of Gen Zers are concerned with racial and sexual equality⁸¹ and believe that America's shift toward majority-minority is a positive change.⁸² However, in a survey of 1.4 million teens on whether diverse environments were "desirable," only one in four white Gen Zers said that they were.⁸³ This number was just slightly higher in minority survey respondents, where one in three said diverse environments were desirable.⁸⁴ At first glance, these findings may seem problematic and counter-cultural to what we believe about Gen Z, but further exploration of the question reveals the potential "color evasiveness" in Gen Z's perceptions of race and diversity:

Living with other races "would be acceptable because I honestly do not understand what the fuss is about racism. The color of skin is just that—a color. It doesn't tell you what they feel inside, what their motivations are, or their goals in life. I don't care if my neighbors and coworkers were different, I don't care if I'm the only white person. As long as everyone can treat everyone with the same respect then I don't see a problem."—Lori, [age] 21.⁸⁵

"In this day and age, it seems silly to still be seeing in color with regards to dealing with humans. I'm white, but I don't care about color when it comes to my friends because it's idi-

77. *Id.*

78. See generally SEEMILLER & GRACE, *supra* note 21; see also TWENGE, *supra* note 29 (describing Gen Z's beliefs on racial equality and the importance of diversity).

79. SEEMILLER & GRACE, *supra* note 21, at 37-39.

80. See *id.* at 37-40.

81. *Id.* at 40.

82. *Id.* at 39.

83. TWENGE, *supra* note 29, at 244 (discussing data based on research conducted by Monitoring the Future, a research institution that gathered anonymous surveys from 1.4 million representative teens in grades 8-12).

84. *Id.*

85. *Id.* at 245-46.

otic and close minded to be trapped in an archaic mindset.”- Francie, [age] 20.⁸⁶

These responses seem more “on brand” for inclusive Gen Zers who value and accept the differences of others,⁸⁷ but generations are not monolithic.⁸⁸ Some Gen Zers do not value diversity, and may, in fact, believe that having friends and partners of another race is merely “acceptable” rather than “desirable”⁸⁹ for reasons beyond a refusal to acknowledge racial difference. In the same survey discussed above, about 25 percent of white eighteen- to twenty-four-year-olds agreed that it is okay to discriminate in housing,⁹⁰ and nearly 20 percent were opposed to living in majority-Black neighborhoods.⁹¹ In another survey of fourteen- to twenty-four-year-olds, 48 percent of white survey participants agreed that discrimination against white people has become as problematic as discrimination against racial minorities.⁹² These surveys suggest that while Gen Zers may be more diverse, they are not post-racial. Many of the “white kids” are still sitting together in the cafeteria, and students of color are still experiencing racialized incidents on and off campus.

Activism also cuts both ways for Gen Zers. Progressive Gen Z students involved in Black Lives Matter protests may be the leading story, but conservative activism among Gen Zers is more prevalent than one might expect.⁹³ For example, Conservative Hype House, a social media group that promotes itself as a forum for Gen Z conservatives,⁹⁴ has over 1.4 million followers on TikTok⁹⁵ who actively share their conservative political views and support of Donald Trump. A similar group, Republi-

86. *Id.* at 246.

87. SEEMILLER & GRACE, *supra* note 21, at 10.

88. *See supra* text accompanying note 60.

89. TWENGE, *supra* note 29, at 245.

90. *Id.* at 247.

91. *Id.*

92. *Id.* at 248-49.

93. *See* Kate Taylor, *Gen Z Is More Conservative Than People Realize—But the Instagram-Fluent Generation Will Revolutionize the Right*, BUS. INSIDER: THE STATE OF GEN Z, <https://www.businessinsider.com/gen-z-changes-political-divides-2019-7> [<https://perma.cc/KMS4-6NL3>] (last visited Aug. 20, 2020).

94. Marcel Milewski, *The Political Interview with Conservative Hype House*, POL. DROPOUT (June 15, 2020), <https://www.thepoliticaldropout.com/posts/the-political-interview-with-conservative-hype-house-tiktoks-most-influential-political-account> [<https://perma.cc/32AD-RT6X>].

95. EJ Dickson, *Right-Wing TikTok Influencers Still Support Trump, Despite His Call to Ban the App*, ROLLING STONE (Aug. 3, 2020, 4:39 PM), <https://www.rollingstone.com/culture/culture-news/trump-tiktok-ban-right-wing-influencers-conservative-hype-house-1038417/> [<https://perma.cc/P7ND-F725>].

can Hype House,⁹⁶ boasts over 700,000 TikTok followers, and considers itself to be “a movement of young conservatives” set on dispelling the common belief that most young people are liberal.⁹⁷

Perhaps these studies prove that Gen Zers are a generation full of contradictions. They value diversity, but only see it as “acceptable” in certain scenarios. And although many Gen Zers view the Black Lives Matter movement as one of the most important issues today,⁹⁸ some others are involved in social media groups that believe the Black Lives Matter movement is hypocritical.⁹⁹ This is not a contradiction, however. Gen Zers are advocates who are passionate about the causes *they* believe in, from left to right. For this generation, diversity means not only tolerating different cultures, but different beliefs and practices as well.¹⁰⁰

Culture is “any set of shared, signifying practices—practices by which meaning is produced, performed, contested, or transformed.”¹⁰¹ Gen Zers are relentless in achieving the culture work of creating inclusive environments where racial, social, and experiential diversity is welcomed and appreciated. This work will require law schools to strike a balance between Gen Z’s need for “safe spaces”¹⁰² that are respectful, open, and politically correct, with the freedom of speech these young activists have grown accustomed to on social media. Teaching tolerance and respectful disagreement, “for the culture,” is part of our work in supporting Gen Z’s diversity.

C. Gen Z Motivators and Anti-Motivators

In addition to understanding Gen Z’s social needs and expectations, legal education must also be attuned to what motivates these students to engage and excel in law school. The traditional model of legal education uses competition and recognition to incentivize high performance, including grading curves, public ceremonies to announce which students

96. *About Us*, REPUBLICAN HYPE HOUSE, <https://todayisamerica.com/pages/rhh> [<https://perma.cc/M22V-5HKV>] (last visited Aug. 20, 2020).

97. *Id.*

98. MORNING CONSULT, *supra* note 46.

99. Milewski, *supra* note 94.

100. SEEMILLER AND GRACE, *supra* note 21, at 111.

101. L. Danielle Tully, *The Cultural (Re)turn: The Case for Teaching Culturally Responsive Lawyering*, 16 STAN. J. C.R. & C.L. 201, 209 (2020) (quoting Naomi Mezey, *Law as Culture*, 13 YALE J. L. & HUMAN. 35, 35 (2001)).

102. See TWENGE, *supra* note 29, at 249-52.

“booked” or earned the top grade in their classes,¹⁰³ and selective organizations such as law review and moot court. Gen Zers, however, are largely unmotivated by competition with others or by public recognition.¹⁰⁴ Therefore, connecting with the Gen Z law student will require that we dig deeper.

1. Making a Difference for Others.

Along with Gen Z’s inclination toward activism and social change, they are also motivated by the desire make a difference for others.¹⁰⁵ Compared to Millennials, more Gen Zers believe that it is important to “help others in difficulty” and make a worthy contribution to society.¹⁰⁶ Despite the economic woes of their parents and predecessors, Gen Zers are less likely to take a job simply for the financial security, but would prefer to take jobs that help others and add value to society.¹⁰⁷

Work *and* study must be meaningful and valuable for Gen Zers, giving them the tools and opportunity to make a positive impact on the world.¹⁰⁸ Unlike Millennials who were willing to change their majors to get jobs¹⁰⁹ or switch industries to join work forces with more projected growth opportunities,¹¹⁰ Gen Zers are less willing to settle.¹¹¹ For Gen Z, it’s not just about a job, it’s about passion and making the world a better place.¹¹² And given their entrepreneurial nature,¹¹³ Gen Zers may start their own businesses to pursue these passions, rather than settle for the “secure” job without them.¹¹⁴

For colleges, this need to balance meaning and value for Gen Zers has led to fewer students majoring in general humanities like English, his-

103. See generally Susan Sturm & Lani Guinier, *The Law School Matrix: Reforming Legal Education in a Culture of Competition and Conformity*, 60 VAND. L. REV. 515 (2007) (discussing the traditional approach to legal education that relies on competition).

104. SEEMILLER & GRACE, *supra* note 21, at 16.

105. *Id.* at 15.

106. TWENGE, *supra* note 29, at 173.

107. *Id.*

108. SEEMILLER & GRACE, *supra* note 21, at 103.

109. *Id.* at 103–04.

110. *Id.* at 104.

111. *Id.* at 103.

112. *Id.*

113. Tim Carter, *Preparing Gen Z for the Teaching Profession* 27 SRATE J. Winter 2018, at 1, 2.

114. Gen Zers are fiscal conservatives and are debt adverse, based in part on seeing the effects of the Great Recession on family members. While this aversion to debt may prevent Gen Zers from opening their own businesses, they also see opportunities in owning and creating things for themselves. See TWENGE, *supra* note 29, at 166–67.

tory, or psychology,¹¹⁵ opting instead for health sciences, engineering, or computer science.¹¹⁶ A shift toward these subjects may appear to conflict with Gen Z's need to make a difference, but these "hard" skills provide tools and a clear career path for these fiscally conservative students who expect practice-readiness in exchange for their tuition dollars.¹¹⁷ Along those same lines, Gen Z law students may find it difficult to engage in law school subjects that appear disconnected from their desire to help others. Why care about the Rule Against Perpetuities, when you want to end mass incarceration and the school-to-prison-pipeline and see law school as merely a means to that end? If, however, we design our courses to connect the Rule—and other general law subjects—to social issues, we may be able to produce Gen Z students eager to take on Blackacre.

I do not suggest that we completely abandon traditional law school courses; Gen Zers will likely have to pass the bar exam like the rest of us, won't they?¹¹⁸ However, connecting traditional courses to social justice topics will help us connect with Gen Z students by allowing them the opportunity to experience those courses in action and in a meaningful way.

115. SELINGO, *supra* note 54, at 21.

116. *Id.*

117. *Id.* at 17–20.

118. Recently, the future of the bar exam has been questioned, reigniting calls to abolish it completely. Disastrous handling of bar exam administration during the pandemic led to the popular Twitter hashtags #Barpocalypse and #Abolishthebar. See Search of #Barpocalypse, TWITTER, https://twitter.com/search?q=%23barpocalypse&src=typed_query (last visited Aug. 13, 2020) and Search of #Abolishthebar, TWITTER, https://twitter.com/search?q=%23abolishthebar&src=typeahead_click (last visited December 11, 2020). Inequities embedded in bar exam testing were also exposed, including gender discrimination. See Stephanie Francis Ward, *Do Some States Really Prohibit Bringing Tampons and Pads to the Bar Exam?*, AM. BAR ASS'N J. (July 23, 2020, 12:47 PM), <https://www.abajournal.com/web/article/one-state-prohibits-bringing-tampons-and-pads-at-bar-exam-while-another-retreats-on-its-position> [<https://perma.cc/RET7-JF94>]; see also Kristin Pagano, *Nationwide Bar Exam Policies Force Breastfeeding Moms to Put Legal Careers on Hold. What Decade Are We Living in?*, ACLU (July 30, 2015, 11:45 PM), <https://www.aclu.org/blog/womens-rights/pregnancy-and-parenting-discrimination/nationwide-bar-exam-policies-force> [<https://perma.cc/PLQ4-BKK4>]. Examinees and licensed attorneys alike renewed the debate about the bar exam as a measure of lawyer competence, once again calling for its discontinuation. See Valerie Strauss, *Why This Pandemic Is a Good Time to Stop Forcing Prospective Lawyers to Take Bar Exams*, WASH. POST (July 13, 2020, 2:45 PM), <https://www.washingtonpost.com/education/2020/07/13/why-this-pandemic-is-good-time-stop-forcing-prospective-lawyers-take-bar-exams/>.

2. FOMO

The Fear of Missing Out, or “FOMO,” is an ever-present worry for Gen Zers.¹¹⁹ This fear is what tethers them to their cell phones, and why even during class, many students find it nearly impossible to unplug. Fearful of missing the next big announcement, Twitter trend, or a comment on their latest TikTok video, these students are always online.¹²⁰ And because time and space are fluid for Gen Zers¹²¹ due to their constant digital connection, they expect information¹²² and communication quickly.¹²³ When that information is delayed, say because a professor is sleeping and unable to respond to an email, or when a text does not get an immediate reply, anxiety ensues.¹²⁴ The need for social media interaction becomes both a blessing and a curse.

Gen Zers want to be in “the room where it happens,”¹²⁵ so to speak, and this means having information at their fingertips at all times.¹²⁶ For them, there is never a good time to unplug.¹²⁷ Gen Zers appreciate the flexibility their digital world provides.¹²⁸ Their experience with “adulthood” has not been on a traditional 8 a.m. to 5 p.m. schedule; their world is nonstop, as is their learning.¹²⁹ The pivot to online instruction this spring was disruptive and stressful, but it did create fluid learning spaces and may have inadvertently given Gen Z students—and their professors—ways to alleviate FOMO. For example, setting a schedule for when materials will be posted creates routine and may help to relieve the fear of missing an assignment or a post because students know when to expect it. Having dedicated Q & A forums on your Moodle or Canvas site where students can search for questions and responses at any time, as well as providing links to YouTube videos to provide around-the-clock learning, may be the way forward and away from FOMO for Gen Z students.

119. SEEMILLER & GRACE, *supra* note 21, at 29-30.

120. See TWENGE, *supra* note 29, at 51, 90.

121. *Id.*; SEEMILLER & GRACE, *supra* note 21, at 30.

122. SEEMILLER & GRACE, *supra* note 21, at 29-30.

123. See TWENGE, *supra* note 29, at 88-91.

124. *Id.* at 89.

125. See LESLIE ODOM JR., LIN-MANUEL MIRANDA, DAVEED DIGGS & OKIERIETE ONAODOWANA, *The Room Where It Happens*, on HAMILTON: AN AMERICAN MUSICAL (Atlantic Records 2015).

126. TWENGE, *supra* note 29, at 89.

127. SEEMILLER & GRACE, *supra* note 21, at 26-30.

128. *Id.* at 30.

129. *Id.*

3. Competition

Gen Zers are not motivated by things like competition with others, public recognition, or quid pro quo arrangements,¹³⁰ yet competition is at the heart of legal education.¹³¹ Law schools curve grades, restrict access to career-defining¹³² groups like law review to top-performing students, and only hire research or teaching assistants from among those top students. These practices were once viewed as necessary tools to help students prepare for the adversarial legal system.¹³³

The Langdellian¹³⁴ model of legal education, a methodology developed by Harvard law professor, Christopher Columbus Langdell in the late 19th century,¹³⁵ relies on scarcity and competition, and measures success in external metrics of achievement.¹³⁶ The public nature of law school, where all first-year students take the same classes, on the same schedule, and with the same professors, reinforces this culture of competition by pitting students against one another for the handful of A's awarded each term.¹³⁷ This model of legal education serves as the basis for classics like Scott Turow's *One L*¹³⁸ and *The Paper Chase*,¹³⁹ and it is why many students come to law school expecting to be "scared to death" their first year. Countless films about law school have followed *The Paper Chase*, including modern classics like *Legally Blonde*.¹⁴⁰ The protagonist

130. *Id.* at 16.

131. See generally Sturm & Guinier, *supra* note 103 (discussing competition in law school culture generally).

132. See BRANNON P. DENNING, MARCIA L. MCCORMICK & JEFFREY M. LIPSHAW, BECOMING A LAW PROFESSOR: A CANDIDATE'S GUIDE 1 (2010).

133. Sturm & Guinier, *supra* note 103, at 519-20.

134. See *id.* at 515-16, 520 (discussing the pedagogical legacy of Christopher Columbus Langdell, former Harvard Law Dean viewed by many as the architect of modern legal education); ROBERT STEVENS, LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S 35-73 (1983) (referring to Langdell's development of the case method of legal instruction during his term as a Professor and Dean of the Harvard Law School from 1870 to 1920); Catherine Ross Dunham, *Hidden Obstacles in the Mass Culture of American Legal Education: An Empirical Analysis*, 32 OKLA. CITY U. L. REV. 237, 256 (2007) (discussing student self-sabotage as a consequence of legal education's high-risk competitive culture).

135. Edward Rubin, *What's Wrong with Langdell's Method, and What to Do About It?*, 60 VAND. L. REV. 609, 612 (2019).

136. Sturm & Guinier, *supra* note 103, at 546-47.

137. *Id.* at 520-22.

138. SCOTT TUROW, ONE L: AN INSIDE ACCOUNT OF LIFE IN THE FIRST YEAR OF HARVARD LAW SCHOOL (1977).

139. THE PAPER CHASE (Twentieth Century Fox 1973).

140. LEGALLY BLONDE (Metro-Goldwyn-Mayer 2003). For the original novel, see AMANDA BROWN, LEGALLY BLONDE (2001).

may have changed over the years, but law school's competitive culture remains the same.

For Gen Z students who value making a difference for others,¹⁴¹ working in flexible,¹⁴² transparent¹⁴³ environments, and implementing inclusive practices,¹⁴⁴ this competitive culture may be difficult to navigate. The distrust, anxiety, and fear that it produces in many students, particularly students of color,¹⁴⁵ may lead to deep mental health challenges for Gen Zers who are already facing a mental health crisis.¹⁴⁶

Further, the scarcity model of legal education, where A's and accolades are limited to only a few top-performing students, will likely be counter-cultural for Gen Zers who have grown up largely in a sharing economy¹⁴⁷ where there is value in collective use of one's assets and tools. As a result, understanding the grading curve may be especially challenging for these students.

Like most other law students, Gen Zers *are* still competitive¹⁴⁸ and want to be taken seriously,¹⁴⁹ but that competitive quality may not be what will motivate them to succeed in law school. One of the consequences of relying on competition and scarcity to motivate law students is that many will internalize these ranking decisions based not on what they think is important, or what motivates them personally, but on what will give them a competitive edge in law school:

The consequence of making choices in this way means that many law students never actually focus on what they came to law school to learn, nor do they pay close attention to their development in their chosen fields. They squander the opportunity law school can provide to find ways of making life in the law meaningful. And they lose the most important aspect of law school—a renewed sense of purpose generated by passionate engagement with real problems, with the issues that

141. SEEMILLER & GRACE, *supra* note 21, at 15-16.

142. *Id.* at 30.

143. *Id.* at 193-94.

144. *Id.* at 196.

145. *See generally* Crichton, *supra* note 24.

146. *See* TWENGE, *supra* note 29, at 98-118.

147. *See* SEEMILLER & GRACE, *supra* note 21, at 30-32 (discussing how sharing programs like Uber and Airbnb, where value is earned based on an individual's willingness to share their personal assets, such as a vehicle or home, is a norm for Gen Zers).

148. *Friday Feature: The Three C's Generation Z Wants in the Workplace*, WORKFORCE INST. AT UKG (May 11, 2018), <https://workforceinstitute.org/generation-z/> [<https://perma.cc/ZEK5-NZQJ>].

149. *Id.*

brought them to law school in the first place, and with the act of intellectual discovery.¹⁵⁰

Though Gen Z students' motivation to succeed will likely remain connected to their need to make a difference for others and to change the world,¹⁵¹ some may succumb to the temptations described above. To keep Gen Zers focused on advocacy and social justice—the reasons many of them enrolled in law school in the first place—it will be important to reconsider the culture we have created around motivation and incentives.

II. “WE DON’T NEED TO REFORM THE SYSTEM . . . THE SYSTEM WAS NOT BUILT FOR US. WE NEED TO ABOLISH THE SYSTEM.”¹⁵²

Legal education is out of step with many of our entering law students, including Gen Zers who want to create and live in equitable environments and who are not afraid to engage in activism to achieve that end.¹⁵³ As Gen Zers challenge the oppressive roots of statues and monuments, how long before they demand our acknowledgement of the same roots at the heart of legal education, and demand reform?

We’ve recently had numerous occasions to see exactly what it looks like when young people—many of whom are Gen Zers or “cuspers”¹⁵⁴—challenge oppressive systems rooted in inequality. This summer, thousands of recent law graduates studied for the bar exam, only to discover at various times, sometimes just days before the test,¹⁵⁵ that their exams were

150. Sturm & Guinier, *supra* note 103, at 543; *see also id.* at 539–48 (discussing the implications of a competitive law school culture on law school reform efforts).

151. *See generally* Carter, *supra* note 113.

152. See photograph of a group of Elon Law students holding signs at a Black Lives Matter protest, in @ElonLaw, TWITTER (June 11, 2020, 2:51 PM), <https://twitter.com/ElonLaw/status/1271153140851789824?s=20>.

153. *See generally* SEEMILLER & GRACE, *supra* note 21; TWENGE, *supra* note 29.

154. LYNNE C. LANCASTER & DAVID STILLMAN, WHEN GENERATIONS COLLIDE 32 (2005). The authors define “cuspers” as those individuals born on the cusp between two generations who may share characteristics of both groups, while identifying fully with neither. *Id.* Xennials, whom I describe earlier in this Article are an example of a cusper group between Generation X and Millennials. It is worth noting here that many of the diploma privilege advocates discussed here are likely cuspers and may not be members of Generation Z, though some may identify as such.

155. Ben Giles, *States Delay or Cancel Bar Exams, Leave Many Graduates in Limbo*, NPR (July 23, 2020, 4:12 PM), <https://www.npr.org/2020/07/23/894794185/states-delay-or-cancel-bar-exams-leave-many-law-graduates-in-limbo> [<https://perma.cc/V25Z-TP2A>]; Alan Gassman, *Over 1,000 Young Lawyers Are Stranded As Florida Bar Exam Is Canceled On 72 Hours Notice*, FORBES (Aug. 17, 2020, 8:47 PM), <https://www.forbes.com/sites/alangassman/2020/08/17/over-1000-young-lawyers-are-stranded-as-florida-bar-exam-is-canceled/?sh=ac9ef9c2b420> [<https://perma.cc/HT8F-JF2Q>]; *Bar Exam Modifications*

cancelled or rescheduled due to COVID-19 concerns. This led many to advocate for diploma privilege¹⁵⁶ since traditional bar exam testing was unfeasible. The simple idea was that since graduates were unable to sit for the bar exam due to the pandemic, they should be granted either a provisional law license to practice temporarily and with some conditions,¹⁵⁷ or full “diploma privilege,”¹⁵⁸ to practice law indefinitely by virtue of having completed an ABA-approved law school program.

The licensure alternatives were proposed as an emergency measure to eliminate coronavirus spread and offset financial hardships for law graduates unable to apply for, or accept, attorney positions because they had not yet passed a bar exam.¹⁵⁹ Many states rejected diploma privilege in favor of holding in-person or online exams. In defense of their position, many state’s Bar Examiners argued that without the exam there would be no way to measure law student competence to practice law.¹⁶⁰

During COVID-19: 50 State Resources, JUSTIA, <https://www.justia.com/covid-19/50-state-covid-19-resources/bar-exam-modifications-during-covid-19-50-state-resources/> [<https://perma.cc/9HH5-4W54>] (last visited Nov. 24, 2020) (providing a list of the various modifications made to state bar exams and the dates of those changes).

156. Sarah M. Anderson, *An Open Letter Regarding the Oregon Bar Exam and Diploma Privilege*, JURIST (June 24, 2020, 7:25 PM), <https://www.jurist.org/commentary/2020/06/sarah-anderson-open-letter-diploma-privilege/> [<https://perma.cc/29XX-VCU6>].

157. The rules for provisional licensure vary from state to state. In some jurisdictions like Georgia, graduates can apply for a provisional law license to practice under an attorney’s supervision while they wait for safe administration of the bar exam. See Jonathan Ringel, *‘Diploma Privilege,’ Temporary Licenses Spice Up Bar Exam Prep This Summer*, LAW.COM (July 14, 2020 5:46 PM) <https://www.law.com/dailyreportonline/2020/07/14/diploma-privilege-temporary-licenses-spice-up-bar-exam-prep-this-summer/?slreturn=20201018175556> [<https://perma.cc/6YSN-MNAA>].

158. A growing number of states, including Louisiana, Utah, Washington, and Oregon have extended “diploma privilege,” which allows graduates to practice law indefinitely based on graduation from an ABA-accredited law school, among other requirements. See, e.g., Andrea Gallo, *Louisiana Supreme Court Grants ‘Diploma Privilege’ to Let Recent Grads Practice Without Bar Exam*, NEW ORLEANS ADVOC. (July 22, 2020, 11:00 AM), https://www.nola.com/news/courts/article_411d4088-cb94-11ea-88cd-c74f58da6f9f.html; Debra Cassens Weiss, *Many Would-be Lawyers Are Allowed to Practice Law Without Exam in Washington State*, AM. BAR ASSOC. J. (June 16, 2020, 12:04 PM), <https://www.abajournal.com/news/article/many-would-be-lawyers-allowed-to-practice-law-without-exam-in-washington-state> [<https://perma.cc/84D7-A8QZ>].

159. See Anderson, *supra* note 156.

160. See Carliss Chatman, *Guest Post: The Injustice of the Bar Exam*, CONTRACTSPROF BLOG (July 27, 2020), https://lawprofessors.typepad.com/contractsprof_blog/2020/07/guest-post-by-carliss-chatman-on-the-bar-exam.html [<https://perma.cc/BSB7-WH29>]; see also Marsha Griggs, *An Epic Fail*, 64 HOW. L. J. 1 (forthcoming 2020) <https://ssrn.com/abstract=3657379> [<https://perma.cc/7SPT-NZZB>] (offering critical analysis of bar licensure practices and failures during the pandemic).

However, in a single tweet,¹⁶¹ which was “liked” over 2,500 times and retweeted 1,100 times, a recent graduate challenged the entire exam, describing its racist, exclusionary history, and how it was created and used to exclude minorities and women from entering the profession. Danielle Craig, @danielle_craig, wrote:

Sharing why I am a #barexam abolitionist: the history of the bar exam is ugly. In 1875, the first Civil Rights Act passed. White people feared Black people would have more access to civic life, (even tho (sic) the Act failed) including becoming attys which at the time just needed apprenticeship/training. Enter the bar examination in 1885. The legal profession’s version of the voting literacy tests.¹⁶²

Ms. Craig may not be a member of Generation Z, she is a recent graduate frustrated by the callousness of Bar Examiners—a sentiment which is not limited to any generation—but opposing institutions rooted in oppression and prejudice is *very* Gen Z.¹⁶³

Some Gen Z law students took to advocacy work long before the bar exam; many before the first day of law school even began. This summer, 121 entering first-year law students at The University of Michigan wrote to senior members of the law school’s administration,¹⁶⁴ expressing disappointment at the lack of institutional response to incidents of violence and oppression in the Black community at large, and reported incidents of bias by the Black students on campus.¹⁶⁵ Writing under the hashtag #MLawLoud, these students included nine questions for the administration, ending with “we look forward to hearing your response.”¹⁶⁶

Gen Zers aren’t afraid to use their voices to challenge prejudice and racism. And increasingly, these students are placing similar demands on universities to speak up as well.¹⁶⁷ Reconstituting legal education by ex-

161. Danielle Craig (@danielle_craig), TWITTER (Jun. 27, 2020, 10:46 AM), https://twitter.com/danielle__craig/status/1276889746405384192.

162. Danielle Craig (@danielle_craig), TWITTER (Jun. 27, 2020, 10:46 AM), https://twitter.com/danielle__craig/status/1276889747118411777.

163. See generally MORNING CONSULT, *supra* note 45.

164. Annie Schuver (@AnnieSchuver), TWITTER (June 8, 2020, 11:12 AM), <https://twitter.com/AnnieSchuver/status/1270010943234289665>.

165. Letter from the Incoming Class of 2023, Univ. of Mich. Law Sch., to Admin. & Fac., Univ. of Mich. Law Sch., https://docs.google.com/document/d/1FjbfACMYjkOLBSuOD5c3HWSHvt_IuRduiGBbip2JAAQ/edit [https://perma.cc/3CNQ-G6W5] (last visited Nov. 8, 2020).

166. *Id.*

167. Dominic-Madori Davis, *supra* note 76.

amining its structure, practices, and overall effectiveness for *all* students, is good preparation for a Gen Z future.

A. Representation Matters: Enough is Enough¹⁶⁸

Another area where legal education continues to fail is in adequately representing women and minorities on law faculties and administrations. There have been positive trends in increasing the number of students of color in law school classrooms,¹⁶⁹ but those trends are not replicated in faculty hiring; most studies show law school professors are largely still white and male.¹⁷⁰ Gen Zers, however, are accustomed to seeing women and people of color in leadership, more so than any previous generation.¹⁷¹ This exposure to diversity has influenced their perception of who leaders should be and what they should look like.¹⁷²

During the 2008 election when the youngest Gen Zers were just entering their teens, two-thirds believed they really could be president if they wanted to.¹⁷³ With Barack Obama's election, the idea of achieving

168. Photograph of an unnamed protestor holding a sign that reads "enough is enough", https://img.buzzfeed.com/buzzfeed-static/static/2020-06/1/18/asset/0c37677fd423/sub-buzz-757-1591035731-12.jpg?downsize=600:*&output-format=auto&output-quality=auto (last visited August 13, 2020) [<https://perma.cc/2E8V-XNPF>].

169. AM. BAR ASS'N, *ABA Approved 1st Year JD and Minority Enrollment: Fall 2013* (2013), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2013_jd_enrollment_1yr_total_minority.xls [<https://perma.cc/4J3M-TP79>] (showing an increase from 20 percent minority enrollment in 2000 to approximately 27 percent minority enrollment in 2013). Further, the 2018 first year enrollment statistics show approximately 31 percent minority enrollment, see AM. BAR ASS'N, *ABA Law School Data: JD Total First Year Class Enrollment Data, Fall 2018* (2018), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2018-fall-fyclass-enrollment-gender-minority.xlsx [<https://perma.cc/6FBQ-GHMV>].

170. Meera E. Deo, *Looking Forward to Diversity in Legal Academia*, 29 BERKELEY J. GENDER L. & JUST. 352, 357 (2014), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2449850 [<https://perma.cc/WVW6-RTJW>]; AM. BAR ASS'N, *ABA Approved Law School Staff and Faculty Members, Gender And Ethnicity: Fall 2013* (2013) [hereinafter ABA Faculty Data 2013], https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2013_law_school_staff_gender_ethnicity.xlsx [<https://perma.cc/9GKM-B9V3>] (reporting faculty and staff gender and ethnicity statistics from 2013).

171. SEEMILLER & GRACE, *supra* note 21 at 37.

172. *Id.* at 39.

173. *Id.* at 39; Meagan M. Patterson, Erin Pahlke & Rebecca S. Bigler, *Witnesses to History: Children's Views of Race and the 2008 United States Presidential Election*, 13 ANALYSES OF SOC. ISSUES AND PUB. POL'Y 186 (2013). (The authors detail their research process: "We conducted interviews with 6- to 11-year-old children (70 boys, 60 girls; 29 African Americans, 58 European Americans, 43 Latinos) within 3 weeks prior to and after the

something that was once only available for white men became empowering.¹⁷⁴ Just one year after Barack Obama's historic election, in 2009,¹⁷⁵ the Association of American Law Schools (AALS) released a statistical report on law faculty revealing that nearly 72 percent of all law professors in the United States were white,¹⁷⁶ and approximately 62 percent of them were male.¹⁷⁷ Women of color accounted for only 7 percent of the population.¹⁷⁸

In 2013, the last year the American Bar Association (ABA) produced the gender and race/ethnicity report, the data showed an increase in the number of minority law professors, male and female, at 9.4 and 9.5 percent respectively,¹⁷⁹ but the number of white male and female professors had also increased.¹⁸⁰ Combined, white men and women accounted for roughly 80 percent of all American law professors and deans in 2013.¹⁸¹

This lack of representation among law school faculty presents challenges ordinarily, but when considered with Gen Z's demands for equity and diversity in their educational environments, magnifies these challenges.¹⁸² Gen Zers value teachers and see them as leaders and mentors.¹⁸³ Gen Z law students of color will likely be disappointed by the lack of available mentors who share their identity and culture in law school. Many students will turn to the few faculty members of color at their institutions for support, while others will gravitate toward white professors who are friendly and encouraging allies. In addition to the increased service re-

election. Interview questions concerned knowledge, preferences, and perceptions of others' attitudes concerning the election, views of the implications of the election for race relations, and personal aspirations to become president. Results indicated that children were highly knowledgeable about Obama's status as the first African American president. Most children felt positively about the presence of an African American candidate for president, although a few children showed clear racial prejudice. Overall, children expected others to show racial ingroup preferences but simultaneously endorsed the optimistic view that Obama's race was a slight asset in his bid for the presidency. Older children were somewhat more likely to view Obama's race as negatively impacting his chances of being elected than younger children. African American and Latino children were more interested in becoming president than European American children; aspiration rates did not change from pre- to post-election.").

174. See *id.* at 201-203.

175. Deo, *Looking Forward to Diversity*, *supra* note 170, at 356.

176. *Id.* at 357.

177. *Id.*

178. *Id.*

179. ABA Faculty Data 2013, *supra* note 170.

180. *Id.*

181. *Id.*

182. See TWENGE, *supra* note 29, at 3.

183. See SEEMILLER & GRACE, *supra* note 21, at 158.

sponsibility this mentoring and advising places on faculty members of color,¹⁸⁴ the overall lack of representation has other consequences.

Poor representation of minorities on law school faculties creates barriers for future lawyers *and* law professors. Professors of color play an important role supporting law students of color, and also in recruiting and retaining women and minorities in legal education;¹⁸⁵ the presence or absence of these strong role models has a direct impact on whether diverse law students consider teaching as a viable career option.¹⁸⁶ For many law students, their professors are the first lawyers they have ever met. Without role models and mentors of color to represent the various career options for future JDs, the opportunities for young lawyers of color may feel elusive and limited. To increase diversity in the legal profession, we must increase the overall representation of racial and ethnic groups in legal academia, and to do that, law teaching must be presented inclusively to *all* law students as a viable career choice with a clear path.

White students are more likely to have law professors who look like them in the classroom and are therefore also more likely to consider law teaching as an option post-graduation.¹⁸⁷ However, “[b]ecause most students of color see few professors who look like them, becoming a professor rarely seems like an attainable goal.”¹⁸⁸ “When law students consider who has the privilege of becoming a law professor, most think of their own professors, most of whom are white men.”¹⁸⁹ Therefore, the lack of diversity in legal education is a double barrier. One, law students of color have fewer faculty mentors who look like them or who share their identity to serve as mentors, decreasing the likelihood that they will see themselves becoming law professors in the future. Two, this homogeneity of faculty candidates leaves the field to be dominated by white men, either based on the use of unequal hiring practices or the perceived lack of available candidates of color.

B. *Perception Matters: Stereotype Threat in Gen Z Law Students*

“I internalized my academic struggles as indicative of something wrong not just with my behavior but with Black behavior as a whole,

184. MEERA E. DEO, UNEQUAL PROFESSION: RACE AND GENDER IN LEGAL ACADEMIA, 57-58 (2019) [hereinafter DEO, UNEQUAL PROFESSION].

185. Meera E. Deo, *Trajectory of a Law Professor*, 20 MICH. J. RACE & L. 441, 462 n.87 (2015) [hereinafter Deo, *Trajectory*].

186. *See id.*

187. *See id.* at 460.

188. DEO, UNEQUAL PROFESSION, *supra* note 184, at 20.

189. *Id.*

since I represented the race, both in their eyes—or what I thought I saw in their eyes—and in my own.”¹⁹⁰ – Ibram X. Kendi

Lack of representation on law school faculties has other negative consequences besides employment options post-graduation; when law schools lack a critical mass of professors from diverse backgrounds, it also impacts student performance. When students see themselves represented in their classrooms it reinforces their value in the educational environment and improves their perceptions of the curriculum and their overall classroom performance.¹⁹¹ When there is little or no meaningful representation, students of color may experience increased feelings of isolation and fear that their educational struggles or shortcomings confirm negative stereotypes about their identity and racial groups.¹⁹²

Gen Z students already suffer from insecurity, depression, and anxiety at alarming rates as a result of their constant social media usage.¹⁹³ These feelings of inadequacy and isolation can have potentially even more harmful consequences as additional psychosocial factors are introduced.

A 2016 anonymous study¹⁹⁴ of 1.4 million students between grades eight through twelve revealed that nearly 40 percent of teenagers agreed with the statement “I can’t do anything right,” a significant increase from previous years. This rate began climbing in 2011.¹⁹⁵ These findings correlate with The National Survey on Drug Use and Health,¹⁹⁶ an organization responsible for screening teenagers for clinical depression. It found that “56% more teens experienced a major depressive episode in 2015 than in 2010 . . . and 60% more experienced severe impairment.”¹⁹⁷ This

190. IBRAM X. KENDI, *HOW TO BE AN ANTI-RACIST* 99 (2019).

191. Tiffany D. Atkins, *Amplifying Diverse Voices: Strategies for Promoting Inclusion in the Law School Classroom*, 31 *SECOND DRAFT* 10, 12 (2018) (citing Gregory R. Weiher, *Minority Student Achievement: Passive Representation and Social Context in Schools*, 62 *J. OF POL.*, 886, 886 (2000)).

192. See Russell A. McClain, *Helping Students Reach Their Full Potential: The Insidious Consequences of Ignoring Stereotype Threat*, 17 *RUTGERS RACE & L. REV.* 1, 42 (2016); CLAUDE M. STEELE, *WHISTLING VIVALDI: AND OTHER CLUES TO HOW STEREOTYPES AFFECT US*, 146-47 (2010).

193. TWENGE, *supra* note 29, at 101, 107.

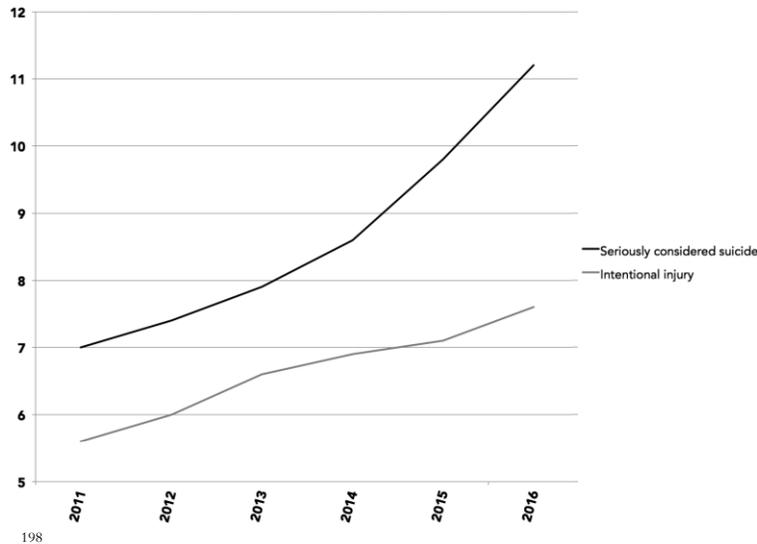
194. *Id.* at 100-01 (Fig. 5 depicting 8th, 10th, and 12th graders who agree with the statement “I can’t do anything right”).

195. *Id.* The data comes from national surveys of Monitoring the Future, a research institution gathering data anonymous surveys from representative teens in grades eight to twelve. The total number of survey participants was 1.4 million.) *Id.* at app. A.

196. The representative sample of this study comprised of 17,000 teens, ages twelve to seventeen. *Id.* at 108.

197. *Id.*

spike in depression also led to another troubling increase: the number of self-harm cases.



Between 2011 and 2016, 30 percent more college students reported intentionally harming themselves, leading to the popularity of the “#self-harmmm” hashtag on social media, used more than 2.4 million times in 2015.¹⁹⁹ The number of Gen Z college students who admitted to contemplating suicide rose 60 percent between 2011 and 2016.²⁰⁰

Social media has been blamed for this increase in mental health incidents among Gen Zers,²⁰¹ which is consistent with the rise of social media influencers (“SMIs”)²⁰² in between 2005–2015. SMIs are paid to advertise brands by posting photos and videos to social media platforms like Instagram and YouTube.²⁰³ Through these perfect pictures, viewers are

198. *Id.* at app. F (fig. F.10. showing the percentage of undergraduate college students who seriously considered suicide or who intentionally injured themselves in the last twelve months, from 2011 to 2016).

199. *Id.* at 109 (according to Twenge, the extra “m”s are meant to indicate pleasure).

200. *Id.* at 110.

201. *See id.* at 104, 112.

202. *See generally* Karen Freberg, Kristin Graham, Karen McGaughey & Laura A. Freberg, *Who Are the Social Media Influencers? A Study of Public Perceptions of Personality*, 37 PUB. REL. REV. 90, 90 (2011) (discussing the perception of social media influencers for marketing purposes).

203. *See* Myelle Lansat, *I Asked 3 Social-media Influencers What It Takes to Make Real Money on Instagram, and They All Pointed to the Same Trait*, BUS. INSIDER, (August 25, 2018 8:40 AM), <https://www.businessinsider.com/influencers-explain-how-to-make-money-on-instagram-be-patient-2018-8> [<https://perma.cc/3WSR-9FZ4>]; Paige Leskin, *These Are the 31 Most Popular YouTube Stars in the World, from PewDiePie to Ryan Kaji*,

influenced to purchase items to achieve the same results as their favorite influencers. In 2019, the SMI industry was worth \$8 billion, and it is expected to increase to \$22 billion in 2022.²⁰⁴ What does this increased emphasis on perfection mean for Gen Zers grappling with stereotype threat? Inadequacy. Comparison. Shame.

Gen Z students of color entering law schools without adequate minority representation on faculty or staff will suffer under the weight of stereotype threat.²⁰⁵ Stereotype threat is the pressure caused by fear of confirming negative stereotypes about one's ethnic or racial group,²⁰⁶ a psychological phenomenon common among ethnic minorities²⁰⁷ and women.²⁰⁸ Stereotype threat often leads to poor performance in activities or assessments which “prime” or trigger that stereotype.²⁰⁹ For example, when, prior to taking a quiz, women were primed with the stereotype that women perform worse on math than men, they scored lower than the control group who did not receive this message.²¹⁰ Stereotype threat can also impact other groups as well. When white, male golfers were told that their swing was being monitored to assess natural athleticism, the threatened group had a worse game than those who were not fed this information ahead of time.²¹¹ Essentially, a member of any group about which there are negative stereotypes can be stereotype threatened, and they may perform worse on activities or assessments where those stereotypes are tested or primed.²¹²

For Black students who were systematically excluded from attending white institutions prior to desegregation and affirmative action initiatives, the triggering activity leading to stereotype threat is simply existing in the overwhelmingly white space; the threatened stereotype: Black students aren't as smart as their white peers.²¹³ The activities which would “prime” these negative stereotypes are plentiful in law school: Socratic dialogue with professors, test performance, competing for a spot on law review or moot court, being selected as a teaching assistant, or winning a

BUS. INSIDER, (Feb. 7, 2020), <https://www.businessinsider.com/most-popular-youtubers-with-most-subscribers-2018-2> [<https://perma.cc/TLA8-8Y5W>].

204. Audrey Schomer, *Influencer Marketing: State of the Social Media Influencer Market in 2020*, BUS. INSIDER (Dec. 17, 2019 2:07 PM) <https://www.businessinsider.com/influencer-marketing-report> [<https://perma.cc/8NGR-MNXX>].

205. See STEELE, *supra* note 192, at 5.

206. See generally *id.*

207. See, e.g., McClain, *supra* note 192, at 13.

208. See, e.g., *id.* at 16.

209. See *id.* at 12-18.

210. *Id.* at 17.

211. STEELE, *supra* note 192, at 8-9. (explaining methods and results of the golf test).

212. See *id.*

213. See *id.* at 10-11; see e.g., McClain, *supra* note 192, at 13-14.

CALI award. Each of these activities may produce harmful narratives in the students about how they don't belong in law school, how "stupid" they sound when speaking in class, how much less they know about the law than their legacy classmates, and more. And if not mitigated through intentional efforts by faculty and administrators, these negative thoughts can become self-fulfilled through poor performance in law school and potentially on the bar exam.

For high-performing Gen Z students—which describes most law students based on the fact that they were accepted to law school in the first place—stereotype threat can be especially harmful.²¹⁴ High performing students of color will place greater expectations on themselves to perform well in law school based on their performance and achievement in undergrad and, as a result, may feel stereotype threat more acutely. The risk of confirming the stereotype that Black students aren't as smart as white students will feel stronger in an educational environment where this stereotype remains constantly primed. Just as a mathematically gifted woman in a STEM program at MIT might care more about confirming the "women aren't good at math" stereotype and suffer more as a result,²¹⁵ so too will high performing students of color in law school where every measure of achievement and success is based on exceptional intelligence. "The more important success in a particular field is to a person, the greater the consequences of not achieving success in that field."²¹⁶

Stereotype threat isn't a fleeting experience that only accompanies exams;²¹⁷ it affects all aspects of learning, including memory and cognition,²¹⁸ two very necessary components of a successful law student. The threat can follow a student throughout law school, the bar exam, and even into a future career, cloaking them with feelings of insecurity.²¹⁹ When a negative stereotype indicts your identity group in a setting that constantly primes that stereotype, it often signals to the student that they can't do the work or that they don't belong there.²²⁰ This harmful narrative of not belonging holds students back from taking academic challenges, ever-fearful of confirming the stereotype about their group.²²¹

When a threatened student sees a law professor who shares their same identity at the front of the classroom, who theoretically overcame similar obstacles, this can mitigate the effects of the threat and silence the

214. McClain, *supra* note 192, at 20.

215. *Id.* at 20.

216. *Id.*

217. *Id.*

218. *Id.* at 21-23.

219. *See id.*

220. *Id.* at 21

221. *Id.*

negative narrative, leading to better performance.²²² Unmitigated stereotype threat can lead to increased anxiety, memory problems, decreased performance confidence, decreased effort, and overall perceptions of bias.²²³

In *Helping Our Students Reach Their Full Potential*, Professor Russell McClain offers several strategies to ameliorate the harmful effects of stereotype threat, including talking openly with students about it, encouraging mindfulness, and maintaining high expectations in law courses.²²⁴ Two of Professor McClain's recommendations are especially relevant to this point on the lack of diversity in legal education as a threat to Gen Z law students: 1) presenting positive group examples, and 2) developing social belonging.

On presenting positive group examples, when students are provided with role models from their identity groups who have experienced similar challenges in their education, it can mitigate stereotype threat and improve classroom performance.²²⁵ When Black college students heard directly from other Black upper-classmen on their individual frustrations and struggles, they performed better on assessments than classmates who did not receive this direct encouragement.²²⁶ Role models, therefore, are essential for students of color in law schools. When law schools do not purposefully and intentionally adopt hiring practices that lead to more diverse faculties, students suffer, classrooms suffer, and law school culture suffers.

Hiring these role models also supports Professor McClain's second recommendation, which is to increase feelings of social belonging in threatened students by normalizing academic struggles in law school.²²⁷ By acknowledging setbacks,²²⁸ frustration, and failure as normal aspects of an educational journey, and reinforcing the fact that the presence of these

222. *See id.* at 25.

223. *Id.* at 21-22.

224. *Id.* at 24, 26.

225. *See generally* Atkins, *supra* note 191, at 12.

226. STEELE, *supra* note 192, at 165-66.

227. McClain, *supra* note 192, at 27.

228. Rosario Lozada, *Cultivate a Community in the Classroom: Lead with Values, Vulnerability, Gratitude*, 28 PERSPS. 5 (2020) (Professor Lozada offers four steps to help professors cultivate community in their classes. Her advice in step three: "share setbacks and sources of joy" would similarly have a positive impact on students suffering from stereotype threat, "similarly, by revealing a setback or short-term "failure,"—whether experienced in legal practice, in the academy, or in another setting—the professor expresses aspects of her core identity. By openly sharing setbacks and "failures" as steps in a professional path, the professor also signals to the new learning community that such experiences are familiar precursors to growth and learning, rather than defeat or shame.").

struggles does not mean one doesn't belong in law school, stereotype threat can be relieved.²²⁹

Given that Generation Z has more ethnic minorities in its composition than any generation in history, law schools' failure to provide support in the form of meaningful diversity on law school faculties results in the neglect of the emotional and social needs of these students. According to the American Bar Association, more than 11,800 minority students were admitted to law schools in 2019.²³⁰ Representing over 30 percent of all law school enrollment that year, this increased diversity in the student body is encouraging, but admitting minority students without providing programs and processes to retain them is both problematic and incomplete. "Increased admission of minority students, alone, would not sufficiently resolve issues of underrepresentation in the profession. In other words, not only was admission of blacks a significant issue, but so was retention."²³¹

Retaining and supporting Gen Z students, particularly our students of color, will require abandoning hiring metrics which prioritize elitism over inclusion, essentially robbing our students of the opportunity to have role models who share their struggles and identities. Creating an equitable law school culture for Gen Zers means focusing on how to retain and support our students after we've recruited them—by ensuring educational environments designed for them to thrive.

III. 'BE THE CHANGE'²³² YOU WANT TO SEE IN YOUR LAW SCHOOL CLASSROOMS: REIMAGINING LEGAL EDUCATION

*"[T]his is your country, that this is your world, that this is your body, and you must find some way to live within all of it . . . the question of how one should live within . . . a country lost in the Dream, is the question of my life, and the pursuit of this question, I have found, ultimately answers itself."*²³³ – TaNehisi Coates

229. McClain, *supra* note 192, at 5.

230. AM. BAR ASS'N, *ABA Law School Data: JD Total First Year Class Enrollment Data, Fall 2019* (2019), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2019-fall-fyclass-enrollment-gender-minority.xlsx [<https://perma.cc/2YYL-GKA4>].

231. McClain, *supra* note 192, at 5.

232. Photograph of an unnamed protesters with signs, https://www.wvxu.org/sites/wvxu/files/styles/placed_wide/public/202005/jessica_merck_0.jpg [<https://perma.cc/46SQ-UTUR>].

233. TA-NEHISI COATES, *BETWEEN THE WORLD AND ME*, 12 (2015).

Having spent considerable time discussing the challenges of legal education in the wake of Gen Z and the push for equity and inclusion in law schools, the rest of this article is future-focused, and will discuss recommendations for both curricular and institutional changes to meet Gen Z demands.

A. “‘Matter’ is the Minimum.”²³⁴
Supporting Gen Z Students of Color Equitably

In Ta-Nehisi Coates’s acclaimed memoir, *Between the World and Me*—containing powerful letters written to Coates’ then young son—the author explores topics of identity, culture, and race, and how to teach a young, Black boy survival in America.²³⁵ In one such chapter, Coates recalls the hopelessness and betrayal his son experienced when Michael Brown’s killers were acquitted. Coates, who did not share his son’s hope for accountability or responsibility, gave this lesson, writing: “this is your country, that this is your world, that this is your body, and you must find some way to live . . . within a [B]lack body, within a country lost in the Dream.”²³⁶ Like Coates’s son, so too, must our Black and minority students learn how to live and thrive in law schools where the Dream is the goal, but without any lasting, institutional action or accountability.

The Dream,²³⁷ as Coates explains, is the belief in equal opportunity, equal access, and that *anyone* can be anything in America, despite visible, tangible proof otherwise:

The Dream is treehouses and Cub Scouts. The Dream smells like peppermint but tastes like strawberry shortcake. And for so long I have wanted to escape into the Dream, to fold my country over my head like a blanket. But this has never been an option because the Dream rests on our backs, the bedding made from our bodies. And knowing this, knowing that the

234. Photograph of an unnamed protestor holding a sign that reads “Matter is the minimum: Black lives are worthy, Black lives are beloved, Black lives are needed,” <https://hips.hearstapps.com/hmg-prod.s3.amazonaws.com/images/university-of-south-carolina-quarterbacks-ryan-hilinski-news-photo-1594062466.jpg?crop=0.449xw:0.378xh;0.400xw,0.296xh&resize=980>;* [<https://perma.cc/MA82-5W7F>].

235. See generally COATES, *supra* note 233.

236. *Id.* at 11-12.

237. Ryan Cooper, Opinion, *Ta-Nehisi Coates is Right: The American Dream is a Lie*, THE WEEK (July 21, 2015), <https://theweek.com/articles/567203/tanehisi-coates-right-american-dream-lie> [<https://perma.cc/B28A-8UU9>] (Coates found many critics in his evaluation and assessment of the Dream. Many agreed that the American Dream was in fact a lie, while others criticized what they thought to be short-sightedness on the author’s part).

Dream persists by warring with the known world (emphasis added), I was sad . . . for my country, but above all, in that moment, I was sad for you.²³⁸

Legal education, too, is full of these Dreamers:²³⁹ administrators, professors, and even students who believe that law schools provide Black and ethnic minority students with *equal* opportunity and *equal* access to a law degree, despite clear evidence to the contrary. Students of color report feeling out of place²⁴⁰ in law schools and find little support on their faculties. Mishandled incidents of bias and racism in law school classrooms lead to “fight or flight” experiences for students of color left to navigate these incidents largely on their own.²⁴¹ So, too, Black faculty and administrators experience microaggressions in the classroom and in law school culture at disproportionate rates.²⁴² Black lives “mattering” is indeed the minimum; Black and minority lives must “matter” enough to implement structural changes toward equity in legal education.

This Article, like many more before it, has already explored some of the systemic causes of this inequity, including historical practices excluding Black students and other students of color from attending law school, hiring practices which have produced an overwhelmingly white legal academy, and perceptions of inferiority which threaten students of color and impact achievement and opportunity.

Equality seeks to provide an environment where every person begins at the same place on the starting line, regardless of unique support needs or circumstances which might require more attention to make the race fair.²⁴³ *Equity* acknowledges the privileges and experiences which have moved that starting line ahead or behind for some, and intentionally allocates resources—in potentially unequal ways—to provide an equitable race.²⁴⁴ Dreamers, by the sheer force of their desire for it to be so, cannot produce an equitable legal education without first addressing the inequities. Acknowledging the “blood at the roots”²⁴⁵ of legal education and the death of the “Dream” means going beyond diversity statements and

238. COATES, *supra* note 233, at 11.

239. Adherents of Coates’s Dream, not to be confused with DREAMers under DACA.

240. See generally, Erin C. Lain, *Racialized Interactions in the Law School Classroom: Pedagogical Approaches to Creating a Safe Learning Environment*, 67 J. LEGAL EDUC. 780 (2018) (discussing the harmfulness of racialized classroom incidents to students of color).

241. See *id.* at 783-86.

242. See DEO, UNEQUAL PROFESSION, *supra* note 184, at 60-78.

243. Valda Valbrun, *Equity v. Equality: Eliminating Opportunity Gaps in Education*, THE INCLUSION SOLUTION, (July 5, 2018), <http://www.theinclusionsolution.me/equity-vs-equality-eliminating-opportunity-gaps-education/> [https://perma.cc/TTK2-JUAC].

244. *Id.*

245. BILLIE HOLIDAY, STRANGE FRUIT (Commodore Records 1939).

providing true institutional support for our students of color. This is indeed the minimum; we can and should do more.

First, law schools need to create spaces where students of color feel a sense of belonging and safety, and second, institutional safeguards should be implemented to ensure inclusive, equitable outcomes are achieved.

B. Creating “Identity Safe” Institutions

*“Institutions with a core commitment to diversity are those that ‘incorporate the knowledge and perspectives of its diverse members to eliminate embedded bias and enhance organizational efficacy.’ Without a core commitment to diversity and inclusion, institutions will remain as white and male as ever.”*²⁴⁶—Meera Deo

In *Whistling Vivaldi*, Claude Steele identified a remedy to stereotype threat when he introduced the phrase, “identity safety.”²⁴⁷ In an identity safe environment, social cues are purposefully introduced to help neutralize other harmful, stereotyped cues. The more positive cues that are introduced about one’s identity group, the more likely they are to reduce the harmful effects of the negative ones.²⁴⁸ The negative cues may not be entirely removed, but the positive cues create an “identity safe” environment where threats are reduced and feelings of belonging improve.

Though legal education may never be completely rid of the negative cues for certain identity groups, we can introduce programs and practices to neutralize them. By revising law school standards around cultural competency and learning outcomes which support those skills, educating professors on inclusive classroom practices, and implementing equitable institutional and curricular practices to promote diversity and inclusion, identity safety can help us reimagine law school culture.

1. Revise Standard 302

ABA Standard 302 provides a path toward a more inclusive law school design and program—one where cultural competence, cultural sensibility, and cultural responsiveness²⁴⁹ are centered and included as part of the goals of legal education. But, while 302 holds promise as an instrument designed to move us closer to those goals, the standard does not

246. See DEO, *UNEQUAL PROFESSION*, *supra* note 184, at 25.

247. STEELE, *supra* note 192, at 147.

248. *Id.*

249. See generally Tully, *supra* note 101.

go far enough. It provides: “A law school shall establish learning outcomes that shall, at a minimum, include competency in the following: (d): Other professional skills needed for competent and ethical participation as a member of the legal profession.”²⁵⁰ In its interpretive guidance the ABA added: “For the purposes of Standard 302(d), other professional skills are determined by the law school and *may* include skills such as, interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and self-evaluation.”²⁵¹

The permissive “may” allows law schools to give as little or as much focus to cultural competence as they would like; this is a flaw in the standard. When given the opportunity to advance social justice, equity, and diversity, we have seen the glacial speed of legal education’s advancement. Without a governing body such as the ABA requiring this competency, many law schools will choose not to implement the standard in any meaningful way, leaving students unprepared for a culturally responsive law practice.²⁵²

The first proposal then is to revise Standard 302 to include cultural competence among the four foundational outcomes listed, signaling its importance to legal education and law practice generally. Divorcing cultural competence from the other core outcomes and making it an optional skill relegates it to an inferior status, when it is anything but inferior to Gen Z students. Revising the Standard may take a while—although we have recently seen just how quickly the ABA can act when they implemented several COVID-related rule revisions this spring²⁵³—but it is worth the effort to improve the experience of our Gen Z students. Convincing the ABA to revise the Standard is not the only way, however, to create identity safe institutions.

250. STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS (AM. BAR ASS’N 2019–2020) [hereinafter ABA STANDARDS], https://www.americanbar.org/groups/legal_education/resources/standards/ [https://perma.cc/7J9W-6UTM].

251. *Id.* at 14–15, 17.

252. Tully, *supra* note 101, at 233 (“Explicitly interweaving culture work throughout the curriculum and specifically embedding learning outcomes within each sphere—knowledge, skills, and values—will help to ensure that all graduates can demonstrate how social cognition, culture, and context impact law and can provide culturally sensible legal services once in practice.”)

253. *The ABA Coronavirus (COVID-19) Task Force*, AM. BAR ASS’N, <https://www.americanbar.org/advocacy/the-aba-task-force-on-legal-needs-arising-out-of-the-2020-pandem/> [https://perma.cc/5F82-WH36] (last visited Oct. 19, 2020).

2. Educate the Educators

Gen Zers value education,²⁵⁴ and include teachers and coaches on the list of people who have the greatest influence in their lives.²⁵⁵ Given this, educators have a responsibility to ensure that we are teaching our students how to “be the change” out of our own deep wells of knowledge, humility, and courage.

Faculty should be educated on how to respond to racialized classroom incidents to promote equity and inclusion, and to create identity safe environments for students of color.²⁵⁶ When incidents of racism and bias occur in the classroom and faculty fail to address them, it creates dissonance, distrust, and erodes any identity safety students of color may have developed.²⁵⁷ In fact, by avoiding or minimizing these incidents, it legitimizes the “otherness” students of color experience in law school, and leads to increased stress and anxiety²⁵⁸ for minority students unsure whether their professor’s silence is complicit racism or fear.²⁵⁹ It is also a missed educational opportunity to disrupt harmful stereotypes²⁶⁰ and to model cultural competence.

Gen Zers value transparency²⁶¹ and honesty,²⁶² as their culture is one of sharing, not silence. They will expect professors who are able to engage in conversations around bias and racism, honoring the Four Agreements of Courageous Conversations²⁶³ to stay engaged, expect to experience discomfort, speak truth, and accept a lack of closure.²⁶⁴

254. SEEMILLER & GRACE, *supra* note 21, at 98.

255. *Id.* at 156–60. Among this list of role models for Gen Z students are their parents, with whom many students report having a very close relationship, as well as fictional characters like Katniss Everdeen and Harry Potter, who display leadership, selflessness, and perseverance—all traits highly prized in leaders for Gen Z students.

256. *See generally*, Lain, *supra* note 240 (discussing the harmfulness of racialized classroom incidents and providing three pedagogical approaches to addressing them in class).

257. *Id.* at 790 (citing Penny A. Pasque et al., *Pedagogical Approaches to Student Racial Conflict in the Classroom*, 6 J. DIVERSITY HIGHER EDUC. 1, 6 (2013)).

258. *See* Crichton, *supra* note 24, at 288–89.

259. Lain, *supra* note 240, at 790 (quoting Penny Pasque: “A professor who is navigating a conversation about racial disparities within the criminal justice system and allows the conversation to continue after a student suggests disproportionately more black and brown people are incarcerated because those groups have a violent disposition risks having students attribute the bias or bigoted statements to the professor.”).

260. *Id.*

261. SEEMILLER & GRACE, *supra* note 21, at 193.

262. *Id.* at 166.

263. GLENN E. SINGLETON AND CURTIS LINTON, *COURAGEOUS CONVERSATIONS ABOUT RACE: A FIELD GUIDE FOR ACHIEVING EQUITY IN SCHOOLS*, 58–67 (1st ed. 2006).

264. *Id.* at 58.

In *Courageous Conversations About Race: A Field Guide for Achieving Equity in Schools*, authors Glenn Singleton and Curtis Linton describe the primary goals of *Courageous Conversations* as supporting educators in “deinstitutionalizing racism and improving student achievement.”²⁶⁵ These goals are achieved by helping educators reduce tension and engage in meaningful conversations about race and ethnicity with the mutual goal of sharing expertise and gaining knowledge.²⁶⁶

Following the shift to online instruction in spring 2020, many organizations turned to online platforms like WebEx and Zoom to provide this knowledge—to help faculty become more courageous and equitable professors.²⁶⁷ These sessions were on a range of topics, including how to navigate conversations about race in the classroom,²⁶⁸ developing anti-racist law school courses,²⁶⁹ and the history of police violence in Black communities.²⁷⁰ Virtual trainings have replaced larger conferences and have become weekly occurrences, drawing hundreds of professors around the country, all eager to become allies in this work. This is heartening, and a step in the right direction toward reimagining legal education and law school classrooms.

To reinforce the importance of this work within institutions, service obligations should be attached to this kind of programming. It is a service to law schools and to our students for professors to be trained on how to create “courageous” learning environments where issues of race, class, and the law are discussed openly and courageously. If faculty can rank the importance and priority of these programs based on where they fall on the annual review form, then progress will likely be stalled. If, however, raises and promotions were based in part on a faculty member’s participation in culture-building work, perhaps there would be more willingness to engage.

265. *Id.* at 16.

266. *Id.* at 18-19.

267. See, e.g., *Faculty Focus: Racism, Justice, and Your Fall Courses*, ASS’N OF AM. L. SCHS. (June 30, 2020), <https://www.aals.org/events/faculty-focus/past/> [<https://perma.cc/FG9J-SCYJ>].

268. E.g., *Leadership in Challenging Times Virtual Front Porch Web Series*, ASS’N OF LEGAL WRITING DIRS., <https://www.alwd.org/resources/leadership-in-challenging-times> [<https://perma.cc/5U74-RSHS>].

269. E.g., *SALT Virtual Series: Social Justice in Action*, SOC’Y OF AM. L. TCHRS., <https://www.saltlaw.org/salt-virtual-series-social-justice-in-action/> [<https://perma.cc/8FW9-7ZLT>].

270. See, e.g., UICJohnMarshall, *A Conversation w/ Prof. Teri McMurtry-Chubb” Bakari T. Sellers (CNN) | UIC John Marshall Law School*, YOUTUBE (Jun 8, 2020) <https://www.youtube.com/watch?v=vLLim5L1-Eg&list=PLXIQ7VTNroxpB9uNSxKNxJvcr5rfqS2-U>.

In addition to ongoing virtual trainings, basic education on bias and equity should be required. Diversity and bias trainings aren't new to higher education.²⁷¹ While some professors were eager to lean into these discussions and found them useful pedagogically,²⁷² others resisted what they perceived as undue control over their thoughts, behavior, and educational autonomy.²⁷³ However, without meaningful,²⁷⁴ ongoing training on topics such as disrupting implicit bias and courageous classroom conversations,²⁷⁵ some professors will continue to center their own discomfort²⁷⁶ over Gen Z students' need to engage in meaningful work, resulting in missed opportunities to model cultural responsiveness²⁷⁷ and competence.

Gen Zers expect their leaders to be vocal in support of causes that matter socially and personally and who are not afraid to make demands of their institutions regarding these expectations.²⁷⁸ Seventy-two percent of Gen Z college students polled said that they expect their universities to address systemic issues of racial injustice against Black Americans on campus.²⁷⁹ Fifty-nine percent said that if their university did not speak up on racial inequality, this silence would change their perception of the school.²⁸⁰

To show institutional support for diversity, equity, and inclusion, we must view investing in our educators as an investment in the well-being of our students, an important aspect in current conversation about

271. See Anastasia M. Boles, *The Culturally Proficient Law Professor: Beginning the Journey*, 48 N.M. L. REV. 145, 153 (2018).

272. See generally Keyona C. Booker, Lisa Merriweather & Gloria Campbell-Whatley, *The Effects of Diversity Trainings on Faculty and Students' Classroom Experiences*, 10 INT'L J. SCHOLARSHIP OF TEACHING AND LEARNING 1 (2016).

273. *Why Doesn't Diversity Training Work*, ANTHROPOLOGY NOW (Oct. 27, 2018), <http://anthronow.com/uncommon-sense/why-doesnt-diversity-training-work>.

274. Steve Kolowich, *Diversity Training Is in Demand. Does It Work?*, CHRON. OF HIGHER ED., (Nov. 20, 2015), <https://www.chronicle.com/article/diversity-training-is-in-demand-does-it-work/> [<https://perma.cc/KTY4-MYQY>] (describing the history and challenges of mandatory diversity trainings, including the criticism and belief that the relatively short length of the trainings, or the inconsistency of the sessions, caused trainings to not be taken seriously by attendees).

275. See SINGLETON & LINTON, *supra* note 263, at 39.

276. Lain, *supra* note 240, at 790-91 ("Particularly in the field of law, in which students need a significant amount of cultural competency to be successful in practice, the comfort level of the professor should not play a role. Doing so would be akin to a professor not covering the rule against perpetuities because she was uncomfortable with the topic, despite its being tested on the bar exam.").

277. Tully, *supra* note 101, at 234-35.

278. See generally MORNING CONSULT, *supra* note 45, at 16-17.

279. Dominic-Madori Davis, *supra* note 76.

280. *Id.*

law student wellness.²⁸¹ Legal writing professors, clinical professors, and professors of color have been writing, working, and engaging in conversations about institutional diversity for years,²⁸² without institutional support or recognition in many cases.²⁸³ To create a culture and educational environment where Black lives and students of color don't just "matter," but thrive, and where Gen Z students see racial equity in action, *all* faculty members must be trained in how to do the work, for the culture.

3. Recruit, Retain, and Support Faculty of Color

Institutional support for diversity, equity, and inclusion must also extend to hiring practices and the metrics used to evaluate a candidate's appeal to the institution. Gen Zers want value for their tuition dollars, and to graduate with skills that make them ready for the job market.²⁸⁴ Their shift toward more technical college majors, and away from the humanities²⁸⁵ supports this desire for hands-on training.²⁸⁶ To that end, law schools should consider hiring more practitioners to bring experiential, problem-solving skills to the classroom based on relevant practice experience. Where a candidate attended law school should not be a barrier.²⁸⁷ That the candidate did not clerk for SCOTUS or a judge on the federal bench should not be barrier; their experience, teaching aptitude, and ability to train law students to "promote justice, fairness, and morality,"²⁸⁸ should be the bar.²⁸⁹

281. Lain, *supra* note 240, at 781 (discussing the hostility experienced by minority students in law school classrooms and the importance of faculty responses to racialized classroom incidents to create psychosocial safety for students).

282. See Teri A. McMurtry-Chubb, *Writing at the Master's Table: Reflections on Theft, Criminality, and Otherness in the Legal Writing Profession*, 2 DREXEL L. REV. 41 (2009); Teri A. McMurtry-Chubb, *Still Writing at the Master's Table: DeColonizing Rhetoric in Legal Writing for a "Woke" Legal Academy*, 21 SCHOLAR 255 (2019).

283. See generally DEO, UNEQUAL PROFESSION, *supra* note 184, at 58–60 (discussing how women of color are more likely to have diversity and social justice conversations in the classroom, as compared with white men on faculties, and are more likely to be overburdened by service in supporting minority students to the detriment of institutionally-prized activities like scholarship or course preparation).

284. See SELINGO, *supra* note 54, at 17.

285. *Id.* at 21.

286. See generally Carter, *supra* note 113.

287. DENNING, MCCORMICK & LIPSHAW, *supra* note 132, at 24–25 ("Like it or not, the data says that the most important aspect of the Standard Model candidate is having received a J.D. from an Ivy League or Ivy League-equivalent law school.").

288. Tully, *supra* note 101, at 224 (citing the AM. BAR ASS'N SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, 138–207 (1992)) (emphasizing that law students must

Where candidates are recruited may also need to be reevaluated to promote institutional diversity. Most law schools still rely on the AALS hiring conference, dubbed the “meat market,” as a primary source of hiring.²⁹⁰ The conference in itself presents a barrier to many lawyers desiring to transition into legal education due to the costs of attending the conference, which can be hundreds of dollars, including registration, hotel, airfare, and clothing. The 2020 AALS hiring conference was cancelled due to the pandemic, but if virtual hiring conferences are conducted in the future, this may remove another economic barrier to diversifying the profession by making hiring events more accessible. Future hiring may be reduced with COVID-19; however, faculties can still commit to adopting hiring practices now to ensure equitable recruiting during the next hiring season.

Law schools should also provide more institutional support for their faculty of color, including adopting more equitable promotion and tenure practices²⁹¹ and classroom support. Due to the elite hiring metrics which have been applied to faculty candidates, more women²⁹² and women of color²⁹³ are in clinical, academic support, or legal writing positions rather than in tenure-track roles. These positions often come with less job security, lower salaries,²⁹⁴ and unequal status in the academy.²⁹⁵

possess more than just knowledge of the law, but also a duty to promote justice, fairness, and morality in their daily practice and to refrain from any type of discrimination).

289. DEO, UNEQUAL PROFESSION, *supra* note 184, at 162-65.

290. LawProfBlawg, *Welcome to the ‘Meat Market’ (AKA The AALS Faculty Recruitment Conference)*, ABOVE THE LAW (Oct. 6, 2015, 2:43PM), <https://abovethelaw.com/2015/10/welcome-to-the-meat-market-aka-the-aals-faculty-recruitment-conference/>.

291. DEO, UNEQUAL PROFESSION, *supra* note 184, at 164-65.

292. See generally Renee Allen, Alicia Jackson & DeShun Harris, *The “Pink Ghetto” Pipeline: Challenges and Opportunities for Women in Legal Education*, 96, U. DET. MERCY L. REV. 525 (2019) (discussing the overrepresentation of women in skills positions that are viewed by many as “women’s work”).

293. DEO, UNEQUAL PROFESSION, *supra* note 184, at 19-20 (quoting survey participant, “It seems like the easiest route to diversity often seems to be through the least secure positions within the institution”); see, e.g., Carmen Gonzalez, *Women of Color in Legal Education: Challenging the Presumption of Incompetence*, THE FED. LAW., July 2014, at 49, https://upcolorado.com/excerpts/PresumedIncompetent_FederalLawyer.pdf [<https://perma.cc/7ZMW-A3Y6>].

294. ASS’N OF LEGAL WRITING DIRS. & LEGAL WRITING INST., ALWD/LWI ANNUAL LEGAL WRITING SURVEY: REPORT OF THE 2017-2018 INSTITUTIONAL SURVEY 152 (2018) [hereinafter ALWD/LWI 2017-2018 Survey], <https://www.lwionline.org/sites/default/files/Final%20ALWD%20LWI%202017-18%20Institutional%20Survey%20Report.pdf> [<https://perma.cc/6P5M-E5NE>] (the annual voluntary survey conducted by the two major legal writing organizations containing salary, teaching load, and other comparisons between legal writing faculty and faculty in clinical or doctrinal positions).

295. DEO, UNEQUAL PROFESSION, *supra* note 184, at 19-20 (quoting survey participant, “it seems like the easiest route to diversity often seems to be through the least secure posi-

Through the advocacy of legal writing organizations, there has been significant improvement in the status of legal writing professors²⁹⁶ with many institutions creating pathways to tenure or other forms of position security,²⁹⁷ but the “pink ghetto”²⁹⁸ still exists.

Promoting inclusion in law hiring also means filling the academic pipeline with students from underrepresented groups.²⁹⁹ For many white men, recruitment into the academy begins in law school³⁰⁰ where they are encouraged and sponsored by a faculty member into opportunities that lead to success at the “meat market”.³⁰¹ To further promote inclusion, women, students of color, and students from other underrepresented backgrounds should also be recruited into law teaching,³⁰² and law schools should prioritize diversity of educational credentials³⁰³ by recruiting outside of the T14.³⁰⁴ To achieve this, deans and administrators at every law school should charge their career services officers to provide information on law teaching as a path for J.D.’s on their websites and in

tions within the institution”); see e.g., Carmen Gonzalez, *Women of Color in Legal Education: Challenging the Presumption of Incompetence*, FED. LAWYER, 48 (2014), https://upcolorado.com/excerpts/PresumedIncompetent_FederalLawyer.pdf [<https://perma.cc/HT6Z-9XCY>].

296. Annually, legal writing organizations release reports on the status of legal writing and clinical faculty members based on survey data. Compare ALWD/LWI 2017-2018 Survey, *supra* note 294, with ASS’N OF LEGAL WRITING DIRS. & LEGAL WRITING INST., ALWD/LWI 2000 SURVEY REPORT, <https://www.lwionline.org/sites/default/files/2010-Survey-Report.pdf> [<https://perma.cc/M53N-P2CK>]; see also *Equalizers and Salary Surveys*, SOC’Y OF AM. L. TCHS., <https://www.saltlaw.org/equalizers-and-salary-surveys/> [<https://perma.cc/PNU3-BB4K>] (last visited Oct. 18, 2020).

297. ALWD/LWI 2017-2018 Survey, *supra* note 294, at vi-vii (defining long-term teaching contracts that are often provided to legal writing faculty members as an alternative to tenure).

298. See Allen, Jackson & Harris, *supra* note 292.

299. DEO, UNEQUAL PROFESSION, *supra* note 184, at 164-65.

300. Deo, *Trajectory*, *supra* note 185, at 464.

301. The “meat market” is a common nickname for the annual two-day hiring conference hosted by the Association of American Law Schools in Washington, DC. See Paul Caron, *AALS ‘Meat Market’ (Faculty Recruitment Conference) Concludes Today*, TAXPROF BLOG (Oct. 5, 2019), https://taxprof.typepad.com/taxprof_blog/2019/10/aals-meat-market-faculty-recruitment-conference-concludes-today.html [<https://perma.cc/A85W-L7HR>].

302. DEO, UNEQUAL PROFESSION, *supra* note 184, at 160-62.

303. *Id.* at 18 (“The hiring process is often characterized by an emphasis on elite educational and professional credentials that have never been shown to relate to success in legal academia as well as overt discrimination in the hiring process itself.”).

304. The term “T14” refers to the top 14 law schools according to the U.S. News “Best Law Schools” report, which ranks law schools according to twelve quality measures including peer assessment, selectivity, bar passage, alumni support, and others. See *2021 Best Law Schools*, U.S. NEWS & WORLD REP., <https://www.usnews.com/best-graduate-schools/top-law-schools> (last visited Aug. 13, 2020).

career panels. If only the top law schools prepare their students for law teaching careers, then we replicate the elitist belief that only students at Harvard and Yale are qualified to be law professors.

Thinking outside the box regarding institutional diversity efforts might also include establishing scholarships to cover FAR³⁰⁵ fees for underrepresented graduates or developing law school fellowship programs for students interested in or recruited into legal teaching.³⁰⁶

C. Creating “Identity Safe” Classrooms

Once institutions have implemented large scale changes to create an institutional culture that values inclusion and diversity, we must look to our classrooms as the final linchpin in our reimagined program of legal education.

1. Adopting Common Learning Outcomes

Standard 302-2 provides interpretive guidance that “a law school *may* also identify any additional learning outcomes pertinent to its program of legal education” allowing law schools to go farther with reimagining curricula.³⁰⁷ This flexibility allows law schools to define cultural competence for themselves, weaving the curriculum around shared ideals about what cultural competence means in their institutions and for their students.

There are many definitions for cultural competence law schools may choose to adopt, including “a set of academic and personal skills that allow [individuals] to increase [their] understanding and appreciation of cultural differences between groups”³⁰⁸ and the ability to “recognize one’s own potential biases, embrace diversity, and successfully serve others . . . beyond racial and ethnic diversity to include differences in religion, gender, social values, and other characteristics.”³⁰⁹ Cultural competence reinforces for students and practitioners mutual respect for individual and cul-

305. Faculty Appointments Register (FAR) forms are applications submitted by all persons interested in obtaining faculty positions. See *FAR Information*, Ass’n of Am. L. Schs., <https://www.aals.org/services/recruitment/candidates/far-information/> [https://perma.cc/FM2U-R8BM] (last visited Nov. 24, 2020).

306. DEO, *UNEQUAL PROFESSION*, *supra* note 184, at 162.

307. ABA STANDARDS, *supra* note 250, at 18.

308. Ward & Miller, *supra* note 24, at 1.

309. Shamika Dalton & Clanitra Stewart Nejd, *Developing a Culturally Competent Legal Research Curriculum*, AALL SPECTRUM, March/April 2019, at 22, 23.

tural differences to promote trust and responsiveness³¹⁰ of legal counsel.³¹¹ Put simply, being culturally competent means having awareness of the differences between various identity groups and being able to recognize how these differences impact legal analysis and representation.

As law schools reimagine their curricula to incorporate cultural awareness and sensibility, turning to the individual course syllabus is a natural first step.³¹² Therefore, the second proposal is for law schools to develop common learning outcomes around cultural competence, defining and constituting its role in institutions and students.

The course syllabus is the first place students look for an idea of what to expect in a course. For many professors and students, the syllabus is viewed as a contract and agreement of what duties will be performed in a classroom.³¹³ To provide the positive social cues that create identity safe environments, each course syllabus should contain learning outcomes or goals describing what students will know, be able to do, or value around cultural competence, social justice, and the duty of professionalism³¹⁴ in the context of the course—every law school course. When cultural competence or social justice issues are only taught in skills courses, or in special topics like Race Law or Gender and the Law, it suggests the skill only applies to those topics, and not to law practice and legal education as a whole. When only untenured clinical or legal writing professors are teaching these skills, it can lead to comparison and confrontation; any statements or lessons which are uncomfortable or challenging leading to biased course evaluations, further endangering promotion prospects.³¹⁵

310. See Tully, *supra* note 101, at 201 (“cultural responsive lawyering acknowledges that culture and law exist in a mutually constitutive relationship and employs both transformative legal analysis and intercultural sensibility to meet the ethical requirements of competent lawyering.”).

311. See Ward & Miller, *supra* note 24.

312. Tavares, *supra* note 27, at 226.

313. Amber Comer, *The Syllabus as a Contract*, CHRON. OF HIGHER ED. (July 27, 2016), https://www.chronicle.com/article/the-syllabus-as-a-contract/?cid=gen_sign_in [<https://perma.cc/R9DM-SR4S>].

314. See MODEL RULES OF PRO. CONDUCT Preamble (AM. BAR ASS’N 1983) [hereinafter ABA MODEL RULES] (“As a public citizen, a lawyer should seek improvement of the law, access to the legal system, *the administration of justice* and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should *cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law* and work to strengthen legal education . . . A lawyer should be *mindful of deficiencies in the administration of justice* and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to *ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel.*”) (emphasis added).

315. DEO, UNEQUAL PROFESSION, *supra* note 184, at 77-78.

Every course should provide students with opportunities to explore bias—theirs and others’—in the context of their future duty of professional conduct to clients.³¹⁶ Every professor should be tasked with training students to understand cultural differences and address social justice issues as advocates and social engineers,³¹⁷ allowing them to see the law as a “vehicle for change,”³¹⁸ and themselves as driving forces. Avoiding lectures, topics, or teaching opportunities around culture, bias, or social justice is indeed a privilege, one that students of color do not have.

Black and other ethnic minorities are attending classes while members of their community are killed by police with “qualified” immunity, and while the government continues to detain children away from their families for years without legal recourse.³¹⁹ Staying silent while these injustices continue is privilege and does not show a commitment to diversity and inclusion under ABA Standard 206, for which the interpretive guidance reads:

In addition to providing full opportunities for the study of law and the entry into the legal profession by members of underrepresented groups, the enrollment of a diverse student body promotes cross-cultural understanding, helps break down racial, ethnic, and gender stereotypes, and enables students to better understand persons of different backgrounds.³²⁰

Common learning outcomes should be general enough that they can be adopted in various courses, but identifiably connected with cultural competence and social justice. Since the ABA does not include sample or example outcomes in its literature, it will be the work of individual law faculties to research and develop outcomes as part of curriculum mapping and assessment projects. The Association of American Colleges & Universities (AAUP) publishes global learning outcomes in its online

316. ABA MODEL RULES, *supra* note 314.

317. Angela J. Scott, *Human Rights Hero: African American Social Engineer*, AM. BAR ASS’N (Jan. 6, 2020), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/black-to-the-future-part-ii/human-rights-hero—the-african-american-social-engineer/ [https://perma.cc/ZN9K-R2XK].

318. Crichton, *supra* note 24, at 288.

319. See generally *The Breonna Taylor Case and Questions About Qualified Immunity*, EQUAL JUST. INITIATIVE (Aug. 17, 2020), <https://eji.org/news/the-breonna-taylor-case-and-questions-about-qualified-immunity/> [https://perma.cc/UW6S-WCHD] (discussing Breonna Taylor’s shooting and the need for reform); Liz Vinson, *Family Separation Policy Continues Two Years After Trump Administration Claim It Ended*, S. POVERTY L. CTR. (June 18, 2020), <https://www.splcenter.org/news/2020/06/18/family-separation-policy-continues-two-years-after-trump-administration-claims-it-ended> [https://perma.cc/8R2S-BG4V] (discussing the current state of Hispanic children detained at the southern border).

320. ABA STANDARDS, Standard 206, at 14–15.

toolkit to help guide programs adopt similar programmatic language.³²¹ Examples include:

1. Become informed, open-minded, and responsible people who are attentive to diversity across the spectrum of differences.
2. Seek to understand how their actions affect both local and global communities.
3. Address the world's most pressing and enduring issues collaboratively and equitably.³²²

Revising these outcomes to suit legal education, they might read:

By the end of this course students will:

1. Understand their role as informed, open-minded, and responsible legal advocates who are attentive to diversity and cultural differences across communities and identity groups.
2. Deepen their understanding of power, perception, and privilege in [subject matter or course name] and how it impacts the law.
3. Recognize how cultural bias impacts the law and how the law impacts cultural bias.

Use of common learning outcomes like those provided by the AAUP is fairly standard in higher education,³²³ with colleges and universities engaging in outcomes assessment to ensure student learning.³²⁴ Opponents of the practice, however, argue that requiring faculty to adopt common outcomes imposes on academic freedom,³²⁵ and stifles teach-

321. *Global Learning Outcomes*, ASS'N AM. COLLS. & UNIVS., <https://www.aacu.org/global-learning/outcomes> [<https://perma.cc/2TK4-N6CL>] (last visited November 20, 2020).

322. *Id.*

323. See generally TIMOTHY REESE CAIN, ASSESSMENT AND ACADEMIC FREEDOM: IN CONCERT, NOT CONFLICT, NAT'L INST. FOR LEARNING OUTCOMES ASSESSMENT 22 (Nov. 2014), <https://www.learningoutcomesassessment.org/documents/OP2211-17-14.pdf> [<https://perma.cc/U76N-GUB6>] (discussing challenges and benefits of outcomes assessment).

324. *Id.* at 4.

325. *Id.* ("Related to but distinct from these issues are more fundamental concerns over the rights and roles of faculty in the contemporary college and university. Faculty, who have historically claimed significant influence and even control over the college curriculum and its enactment, have expressed concern over the potential for and reality of assessment's infringement on academic freedom. They have worried that external mandates drive an assessment agenda that relocates academic authority and affects their abilities to control their work.").

ing.³²⁶ Law faculties, too, share the belief that what they teach should be a private matter of academic freedom,³²⁷ and may balk at the idea of engaging in collaborative outcomes work. However, the ABA recognizes the need for law schools to focus on student learning outcomes “as a catalyst for law schools to be intentional in curriculum development.”³²⁸ To embed accountability and ensure the effectiveness of a reimagined law school curricula, common outcomes should be adopted to provide faculty with proper tools to assess student learning and achievement.

2. Focus on Experiential Learning

Gen Zers value execution over strategizing or planning³²⁹ and will excel in classroom environments where hands-on learning is built into the course.³³⁰ Allowing students to engage with the law in a hands-on, practical way also allows them to make sense of the content through trial and error.³³¹ Gen Z students expect courses and educational programs that prepare them for real-world problem solving and will thrive in courses where this skill is emphasized.³³²

Experiential learning is a hands-on teaching philosophy where educators “engage their students with direct experience and purposeful reflection to increase knowledge, skills, or values.”³³³ In legal education, experiential learning may include simulated client exercises, class-wide service organization partnerships, clinics, or other activities allowing law students to learn and apply legal skills for a client.³³⁴ For Generation Z,

326. See e.g., John W. Powell, *Outcomes Assessment: Conceptual and Other Problems*, 2 AAUP J. ACAD. FREEDOM 1, 1-2 (2011) (“In addition to displacing teaching and learning, outcomes assessment divides the faculty, contributes to a misrepresentation of higher education as more narrow and simple than it in fact is, encroaches on faculty decision making and the ability of professors to claim curriculum and the means of its delivery as the purview of faculty members, and distracts us from more important and more urgent needs for action to improve education.”).

327. Debra Moss Curtis & David M. Moss, *Curriculum Mapping: Bringing Evidence-Based Frameworks to Legal Education*, 34 NOVA L. REV. 6, 487 (2015).

328. AM. BAR ASS'N, MANAGING DIRECTOR'S GUIDANCE MEMO: STANDARDS 301, 302, 314, AND 315, 3 (JUNE 2015), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governancedocuments/2015_learning_outcomes_guidance.pdf [<https://perma.cc/4Z4N-JV3Q>].

329. SEEMILLER & GRACE, *supra* note 21, at 164.

330. Carter, *supra* note 113, at 4-6.

331. *Id.* at 175.

332. *Id.*

333. *What Is Experiential Education?*, ASS'N FOR EXPERIENTIAL EDUC., <https://www.aee.org/what-is-ee> [<https://perma.cc/RFB9-6SFQ>] (last visited Oct. 15, 2020).

334. See generally Nantiya Ruan, *Student Esquire?: The Practice of Law in the Collaborative Classroom*, 20 CLINICAL L. REV. 429, 445-46 (2014).

this hands-on approach to teaching and learning is likely to be beneficial because Gen Zers take a pragmatic approach to problem-solving, have a self-reliant attitude, and desire to work independently to accomplish goals and objectives.³³⁵ Further, they are motivated by making a difference for others, and in being involved with “transformational rather than simply transactional activities in which roots of problems rather than solely the symptoms are addressed.”³³⁶ Such a perspective lends itself to problem-solving and project-based learning approaches. In addition, these characteristics would seem to particularly value these learning approaches when paired with real-life issues instead of projects designed for learning decontextualized information or skills.³³⁷

Given these social needs and desires, law school curricula will need to incorporate more experiential opportunities through the program of legal education. Such clinical, hands-on experiences can be integrated well into the 1L curriculum through partnerships with legal writing and legal aid organizations or other agencies in need of additional legal support.³³⁸ Through these partnerships, students may feel more invested in the research and writing, but also in their learning of the substantive law to do well, graduate, and begin practicing themselves. To support Gen Z students, law schools must ensure that these clinical programs provide opportunities to engage in advocacy on social justice issues and important cultural topics.

In addition to clinical opportunities, experiential learning can also be implemented in the curriculum through more “writing across the curriculum”³³⁹ activities designed to integrate practical writing in all law school courses and not just legal writing classrooms. Attaching motion drafting exercises in Criminal Law or Criminal Procedure, or acquisition contracts in Business Associations, or other practical exercises for “clients” connects with Gen Z’s need to make a difference and adds additional critical writing practice to the curriculum.

Many Gen Zers are financially conservative³⁴⁰ and may be reluctant to obtain advanced degrees due to the overall cost of higher education

335. Carter, *supra* note 113, at 5.

336. *Id.*

337. *Id.*

338. See Mary Nicol Bowman & Lisa Brodoff, *Cracking Student Silos: Linking Legal Writing and Clinical Learning Through Transference*, 25 CLINICAL L. REV. 269, 305 (2019).

339. See generally Graham, *supra* note 49, at 76.

340. See SEEMILLER & GRACE, *supra* note 21, at 41-42 (“[m]ore than 80 percent of Generation Z students are concerned about the cost of higher education”); *id.* at 106 (“[m]ore than three-quarters of these young people, even as new, traditional-aged college student, are already concerned about their financial security. Many have a fear that they will not be able to afford college now . . .”).

and their fear of financial insecurity;³⁴¹ if Gen Zers attend law school they will expect their courses to provide useful and practical skills for their eventual careers as lawyers, not just information. “These students are drawn to learning that will fill their toolbox with applicable knowledge *and* skills for their workforce . . . to prepare for life beyond graduation.”³⁴²

After the Great Recession, many law schools scaled back on clinical programs,³⁴³ but clinical education often provides more experiential learning opportunities than “podium” classes. Including these opportunities in the first-year curriculum, and throughout law school, will be a critical part of the reimagining of legal education considering Gen Z students. These programs may be traditional direct service clinics, or more advanced advocacy clinics where students work on policy reform and projects with more opportunities for impact work. Connecting Gen Zers with meaningful work as law students will create powerful, effective advocates and future lawyers who are trained and ready to take on social justice issues upon graduating.

This social justice integration will produce highly motivated Gen Z students who will want to work toward solving systemic issues in transformative ways. Public interest partnerships,³⁴⁴ clinics, and collaborative projects incorporated into the 1L curriculum can be powerful advocacy opportunities for students to engage in the kind of work that drew them to law school in the first place.

In *Just Mercy*, Bryan Stevenson recalls his disillusionment with law school until an experiential advocacy opportunity changed the trajectory of his career, and ultimately his life, as his experiences lead him to become a strong death penalty opponent.

Law school had seemed abstract and disconnected before, but after meeting the desperate and imprisoned, it all became relevant and critically important . . . Developing the skills to quantify and deconstruct the discrimination and inequality I saw became urgent and meaningful.³⁴⁵

341. *See id.* at 106.

342. *Id.* at 176 (emphasis added).

343. *See* Peter A. Joy, *Challenges to Legal Education, Clinical Legal Education, and Clinical Scholarship*, 26 *CLINICAL L. REV.* 237, 257 (2019) (discussing challenges to clinical education following the Great Recession including budget cuts).

344. *See* Nantiya Ruan, *Experiential Learning in the First-Year Curriculum: The Public Interest Partnership*, 8 *J. ALWD* 191, 193 (2011).

345. BRYAN STEVENSON, *JUST MERCY: A STORY OF JUSTICE AND REDEMPTION* 12-13 (2014).

Getting proximate to the issues and individuals at the core of Bryan Stevenson's motivation to attend law school made his studies feel tangible and important, connected to a real person and not just theory. We should commit ourselves and our classrooms to creating similar opportunities for Gen Z law students to make the same, life-altering connections.

3. Curriculum Mapping as an Accountability Tool

Once law schools have done the hard work of reimagining the traditional law school curriculum to include more experiential learning, cultural competence, and social justice, accountability measures must be added to ensure the effectiveness and cohesiveness of these programs. Curriculum mapping is a well-used and known practice in colleges and universities but is rarely utilized in law schools.³⁴⁶ Traditional curriculum mapping is an organizational design process intended to give educators a big-picture understanding and view of their educational curricula and program.³⁴⁷ Through the process of collecting and analyzing data provided by faculty and students, participants can identify gaps, redundancies, and inconsistencies in their program and remediate.³⁴⁸

In *Curriculum Mapping: Bringing Evidence-Based Frameworks to Legal Education*,³⁴⁹ Professors Debra Moss Curtis and David Moss define curriculum mapping as “a coordinated effort conducted by faculty members to better understand the scope and sequence of their curriculum with the explicit outcome of engaging in a coordinated and evidence-based reform process.”³⁵⁰ The result is a working document illustrating what is being taught and learned across an educational program, or even within an individual course.

Contemporary curriculum mapping projects are designed to assess what students *experience* in an educational program, as opposed to what they are *taught*, which can vary from course to course.³⁵¹ Under this model, the goal is to develop common learning outcomes to normalize student experiences aligned with those outcomes.³⁵² Educators often begin curriculum mapping projects with several goals in mind, including helping faculty understand how individual courses connect to broader pro-

346. Curtis & Moss, *supra* note 327, at 486.

347. See HEIDI HAYES JACOBS, MAPPING THE BIG PICTURE: INTEGRATING CURRICULUM & ASSESSMENT K-12 (1997).

348. See *id.* at 3-4.

349. Curtis & Moss, *supra* note 327.

350. *Id.* at 474.

351. *Id.* at 476.

352. *Id.*

grammatic goals and increasing faculty collegiality and communication.³⁵³ Contemporary curriculum mapping also allows faculty to understand what they are actually teaching students based on real data, informing which new courses and experiences are created and which redundancies are eliminated to achieve the common learning outcomes developed by faculty.

The seven-step³⁵⁴ process of mapping includes: (1) collecting surveys and questionnaires from students; (2) reviewing all faculty curricula for basic comprehension of what is being taught and shared with students; (3) reviewing the data cross-sectionally with small groups of faculty who teach different courses; (4) reviewing the data in a large group of all faculty members; (5) conducting brainstorming sessions based on the data produced; (6) proposing curricular changes; and (7) committing to ongoing curricular review for accountability.

As we reimagine legal education and how to implement new standards for cultural competence and responsiveness, curriculum mapping is the ideal tool to ensure these competencies are achieved across the law school curriculum.³⁵⁵ In addition to the six phases described above, faculties should also begin their mapping project by imagining what their ideal law graduate is like, writing out what qualities, traits, and competencies they possess. We all want our students to be critical thinkers, skilled writers, and powerful advocates, but beyond these normal requisites for practicing lawyers, what else? Are they compassionate, empathic, culturally sensible, and responsive? Are they aware of, and responsive to, biases in the analysis and application of the law, and well-prepared to address them in their representation of the client?

Once these qualities are identified, professors should align them with specific experiences their students will have to develop these skills. They may include clinics and other advocacy partnerships in the first-year program; social justice discussions in core law school classes allowing students to analyze the law in its social context; and internships with attor-

353. ANN JOHNSON, CRISTA CARLILE, JOHN CHECKLEY & REBECCA BAKER, GETTING RESULTS WITH CURRICULUM MAPPING: A FACILITATOR'S GUIDE 3 (2006), <http://www.ascd.org/ASCD/pdf/siteASCD/video/GettingResultsCurriculumMapping.pdf> [<https://perma.cc/UL24-V8WH>].

354. JACOBS, *supra* note 347, at 8-16 (detailing the seven-step mapping process).

355. Curtis & Moss, *supra* note 327, at 474-75 ("Curriculum mapping is a coordinated effort conducted by faculty members to better understand the scope and sequence of their own curriculum with the explicit outcome of engaging in a coordinated and evidence-based reform process. It is a process by which education professionals 'document their own curriculum, then share and examine each other's curriculums for gaps, overlaps, redundancies and new learning, creating a coherent, consistent curriculum within and across schools that is ultimately aligned to standards and responsive to student data and other . . . initiatives.'").

neys to gain practical knowledge. Mapping the curriculum to ensure connections between what Gen Zers are learning and what they are passionate about will prevent the disillusionment Stevenson experienced in law school, reminding them of importance of their work for the culture: “[p]roximity to the condemned and incarcerated made the question of each person’s humanity more urgent and meaningful, including my own.”³⁵⁶

CONCLUSION

*“[M]y friends and I might still be 11 and [we might] still be in elementary school, but we know. We know life isn’t equal for everyone and we know what is right and wrong. We also know that we stand in the shadow of the capitol and we know that we have seven short years until we too have the right to vote.”*³⁵⁷ – Naomi Wadler, March For Our Lives, 2018

Naomi Wadler is now thirteen years old.³⁵⁸ She will be able to vote in five years and may enroll in law school in another nine. As the youngest, and one of the most memorable speakers at the March For Our Lives rally in 2018, this Gen Zer wowed listeners with her fiery indictment of Washington politicians and with her youthful advocacy.

Emma Gonzalez is twenty years old now and was eligible to vote in her first presidential election in November 2020. Emma continues to be a fierce advocate for gun control³⁵⁹ and promotes youth activism through her organization, March for Our Lives. David Hogg and Jaclyn Corin are both attending college at Harvard University,³⁶⁰ while continuing their

356. STEVENSON, *supra* note 345, at 12.

357. Dave Quinn, *11-Year-Old Naomi Wadler Honors Black Female Victims of Gun Violence at March for Our Lives*, PEOPLE (Mar. 24, 2018, 3:05 PM), <https://people.com/politics/11-year-old-naomi-wadler-11-year-old-naomi-wadler-honors-black-female-victims-of-gun-violence-at-march-for-our-lives-rousing-speech-at-march-for-our-lives-for-black-victims-of-gun-violence/> [<https://perma.cc/ED9U-8U27>].

358. Naomi Wilder (@NaomiWadler), TWITTER, https://twitter.com/NaomiWadler?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor.

359. On August 19, 2020, Emma Gonzalez was featured and provided the voice-over for a gun control ad that premiered at the Democratic National Convention. Press Release, Democratic Nat’l Convention, *A New Generation Rises Up to Say “Enough” to Gun Violence* (Aug. 19, 2020), <https://www.demconvention.com/press-releases/a-new-generation-rises-up-to-say-enough-to-gun-violence/> [<https://perma.cc/7WA5-SVDU>].

360. David Hogg (@davidhogg111), TWITTER (Dec. 22, 2018, 8:16 AM), <https://twitter.com/davidhogg111/status/1076466561630785537>; Jaclyn Corin (@JaclynCorin), TWITTER (Dec. 13, 2018, 7:30 PM), <https://twitter.com/JaclynCorin/status/1073374537004273667>.

advocacy work with student-led gun reform groups, Never Again MSD and March for Our Lives.

Tiana Day, 17; Zee Thomas, 15; Shayla Turner, 18; Brianna Chandler, 19; these young Black women are among the numerous young people leading Black Lives Matter protests using social media and their diverse social circles to draw thousands to protests and rallies.³⁶¹ For these young people, just like Emma, Naomi, David, and Jaclyn, advocacy *is* their culture and social justice is their cause. If the ongoing protests this summer have shown us anything, it is that Gen Zers are not willing to wait for it³⁶² forever. In anticipation of more “relentless” law students entering our classrooms, law schools must become the training grounds where we teach and inspire the next generation of legal advocates, equipping them with tools to make a difference in society for the causes that matter most.

The social justice movements we’ve been witnessing have provided the momentum to move us forward toward a more inclusive, equitable culture in legal education. A culture where minorities and students of color thrive, and where advocacy work takes center stage in our curriculum. Gen Zers are passionate, focused on making a difference for others, and are unafraid to stand up for what they believe in, driven by a deep desire for transformational change.

We should commit to standing with them in transforming legal education, and we should do it all “FOR THE CULTURE.”

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361. Jessica Bennett, *These Teen Girls Are Fighting for a More Just Future*, N.Y. TIMES (July 3, 2020), <https://www.nytimes.com/2020/06/26/style/teen-girls-black-lives-matter-activism.html>.

362. LESLIE ODOM JR., *WAIT FOR IT*, *on* HAMILTON: AN AMERICAN MUSICAL (Atlantic Records 2015).