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Loyola Law Review
Winter 2008

Articles

***775 GENERATIONS X AND Y IN LAW SCHOOL: PRACTICAL STRATEGIES FOR TEACHING THE
“MTV/GOOGLE” GENERATION**Joan Catherine Bohl [\[FNa1\]](#)

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I. PROLOGUE

I started a recent class on syllogisms by handing out a short editorial from a local newspaper. The unnamed author had taken offense at Focus on the Family's [FN1] allegation that SpongeBob SquarePants [FN2] was being used to *776 promote the gay agenda. The syllogism I invited the students to find in the editorial unfolded something like this:

SpongeBob SquarePants is a sponge.

Sponges have no sex.

Therefore, SpongeBob SquarePants has no sexual preference or agenda.

One student promptly raised his hand. "I just googled sponges - experts think they are not truly asexual," he said with a note of triumph in his voice, blissfully unaware that he had missed the point of the exercise completely.

This skillful googler is the norm, not the exception. Current students are able to pluck facts out of the ether faster than most of their professors can say "SpongeBob SquarePants." But access to information doesn't always beget wisdom, or even minimal understanding. Addressing this disconnect, as it manifests itself in the law school classroom, is one goal of this article.

In another law school class, a different student rushed up to me at the break. She was a top student, never missing a beat in class discussions and earning top grades on interim assignments. On this particular occasion, she told me she had gotten a text message and had to leave class early. It is clear that texting is a routine part of her class time--not even worth a comment or explanation. Yet, clearly, it never detracted from her academic focus. Later, I hired her as a research assistant. At our first meeting I started an overview of the work for the semester. "Would you like a pad to take notes?" I asked. "Oh," she said, surprised, "no, I guess I never think of taking paper notes." And she whipped out a laptop.

Her relationship with technology is clearly different from mine. She is a digital native; I'm a digital immigrant. [FN3] I struggle to master my *777 computer's quirks and to translate its obscure message into something I can understand. She, on the other hand, learned its language as she learned English. [FN4] She approaches technology armed with intuition, not with manuals. [FN5] This is the other half of the equation facing law school professors today. No matter how computer savvy we think we are, we have a different relationship with technology. The language of the digital universe is a second language to the boomer generation, [FN6] and to the earliest members of generation X. [FN7] Our students are native speakers. The final goal of this article is to suggest strategies to bridge this divide.

In this article, I first explore the characteristics members of Generations X and Y exhibit as those characteristics relate to their experience in law school. To do this, I describe the technological milieu in which they grew up, the education they received, and the learning styles they exhibit. Second, I isolate and explore some of the problems that these characteristics create in a law school classroom and suggest strategies to maximize the successful integration of Generation X and Y students into law school. Surprisingly, one key strategy can be borrowed from the mutual fund industry, where mutual fund companies have developed highly successful strategies to capture the attention of younger investors. The strategies I discuss are holistic, designed to minimize the stress and conflict *778 that can arise on either side of the podium.

II. CURRENT LAW STUDENTS: A GENERATIONAL WHO'S WHO

In 2007, approximately one-third of law students were members of Generation X; two-thirds were members of Gen-

eration Y, or the Millennial Generation. [FN8]

The broadest definition of Generation X [FN9] sweeps in those individuals born between 1961 and 1981; these are students aged approximately 26 to 46. [FN10] More common and conservative definitions of Generation X are somewhat narrower, setting the range from 1965 to 1982. [FN11] Generation Y, also called the “Millennial Generation” or simply “Millennials,” are the individuals born between 1977 and 2003, aged approximately 4 to 30. [FN12] Other names have been attached to various subgroups. For example, students born between 1975 and 1985 have been dubbed the “MTV generation,” [FN13] and some scholars have labeled students born between 1997 and the present as the “Net Generation.” [FN14]

These subgroupings correspond to generational or environmental differences that are too slight to affect the substance of the present analysis. They do illustrate an inherent difficulty in all current attempts at *779 generational line-drawing. Because no single historical event defines the beginning or end of Generation X, Y, or any subgroup of these generations, the terms are necessarily fluid. [FN15] Unlike the Baby Boom generation, for example, clearly defined by the events and emotions that surrounded the end of World War II, [FN16] characteristics of a Generation Y student born in the late 70s may be a mix of what experts consider X characteristics and Y characteristics. [FN17] For the most part, however, the student characteristics relevant to this discussion are the same for Generations X, Y, and most subgroups. Most of the time we can, therefore, streamline the discussion by referring to “Gen X Y” students.

III. GEN X Y: LIFE EXPERIENCES AND LEARNING STYLES

When we examine the experiences these students have shared, we find three broad, defining characteristics, characteristics that remain remarkably constant within the generation group as a whole, and across most of the cultural and geographic boundaries of the world's developed countries. [FN18] The first set of characteristics flows from the ready availability of technology itself. The second set of characteristics flows from the fact that these students are in various stages of being or becoming adult learners. And finally, with regard to Gen X Y in America, various facets of the educational system as a whole influenced the entire generation of students that now sit in law school classrooms.

A. The Effects of Access to Technology

Unlike members of any previous generation, members of Gen X Y have had access to readily available information through the internet for virtually their whole lives. One study suggests that an average of 20% of Gen X Y students started using computers at age 5. [FN19] In fact, in 2003, when the U.S. Census Bureau collected data on computer use by American children aged 3-17, it concluded that it was no longer necessary to *780 distinguish between a child's access to a computer and actual use. [FN20] Almost 9 out of 10 children who lived in a home with a computer used the computer. [FN21] By 2003, that meant that 86% of all American children were computer literate. [FN22]

To a Gen X Y student, the internet is access to music and to other forms of entertainment. But, it is also a vast system of social contacts and networking, through text messaging, web pages, emails, and instant messaging systems; [FN23] communication systems that the Gen X Y often chooses over face to face contact or even a telephone conversation. [FN24] In fact, a survey of Gen X Y attitudes towards the internet found that instead of agreeing that it was “life enhancing technology,” they tended to simply think of it as “life.” [FN25] Internet access at this level has thus fundamentally altered some characteristics of Gen X Y law students, when compared to previous generations of law students, in terms of their relationship to information.

Since internet information appears on one's computer screen with little investment of time or effort, Gen X Y students have developed a predominantly passive relationship to information and an expectation of instant gratification. [FN26] Even computer use for entertainment, like video games, is essentially passive. It requires less investment of time or effort than the entertainment of previous generations. A baby boomer may have gone to a movie or concert; the movie or concert comes to the Gen X Y student. The typical Gen X Y student has not even had the experience of waiting through commercials for the denouement of a television program; [FN27] DVRs, TiVo, and VCRs have made even that small exercise of patience unnecessary. The Gen X Y student receives--and expects--instant gratification unknown to his or her parents or older siblings.

Not only has the Gen X Y student come to expect instant gratification *781 from technology, but the perception of the learning experience itself has been fundamentally altered. Just as technology is perceived as a fundamental facet of life, not just as a separate enhancement, so too the educational process has become inextricably linked to entertainment. [FN28] The Gen X Y student's earliest experiences with learning included television shows like Sesame Street, which combined learning with fast paced entertainment. [FN29] As one blogger put it, "Sesame Street made me want my MTV. . . . Please, Sesame Street is one super sweet birthday party away from MTV." [FN30]

As Gen X Y grew up, television programs proliferated to appeal to them; and educational content, as it was delivered, was entertainment. [FN31] The Daily Show with John Stewart, for example, was specifically designed to package information as entertainment. And if anyone doubted that the Daily Show was truly information just as surely as it was entertainment, he need only recall that, despite the ongoing comic exchanges and satire, some of the show's most highly-rated, enduring moments involved intensely serious political issues and patriotism. On April 4, 2006, for example, Jon Stewart confronted his long-time friend, United States Senator John McCain, about his decision to speak at Liberty University. [FN32] Similarly, years earlier Jon Stewart discussed his perspective on 9/11: "The view from my apartment was the World Trade Center and now it's gone and they attacked it. This symbol of American ingenuity and strength and labor and imagination and commerce is gone. But you know what the view is now? The Statue of Liberty." [FN33] With education inextricably linked to entertainment, it is hardly surprising that as Gen X Y students matured, they experienced education from the vantage point of a consumer, and felt entitled to an educational experience that spoke to them in accessible, even entertaining ways.

The fast paced, omnipresent access to data, entertainment, and entertaining data that technology created also shaped Gen X Y students into expert multitaskers who tend to block out information not seen as immediately relevant. [FN34] For them, information is perceived as a readily *782 available commodity often only keystrokes away. The immediacy of information for Gen X Y students is a drastic contrast to members of previous generations, who experienced information as difficult to acquire. [FN35] For baby boomer students, information was in distant libraries or waiting to be discovered in stacks of paper. [FN36] These older students, therefore, strove to retain information, and, as part of the retention process, to organize it and synthesize it. [FN37] This difference can perhaps best be understood as the difference between "just in case" learners and "just in time" learners. [FN38] Baby Boomer students attempt to retain information "just in case" they need it later. [FN39] Gen X Y students are not interested in specific information until they see the need for it; they tend to want information "just in time." [FN40]

This Gen X Y belief that information is readily available, even overwhelmingly available, has also influenced their relationships with professors. To members of previous generations, professors were a valued source of information; information itself was rare or fairly difficult to obtain. [FN41] Members of Gen X Y, on the other hand, perceive information as only a few keystrokes away, at least as available to them as it is to the figure in the front of the classroom. In this sense, Gen X Y students may consider themselves far more the professor's equal than members of any previous generations. [FN42] Hence, Gen X Y students may make comments like "I don't agree with your comments" on a paper or ex-

am, [FN43] questioning a professor in ways students of previous generations virtually never did. [FN44]

B. The Adult Learner: A Hands-on Problem Solver

The second of the broad, interlocking characteristics that affect Gen X Y students when they enter law school is that they are all adult learners, or in various stages of becoming so. [FN45] Although adult learning theory does not *783 change from generation to generation, the characteristics of adult learners mirror many of the generational characteristics associated with Gen X Y. Thus, adult learning theory may be particularly important in the Gen X Y classroom. Adult learners share a core of six key characteristics; [FN46] recognizing these characteristics enhances the adult student's ability to learn, and in some cases, can mean the difference between grasping a new concept or failing to do so.

The first characteristic has been described as the adult learner's need to feel that he or she is engaging in the learning process voluntarily. [FN47] Adult learners must feel that the educational task is building on past experiences and is relevant to their goals. [FN48] In this sense, the Gen X Y student's characteristics are similar to those of the typical adult learner of any generation. As noted earlier, the Gen X Y student--already awash in information from omnipresent technological resources--must feel facts or concepts are of some immediate usefulness before they will be retained. [FN49] Thus, although the paradigm of the adult learner may posit a broader definition of voluntariness, both groups share some need for personal relevance.

Second, adult learners generally require an environment of mutual respect that encourages them to challenge concepts presented and challenges their responses without denigrating them. [FN50] Intimidation is a poor motivator with adult learners. [FN51] The obvious corollary to the Gen X Y student's experience of the classroom is the feeling of equality with the professor that Gen X Y students tend to feel as a result of their own information gathering skills--or perception of those skills, at least. [FN52] Indeed, studies have shown that Gen X Y students prefer collegial, approachable professors and overwhelmingly reject an authoritarian teaching style. [FN53]

Third, adult learners need to feel that they are involved in a collaborative classroom effort on several levels. At its most obvious level, *784 collaboration through group learning has been found as effective for adult learners, as it has been for Gen X. [FN54] On a macro level, studies of adult learners show that they learn best when they have some role in refining class roles and learning priorities. [FN55] To the extent that adult learners can be considered a discrete group from Gen X and Y, the reasons that collaboration enhances a course or class may differ. [FN56] Adult learners with work experience and specific goals for a given learning experience may value macro collaboration as a tool in reaching these goals. [FN57] Gen X Y, perceiving professors as "differently abled" adults and not necessarily as part of a hierarchy, may see macro collaboration as simply the logical extension of any learning environment--"we can all learn from each other." [FN58] Whatever one identifies as the underlying motivation, however, multifaceted collaboration is clearly an effective strategy for adult learners, for Gen X Y, and especially for Gen X Y as adult learners in the law school classroom.

Fourth, adult learners learn best when they can fit new concepts into the context of their past experiences. [FN59] An adult learner absorbs new information by applying it to an experience or specific situation, real or simulated, [FN60] reflecting upon this application, and then transferring it to a different context. [FN61] This characteristic is at the core of the fifth characteristic as well. Adult learners need to learn by doing; they must be actively engaged with new material through discussion, problem solving, or writing. [FN62] In short, active learning requires participation and context.

This overwhelming preference for active learning also immerses repeatedly as a key characteristic in studies of Gen X Y law students, regardless of whether they are, strictly speaking, adults. [FN63] Thus, Gen X Y law students are less

able to grasp information presented through a passive, *785 auditory format like a lecture [FN64] and benefit from educational experiences that are predominately active such as role playing, participating in clinical experiences, externships, clerkships, and moot court. [FN65]

Finally, successful adult learning requires frequent and varied opportunities for evaluation. [FN66] Evaluations that allow students to assess their own progress periodically and adjust their participation accordingly enhance the effectiveness of the educational experience, essentially providing context and an opportunity, once again, for the adult learner to be an active participant. [FN67]

This characteristic has particular significance for Gen X Y students, who learn best when they are actively engaged with the material. [FN68] A key part of active engagement, and of participation in the classroom, is the give and take of feedback between professor and student. [FN69] Feedback--like frequent opportunities for evaluation--confirms to students that they have grasped the concepts involved. [FN70] With this confirmation, they can progress through the learning process in the small steps their life experiences have taught them to expect. [FN71] Since their technology-laced experience has conditioned them to receive information in small, discrete portions, rather than engaging in a lengthy process of learning with results deferred, frequent evaluation can enhance the learning process directly. [FN72]

Frequent feedback is also important to the process of teaching Gen X Y students to accept and understand the relationship between law faculty and law students. Gen X Y students tend to reject the hierarchy of teacher/student and may regard themselves as individuals who are fully as competent as their professors. [FN73] Their first impulse may be to reject a *786 professor's constructive criticism as simply a different evaluation of their work, no more authoritative than their own. [FN74] Every professor teaching Gen X Y students is familiar with the student who announces that he or she does not "agree" with critical comments [FN75] or wants to offer class management criticisms of his own. [FN76] Frequent evaluation can help these students appreciate that the professor is more experienced, at least, and may help establish the professor as an authority figure, albeit a collegial one. [FN77]

C. School Days: The Effect of the American Educational System on the Gen X Y Student

The American school system imposed fewer academic requirements on the Gen X Y student than it had imposed on any previous generation in modern times, and this difference left an indelible mark on the students who sit in law school classes today. A series of reports released in the last five years document those changes; Gen X Y students received little training in--or experience with--serious academic writing in high school. In 2003, the National Commission on Writing in America's Schools and Colleges [FN78] reported that approximately 40% of high school seniors either "never" or "hardly ever" received writing assignments in excess of three pages in English class. [FN79] The 2003 study also noted that only one high school student in four could be considered "proficient" in writing, and only one in a hundred could be classified as advanced. [FN80] "[M]ost students," the study concluded, could not "write well enough to meet the demands they face[d] in higher education and the emerging work environment." [FN81] The authors declared that in high school, the extended research paper and senior thesis *787 were dead, [FN82] victims of class size, underfunding, and the resulting constraints on teachers' time. [FN83] In short, the report classified the situation as a crisis, which called for nothing less than a cultural "revolution." [FN84]

Five years later, however, the recommended revolution in high school writing instruction had not occurred: "No significant change was detected in the performance of twelfth graders" between the 1998 report and the report in 2002. [FN85] If one dared to hope that some as yet undetectable--but genuine--improvement was afoot, statistics from 2007 would prove one wrong. In 2007, the percentage of twelfth graders performing at or above the "proficient" level was unchanged since 2002. [FN86]

A second report used United States Census Bureau figures gathered in 1982, 1992, and 2002 to explore a parallel dimension of the American educational experience. [FN87] In July 2004, the National Endowment for the Arts released a report examining the reading habits of Americans across the board, in an attempt to quantify and track cultural changes. [FN88] With regard to reading, it found that the percentage of Americans reading any kind of book had declined 20% in 20 years, and that in the interval between 1982 and 2002, the category of young American adults had gone from being the group most likely to read literature to one of the groups least likely to read literature. [FN89]

If members of Gen X Y were leaving high school with little or no rigorous experience in reading and writing, they were also completing formal secondary education in an atmosphere somewhat inimical to rigorous academic training itself. Beginning in the late 1960s, the emphasis of American educational institutions shifted from a focus on academic skills to a focus on the self-⁷⁸⁸esteem of its students. [FN90] By 1986, promotion of self-esteem was official state policy in California and a pervasive influence across all the nation's schools. [FN91] "Feel good" education had been born.

The self-esteem movement began to take root in the American educational system in the sixties, an offshoot of that era's atmosphere of self-discovery and its rejection of authority. [FN92] This movement took the position that students needed to discover ideas for themselves, rather than having information delivered to them via a set curriculum or textbook. [FN93] Educational reformers differed as to details, [FN94] but most espoused a general belief that adult direction of school children should be limited, and teachers should follow student direction as much as possible. [FN95] These education reformers took the position that students were intrinsically motivated, rather than extrinsically motivated; thus, teacher-led instruction, and presumably teacherly correction itself, was unhelpful. [FN96] Classes in "Life Skills" and a focus on understanding one's feeling came to supplant academics. [FN97] Overwhelmingly, educators came to believe that developing student self-esteem was one of the primary goals of public education. [FN98]

The self-esteem movement as it unfolded in California demonstrates the extent to which society--not just educators--embraced these theories. California schools, like most nationally, had embraced self-esteem boosting goals into their mission statements and lesson plans. [FN99] Nevertheless, the legislature felt the goal of enhanced self-esteem was sufficiently compelling to create and fund a task force whose primary goal was to boost the self-esteem of students in California school systems. [FN100] Enhanced self-esteem, it was believed, would serve as a sort of "social vaccine" that would reduce social problems like teenage pregnancy and drug use and would improve ⁷⁸⁹academic performance. [FN101] On paper, at least it was a seductive proposition. [FN102]

However appealing its intentions, in practice the self-esteem movement was largely responsible for three specific and troublesome trends in American secondary education that reverberate through law school classrooms today. First, rigorous academic requirements and criticism of student work came to be regarded as inimical to an educational program designed to boost self-esteem. [FN103] Failing students or giving bad grades would lower their self-esteem. [FN104] Students quickly came to expect good grades, and to be rewarded for effort rather than achievement. [FN105]

If one's focus is on promoting positive feelings, grading becomes a process of revealing strengths, not a means of suggesting that "Johnny is anything less than a stellar student." [FN106] Similarly, lowering standards and expectations ensured that students would not be subject to criticism. [FN107] Social promotion prevented feelings of being stigmatized. [FN108] Under these circumstances, students were routinely encouraged to feel better and better while achieving less and less. [FN109] Predictably, the student who encounters demanding assignments, and significant criticism for the first time in the law school classroom will react with confusion and hostility. [FN110]

A second effect of educational programs focused on enhancing student self-esteem was that these programs distorted

the significance of praise. Praise was used to promote feelings of self-worth, not to recognize the tangible achievement that results from sustained effort. [FN111] Teachers were expected to give A's for effort and, in a sense, rigorous standards were regarded as a form of oppression. [FN112] Living within the confines of an *790 educational system organized in this way, students came to expect good grades but did not expect to have to work for them. In the educational system as a whole, this disconnect resulted in grade inflation, [FN113] lowered expectations, and social promotion. [FN114] It also filled law school classrooms with students who couldn't accept less than an "A." These students were prone to challenging their grades, arguing for a better grade because they "never got such a low grade," or because they "really tried, or because they "read other student papers and mine was just as good." [FN115] These students feel entitled to good grades. Having cut their teeth on the self-esteem curriculum of American education, the idea that grades represent an objective standard is difficult to grasp, indeed. [FN116]

IV. EPILOGUE

The rhetorical question is always asked: "Why should law teachers try to understand the new breed of students?" [FN117] "Why change our way of teaching? Why shouldn't they change their way of learning?" [FN118] The answer is both philosophical and practical. First, as lawyers, our entire profession is built on communication and persuasion, understanding audience, and managing human interaction. [FN119] To assert at this late date that we have no obligation to communicate effectively to this new audience is fundamentally contradictory.

Second, even if we had no impulse to practice what we preach, adapting to our Gen X Y students makes teaching the law less stressful, [FN120] more satisfying, and easier for everyone. It is practical in the way that the best lawyers have always been practical. Rewrite the jury instructions so they can be understood. [FN121] Cast your argument in terms that the audience-- *791 lay people--can understand.

A. A Guru for the Google Generation

As law teachers, we must change. Law professors teaching past generations were purveyors of information, revered for the information they could impart. [FN122] Information, knowledge, and wisdom all seemed inextricably connected. Access to technology severed this connection for the Gen X Y law student. Gen X Y students are expert gatherers of information, or so they perceive themselves to be. [FN123] The successful law teacher must transcend the old role of providing information and become a guru.

At every institution there are professors who convey substantive information competently, but do so without flare or personal energy. Others engage students with personal insight, experience, and energy. The latter are popular with students and more effective as educators. [FN124] We can guess that their effectiveness is due to the guru model of their teaching; but if we were confined to the law school setting, it would be difficult to prove that this is the source of their success. We cannot go into the law school classroom and transform professors from readers of yellowed notes to star quality gurus--or vice versa--to gauge student response. Fortunately, however, we have an analogous experience with Gen X Y in a different context that demonstrates how information can best be conveyed to members of this generation, and which communications strategies engage their attention best. This context is the world of investment choices-- specifically, the mutual fund segment of the financial services industry. In the last sixty years, mutual funds have evolved from reliable, if bland, sources of investment decisions to an investment vehicle with "guru style" management. In terms of reaching Gen X Y investors, it has been a strikingly successful transformation.

*792 Mutual funds are collective investments that allow individuals to pool their money in a variety of investments,

while offering the benefits of professional investment decision-making and management. [FN125] The first mutual funds, organized in 1945, were managed by committees of financial professionals. [FN126] The committees generated reliable investment decisions and the funds delivered steady, if modest, returns on investments to their shareholders for two decades. [FN127] In short, the early committees were purveyors of information, valued for their investment knowledge. [FN128] As the 1960s wore on, however, the “stodgy” anonymous committee of financial professionals behind some mutual funds was replaced with an individual portfolio manager. [FN129]

Perhaps initially this variation simply reflected a “60’s era” fascination with the “perceived brilliance” of the individual versus the limitations of organized groups. Certainly it made good copy: the media was a willing accomplice in portraying the new mutual fund manager as a guru and a star. Whatever the reasons for this change, as members of Gen X Y became investors, the individual portfolio manager became the dominant model for mutual fund decision making. Mutual funds no longer provided a nicely diversified investment opportunity backed by some committee’s solid data; they provided access to the insights of a financial guru. And this, it seemed, was exactly what Gen X Y investors wanted.

By the turn of the millennium, the transformation of mutual fund management was nearly complete, and its appeal to Gen X Y investors was clear. Indeed, by 2002 not a single mutual fund was managed by a committee. [FN130] Instead, mutual fund management meant such luminaries as Fidelity’s Peter Lynch, famous well beyond any circle of financial *793 insiders. [FN131] By 1998, furthermore, the newest generations of investors had responded: Generation X investors had 38% of their financial assets in mutual funds. [FN132] By contrast, Boomers, who averaged more than twice the financial assets of Generation X, had invested a paltry 27% in mutual funds. [FN133]

Six years later this trend is even clearer. By 2004 Generation X had invested 41% of its assets in mutual funds. [FN134] Even members of Generation Y, with only half the financial assets of Generation X [FN135] and only a fifth of the assets of their Boomer parents [FN136] had nearly 25% of their total assets invested in mutual funds. [FN137] Mutual funds were selling contact with gurus, and the newest investors were clearly buying.

Although the law school classroom may seem far removed from the higger-mugger world of investments, studies of the current law school experience, as well as Gen X Y law students’ own responses to surveys, suggest that law students would prefer a guru at the law school podium as well. In the financial world, investors are searching for a great return on their money through the “brilliance” of the manager. It isn’t a question of having information; investors all have access to the same data feeds. Instead, investors focus on the star manager--the guru--because he can synthesize the information into a useful whole. Similarly, in law school, students are seeking legal skills and information. As in the financial world, it is no longer really a question of the information itself. Professors all have information. Information is just a click or a commercial outline away. [FN138] But, like the star manager, the guru professor is more than the sum of available knowledge. He or she can breathe life into the information and so synthesize it into a meaningful whole. Indeed, although terminologies vary, most studies suggest that a new model for faculty-student relationships holds the answer. [FN139]

*794 Specific Gen X Y law student responses to questions about law school classes suggest that they want a “guru style” relationship with their professors. When asked about optimal circumstances for “concentrating on new or difficult information,” for example, a majority indicated that they would like to work with the professor present so that they can ask questions and discuss ideas. [FN140] Students consistently prefer collegial professors rather than professors who are intimidating or authoritative in style. [FN141] The professor as an individual is thus clearly important. Furthermore, a professor’s positive attitude towards individual students contributes significantly to their academic success. [FN142] Although mutual fund manager/gurus’ attitudes towards investors are not part of the investment equation, in the law school setting this finding suggests that the professor is, in fact, comparable to that manager/guru; his or her value does not lie simply in the transmission of information, but instead depends on some personal quality.

As professors, therefore, we become more effective when we inject our individual experience and energy into the classroom experience and attempt to engage students as “differently abled” adults. [FN143] The law professor teaching past generations did not need to learn students' names. [FN144] Today, the most successful law professors learn everyone's names and more. They may ask about the students' aspirations as a lawyer, [FN145] their fears about the law school experience, [FN146] or their past experiences working or writing. They may acknowledge a student's absence. [FN147] All of these strategies create mutual respect and a more effective learning environment by engaging students. [FN148]

We also need to communicate information about ourselves and our professional experiences. We can tell illustrative anecdotes. [FN149] We can recount our own misunderstandings or failures as law students. [FN150] One legal *795 writing professor shows a videotape of himself stumbling through his moot court argument as an earnest One L. The students laugh delightedly as he sweats and sways, and learn quickly what forensic pitfalls to avoid. [FN151] I always tell my students that I lost all the motions I was sent to argue in my first tremulous week as a new lawyer--but that the judge was kind and encouraging as he ruled against me. The students laugh, but hopefully gain a healthier perspective on the small failures that await them. Our experiences and insights may thus provide students with helpful information, but, far more significantly, these revelations position us as gurus; we expand our personas beyond a simple source of information. This is not to say, of course, that one enhances one's stature in the classroom with self serving references to credentials or accolades. Stories that repeatedly begin “[w]hen I was a student at Prestigious University, where I was on Law Review. . .” may simply alienate the Gen X Y listener. As Professor Tracy McGaugh has pointed out, Gen X Y students have been steeped in the egalitarian and anonymous world of the internet, and are generally unimpressed by the artificial gloss of elite hierarchy. [FN152] Thus, the same students who tune out their professor's recitation of her prestigious past will hang on her every word if she can relate the gritty details of an experience she has had that they will soon face. [FN153]

Some scholars suggest that increasing the use of technology in the law school classroom will enhance our ability to connect with the current generation of law students. [FN154] Adding a technological dimension to classroom material can, for example, be a welcome convenience for students accustomed to finding information on line. It is well to remember though, that, with perhaps a few exceptions, we cannot hope to impress our students with our technological facility. [FN155] As one student put it in an unsolicited remark to his professor, “Your power points are okay, but I really like it when professors just write on the board, and you can sort of see them thinking.” [FN156] If we aspire to be a “Peter Lynch-style star manager” [FN157] of our courses, the necessary changes lie in ourselves, our *796 approach to our students, and our management of course material.

B. Timing is Everything (And Other Classroom Strategies)

The academic performance of Gen X Y students can be enhanced by the timing and presentation of assignments, by the content of class activities and material, and by the professor's feedback, both positive and negative. Indeed, classroom strategies can capitalize on Gen X Y characteristics to create a truly optimal classroom environment, potentially, at least, the envy of those who presided over the Boomer students of the past.

Although experiences with technology have engendered a “just in time” attitude in Gen X Y students, [FN158] as professors we can take advantage of that trait by timing the release of information and assignments to highlight its relevance and so to promote student engagement. Students of past generations may have benefited from seeing a detailed syllabus of an entire course at the first class meeting. As “just in case” learners they were accustomed to synthesizing and retaining information that would be relevant at some future time. [FN159] Since Gen X Y students, instead, block out information that they don't perceive as immediately necessary, however, they might not retain course requirements presen-

ted in this format. [FN160] Furthermore, Gen X Y students need to appreciate the importance of information presented in order to retain it. [FN161] To capitalize on these characteristics, then, a law school professor might, for example, give a comprehensive but skeletal syllabus on the first day, and supplement it weekly, biweekly, or monthly with a detailed version, specifying additional reading, interim assignments, review material, or learning goals against which the student can check his or her progress. [FN162] Another way to capitalize on the Gen X Y student's tendency to retain material that is immediately relevant is to introduce the cases or other materials gradually, describing their relevance to legal problems, clients, or, pragmatically, to the student's overall success in the course. The professor can then use a time line, flow chart, or in class project to integrate information presented. Strategies such as these capitalize on current law students' profound enthusiasm for learning that which they perceive as useful, relevant, and timely. [FN163]

***797** Classroom time itself can be more effective when it involves full student participation and input rather than simply following the traditional approach of assigning readings and engaging students in a Socratic dialogue based on the reading. Actually, this traditional “Socratic” approach makes classroom time the product of the casebook and its authors, eliminating significant input from either the professor or the students. [FN164] To break out of this limiting model, professors need to incorporate active learning strategies into the class. Contrast the following two approaches to teaching the application, effect, and purpose of a complex, multi-part statute. First, with the traditional model, the professor reads the statute to the class, adding a few comments and explanations. The professor may display some or all of the statute on a powerpoint and may ask a few students to respond to questions about the statute. Although this is a perfectly acceptable means of teaching the material, it is not active learning. Even the few students who are called upon to speak are simply responding, not actively learning. [FN165]

In contrast, a second approach would actually convert class time to active learning time. In this alternative model, students are given the text of the same statute, and are also given a hypothetical scenario to which the statute might apply. In pairs or small groups the students analyze whether the statute should apply, both in terms of its black letter terms and its goals and purpose. The students then present their conclusions to the class or, in appropriate circumstances, argue the merits of the case for and against statutory application. When class time is refashioned in this way, students are actively involved in learning the material. [FN166] Even more importantly, though, they acquire a stake in the classroom experience itself, and some control over how it unfolds. From the professor's point of view, this alternative model allows the professor to interact with small groups of students, offering insights, cementing relationships, and generally fulfilling the role of guru. Active learning strategies like these not only give students an opportunity to participate, but also a sense of personal investment in class time.

***798** Incorporating more frequent feedback into the law school experience, and refashioning the tone and focus of that feedback, can also enhance Gen X Y students' learning. Traditional models of law school teaching involve infrequent feedback; in many courses the only feedback may be a grade on a final exam. Gen X Y students work best, however, when actively involved in short-term projects with access to the professor for input and guidance. Frequent feedback, therefore, breaks up the material to be mastered into more manageable segments and provides additional engagement both with the material itself, and with the professor.

More frequent feedback is also important because it reinforces students' perception and understanding of the professor's expertise. Growing up in the anonymous and egalitarian world of the internet and sophisticated technology gave Gen X Y students a fundamentally different concept of authority and expertise. Their own technical expertise generally exceeds that of their parents, teachers, and virtually all the older adults they know. Gen X Y students starting out in law school may, therefore, consider their own approach to a legal issue or drafting assignment a valid alternative to what is taught. Frequent, specific feedback helps to position the professor as the authority and to demonstrate that there is “a method to the madness.” Furthermore, this feedback doesn't have to consist of formal comments on lengthy pieces of

written work. Quick comments on short papers or verbal feedback when students are posing arguments in class or brainstorming in groups both accomplish this goal.

Even feedback delivered at frequent intervals may not achieve its goal unless we, as professors, also teach Gen X Y law students how to respond to it. The educational system which shaped current law students tended to use feedback as a means of raising student self-esteem. Thus, feedback was geared to highlighting strengths, not correcting weaknesses. [FN167] Grade inflation was rampant in American schools, leading many students to simply expect good grades. It is hardly surprising that some Gen X Y law students react to criticism with hostility or fail to respond to negative feedback as constructively as we might wish. [FN168]

One strategy to encourage a constructive response to criticism is to pair criticism with praise. If, for example, one part of a student's legal argument is well constructed and insightful and another part is conclusory and incomplete, we can point out the differences. Thus, the message is not that the student failed to live up to some external measure he or she may not value, but rather that the student has not lived up to his or her own proven *799 ability. Similarly, we can teach students techniques for evaluating their own work, and some strategies for correcting weaknesses they themselves identify. The process of teaching legal writing provides a good example. In her seminal article, *The Self Graded Draft*, Professor Beazley lays out a systematic way for students to identify and evaluate the components of written legal analysis. [FN169] Students use highlighters to identify topic sentences, key terms, rules, rule explanations, and so on in each paragraph of legal analysis. [FN170] The process of isolating the individual building blocks of the analysis provides the critical distance necessary to spot weaknesses. [FN171] She notes, though, that the exercise is far more effective when it is paired with an additional assignment. After students finish highlighting the document, they must describe the specific steps they will take to correct the problems they have just discovered. [FN172]

C. Conclusion

The good news is that we don't have to try to pass for digital natives. And if, by chance, we are digital natives already, we do not need to be pigeonholed by technology. We do need to make small changes to our classes and to our critiques like the examples outlined above. In the final analysis, though, the best, most teachable moments will still come from the guru in each of us.

[FN1]. Associate Professor of Legal Skills, Stetson University College of Law. Portions of this article were presented at the following: the University of California at Davis, August 2007, in connection with the debut of King Hall's new Legal Writing program; the Southeastern Regional Legal Writing Conference, Nova Southeastern Law School, Fort Lauderdale, Florida, September 2007; the Fourth International Conference on Knowledge, Technology and the Law, Northeastern University, Boston, Massachusetts, January 2008; and the Society of American Law Teachers [SALT] Teaching Conference, Thelton E. Henderson Center for Social Justice, Boalt Hall School of Law, University of California at Berkeley, CA, March 2008.

[FN1]. Focus on the Family is an American evangelical "parachurch." It actively promotes social conservative public policy. Focus on the Family, http://www.focusonthefamily.com/about_us.aspx (last visited Dec. 15, 2008).

[FN2]. SpongeBob SquarePants is the main character of the Nickelodeon animated series of the same name. Gary Susman, *Under the Surface*, Ent. Wkly., Oct. 9, 2002, available at <http://www.ew.com/ew/article/0,,363124,00.html>. He was created by animator and marine biologist Stephen Hillenburg, who envisioned him as an overly optimistic sponge. Id.

SpongeBob's tolerant views have made him the target of repeated controversy, with evangelical groups arguing that he promotes a homosexual agenda. Countdown with Keith Oberman: Will Spongebob Make You Gay? (MSNBC television broadcast, Jan. 6, 2005) (transcript available at <http://www.msnbc.msn.com/id/6852828/>). Hillenburg has denied that SpongeBob is gay, asserting that he is, in fact, asexual. Susman, *supra* note 2.

[FN3]. These eminently descriptive labels were coined by Professor Barbara Iverson, a professor of new media at Columbia College, Chicago. Professor Iverson is quoted in Natalie Y. Moore, *Rule of Thumbs: Love in the Time of Texting*, *The Wash. Post*, Sept. 16, 2007, at B1.

[FN4]. A few statistics illustrate this early association with computers. In 2003, 93% of children in grades K-12 used a computer either at home, at school, or both. Jennifer C. Day et al., U.S. Census Bureau, *Current Population Reports: Computer and Internet Use in the United States 7* (2005). By contrast, in 2003, only 64% of all adults used a computer at home or at work. *Id.* at 11. Perhaps even more tellingly, in 1984, the first year in which the Census Bureau gathered comprehensive statistics regarding computer use only 18%--or less than one in five--adults used a computer. *Id.* at 9. In 2002, 20% of college students had begun using computers when they were between 5-8 years old. Steve Jones, *The Internet Goes to College: How Students are Living in the Future with Today's Technology 2* (Sept. 15, 2002), available at http://www.pewinternet.org/report_display.asp?r=71 (last visited Dec. 15, 2008).

[FN5]. Moore, *supra* note 3, at B1. “[Digital immigrants] struggle to adapt to a new language ... [D]igital natives instinctively emote through their thumbs....” *Id.*

[FN6]. In higher education generally, most faculty and staff are a different generation from current students. In 2002, the National Center for Education Statistics reported that 35.2 percent of faculty were under 45 years of age in 1998. Nat'l Ctr. for Educ. Statistics, U.S. Dep't of Educ., *Teaching Undergraduates in U.S. Postsecondary Institutions: Fall 1998 6* (August 2002), available at <http://nces.ed.gov/pubs2002/2002209.pdf>. “Students consider themselves more Internet savvy than their teachers. They indicate that their teachers' use of technology is uninspiring.” Diana Oblinger, *Boomers & Gen-Xers Millenials: Understanding the New Students*, *Educause*, July-Aug. 2003, at 39.

[FN7]. Neil Howard & William Strauss, *13th Gen: Abort, Retry, Ignore, Fail? 12, 17* (Vintage Books 1993) (noting that the identifying characteristics of the Baby Boom Generation tended to fade off with those born around 1960).

[FN8]. Law Sch. Survey of Student Engagement, *2007 Annual Survey Results, Student Engagement in Law School: Knowing Our Students 9* (2007) [hereinafter *LSSSE Survey*].

[FN9]. The term “Generation X” is often attributed to Douglas Coupland, author of the novel *Generation X: Tales for an Accelerated Culture* (St. Martin's Press 1992). Howe & Strauss, *supra* note 7, at 12, 17.

[FN10]. Tracy L. McGaugh, *Generation X in Law School: The Dying of the Light or the Dawn of a New Day?*, *9 Legal Writing* 119, 120 (2003); Neil Howe & William Strauss, *Millenials Rising: The Next Great Generation 52* (2000).

[FN11]. See, e.g., William Strauss & Neil Howe, *Generations: The History of America's Future* (1991) (defining the span of generation X as those individuals born between 1965 and 1982 based on cultural trends rather than simply birth rates).

[FN12]. Slight variations in these dates abound, even in works by the same authors. See, e.g., Strauss & Howe, *supra* note 11, at 335 (setting Generation Y at those born between about 1980 and 2000); Howe & Strauss, *supra* note 10, at 4 (setting the starting point for Generation Y at 1982); Stephanie Armour, *Generation Y: They've Arrived at Work with a New Attitude*, *USA Today*, Nov. 06, 2005, available at http://usatoday.com/money/workplace/2005-11-06-gen-y_x.htm

(setting Generation Y at those born between about 1977 and 2002).

[FN13]. Howard & Strauss, *supra* note 7, at 12. The MTV label refers to the fact that, in the Western World, these young people were influenced by the music, images, and language projected by the new cable channel “MTV” - or Music Television - which debuted in 1981. Video Made the Radio Star, CNN, July 31, 1998, available at <http://www.cnn.com/SHOWBIZ/Music/9807/31/encore.mtv/index.html> (last visited Dec. 15, 2008).

[FN14]. Don Tapscott, *Growing Up Digital: The Rise of the Net Generation 3* (1998).

[FN15]. Ron Zemke et al., *Generations at Work: Managing the Clash of Veterans, Boomers, Xers and Nexters in Your Workplace 64* (AMACOM 2000) (noting that generations are defined by shared values and experiences); Armour, *supra* note 12, at 1 (noting that narrower views of the span of a recent generation are based on the idea that “as the pace of change in society accelerates, the time frame of a generation gets shorter”).

[FN16]. Tapscott, *supra* note 14, at 17.

[FN17]. *Id.* at 20. Tapscott also argues that Generation Y characteristics are based on confusion regarding Generation X characteristics and asserts that Generation Y should not be considered a separate generation at all. *Id.* at 33.

[FN18]. See, e.g., Rebecca Huntley, *The World According to Y: Inside the New Adult Generation 11* (2006) (writing primarily about generation Y in Australia).

[FN19]. Jones, *supra* note 4, at 6.

[FN20]. Day, *supra* note 4, at 4.

[FN21]. *Id.*

[FN22]. *Id.*

[FN23]. Tapscott, *supra* note 14, at 4-5.

[FN24]. Amanda Lenhart et al., *The Internet and Education: Findings of the Pew Internet and American Life Project 4* (2001), available at http://www.pewinternet.org/pdfs/PIP_Schools_Report.pdf.

[FN25]. *Id.* (noting that members of Generation X and Y regarded the internet as “a natural part of the environment”); Jason Frand, *The Information Age Mindset: Changes in Students and Implications for Higher Education*, *Educause*, Sept.-Oct. 2000, at 15-24 (Computers are “an assumed part of life”); Tapscott, *supra* note 14 (“[Technology] is all part of the natural landscape”).

[FN26]. McGaugh, *supra* note 10, at 124.

[FN27]. *Id.*

[FN28]. McGaugh, *supra* note 10, at 124.

[FN29]. Mo Willems, *A Conversation with Arlene Shennan and Abby Terkuhle*, *Animation World Mag.*, Sept. 1997, available at <http://www.mag.awm.com/mag/issue2.6/2.6pages/2.6wilhelmctw.html> (“[At Sesame St.] [w]e are trying to teach through entertainment”).

[FN30]. Jason Plautz, Did Children's Programming Ruin my Life?, Mental_Floss, July 13, 2007, available at <http://www.mentalfloss.com/blogs/archives/6785>.

[FN31]. McGaugh, *supra* note 10, at 124.

[FN32]. The Daily Show With Jon Stewart (Comedy Central television broadcast Apr. 4, 2006).

[FN33]. The Daily Show With Jon Stewart (Comedy Central television broadcast Sept. 20, 2001).

[FN34]. McGaugh, *supra* note 10, at 127-28.

[FN35]. McGaugh, *supra* note 10, at 127-28.

[FN36]. *Id.*

[FN37]. *Id.*

[FN38]. *Id.*

[FN39]. McGaugh, *supra* note 10, at 127-28.

[FN40]. *Id.*

[FN41]. *Id.* at 138-40.

[FN42]. *Id.* at 129-30.

[FN43]. Jean M. Twenge, Generation Me: Why Today's Young Americans Are More Confident, Assertive, Entitled and More Miserable Than Ever Before 28-29 (2006); student emails on file with the author.

[FN44]. *Id.*; McGaugh, *supra* note 10, at 130.

[FN45]. Gerald F. Hess, [Listening to our Students:Obstructing and Enhancing Learning in Law School](#), 31 U.S.F. L. Rev. 941, 941-42 (1997). Sociologists suggest that currently Americans think "adulthood" occurs around age 26. 60 Minutes: The Millennials are Coming (CBS television broadcast Nov. 11, 2007), transcript available at <http://www.cbsnews.com/stories/2007/11/08/60minutes/printable3475200.shtml>.

[FN46]. Hess, *supra* note 45, at 942. Stephen D. Brookfield, Adult Learners: Motives for Learning and Implications for Practice, in Teaching and Learning in the College Classroom 137, 142 (Kenneth A. Feldman & Michael B. Paulsen eds., 1994).

[FN47]. Hess, *supra* note 45, at 942.

[FN48]. Brookfield, *supra* note 46, at 142.

[FN49]. See *supra* note 34 and accompanying text.

[FN50]. Hess, *supra* note 45, at 942.

[FN51]. *Id.*

[FN52]. McGaugh, *supra* note 10, at 130.

[FN53]. Joanne Ingham & Robin A. Boyle, [Generation X in Law School: How These Law Students Are Different From Those Who Teach Them](#), 56 *J. Legal Educ.* 281, 289 (2006).

[FN54]. Hess, *supra* note 46, at 943.

[FN55]. *Id.*

[FN56]. The Law School Survey of Student Engagement suggests that differences in student responses to the law school experience may sometimes be simply the result of age. LSSSE Survey, *supra* note 8, at 9-11.

[FN57]. Hess, *supra* note 45, at 943.

[FN58]. McGaugh, *supra* note 10, at 130.

[FN59]. Hess, *supra* note 45, at 943.

[FN60]. *Id.*

[FN61]. *Id.*

[FN62]. Robin A. Boyle, [Employing Active-Learning Techniques and Metacognition in Law School](#), 81 *U. Det. Mercy L. Rev.* 1, 4 (2003).

[FN63]. McGaugh, *supra* note 10, at 133; Rogelio Lasso, [From the Paper Chase to the Digital Chase: Technology and the Challenge of Teaching 21st Century Law Students](#), 43 *Santa Clara L. Rev.* 1, 23 (2002).

[FN64]. Boyle, *supra* note 62, at 3; Gerald F. Hess, [Heads and Hearts: The Teaching and Learning Environment in Law School](#), 52 *J. Legal Educ.* 75, 102 (Mar.-June 2002).

[FN65]. See generally Ernest Pascarella & Patrick Terenzini, [How College Affects Students: A Third Decade of Research](#) (2005); LSSSE Survey, *supra* note 8; Ingham & Boyle, *supra* note 53, at 288.

[FN66]. Hess, *supra* note 45, at 944.

[FN67]. *Id.*

[FN68]. Ingham & Boyle, *supra* note 53, at 288.

[FN69]. *Id.* at 287.

[FN70]. See Linda S. Anderson, [Incorporating Adult Learning Theory into Law School Classrooms: Small Steps Leading to Large Results](#), 5 *Appalachian J.L.* 127, 136-42 (2006) (providing practical suggestions on how to incorporate frequent evaluation into the law school classroom).

[FN71]. *Id.* at 146-47.

[FN72]. *Id.* at 136-42.

[FN73]. Ingham & Boyle, *supra* note 53, at 289; Douglas Levin & Susan Arafah, *The Digital Disconnect: The Widening Gap Between Internet Savvy Students and Their Schools*, Aug. 2002, available at http://www.pewinternet.org/ppf/r/67/report_display.asp (last visited Dec. 15, 2008).

[FN74]. Ingham & Boyle, *supra* note 53, at 289.

[FN75]. *Id.*

[FN76]. See, e.g., McGaugh, *supra* note 10, at 119, 140.

[FN77]. Ingham & Boyle, *supra* note 53, at 288-89 (discussing the fact that Gen X Y students are receptive to the structure faculty input can provide, and respond best to “authority figures whose demeanor is collegial rather than authoritative in nature.”).

[FN78]. The organization was renamed the National Commission on Writing for America's Families, Schools, and Colleges. The Nat'l Comm'n on Writing, <http://www.writingcommission.org> (last visited Dec. 15, 2008). It is composed of approximately twenty national leaders in education. The Nat'l Comm'n on Writing, <http://www.writingcommission.org/members.html> (last visited Dec. 15, 2008).

[FN79]. The Nat'l Comm'n on Writing, *The Neglected “R”: The Need for a Writing Revolution 20* (April 2003), available at http://www.writingcommission.org/prod_downloads/writingcom/neglectedr.pdf (citing Ctr. for Survey Research & Analysis, *History Research Paper Study* (Nov. 2002)).

[FN80]. *Id.* at 16 (citing U.S. Dep't of Educ., Nat'l Ctr. for Educ. Statistics, *The NAEP 1998 Writing Report Card for the Nation and the States* (1998), available at <http://www.nces.ed.gov/nationsreportcard/pdf/main1998/199462.pdf>).

[FN81]. *Id.*

[FN82]. The Nat'l Comm'n on Writing, *The Neglected “R”: The Need for a Writing Revolution 20* (April 2003), available at http://www.writingcommission.org/prod_downloads/writingcom/neglectedr.pdf.

[FN83]. *Id.*

[FN84]. *Id.* at 17.

[FN85]. Hilary R. Persky, Mary C. Daane, & Ying Jin, Nat'l Ctr. for Educ. Statistics, Inst. of Educ. Scis., U.S. Dep't of Educ., *The Nation's Report Card: Writing 2002, Executive Summary at XII* (2003).

[FN86]. Deborah Salahu-Din, Hillary Persky, & Jessica Miller, Nat'l Ctr. for Educ. Statistics, Inst. of Educ. Scis., U.S. Dep't of Educ., *The Nation's Report Card: Writing 2007, Executive Summary at 2* (2008).

[FN87]. Nat'l Endowment for the Arts, *Reading at Risk: A Survey of Literary Reading in America vii-xii* (June 2004), available at <http://www.nea.gov/pub/ReadingatRisk.pdf> (last visited Dec. 15, 2008).

[FN88]. *Id.*

[FN89]. *Id.* at ix-xi (The only demographic group that read less was adults over the age of 65).

[FN90]. Maureen Stout, *The Feel-Good Curriculum: The Dumbing Down of America's Kids in the Name of Self-Esteem* 17-20, 125-26 (2000).

[FN91]. Maureen Stout, *The Feel-Good Curriculum: The Dumbing Down of America's Kids in the Name of Self-Esteem* 125-26 (2000).

[FN92]. *Id.* at 105.

[FN93]. *Id.*

[FN94]. Stout, *supra* note 90, at 104.

[FN95]. *Id.*

[FN96]. *Id.*

[FN97]. *Id.* at 119.

[FN98]. *Id.*; Melanie Phillips, *All Must Have Prizes* 39 (1996).

[FN99]. Organizations like “POPS” (“Power of Positive Students”) sprang up to support schools in this regard. POPS provided model self-esteem boosting programs and resources to schools in all 50 states. Pops International, <http://www.pops.com> (last visited Dec. 15, 2008).

[FN100]. Cal. State Dep't of Educ., *Toward a State of Self Esteem: The Final Report of the California Task Force to Promote Self Esteem and Personal and Social Responsibility* 43, 85 (Jan. 1990), available at http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/8/20/8d/2f.pdf [hereinafter *Cal. Final Report*].

[FN101]. Mathew McKay & Patrick Fanning, *Self-Esteem 270* (New Harbinger, 2d ed. 1992).

[FN102]. Few could object to the definition of self-esteem the task force drafted during its first year of existence: “Appreciating my own worth and importance and having the character to be accountable for myself and to act responsibly towards others.” *Cal. Final Report*, *supra* note 100, at 35.

[FN103]. Stout, *supra* note 90, at 3.

[FN104]. *Id.*

[FN105]. *Id.* at 4.

[FN106]. *Id.*

[FN107]. *Id.* at 13.

[FN108]. *Id.*

[FN109]. Jana S. Eaton, *The ‘Excuse’ Schools: Accommodating Ourselves to Death*, *Educ. Week*, March 10, 1999, at 33.

[FN110]. See *supra* notes 94-98 and accompanying text.

[FN111]. Stout, *supra* note 90, at 263.

[FN112]. *Id.* at x, 118-19.

[FN113]. Twenge, *supra* note 43, at 62-63.

[FN114]. *Id.* at 68.

[FN115]. A student of mine recently compiled a beautifully formatted, multipage list explaining, in a somewhat confrontational tone, why every single critical comment I had made on his memo was unwarranted. (Originals on file with the author).

[FN116]. Twenge, *supra* note 43, at 63.

[FN117]. M. H. Sam Jacobson, *A Primer on Learning Styles: Reaching Every Student*, 25 *Seattle U. L. Rev.* 139, 141 (2001).

[FN118]. Steven I. Friedland, *How We Teach: A Survey of Teaching Techniques in American Law Schools*, 20 *Seattle U. L. Rev.* 1, 1-2 (1996); McGaugh, *supra* note 10, at 133.

[FN119]. McGaugh, *supra* note 10, at 119 (noting that lawyers must learn to consider their audience).

[FN120]. Ingham & Boyle, *supra* note 53, at 290.

[FN121]. Projects rewriting, clarifying, and studying the effectiveness of jury instructions abound, ranging from International Conferences like the Sixth International Conference held in Sydney, Australia in 2003 to the efforts of individual scholars, to the individual efforts of states to reform their own jury instructions. See, e.g., Hon. B. Michael Dann, “*Learning Lessons*” and “*Speaking Rights*”: *Creating Educated and Democratic Juries*, 68 *Ind. L. J.* 1229 (1993); *Ariz. Sup. Ct. Comm. on More Effective Use of Juries, Jurors: The Power of 12* (Nov. 1994).

[FN122]. Jacobson, *supra* note 117, at 139 (suggesting that the twenty-first century law school classroom is still like the law school classroom depicted in the movie *The Paper Chase* (Twentieth Century Fox 1973) which depicted the first year of law school at Harvard); *id.* at 142 (noting that for law professors conveying substantive or doctrinal information is the primary goal).

[FN123]. Oblinger, *supra* note 6, at 39 (noting that students consider themselves more Internet savvy than their teachers).

[FN124]. One striking example of effective teaching is found in my former colleague, Professor Catherine Carpenter, Southwestern University Law School. Her teaching is so engaging that students pay \$20.00 each to attend a workshop she offers on Future Interests. This annual workshop, sponsored by the Women Law Students' Association, routinely attracts 100-150 students even though the subject is obviously covered in the regular law school curriculum and is not, some would say, a particularly “hot” or “sexy” topic. It is the Women Law Students' Association's primary fundraiser, and half the funds are donated to a women's cause such as a battered women's shelter.

[FN125]. U.S. Sec. & Exch. Comm'n, *Mutual Funds*, <http://www.sec.gov/answers/mutfund.htm> (last visited Dec. 15, 2008); John C. Bogle, *The Mutual Fund Industry Sixty Years Later: For Better or Worse?*, *Fin. Analysts J.*, Jan.-Feb. 2005, at 15, 24 n.1 (noting that “[t]he term ‘mutual fund’ refers to open-end investment companies, with redeemable shares, registered under the Investment Company Act of 1940 with the U.S. SEC.”).

[FN126]. Bogle, *supra* note 125, at 17.

[FN127]. *Id.*

[FN128]. *Id.*

[FN129]. *Id.*

[FN130]. John C. Bogle, Remarks Before the Harvard Club of Boston, The Harvard Business School Association of Boston, and the Boston Security Analysts Society: The Mutual Fund Industry in 2003: Back to the Future, (January 14, 2003) (transcript available at http://www.vanguard.com/bogle_site/sp20030114.html) (noting that there were no investment Committees, 1600 single portfolio managers, 1550 multiple portfolio managers, and 450 Management teams). By 2004, the shift to a “guru style” single manager was even more stark, with no committees, 3387 single portfolio managers, and 807 management teams. Bogle, *supra* note 125, at 17.

[FN131]. Bogle, *supra* note 125, at 17.

[FN132]. Ray Mata, Generation X... Does X stand for Savers?, *Hispanic Times Mag.*, Aug.-Sept. 1998, at 40, available at http://finarticles.com/p/articles/mi_mOFWK/is_n4_v19/ai_21260648.

[FN133]. *Id.*

[FN134]. *Inv. Co. Inst.*, Profile of Mutual Funds Shareholders 52 (2004).

[FN135]. *Id.* at 51-52 (Gen Y's median financial assets were \$30,000 compared to Gen X's median financial assets of 60,000).

[FN136]. *Id.* at 51, 53 (Gen Y's median financial assets were \$30,000 compared to Boomer's median financial assets of \$153,900).

[FN137]. *Id.* at 51.

[FN138]. Matthew Bodie, The Future of the Casebook: An Argument for an Open Source Approach, 57 *J. of Legal Ed.* 10, 13-14 (2007).

[FN139]. B. Glessner Fines, *The Impact of Expectations on Teaching and Learning*, 38 *Gonz. L. Rev.* 89, 92 (2002).

[FN140]. Ingham & Boyle, *supra* note 53, at 287.

[FN141]. Hess, *supra* note 45, at 950-51.

[FN142]. Fines, *supra* note 139, at 89.

[FN143]. Anderson, *supra* note 70, at 131.

[FN144]. Jacobson, *supra* note 117, at 139.

[FN145]. Professor Nancy Soonpaa, Tex. Tech. Univ. Law Sch., Presentation at the LWI New England Regional Conference, Boston, Mass. (Dec. 2005).

[FN146]. Hess, *supra* note 45, at 951 (describing such a conversation from the student's point of view).

[FN147]. Fines, *supra* note 139, at 115.

[FN148]. Hess, *supra* note 45, at 951, 954; Fines, *supra* note 139, at 113.

[FN149]. Hess, *supra* note 45, at 957.

[FN150]. Fines, *supra* note 139, at 115 (Noting that “[t]eachers must recall their own journey of learning.”); In sessions I teach on case briefing to beginning students, I always tell students that my first efforts to produce a case brief resulted in a document that was often nearly as long and not much clearer than the original case.

[FN151]. Conversation with Professor Mitchell Gordon, Univ. of St. Thomas Sch. of Law, Minneapolis, Minn. (Mar. 29, 2005).

[FN152]. McGaugh, *supra* note 10, at 130.

[FN153]. Hess, *supra* note 45, at 957 (describing the fact that students respond to--and remember--professors' stories of real life problems, challenges, etc.).

[FN154]. Fines, *supra* note 139, at 91, n.6.

[FN155]. Oblinger, *supra* note 6, at 39 (noting that students report seeing better ways to use technology than do their teachers).

[FN156]. Professor Christine Lorillard, Sw. Univ. Law Sch. in Los Angeles, reported this comment at a presentation of this paper at Southwestern (Oct. 2007).

[FN157]. John C. Bogle characterizes Peter Lynch as a mutual fund manager who “actually w[as] [a] star[.]” Bogle, *supra* note 125, at 17.

[FN158]. See *supra* notes 27-38 and accompanying text.

[FN159]. See *supra* notes 34-38 and accompanying text.

[FN160]. McGaugh, *supra* note 10, at 137.

[FN161]. See *supra* notes 34-38 and accompanying text.

[FN162]. Jacobson, *supra* note 117, at 167 (noting that students perform better when class work is divided up into specific assignments rather than the general goal of passing a final exam).

[FN163]. Numerous scholars and authors of studies have commented on the enthusiasm current students show when material is approached in this way. See, e.g., McGaugh, *supra* note 10, at 128; Anderson, *supra* note 70, at 133; Hess, *supra* note 45, at 941.

[FN164]. Boyle, *supra* note 62, at 1 (noting the passive role of students in a law school classroom organized around Socratic exchanges).

[FN165]. Dorothy H. Evensen, [To Group or not to Group: Students' Perceptions of Collaborative Learning Activities in](#)

Law School, 28 S. Ill. U. L.J. 343, 350 (2004) (noting that answering a question in a Socratic law school classroom exchange demonstrates “inert” knowledge that would become “active” if and only if “explicitly and directly linked to questions or problems”).

[FN166]. See, e.g., Hess, *supra* note 45, at 960-61 (quoting students' enthusiastic responses to learning material this way).

[FN167]. See *supra* notes 103-16 and accompanying text.

[FN168]. Twenge, *supra* note 43, at 62-63.

[FN169]. Mary Beth Beazley, *The Self Graded Draft*, 3 Legal Writing 175 (1997).

[FN170]. *Id.* at 175.

[FN171]. *Id.*

[FN172]. *Id.* at 180-81.
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