

St. John's University School of Law

## St. John's Law Scholarship Repository

---

Faculty Publications

---

2017

### Contemporary Teaching Strategies: Effectively Engaging Millennials Across the Curriculum

Renee Nicole Allen

*St. John's University School of Law*

Alicia R. Jackson

Follow this and additional works at: [https://scholarship.law.stjohns.edu/faculty\\_publications](https://scholarship.law.stjohns.edu/faculty_publications)



Part of the [Legal Education Commons](#)

---

This Article is brought to you for free and open access by St. John's Law Scholarship Repository. It has been accepted for inclusion in Faculty Publications by an authorized administrator of St. John's Law Scholarship Repository. For more information, please contact [selbyc@stjohns.edu](mailto:selbyc@stjohns.edu).

# ARTICLES

## Contemporary Teaching Strategies: Effectively Engaging Millennials Across the Curriculum

RENEE NICOLE ALLEN\* & ALICIA R. JACKSON\*\*

INTRODUCTION .....	2
I. DEFINING EXPERIENCES: MILLENNIALS AND HOW THEY LEARN BEST.....	3
A. Millennials .....	3
B. The Trophy Generation.....	4
C. Helicopter Parents .....	5
D. Technology and the Internet.....	5
E. No Child Left Behind (“NCLB”) .....	6
II. ABA STANDARD 314: BACKGROUND AND IMPLICATIONS.....	7
A. Background .....	7
B. ABA Standard 314 – Assessment of Student Learning .....	9
1. Formative Assessment .....	10
2. Summative Assessment.....	13
III. SELF-REGULATED LEARNING AND METACOGNITION: TOOLS FOR LIFELONG LEARNING.....	14
A. Metacognition and Self-Regulated Learning .....	14
B. Reflection: A Tool for Lifelong Learning.....	16
1. Thinking Aloud Protocol.....	17
2. Minute Papers .....	18
3. Electronic Portfolios .....	18
4. Professional Identity Courses .....	19
IV. CREATING A STUDENT-CENTERED CLASSROOM.....	20
V. BLOOM’S TAXONOMY: A FRAMEWORK FOR FORMATIVE ASSESSMENT .....	23
A. Bloom’s Taxonomy .....	23

---

\*Renee Nicole Allen is the Director of Academic Success at the University of Tennessee College of Law. She is a graduate of University of Florida, Levin College of Law.

\*\*Alicia R. Jackson is the Associate Dean for Student Learning and Assessment at Florida A&M University College of Law. She is a graduate of Nova Southeastern University College of Law.

B. Bloom’s Taxonomy in Action.....	25
C. The Knowledge Dimension .....	25
1. Mini Lectures.....	26
2. The Flipped Classroom .....	26
D. The Cognitive Process Dimension .....	27
1. Remember and Understand .....	27
a. Retrieval Practice.....	27
b. Games .....	28
2. Apply and Analyze .....	29
a. Effective Use of the Socratic Method.....	29
b. 1L Labs and Tethered Courses .....	30
3. Evaluate and Create .....	31
a. Writing Multiple Choice Questions.....	32
b. The Multistate Performance Test.....	32
c. Client Simulations .....	33
CONCLUSION .....	34

## INTRODUCTION

“Give a man a fish, and you feed him for a day. Teach a man to fish, and you feed him for a lifetime.” – Chinese Proverb

American Bar Association (“ABA”) Standard 314, Assessment of Student Learning, requires law schools to “utilize both formative and summative assessment methods in its curriculum to measure and improve student learning and provide meaningful feedback to students.”<sup>1</sup> This article will connect multiple formative assessments to Bloom’s taxonomy to demonstrate how law teachers can transform and enhance student learning, while promoting key steps in the self-regulated learning cycle. First, it is imperative law teachers understand the education background and social landscape that our students, mostly Millennials, bring to law school. We can acknowledge that our Millennial students are *different*, but what does this really mean and how does this affect our teaching and their learning? Next, effective application of ABA Standard 314 requires law teachers to understand self-regulated learning and the connection between the stages of learning and various formative assessments. To ensure that we are meeting this challenge, law teachers must become *facilitators* of learning. By serving as facilitators, we acknowledge the importance of involving students in the learning process from the very beginning. This will ultimately result in shifting the focus from the instructor’s teaching to student learning. While there are various teaching methods, we will explore contemporary teaching strategies as a

---

1. American Bar Association, *Managing Director’s Guidance Memo*, Standards 301, 302, 314 and 315, June 2015 at 2, [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/governancedocuments/2015\\_learning\\_outcomes\\_guidance.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governancedocuments/2015_learning_outcomes_guidance.authcheckdam.pdf) [hereinafter *ABA Memo*].

means of encouraging a student-centered learning environment. Utilizing contemporary teaching strategies fosters an environment that is ripe for effective formative assessment in our courses.

This article will address contemporary teaching strategies for effectively engaging Millennials across the law school curriculum. Part I will examine the experiences that define Millennials and how they learn best. In Part II, we analyze the impact of ABA Standard 314 on law schools. Part III discusses self-regulated learning and metacognition as tools for lifelong learning. In Part IV, we explore how the student-centered classroom enhances student learning. Finally, Part V demonstrates how Bloom's taxonomy can serve as a framework for effective formative assessment.

## I. DEFINING EXPERIENCES: MILLENNIALS AND HOW THEY LEARN BEST

### A. Millennials

There are generalizations about each generation that members of the generation love and loathe. The same is true for Millennials who have been studied in depth.<sup>2</sup> Strauss and Howe define the millennial generation as those born in or after 1982 through the early 2000s.<sup>3</sup> Millennials, the largest U.S. population, are the most college educated and ethnically diverse.<sup>4</sup> When thinking about their positive attributes,

Millennials are confident<sup>5</sup> team players and rule followers who are optimistic about the future.<sup>6</sup> Yet, they face heavy criticism for their selfishness and sense of entitlement.<sup>7</sup> Because generations receive praise for their positive attributes after reaching adulthood, we are not likely to realize or fully appreciate Millennial contributions to society until they are past their prime.<sup>8</sup> For those who are tasked with educating Millennials, understanding more about the experiences that have shaped who they are will aid teachers in facilitating their learning. While many experiences shape who they are, this article focuses on the key experiences that shape Millennials' "generational

---

2. See generally NEIL HOWE & WILLIAM STRAUSS, GENERATIONS: THE HISTORY OF AMERICA'S FUTURE (1991); NEIL HOWE & WILLIAM STRAUSS, MILLENNIALS AND THE POP CULTURE: STRATEGIES FOR A NEW GENERATION OF CONSUMERS (2006); NEIL HOWE & WILLIAM STRAUSS, MILLENNIALS GO TO COLLEGE: STRATEGIES FOR A NEW GENERATION ON CAMPUS (2007).

3. NEIL HOWE & WILLIAM STRAUSS, MILLENNIALS RISING: THE NEXT GREAT GENERATION 4 (2000).

4. *Id.* at 4.

5. *Id.* at 44.

6. *Id.* at 7–10.

7. See, e.g., Joel Stein, *Millennials: The Me Me Me Generation*, TIME (May 20, 2013), <http://time.com/247/millennials-the-me-me-me-generation/>.

8. See Mary Ann Becker, *Understanding the Tethered Generation: Net Gens Come to Law School*, 53 DUQ. L. REV. 9, 10 (2015).

learning style”<sup>9</sup> and the experiences that are most meaningful as we consider formative assessment and implementation of ABA Standard 314. In a nutshell, Millennials learn best when law teachers set high standards,<sup>10</sup> learning is multifaceted, meaningful feedback is provided often, and learning is active.<sup>11</sup> An exploration of Millennial experiences like the self-esteem movement, helicopter parents, the internet and technology and the *No Child Left Behind Act* help better understand who Millennials are and provide support for why Millennials learn the way they do.

### B. *The Trophy Generation*

Millennials believe they are special because they have been told so since early childhood.<sup>12</sup> They are a wanted generation whose parents planned for them and took exceptional measures to bring them into the world.<sup>13</sup> That “special” spilled over into primary education where Millennials reaped the benefits of the self-esteem movement, where an “unwillingness to encourage failure” by teachers resulted in Millennials having unrealistic expectations.<sup>14</sup> As children, Millennials engaged in activities where all participants were given praise for winning regardless of whether they actually won.<sup>15</sup> As a result, Millennials expect feedback praising their accomplishments,<sup>16</sup> though their confidence often fails to meet their effort or ability.<sup>17</sup> Because of their exposure to team experiences, Millennials thrive in collaborative learning environments.<sup>18</sup> The self-esteem movement sheds light on how Millennials learn best. When law teachers provide meaningful feedback, it meets the need for praise, and Millennials remain invested in learning.<sup>19</sup> Working collaboratively with teachers and peers allows them to learn from others without pressure and gain confidence in their abilities when working independently.<sup>20</sup>

---

9. Emily A. Benfer & Colleen F. Shanahan, *Educating the Invincibles: Strategies for Teaching the Millennial Generation in Law School*, 20 CLINICAL L. REV. 1, 1 (2013).

10. *Id.* at 3.

11. *Id.* at 10.

12. Jason S. Palmer, “The Millennials Are Coming!”: *Improving Self-Efficacy in Law Students Through Universal Design in Learning*, 63 CLEV. ST. L. REV. 675, 682 (2015).

13. *Id.* at 682.

14. *Id.* at 689.

15. See Benfer & Shanahan, *supra* note 9, at 9.

16. Melissa H. Weresh, *I’ll Start Walking Your Way, You Start Walking Mine: Sociological Perspectives on Professional Identity Development and Influence of Generational Differences*, 61 S.C.L. REV. 337, 360 (2009).

17. See Palmer, *supra* note 12, at 684.

18. See Benfer & Shanahan, *supra* note 9, at 11.

19. *Id.* at 13.

20. Aliza B. Kaplan & Kathleen Darvil, *Think [and Practice] Like a Lawyer: Legal Research for the New Millennials*, 8 LEGAL COMM. & RHETORIC 153, 180 n.177, 181 (2011).

### C. Helicopter Parents

Many Millennials were raised by helicopter parents “who vigilantly hover over them, sheltering them from mistakes, disappointment, or risks; insulating them from the world around them.”<sup>21</sup> This intensive parenting continues through college, graduate school, and in the workplace.<sup>22</sup> These overly engaged parents affected Millennials’ ability to independently solve problems. Further, law professors seeking positive evaluations or teachers who engage in helicopter parenting outside of work may also engage in helicoptering in the classroom.<sup>23</sup> The climate of legal education, including declining applications and lower academic credentials, may also cause professors to helicopter.<sup>24</sup> Justifications aside, helicopter parenting hinders the development of critical thinking and problem solving skills which are benchmarks of higher education.<sup>25</sup> It appears helicopter parenting has also negatively shaped Millennials’ generational learning style. However, helicopter education is not the answer. Instead, law teachers who provide guidance through meaningful feedback help Millennials develop the problem-solving skills necessary for success in law school and the profession.

### D. Technology and the Internet

Technology and the internet have shaped the way Millennials think, communicate, and learn. A 2007 survey of U.S. college students showed that almost all own a computer and cell phone, and more than half use instant messaging and have Facebook accounts.<sup>26</sup> A 2017 survey would likely show more engagement as there are many new social networking sites like Instagram and Pinterest.<sup>27</sup> Net Gens, a subset of Millennials born in and after 1994, are described as the “tethered generation” due to their constant connection to technology, social media, and their parents.<sup>28</sup> As a result of their constant connection to each other, Millennials are more likely to get advice and information from each other, making them “the first generation to be truly insulated by their horizontal peer group, largely created online and through social networking sites.”<sup>29</sup> It makes sense then that Millennials are

---

21. Kathleen Vinson, *Hovering Too Close: The Ramifications of Helicopter Parenting in Higher Education*, 29 GA. ST. U.L. REV. 423, 424 (2013).

22. *Id.* at 433–34.

23. Emily Grant, *Helicopter Professors I* (Jan. 23, 2017) (unpublished article), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2904752](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2904752).

24. *Id.* at 1–2.

25. *See* Vinson, *supra* note 21, at 435–37.

26. Weresh, *supra* note 16, at 360.

27. Priit Kallas, *Top 15 Most Popular Social Networking Sites and Apps*, DREAMGROW (Nov. 7, 2017), <https://www.dreamgrow.com/top-15-most-popular-social-networking-sites/>.

28. Becker, *supra* note 8, at 10.

29. *Id.* at 33.

less likely to value the professor as a primary source of information.<sup>30</sup> Their access to the Internet created an expectation for quick answers which may cause challenges when they attempt to engage in deep learning, stifling the development of critical thinking skills.<sup>31</sup> Finally, Millennials are accustomed to multitasking and juggling day-to-day activities with Internet activity on their cell phones and computers. This multitasking makes it difficult for law teachers to engage Millennials through lecture or the Socratic Method in the traditional law school classroom. Therefore, it is important to know that Millennials, more than adult learners in general, learn best when learning is active and contextual, related to their current or past experiences.<sup>32</sup> To best engage Millennials, law teachers should embrace a multifaceted approach to teaching that utilizes technology.<sup>33</sup> This includes learning environments that blend traditional and contemporary teaching.

#### *E. No Child Left Behind (“NCLB”)*

Millennials’ generational learning style is shaped by their pre-law school, academic experiences. Enacted in 2002, NCLB aimed to ensure equal access to quality education by requiring states to measure the effectiveness of public school education through standardized assessments and setting corrective measures for underperforming schools.<sup>34</sup> Prior to NCLB, criticisms of education included a lack of rigorous reading and writing requirements.<sup>35</sup> After enactment of NCLB, education faced new criticisms that focused on “test-driven policies”<sup>36</sup> that overemphasized standardized testing. First, performing well on a test is not an accurate measure of what a student learns but a demonstration of a “student’s ability to respond on cue.”<sup>37</sup> Second, pressured to succeed, teachers taught-to-the-test, sacrificing critical thinking and writing skills.<sup>38</sup> When teaching law students, law teachers must be aware that because they have been trained to respond on cue and prepare

---

30. Joan Catherine Bohl, *Generations X and Y in Law School: Practical Strategies for Teaching the MTV/Google Generation*, 54 LOY. L. REV. 775, 782 (2008).

31. See Benfer & Shanahan, *supra* note 9, at 10.

32. See Bohl, *supra* note 30, at 784.

33. See Kaplan & Darvil, *supra* note 20, at 177.

34. Charles R. Lawrence III, *Who is the Child Left Behind?: The Racial Meaning of the New School Reform*, 39 SUFFOLK U.L. REV. 699, 702–03 (2006).

35. Bohl, *supra* note 30, at 787.

36. Tim Walter, *The Testing Obsession and the Disappearing Curriculum*, NEATODAY (Sept. 2, 2014), <http://neatoday.org/2014/09/02/the-testing-obsession-and-the-disappearing-curriculum-2/>.

37. Regina Ramsey James, *How to Mend a Broken Act: Recapturing Those Left Behind by No Child Left Behind*, 45 GONZ. L. REV. 683, 704–05 (2009).

38. See Leah A. Rinfret, *No Child Left Behind for the Teachers Left Behind: Returning Education to the Educators*, 35 CAP. U.L. REV. 281, 284–85 (2006); James, *supra* note 37, at 704–06.

for standardized tests, Millennials' LSAT scores may be less reliable predictors of law school success.<sup>39</sup> Instead of relying on test scores to predict performance, law teachers should better engage Millennials through contemporary teaching practices that account for their generation learning style. We describe particular strategies in Part V.

It is also important to note that, while it is difficult to determine when Millennials educated under NCLB started sitting for state bar exams, law schools began experiencing major and continued declines in bar passage resulting from decreased Multistate Bar Examination scores in July 2014.<sup>40</sup> While there are number of factors associated with the decline,<sup>41</sup> the education landscape of Millennials may add perspective to the decline as well as provide support for a new approach to legal education that accounts for Millennials' generational learning style. Now that we have examined Millennials and how they learn best, the next section of this article focuses on the background and application ABA Standard 314.

## II. ABA STANDARD 314: BACKGROUND AND IMPLICATIONS

### A. Background

In 2007, the American Association of Colleges in Universities determined that a major goal of higher education is to create lifelong learners.<sup>42</sup> Lifelong learners are skilled at acquiring, retaining and retrieving knowledge through being independent, intentional and self-directed learners.<sup>43</sup> Around the same time, the practicing bar began expressing concerns that graduates lacked these skills and that law schools were not adequately preparing students for the practice of law. In essence, law schools were not teaching students how to practice law. Also during this period, there were increasing

---

39. Michele Goodwin, *Law Professors See the Damage Done by 'No Child Left Behind,'* THE CHRONICLE OF HIGHER EDUC. (Mar. 12, 2013), <http://chronicle.com/blogs/conversation/2013/03/12/law-professors-see-the-damage-done-by-no-child-left-behind/>.

40. Natalie Kitroeff, *Bar Exam Scores Drop to Their Lowest Point in Decades: Unprepared Students Can't Handle a Harder Test*, BLOOMBERG (Sept. 17, 2015), <http://www.bloomberg.com/news/articles/2015-09-17/bar-exam-scores-drop-to-their-lowest-point-in-decades>; Staci Zaretsky, *New York Bar Exam Results Reveal Worst Pass Rates in More Than a Decade*, ABOVE THE LAW (Oct. 27, 2015), <http://abovethelaw.com/2015/10/new-york-bar-exam-results-reveal-worst-pass-rates-in-almost-a-decade/>; Jason Song, *Pass Rate for Summer California Bar Exam Hits Historic Low: Under 47%*, L.A. TIMES (Nov. 25, 2015), <http://www.latimes.com/local/lanow/la-me-adv-bar-2015-results-20151126-story.html>.

41. See Memorandum from Erica Moeser, President, National Conference of Bar Examiners, to Law School Deans (Oct. 23, 2014) (on file with Pennsylvania Law); Aleatra P. Williams, *The Role of Bar Preparation Programs in the Current Legal Education Crisis*, 59 WAYNE L. REV. 383, 391 (2013).

42. LINDA NELSON, CREATING SELF-REGULATED LEARNERS: STRATEGIES TO STRENGTHEN STUDENTS' SELF-AWARENESS AND LEARNING SKILLS 1 (2013).

43. *Id.*



concerns from the legal education community that the existing accreditation standards needed to be reviewed.

In response, the ABA's Council of the Section of Legal Education and Admissions to the Bar in 2006 formed the Accreditation Policy Task Force (the "Task Force").<sup>44</sup> The Task Force, chaired by Pauline A. Schneider,<sup>45</sup> was formed to take "a fresh look at accreditation, from a policy perspective."<sup>46</sup> The Task Force was created out of concerns that the ABA accreditation standards focused heavily on "input measures" and should be "re-framed" to focus more heavily on "outcome measures" based accreditation criteria.<sup>47</sup> In distinguishing between "outcome measures" and "input measures," those who advocated for the "outcome measures" wanted the accreditation criteria to concentrate on "whether the law school has fulfilled its goals of imparting certain types of knowledge and enabling students to attain certain types of capacities, as well as achieving whatever other specific mission(s) the law school has adopted."<sup>48</sup> This differs from "input measures," which focused on traditional accreditation measures that were designed to measure if law schools would be able to achieve their goals related to their mission and the accreditation standards, based primarily on their available resources like size of the faculty, budget, and facilities.<sup>49</sup> "On this issue (as well as the other issues selected for study), the Task Force solicited input from the legal education community and held public hearings."<sup>50</sup> Unfortunately, only a small number of individuals participated, and the comments that were submitted were brief.<sup>51</sup> However, those that submitted comments, were supportive of law schools focusing on outcome measures, but with less of a reliance on existing outcome measures like bar passage and job placement.<sup>52</sup>

In a final report issued on May 29, 2007, the Task Force recommended that "[t]he Council form a task force to examine ways to revise the accreditation process to rely, to a greater extent than it currently does, on output measures."<sup>53</sup> In response to this recommendation, which was approved by

44. *Report of the Outcome Measures Committee*, AM. BAR ASS'N SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR (2008) at 3, [http://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/reports/2008\\_outcome\\_measures\\_committee\\_final\\_report.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/reports/2008_outcome_measures_committee_final_report.authcheckdam.pdf).

45. *Id.*

46. *Id.*

47. *Report of the Outcome Measures Committee*, *supra* note 44, at 3.

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.* at 5.

52. *Id.*

53. *Id.* at 4 (citing *Report of the Accreditation Policy Task Force*, AM. BAR ASS'N SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR (2007) at 9, [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/reports/2007\\_05\\_29\\_report\\_accreditation\\_task\\_force.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/reports/2007_05_29_report_accreditation_task_force.authcheckdam.pdf)).

the Council of the Section, a “Special Committee on Output Measures” (the “Committee”) was created.<sup>54</sup>

In October 2007, then Section Chair Justice Ruth McGregor appointed a *Special Committee on Output Measures*. The *Special Committee* was charged with determining whether and how output measures, other than bar passage and job placement, might be used in the accreditation process. In July 2008, the *Special Committee* released an extensive analysis of how outcome measures are used by other accreditation bodies. It concluded that the Section of Legal Education and Admissions to the Bar should re-examine the current ABA accreditation standards and reframe them, as needed, to reduce their reliance on input measures and instead adopt a greater and more overt reliance on outcome measures. The report also noted that shifting towards outcome measures is consistent with the latest and best thinking of both the higher education and legal education communities. The Committee noted that all regional accreditation agencies focus on identification and measurement of student learning outcomes. In addition, the Committee reviewed the accreditation standards of ten other professional accrediting bodies. It found all ten applied standards based on outcome measures.<sup>55</sup>

Due in part to the work and recommendations of the Task Force and the Committee, in 2014 the ABA approved a completely revised set of standards.<sup>56</sup> With the approval of the new standards, the ABA shifted the accreditation focus away from traditional measures to a more progressive set of standards that focused on learning outcomes and assessment.<sup>57</sup>

### B. ABA Standard 314 – Assessment of Student Learning

The formal process for developing Standard 314 initially began in 2014, with formal approval in late 2014.<sup>58</sup> The 2014 ABA *Transition to and Implementation of the New Standards and Rules of Procedure for Approval of Law Schools*, spelled out the requirements for compliance with Standard 314:

...compliance will be assessed based upon evaluating the seriousness of the school’s efforts to establish and assess student learning outcomes, not upon attainment of a particular level of achievement for each learning outcome. Among factors to consider in assessing compliance with these

---

54. *Id.*

55. *ABA Memo, supra* note 1, at 3.

56. Anthony Niedwiecki, *Prepared for Practice? Developing a Comprehensive Assessment Plan for a Law School Professional Skills Program*, 50 U.S.F.L. REV. 245, 248 (2016).

57. *Id.* at 249.

58. *See Transition to and Implementation of the New Standards and Rules of Procedure for Approval of Law Schools*, AM. BAR ASS’N SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR (Aug. 13, 2014) at 1, [http://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/governancedocuments/2014\\_august\\_transition\\_and\\_implementation\\_of\\_new\\_aba\\_standards\\_and\\_rules.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governancedocuments/2014_august_transition_and_implementation_of_new_aba_standards_and_rules.authcheckdam.pdf).

Standards are whether a school has demonstrated faculty engagement in the identification of the student learning outcomes it seeks for its graduates; whether the school is working effectively to identify how the school's curriculum encompasses the identified outcomes, and to integrate teaching and assessment of those outcomes into its curriculum; and whether the school has identified when and how students receive feedback on their development of the identified outcomes.<sup>59</sup>

Standard 314 must be applied to first-year students that entered law school during 2016–2017.<sup>60</sup> In June 2015, the ABA released a guidance memo for Standards 301, 302, 314 and 315.<sup>61</sup> The guidance memo was designed to provide specific instructions to law schools as they began the process of planning for compliance with Standard 314.<sup>62</sup> According to the memo, ABA Standard 314 requires law schools to provide both formative and summative assessments.<sup>63</sup>

Interpretation 314-1: Formative assessment methods are measurements at different points during a particular course or at different points over the span of a student's education that provide meaningful feedback to improve student learning. Summative assessment methods are measurements at the culmination of a particular course or at the culmination of any part of a student's legal education that measure the degree of student learning.<sup>64</sup>

Interpretation 314-2: A law school need not apply multiple assessment methods in any particular course. Assessment methods are likely to be different from school to school. Law schools are not required by Standard 314 to use any particular assessment method.<sup>65</sup>

In addition to a standard definition for summative and formative assessments, the ABA notably provided latitude for illustrating compliance.

### *I. Formative Assessment*

While the ABA included a definition of formative assessment, both in the Rules of Procedure and the corresponding guidance memos, it continued:

[t]he general goal of formative assessment is to collect detailed information that can be used to improve instruction and student learning *while it's happening*. What makes an assessment “formative” is not the design of a test, technique, or self-evaluation, per se, but the way it is used—i.e., to inform in-process teaching and learning modifications.<sup>66</sup>

---

59. *Id.* at 2.

60. *Id.*

61. *ABA Memo*, *supra* note 1.

62. *See id.*

63. *Id.* at 2.

64. *Id.*

65. *Id.*

66. *Formative Assessment*, THE GLOSSARY OF EDUC. REFORM (Apr. 29, 2014), <http://edglossary.org/formative-assessment/>.

Understanding how assessment can be formative is essential. As explained by Paul Black et al., “[a]n assessment activity is formative if it can help learning by providing information to be used as feedback, by teachers and by their students, in assessing themselves and each other, to modify the teaching and learning activities in which they are engaged.”<sup>67</sup> In addition, formative assessment can be used as a tool to improve metacognitive skills. More specifically, formative assessments can ensure students are more effective at transferring their learning to each new situation they will encounter in the practice of law.<sup>68</sup>

It is important to note, “[t]he students who are performing on the outer edges of the normal curve—the struggling and the gifted—particularly benefit. These students have learning needs that are often unique and specific, and the teacher needs timely data in order to address them.”<sup>69</sup> The primary focus of formative assessments is to improve student learning, and identify areas that may be in need of improvement.<sup>70</sup> There are many formative assessment strategies that can be used in the classroom, including quizzes, one-minute papers, and think-pair-share exercises, just to name a few.<sup>71</sup>

When formative assessment is well implemented the benefits include:

1. *Defined Learning Goals.* Monitoring student progress regularly helps keep learning goals top of mind so students have a clear target to work towards, and teachers can help clear up misunderstandings before students get off track.

2. *Increased Rigor.* Practicing formative assessment helps teachers collect information that indicates student needs. Once teachers have an understanding of what students need to be successful, they can create a rigorous learning environment that will challenge every student to grow.

3. *Improved Academic Achievement.* Providing students and teachers with regular feedback on progress toward their goals is the main function of formative assessment that will aid in increasing academic achievement. Formative assessment helps students close the gap between their current knowledge and their learning goals.

---

67. Paul Black, Mark Wilson & Shih-Ying Yao, *Road Maps for Learning: A Guide to the Navigation of Learning Progressions*, 9 MEASUREMENT 71, 74 (2011).

68. Anthony Niedwiecki, *Teaching for Lifelong Learning: Improving the Metacognitive Skills of Law Students Through More Effective Formative Assessment Techniques*, 40 CAP. U.L. REV. 149, 152 (2012).

69. 9 *Benefits of Using Formative Assessment to Increase Student Growth*, POWERSCHOOL (May 17, 2016), <https://www.powerschool.com/9-benefits-of-using-formative-assessment-to-increase-student-growth/>.

70. *Assessment for Learning: Formative Assessment*, CTR. FOR EDUC. RESEARCH AND INNOVATION (2008) at 1, <http://www.oecd.org/site/educeri21st/40600533.pdf> (presented at the OECD/CERI International Conference in Paris, entitled: “Learning in the 21st Century: Research, Innovation and Policy”).

71. See Natalie Regier, *Book 2: 60 Formative Assessment Strategies*, REGIER EDUC. RES. (2012), [http://www.stma.k12.mn.us/documents/DW/Q\\_Comp/FormativeAssessStrategies.pdf](http://www.stma.k12.mn.us/documents/DW/Q_Comp/FormativeAssessStrategies.pdf).

4. *Enhanced Student Motivation.* Because formative assessment involves setting learning goals and measuring the progress towards those, this increases motivation. When students have a focus on where they're aiming, results skyrocket.

5. *Increased Student Engagement.* Students need to find meaning in the work they are asked to do in the classroom. Connecting the learning objectives with real-world problems and situations draws students into the instructional activities and feeds their natural curiosity about the world.

6. *Focused and Targeted Feedback.* Descriptive feedback should highlight gaps in understanding and specifically inform students on how they can improve their learning rather than listing what they got wrong, thus facilitating a reciprocal learning process between teachers and students.

7. *Personalized Learning Experiences.* It's the close analysis of formative assessment data that allows the teacher to examine his or her instructional practices and determine which are producing the desired results and which are not. Some that work for one group of students may not work for another group.

8. *Self-Regulated Learners.* Teaching students the requisite skills to monitor and take responsibility for meeting their goals creates self-regulated learners. Give students examples of high-quality work along with multiple opportunities to review and correct their own work to build independent and autonomous thinkers.

9. *Data-Driven Decisions.* Using the data gathered from frequent learning checks empowers teachers to make sound, informed decisions that are grounded in data.<sup>72</sup>

The use of formative assessments provides many benefits to students, but they can also serve as useful tools for teachers. Formative assessments "help teachers consider each student's learning needs and styles providing the teacher the ability to adapt instruction accordingly, track individual student achievement, provide appropriately challenging and motivational instructional activities, design intentional and objective student self-assessments, and offer all students opportunities for improvement."<sup>73</sup>

A useful tool for developing and implementing formative assessment is the "Formative Assessment Cycle." The cycle requires educators to: "(1) Collect data from a learning experience; (2) Analyze the data for what students know and do not know; (3) Reflect on the data to plan interventions and/or extensions/enrichments; (4) Implement plan of action; and (5) Repeat steps 1-4."<sup>74</sup>

---

72. 9 *Benefits of Using Formative Assessment*, *supra* note 69, at 3–5.

73. LAURA GREENSTEIN, WHAT TEACHERS REALLY NEED TO KNOW ABOUT FORMATIVE ASSESSMENT 16 (2010).

74. Jonathan McCarthy, *Formative Assessment Cycle - A Necessary Good*, OPENING PATHS (Mar. 24, 2014), <http://openingpaths.org/blog/2014/03/formative-assessment-cycle/>.

As noted in ABA Standard 314, providing feedback to students is an essential element of formative assessment. It is also considered one of the more instructionally powerful and least understood features in instructional design.<sup>75</sup> Feedback early and often, is considered the most effective method to enhance student learning. However, “[m]any law professors experience the frustration of spending hours providing feedback to students only to find that the students fail to read it and, even when they do, they are not able to use it to enhance their understanding of the law or legal analysis.”<sup>76</sup> According to Elizabeth Bloom, the “literature on teaching and learning instructs that ‘assessment is at the heart of the student experience,’ and feedback is ‘one of the most powerful influences on learning,’ with methods of assessment and feedback most significantly affecting how students choose to approach their learning of the material.”<sup>77</sup> As a result, feedback significantly impacts how students choose to approach their learning.<sup>78</sup> While there are various challenges associated with giving meaningful feedback, like classes with a large student enrollment, there are also tools available to aid professors in providing meaningful feedback. A commonly used example, especially in large classes, is the use of rubrics. Rubrics help students to understand, from the start, the expectations of the formative assessment. They also provide guidance and the encouragement to facilitate self-assessment and reflection.

## 2. *Summative Assessment*

By contrast, the goal of summative assessment is to measure the level of success or proficiency that has been obtained at the end of an instructional unit, by comparing it against some standard or benchmark.<sup>79</sup> Summative assessments are the most common used type of assessments in law schools. Examples of summative assessments include final exams (or other high stakes exams), portfolios, final reports, and final seminar papers.<sup>80</sup>

---

75. Steven R. Wininger & Antony D. Norman, *Teacher Candidates' Exposure to Formative Assessment in Educational Psychology Textbooks: A Content Analysis*, 10 EDUC. ASSESSMENT 19, 20 (2005).

76. Elizabeth M. Bloom, *A Law School Game Changer: (Trans)formative Feedback*, 41 OHIO N.U.L. REV. 227, 227, (2015).

77. *Id.* at 229 (citations omitted).

78. *Id.*

79. *Id.* at 232.

80. See *ABA Memo*, *supra* note 1, at 2.

### III. SELF-REGULATED LEARNING AND METACOGNITION: TOOLS FOR LIFELONG LEARNING

#### A. *Metacognition and Self-Regulated Learning*

Metacognition, is the process of thinking of one's own thinking.<sup>81</sup> At the root of metacognition, is cognition, which is the "mental action or process of acquiring knowledge and understanding through thought, experience, and the senses."<sup>82</sup> Combining the two preceding definitions, "[metacognition] refers to the processes used to plan, monitor, and assess one's understanding and performance. Metacognition includes a critical awareness of a) one's thinking and learning and b) oneself as a thinker and learner."<sup>83</sup> Learning theorists have divided metacognition into two, corresponding processes: knowledge of cognition and regulation of cognition.<sup>84</sup> The first process, **knowledge of cognition**, has three parts: "knowledge of the factors that influence one's own performance; knowing different types of strategies to use for learning; [and] knowing what strategy to use for a specific learning situation."<sup>85</sup> The second complementary component of metacognition, is **regulation of cognition**.<sup>86</sup> Regulation of cognition involves: "setting goals and planning; monitoring and controlling learning; and evaluating one's own regulation (assessing results and strategies used)."<sup>87</sup> In the higher education setting, this is commonly referred to as self-regulated learning.

According to Connie Malamed, "[i]n a world that demands lifelong learning, providing people with new and improved metacognitive strategies is a gift that can last forever."<sup>88</sup> Teaching law students to be lifelong learners begins with students being taught metacognitive skills and how to become self-regulated learners. As law teachers, it is important to understand that, "[m]etacognitively, self-regulated learners are persons who plan, organize, self-instruct, self-monitor, and self-evaluate at various stages of the learning process."<sup>89</sup>

81. Connie Malamed, *Metacognition and Learning: Strategies for Instructional Design*, ELEARNING COACH, <http://thelearningcoach.com/learning/metacognition-and-learning/> (last visited Nov. 1, 2017).

82. *Cognition*, ENGLISH OXFORD DICTIONARY, <https://en.oxforddictionaries.com/definition/cognition>.

83. Nancy Chick, *Metacognition*, VAND. UNIV., <https://cft.vanderbilt.edu/guides-subpages/metacognition/> (last visited Nov. 1, 2017).

84. See Malamed, *supra* note 81.

85. *Id.*

86. *Id.*

87. *Id.*

88. *Id.*

89. Naomi Silver, *Reflective Pedagogies and the Metacognitive Turn in College Teaching*, in USING REFLECTION AND METACOGNITION TO IMPROVE STUDENT LEARNING: ACROSS THE DISCIPLINES, ACROSS THE ACADEMY 1, 4 (Matthew Kaplan, Naomi Silver, Danielle Lavaque-Manty & Deborah Meizlish eds., 2013).

It is not uncommon in higher education for students to be exposed to learning styles and learning strategies. However, traditional learning styles and strategies are rooted in metacognition. In the law school setting, teaching cognition (one of the two components of metacognition) is often limited to an emphasis on learning styles alone. However, additional emphasis must be placed on the regulation of cognition and metacognitive strategies. In relation to learning styles, “[i]ntegrating such metacognitive activities into the classroom—unlike learning styles—is supported by a wealth of research.”<sup>90</sup>

Teaching learners how to acknowledge and tap into their metacognitive abilities can be done through teaching learners metacognitive strategies and the use of metacognitive activities in the classroom. There is improved student engagement with course materials when metacognitive teaching strategies are applied in the learning process. Strategies include, helping students to make their learning process explicit and giving students the capability to monitor their own comprehension.<sup>91</sup>

At the core of successful, lifelong learning and metacognition is self-regulation.<sup>92</sup> The self-regulated learning process, “involves the active, goal-directed, self-control of behavior, motivation, and cognition for academic tasks by an individual student.”<sup>93</sup> Students becoming “masters” of their own learning process, is the definition of self-regulated learning.<sup>94</sup>

According to Barry Zimmerman:

Self-regulated learners... view... academic learning as something they do for themselves rather than as something that is done to or for them. They believe academic learning is a proactive activity, requiring self-initiated motivational and behavioral processes as well as metacognitive ones. For example, self-regulated students stand out from classmates by the goals they set for themselves, the accuracy of their behavioral self-monitoring, and the resourcefulness of their strategic thinking.<sup>95</sup>

---

90. Chick, *supra* note 83 (citations omitted).

91. See Silver, *supra* note 89, at 9.

92. *Self-regulating Learning: Impact of Attention, Memory, Language, Spatial and Sequential Ordering, Higher Order Cognition, and Social Cognition*, All Kinds of Minds, <http://www.allkindsofminds.org/study-skills-self-regulating-learning-impact-of-attention-memory-language-spatial-and-sequential-ordering-higher-order-cognition-and-social-cognition> (last visited Nov. 1, 2017).

93. Paul R. Pintrich, *Understanding Self-Regulated Learning*, 63 NEW DIRECTIONS FOR TEACHING AND LEARNING 3, 5 (1995).

94. Barry J. Zimmerman, *Developing Self-Fulfilling Cycles of Academic Regulation: An Analysis of Exemplary Instructional Models*, in SELF-REGULATED LEARNING: FROM TEACHING TO SELF-REFLECTIVE PRACTICE 1, 1 (Dale H. Schunk & Barry J. Zimmerman eds., 1998).

95. *Id.*



First, self-regulated learners begin with setting specific goals. Next, learning is influenced by “students’ self-generated thoughts, feelings, strategies, and behaviors, which are oriented toward the attainment of goals.”<sup>96</sup> During the process, students are constantly monitoring their progress towards accomplishing their goals. To help better understand and illustrate the self-regulated learning process, Zimmerman described the “Self-Regulated Learning Cycle Phases.”<sup>97</sup>

The major goal of self-regulated learning is that students are able to engage in a cycle of learning from assessment to reflection.<sup>98</sup> However, teaching students to be self-regulated learners involves teaching them the steps of a self-regulated cycle. To effectively teach students, it is imperative that educators understand each phase of a self-regulated cycle. There are three phases of the cycle: “forethought, performance or volitional control, and self-reflection.”<sup>99</sup> The first phase involves planning one’s learning, the second focuses on monitoring progress while implementing the plan, and the third includes evaluating the outcome of the plan once it’s completed.<sup>100</sup> At the foundation of each of the phases is reflection.<sup>101</sup> Reflection should be done through each phase of the cycle.

This well-thought-out process for learning is primarily the reason why “self-regulated students stand out from their classmates by the goals they set for themselves, the accuracy of their behavioral self-monitoring, and the resourcefulness of their strategic thinking.”<sup>102</sup>

### *B. Reflection: A Tool for Lifelong Learning*

Successful law students and lawyers understand the importance of lifelong learning. The law is always changing and, even if were static, law schools cannot teach students all they will need to know to be successful lawyers.<sup>103</sup> However, teachers can equip students with the tools for successful lifelong learning. As discussed in Section III.A., self-regulated learners have strong metacognitive skills. Reflection bolsters metacognition, and strong metacognition is connected to lifelong learning.<sup>104</sup> As a tool to promote lifelong learning, “[r]eflection can involve several cognitive activities that lead to stronger learning: retrieving knowledge and earlier training from memory, connecting these to new experiences, and visualizing and mentally

96. *Self-Regulated Learning*, EXPERT LEARNERS (Sept. 4, 2011), <http://www.expertlearners.com/srl.php>.

97. Zimmerman, *supra* note 94, at 2 (citations omitted).

98. *See id.*

99. *Id.*

100. *Id.* at 2–5.

101. *See id.* at 5.

102. *Id.* at 1.

103. Cheryl B. Preston, Penée Wood Stewart & Louise R. Moulding, *Teaching “Thinking Like a Lawyer”*: *Metacognition and Law Students*, 2014 BYU L. REV. 1053, 1074–75 (2014).

104. *Id.* at 1083 (citations omitted).

rehearsing what you might do differently next time.”<sup>105</sup> At each stage of learning, teachers can equip students with tools that help them connect prior and new learning experiences. Research demonstrates that students who reflect on their learning learn better than students who do not.<sup>106</sup> Research also demonstrates that law teachers play a key role in their students’ reflective practice.<sup>107</sup> Specifically, students learn better when teachers require them to monitor their learning through reflection.<sup>108</sup> Because the goal of this article is to demonstrate contemporary teaching strategies designed to better engage Millennials across the curriculum, this article will explore strategies below that law teachers can use to better engage Millennials in the key metacognitive skill of reflection.

### 1. *Thinking Aloud Protocol*

Students can employ metacognitive skills by reflecting on what they read when they engage in the thinking aloud protocol.<sup>109</sup> Whether conscious or not, readers apply various personal contexts to what they read.<sup>110</sup> A student’s ability to understand assigned reading depends on the knowledge acquired from the reading and prior knowledge.<sup>111</sup> In a study, self-regulated students who employed metacognitive skills performed better than students who were taught in a traditional, teacher-centered classroom.<sup>112</sup> Likewise, these students retained information longer<sup>113</sup> and were better positioned for lifelong learning. Law teachers can foster the development of metacognitive skills by introducing and encouraging students to use a thinking aloud protocol. The thinking aloud protocol is a critical reading strategy that requires students to question the significance of what they read, a reflective practice.<sup>114</sup> Teachers accomplish this by training students to speak aloud their immediate response to a reading.<sup>115</sup> Specific reflective reading questions include:

105. PETER C. BROWN, HENRY L. ROEDIGER III & MARK A. MCDANIEL, *MAKE IT STICK: THE SCIENCE OF SUCCESSFUL LEARNING* 27 (2014).

106. SUSAN A. AMBROSE, MICHAEL W. BRIDGES, MICHELE DIPIETRO, MARSHA C. LOVETT & MARIE K. NORMAN, *HOW LEARNING WORKS: SEVEN RESEARCH-BASED PRINCIPLES FOR SMART TEACHING* 198 (2010).

107. *Id.*

108. *Id.*

109. Robin A. Boyle, *Employing Active-Learning Techniques and Metacognition in Law School: Shifting Energy from Professor to Student*, 81 U. DET. MERCY L. REV. 1, 17 (2003).

110. See Elizabeth Fajans & Mary R. Falk, *Against the Tyranny of Paraphrase: Talking Back to Texts*, 78 CORNELL L. REV. 163, 166 (1993).

111. *Id.* at 171.

112. See Boyle, *supra* note 109, at 11–12 (citing Theresa M. Hamlin, *Effects of Learning-Style Strategies and Metacognition on Adults’ Achievement* 59, 73 (2001) (unpublished Ed. D. dissertation) (on file with St. John’s University)).

113. See *id.* at 12 (citing Hamlin, *supra* note 112, at 73).

114. *Id.* at 17.

115. Fajans & Falk, *supra* note 110, at 192.

1) asking how the court itself reads the law (reading for jurisprudential and interpretive posture); 2) asking how the opinion accords with other things we know about the word and about the world (reading for context); 3) asking how and how legitimately the opinion seeks to gain our assent (reading for rhetoric and style); 4) asking how the opinion tells whose story (reading for narrative); and 5) asking the opinion about its silences (or reading for omission).<sup>116</sup>

We are not likely to stop Millennials from multitasking as it is a part of their daily practice. However, the thinking aloud approach may help Millennials eliminate distractions by keeping them focused on the task at hand.

## 2. *Minute Papers*

Reflective writing exercises create a habit of reflection in students. Retrieval and elaboration are cognitive activities that cultivate the habit of reflection.<sup>117</sup> Reflection requires students to question their learning experiences.<sup>118</sup> It “helps students become more conscious of their own thought processes and work strategies and can lead them to make more appropriate adjustments.”<sup>119</sup> After an activity designed for understanding and remembering, teachers can promote learning by starting class with “minute papers,” where students answer questions like: “What are the key ideas? What are some examples? How do these relate to what I already know?”<sup>120</sup> After an activity designed for application and analysis, students can assess their learning outside of class by asking themselves: “What went well? What could have gone better? What might I need to learn for better mastery, or what strategies might I use the next time to get better results?”<sup>121</sup> Law teachers can leverage technology and engage Millennials by allowing students to anonymously post their reflective writing to a course blog.<sup>122</sup>

## 3. *Electronic Portfolios*

As legal education continues to emphasize the importance of experiential learning, law schools can use electronic portfolios as an effective teaching and learning tool for reflection.<sup>123</sup> Electronic portfolios are created by

---

116. *Id.* at 193.

117. *See* BROWN ET AL., *supra* note 105, at 66.

118. *See id.* at 88.

119. *See* AMBROSE ET AL., *supra* note 106, at 209.

120. BROWN ET AL., *supra* note 105, at 88.

121. *Id.* at 88–89.

122. *See* Jill Walker Rettberg, *Bloggng as a Tool for Reflection and Learning*, VIRCLASS, [www.virclass.net/eped/ep\\_tmp/files/17842056574abc85cdf304e.pdf](http://www.virclass.net/eped/ep_tmp/files/17842056574abc85cdf304e.pdf) (last visited Nov. 1, 2017).

123. Vicki Wayne & Margaret Faulkner, *Embedding E-Portfolios in a Law Program: Lessons from an Australian Law School*, 60 J. LEGAL EDUC. 560, 561 (2012).

students to highlight their ongoing acquisition of knowledge, skills, and abilities.<sup>124</sup> They include multiple reflective writing assignments that can help bridge “the dichotomy between legal doctrine and legal practice”<sup>125</sup> accounting for student learning in and outside of the classroom. Electronic portfolios speak to Millennials’ generational learning style by allowing them to utilize technology as their primary vehicle for learning. Such portfolios can include traditional written reflection or recorded video reflection captured after receiving feedback on an experiential assessment like the Multistate Performance Test. Electronic portfolios encourage Millennials to monitor their learning over time by reflecting on prior knowledge and goal setting for the future, key attributes of lifelong learners.<sup>126</sup> While research suggests that electronic portfolios are more effective when used across the curriculum in an intentional manner,<sup>127</sup> at the course level, faculty who teach courses that consistently require students to evaluate and create can implement electronic portfolios as capstone projects. Those who implemented electronic portfolios found that students valued the feedback they received.<sup>128</sup> However, for electronic portfolios to be effective learning tools, students required training on reflective practice that included examples of good and bad reflective writing.<sup>129</sup>

When there is collaboration among various law school constituencies, electronic portfolios add value to the overall student experience. For example, while orienting students to electronic portfolios, law teachers can partner with career services to demonstrate the usefulness of portfolios as career and personal development tools.<sup>130</sup> When used effectively, electronic portfolios promote lifelong learning by demonstrating the value of metacognitive knowledge to Millennial students through multimedia reflection.

#### 4. *Professional Identity Courses*

Finally, reflection can be used as a tool to encourage development of Millennials’ professional identities in capstone, professional identity courses. In such courses, reflection helps students shape their professional identity through reflective writing exercises. At the onset of this course, guided by the teacher, students reflect on how their professional identity evolved during law school.<sup>131</sup> For example, this reflection occurs when students reflect on the personal statement they wrote before matriculating to law

---

124. *Id.* at 567.

125. *Id.* at 566.

126. *Id.* at 566–68.

127. *See id.* at 561 (citations omitted).

128. *Id.* at 579.

129. *Id.*

130. *See* Waye & Faulkner, *supra* note 123, at 571.

131. *See* Daisy Hurst Floyd, *Pedagogy and Purpose: Teaching for Practical Wisdom*, 63 *MERCER L. REV.* 943, 953 (2012).

school.<sup>132</sup> Here, teachers might ask, “[d]oes the statement accurately reflect: Who you are today? Your current goals with regard to law school? Your current goals with regard to the practice of law or other post law school experiences?”<sup>133</sup> Second, through assigned reading, reflective writing exercises, class discussion, and conversations with lawyers and other professionals, law teachers expose students to new ideas that will help students set goals for their professional identity post law school.<sup>134</sup> Here, a typical reflective writing question might ask students to “[t]hink about the times in your life when you have felt or you feel most yourself—when you feel most authentic and alive. Do these times occur when you are in particular place, doing a particular thing, or with a particular person or people?”<sup>135</sup> This type of reflection is important for lifelong learning as it connects knowledge of the law with practical and personal experience. When teachers provide meaningful feedback regarding Millennials’ professional growth, it keeps Millennials engaged in continued learning and professional development. Their desire to feel special is satisfied by finding broad purpose in their work.

#### IV. CREATING A STUDENT-CENTERED CLASSROOM

Integrating routine formative assessments in the classroom will not be without some challenges for both teachers and students, especially in classroom environments that have been primarily teacher-led, with little to no teacher-to-student and student-to-student collaboration. However, the benefits and burdens of both must be examined as the student-centered classroom is the setting most conducive for implementing routine formative assessments in the classroom.

In the student-centered classroom, everything is centered on the ultimate goal of student learning. But isn’t that what all educators strive for; their students successfully attaining knowledge and the course objectives are met? From course planning, teaching and assessments, every action taken by the teacher is intentionally done with the end game in mind—student learning. This is an ongoing process. It requires the teacher to always be mindful by actively measuring if they are accomplishing the goal of student learning, which directly supports the ABA’s goal of increased outcome measures in law schools.<sup>136</sup>

The student-centered classroom is distinguishable from the commonly practiced teacher-centered classroom, currently being practiced in most law schools. In the teacher-centered classroom, students place all of their focus

---

132. *Id.*

133. *Id.*

134. *See id.* at 947.

135. *Id.* at 954.

136. *ABA Memo, supra* note 1, at 1–2.

on the teacher, students generally work alone, and collaboration is discouraged.<sup>137</sup> In this classroom environment, students rely solely on the teacher to facilitate their learning, from start to finish.<sup>138</sup> There are both pros and cons to the teacher-centered classroom. A pro for most teachers in the teacher-centered classroom is that the classroom remains quiet and orderly and the teacher remains in control of the classroom at all times.<sup>139</sup> The teacher-centered classroom is like a scripted play, where the director is in charge. Everything begins and ends with the director. All of the actors are provided their scripts from the very beginning, and the director is tasked with starting and stopping each scene. Without the director, there is no play, at least that's what we have always been led to believe. A major con in the teacher-centered classroom, is that students often find teacher-centered classrooms boring, causing students to not be in tune and can result in students missing important points.<sup>140</sup> To that end, it is important to note the ongoing discussion in law schools, as well as other educational settings, about the challenges associated with allowing students to utilize laptops in the classroom.<sup>141</sup>

A teacher-centered classroom often results in students improperly using technology as a means to pass the time, rather than using technology as a tool to enhance their learning, even in the classroom setting. To curb improper use of technology in the classroom, “[s]uccessful student-centered teaching emphasizes both creative and effective use of technology to meet students’ learning goals.”<sup>142</sup> Another related con to the teacher-centered classroom is that students aren’t free to express themselves and direct their own learning.<sup>143</sup> This con of the teacher-centered classroom tends to undermine some of the goals of the self-regulated learning cycle.

Conversely, in the student-centered classroom, both teachers and students share the focus.<sup>144</sup> The student-centered environment starts with the teacher, and requires intentional teaching strategies that must be integrated into course planning.<sup>145</sup> A key element to creating a student-centered learning environment is the act of allowing students to be involved in the process

---

137. *Which is Best: Teacher-Centered or Student-Centered Education?*, ROOM 241 (Dec. 31, 2012), <http://education.cu-portland.edu/blog/classroom-resources/which-is-best-teacher-centered-or-student-centered-education/> (last updated Dec. 5, 2017).

138. *See id.*

139. *Id.*

140. *Id.*

141. *E.g., Laptops and Law Students: A Bad Combo?*, ABOVE THE LAW (July 26, 2016), <https://abovethelaw.com/2016/07/laptops-and-law-students-a-bad-combo/>.

142. *Essential Conditions: Student-Centered Learning*, INT’L SOC’Y FOR TECH. IN EDUC., <https://www.iste.org/standards/tools-resources/essential-conditions/student-centered-learning> (last visited Nov. 1, 2017).

143. *Which is Best*, *supra* note 137.

144. *Id.*

145. *Essential Conditions: Student-Centered Learning*, *supra* note 142.

of learning.<sup>146</sup> According to John McCarthy, “[p]lacing students at the center of their own learning requires their collaboration. They need a voice in *why*, *what*, and *how* learning experiences take shape.”<sup>147</sup> Thus, the student-centered classroom directly meets Millennials’ generational learning style.

Unlike the teacher-centered classroom, which is the customary method used in law school, the student-centered classroom requires a heightened level of collaboration between student and teacher.<sup>148</sup> Through this collaboration, the teacher becomes a co-participant, and in response students feel empowered when participating in the process.<sup>149</sup> According to Martha Kennedy, “[t]o learn a skill, students must be directly involved. No teacher can stand there and tell the students how to do something and expect the students to leave the classroom able to do it.”<sup>150</sup> Moreover, the teacher becomes a co-learner, and is routinely assessing student learning, which is the essence of formative assessments. As discussed, an important aspect of formative assessments is the teacher being able to make adjustments to their course on an ongoing basis, as a direct result of evaluating students’ acquisition of knowledge learned in the course.<sup>151</sup> Assessments in the student-centered classroom mirror the goals and expectations of formative assessments. Student-centered assessments are ideal in the law school classroom because they require the learner to access higher-order level thinking through the process of reflecting and synthesizing what they have learned.<sup>152</sup>

Similar to teacher-centered, student-centered classrooms have both pros and cons. A major con for teachers in the student-centered classroom is the feeling that they have less control in the actual classroom.<sup>153</sup> However, most would agree that the pros far outweigh the cons in the context of creating a formative assessment friendly classroom environment. A major pro of the student-centered classroom is collaboration.<sup>154</sup> As discussed, Millennials gain confidence in their ability to perform independently in collaborative

146. John McCarthy, *Student-Centered Learning: It Starts with the Teacher*, EDUTOPIA (Sept. 9, 2015), <https://www.edutopia.org/blog/student-centered-learning-starts-with-teacher-john-mccarthy>.

147. *Id.*

148. Marcia Powell, *5 Ways to Make Your Classroom Student Centered*, EDUC. WEEK (Dec. 24, 2013), <http://mobile.edweek.org/c.jsp?cid=25919701&bcid=25919701&rssid=25919691&item=http%3A%2F%2Fapi.edweek.org%2Fv1%2Ftm%2F%3Fuuid%3DD4BB473E-6CA7-11E3-8726-03A9B3743667>.

149. *Id.*

150. Martha Kennedy, *Student Centered vs. Teacher Centered Learning*, THE SYNAPSE (May 6, 2015), <https://medium.com/synapse/student-centered-vs-teacher-centered-learning-2184a7521720>.

151. See discussion *supra* Section II.B.1.

152. Powell, *supra* note 148.

153. See *Which is Best*, *supra* note 137.

154. *Id.*

learning environments.<sup>155</sup> For students, the process of collaborating with their teacher and classmates makes learning more engaging for students, thus making them more interested in what they are learning.<sup>156</sup> Additionally, the student-centered learning environment is conducive for self-regulated learning since students, as active participants, have a clearly defined role and responsibility in the learning process.<sup>157</sup> In summary, “[s]tudent-centered learning moves students from passive receivers of information to active participants in their own discovery process. What students learn, how they learn it and how their learning is assessed are all driven by each individual student’s needs and abilities.”<sup>158</sup>

Shifting to a student-centered classroom will provide a classroom environment that is ripe for successfully implementing formative assessments and create a learning environment that is engaging and rewarding for both teacher and student. In the next section, we explore the use of Bloom’s taxonomy as a framework for developing law courses that effectively engage students’ higher-level thinking.

## V. BLOOM’S TAXONOMY: A FRAMEWORK FOR FORMATIVE ASSESSMENT

### A. Bloom’s Taxonomy

Through assessment, professors can elevate students’ learning beyond the lower level of Bloom’s taxonomy to higher levels of the taxonomy by developing and assigning learning tasks that require application, analysis, synthesis, evaluation, and creation—meeting the primary goals of legal education.

The original Bloom’s taxonomy identified knowledge, comprehension, application, analysis, synthesis, and evaluation as the major areas of cognition.<sup>159</sup> These areas were arranged from easy to complex.<sup>160</sup> Applying the taxonomy to learning, “[s]tudents must attain lower level intellectual behaviors before they can move to higher level intellectual behaviors.”<sup>161</sup> From its creation in 1950, until its revision in 2001, Bloom’s taxonomy was most often used by educators when creating learning objectives.<sup>162</sup> However, the original taxonomy was one dimensional, while educators’ expectations for

---

155. Kaplan & Darvil, *supra* note 20, at 180 n.177, 181.

156. *Id.*

157. See discussion *supra* Section III.A.

158. *Essential Conditions: Student-Centered Learning*, *supra* note 142.

159. David R. Krathwohl, *A Revision of Bloom’s Taxonomy: An Overview*, 41 THEORY INTO PRAC. 212, 212 (2002).

160. *Id.*

161. Joni Larson, *Turning the Tables: Is it Time for Professors to Stop Fighting the Presence of Students’ Technology in the Classroom and Instead Use it to Enhance Student Learning?*, 43 N. KY. L. REV. 231, 237 (2016).

162. Krathwohl, *supra* note 159, at 213.



learning were not.<sup>163</sup> In stated learning objectives, knowledge was used as both a noun and a verb unlike the other categories.<sup>164</sup> In 2001, the taxonomy was revised to include the knowledge dimension and the cognitive process dimension with “the noun providing the basis for the Knowledge dimension and the verb forming the basis for the Cognitive Process dimension.”<sup>165</sup> Before the revision, knowledge included the three subcategories: factual, conceptual, and procedural.<sup>166</sup> Recognizing the increased importance of metacognition, the authors of the revised taxonomy added metacognitive knowledge, or “...knowledge about cognition in general as well as awareness of and knowledge about one’s own cognition.”<sup>167</sup> These four subcategories of knowledge (factual, conceptual, procedural, metacognitive) comprise the knowledge dimension.

In the cognitive process dimension, the “*Knowledge* category [was] named *Remember*, the *Comprehension* category [was] named *Understand*, *Synthesis* [was] renamed *Create* and made the top category, and the remaining categories changed to their verb forms.”<sup>168</sup> The revised taxonomy accounts for the fact that subareas of the knowledge dimension overlap with multiple cognitive processes. For example, a student needs factual, conceptual, and procedural knowledge to successfully evaluate the likelihood of a client’s success.<sup>169</sup>

### Cognitive Process Dimension

		Remember	Understand	Apply	Analyze	Evaluate	Create
Knowledge	Factual					*	
	Conceptual					*	
	Procedural					*	
	Metacognitive						

The revised taxonomy more accurately reflects the multifaceted learning of Millennials. Understanding the revisions will help teachers create assignments that suit their two-dimensional learning objectives.

163. *Id.*

164. *Id.*

165. *Id.*

166. *Id.* at 214.

167. *Id.*

168. *Id.* at 218.

169. *Id.* at 216 fig.1 (table modified).

### B. Bloom's Taxonomy in Action

Before providing contemporary teaching strategies that law teachers can use at each level of the revised taxonomy to engage Millennials, we must address the concern raised by many law teachers who care about student learning, but are strapped for resources and time. Intentional changes, both small and large, can impact student engagement and learning.<sup>170</sup> These changes will not occur overnight in any one course, but small changes over time can have a large impact.<sup>171</sup> Consider incorporating a new teaching strategy each semester, instead of completely overhauling a course.<sup>172</sup> It's been suggested that new law teachers may be "peculiarly equipped" to lead the charge in changing the traditional law school classroom.<sup>173</sup> However, whether new or experienced, teachers interested in implementing the assessments suggested below should consider partnering with Academic Support teachers who are experienced with effectively implementing non-traditional teaching techniques in the law school classroom.<sup>174</sup>

### C. The Knowledge Dimension

As described in Section V.A., in the revised taxonomy the knowledge dimension overlaps with the cognitive process dimension. The knowledge dimension includes four key areas of knowledge: factual, conceptual, procedural, and metacognitive.<sup>175</sup> Factual knowledge is "[t]he basic elements that students must know to be acquainted with a discipline or solve problems in it."<sup>176</sup> Conceptual knowledge includes, "[t]he interrelationships among the basic elements within a larger structure that enable them to function together."<sup>177</sup> Procedural knowledge entails knowing "[h]ow to do something."<sup>178</sup> Metacognitive knowledge, a new area added to the revised taxonomy described in Section V.A., includes strategic knowledge, knowledge about cognitive tasks, and self-knowledge.<sup>179</sup> Before exploring cognitive teaching strategies, we must first discuss strategies law teachers can employ to help Millennials acquire knowledge.

---

170. JAMES M. LANG, *SMALL TEACHING: EVERYDAY LESSONS FROM THE SCIENCE OF LEARNING* 3–6 (2016).

171. *Id.* at 4–5.

172. *See id.* at 5.

173. Benjamin V. Madison, III, *The Elephant in Law School Classrooms: Overuse of the Socratic Method as an Obstacle to Teaching Modern Law Students*, 85 U. DET. MERCY L. REV. 293, 336 (2008).

174. *Id.* at 336.

175. Krathwohl, *supra* note 159, at 214.

176. *Id.*

177. *Id.*

178. *Id.*

179. *Id.*

### 1. *Mini Lectures*

Knowing that students have short attention spans, mini lectures can be used in a multifaceted law classroom to provide the basis for factual and conceptual knowledge.<sup>180</sup> Mini lectures add valuable content, are surrounded with other activities, and include visuals.<sup>181</sup> Studies demonstrate that after ten minutes, students lose interest.<sup>182</sup> For mini lectures to be effective, they should be shorter than fifteen minutes and limited to a complex concept.<sup>183</sup> Mini lectures are most effective after students have initial exposure to information and have grappled with a difficult concept by engaging in a quiz or game as discussed below in Section V.D.1. If students are confused, they are more likely to tune in to the mini lecture.<sup>184</sup> They will also have questions, further keeping them engaged as they listen for answers. For example, after first exposure to the concept of consideration in a first-year Contracts course through reading assignments, law teachers might start class with a quiz and then give a mini-consideration lecture using an image-filled Prezi.<sup>185</sup> If questions remain, teachers should entertain them only after the mini lecture.

### 2. *The Flipped Classroom*

The “flipped” classroom suits Millennials’ generational learning style by leveraging technology to promote student-centered learning. The flipped classroom allows students to engage with pre-recorded, substantive content before class as many times as necessary until they understand and remember.<sup>186</sup> Law teachers can deliver flipped content by releasing a mp3 voice recording, recording short videos, or adding audio to slides in PowerPoint or Prezi. Like the mini lecture, content delivered in the flipped classroom should average around ten minutes.<sup>187</sup> The process for flipping the classroom includes writing a script, assembling visuals into a slide show, and marrying the audio recording with the visuals.<sup>188</sup> There are several software platforms that can assist you in doing this.<sup>189</sup> Those who are not technology savvy can also enlist the help of your school’s IT department or a graduate

---

180. MICHAEL HUNTER SCHWARTZ, SOPHIE SPARROW & GERALD F. HESS, *TEACHING LAW BY DESIGN: ENGAGING STUDENTS FROM THE SYLLABUS TO THE FINAL EXAM* 108–09 (2d ed. 2017).

181. *Id.* at 109.

182. *Id.* at 108.

183. *Id.* at 108–09.

184. *Id.* at 109.

185. *See generally Presenting the Next Big Thing in Presenting*, PREZI, <https://prezi.com> (last visited Nov. 1, 2017) (Prezi enables law teachers to create presentations).

186. *See* Larson, *supra* note 161, at 240.

187. Debora L. Threedy & Aaron Dewald, *Re-Conceptualizing Doctrinal Teaching: Blending Online Videos with In-Class Problem-Solving*, 64 J. LEGAL EDUC. 605, 615 (2015).

188. *Id.* at 616–18.

189. *Id.* at 618.

assistant. If you are not comfortable creating content, your students may have access to mini content lectures through subscriptions with commercial bar preparation companies or online platforms like CALI or Quimbee. When students learn in the flipped classroom, teachers can more effectively use class time for explanation of complex rules or higher-level taxonomy activities.<sup>190</sup>

#### D. *The Cognitive Process Dimension*

##### 1. *Remember and Understand*

Remember and understand are the lowest two levels of the cognitive process dimension of the revised Bloom's taxonomy.<sup>191</sup> When students remember, they retrieve "relevant knowledge from long-term memory."<sup>192</sup> Remembering includes recognizing and recalling stored information.<sup>193</sup> When students understand, they determine "the meaning of instructional messages, including oral, written, and graphic communication."<sup>194</sup> Understanding includes cognitive activities like interpreting, exemplifying, classifying, summarizing, inferring, comparing, and explaining.<sup>195</sup> Next, we will explore contemporary teaching strategies law teachers can employ to improve Millennials' cognitive skills, helping them better understand and remember.

##### a. *Retrieval Practice*

Retrieval practice involves the practice of remembering.<sup>196</sup> It recognizes that, "[t]he more times that you practice remembering something, the more capable you become of remembering that thing in the future."<sup>197</sup> Research demonstrates that reading and rereading are the least effective approaches to learning new material.<sup>198</sup> Law teachers can use technology to create formative assessments designed to ensure Millennials understand and remember the basic substance of a course.<sup>199</sup> Law teachers who use formative assessments to promote learning at this level of the taxonomy should require students to engage in retrieval practice, as the ability to remember is acquired through the practice of remembering.<sup>200</sup> Online quizzes are a tool

---

190. See Larson, *supra* note 161, at 240–41.

191. Krathwohl, *supra* note 159, at 215.

192. *Id.*

193. *Id.*

194. *Id.*

195. *Id.*

196. See Lang, *supra* note 170, at 20.

197. *Id.*

198. See *id.* ("She was doing the student equivalent of staring at her notes over and over again—a practice that cognitive psychologists will tell you is just about the most ineffective study strategy students can undertake.")

199. Larson, *supra* note 161, at 239–40.

200. See Lang, *supra* note 170, at 20.

teachers can use to determine whether or not Millennials understand and remember concepts.<sup>201</sup> Whether used in class or outside of class, these tools give students instant feedback and provide teachers with information they need to address learning gaps.<sup>202</sup> It is important to note that retrieval practice is most effective when students cannot access their notes or book for answers.<sup>203</sup> Setting reasonable time limits or requiring students to accept a honor code statement may ensure they complete the quiz without their books or notes. Once students see the benefit of retrieval practice, they will be less likely to feel the need for help. For overall effectiveness, these formative assessments should be low stakes and offered regularly.<sup>204</sup> Likewise, summative assessments should focus on the concepts learned from formative assessments given throughout the course.<sup>205</sup> Online quizzes leverage technology meeting Millennials generational learning style.

*b. Games*

Games are an entertaining and engaging way to ensure Millennials understand and remember concepts covered in class.<sup>206</sup> By age twenty-one, Millennials have spent 10,000 hours playing video games and less than 5,000 hours reading.<sup>207</sup> While the notion of games in the law school classroom implicates the dumbing down of law school learning, teachers have found that games are a great way to reinforce learning.<sup>208</sup> Games also spark debates and discussion about concepts that continue post class.<sup>209</sup> Further, they provide teachers the opportunity to gauge student understanding and provide content refreshers on the spot.<sup>210</sup> When using games, teachers should offer Millennials, the trophy generation, a prize, though the prize need not be significant. Anything from candy to school branded “swag” will do. There are many free, online platforms that allow teachers to effortlessly build questions and track score while gaming.<sup>211</sup> Jeopardy Labs is a favorite of the authors.<sup>212</sup> Creating a game may be time consuming. Law teachers who are

---

201. Larson, *supra* note 161, at 241.

202. *Id.*

203. Lang, *supra* note 170, at 34.

204. *Id.* at 39.

205. See Lang, *supra* note 170, at 37–38.

206. Karen Mika, *Games in the Law School Classroom: Enhancing the Learning Experience*, 18 PERSPECTIVES 1, 6 (2009).

207. Kassandra Barnes, Raymond Marateo & Pixy S. Ferris, *Teaching and Learning with the Net Generation*, 3 INNOVATE 1, 1 (2007) (citation omitted).

208. Mika, *supra* note 206, at 5.

209. *Id.*

210. *Id.* at 6.

211. *E.g., id.* at 5–6.

212. JEOPARDY LABS, <https://jeopardylabs.com/> (last visited Nov. 1, 2017).

interested in adding games to the classroom might consider applying for summer teaching grants to design and implement games.<sup>213</sup>

## 2. *Apply and Analyze*

Apply and analyze are the middle levels of the cognitive process dimension of the revised Bloom's taxonomy.<sup>214</sup> When students apply, they are "[c]arrying out or using a procedure in a given situation."<sup>215</sup> Applying includes executing and implementing.<sup>216</sup> When students analyze, they are "[b]reaking material into its constituent parts and detecting how the parts relate to one another and to an overall structure or purpose."<sup>217</sup> Analyzing includes cognitive activities: differentiating, organizing, and attributing.<sup>218</sup> Next, we will explore contemporary teaching strategies law teachers can employ to improve Millennials' cognitive skills, helping them better apply and analyze.

### a. *Effective Use of the Socratic Method*

While the Socratic Method is a staple of the traditional law school classroom, when used alone, it will not move students beyond the lower levels of the revised taxonomy.<sup>219</sup> Further, research suggest that one dimensional teaching that is purely Socratic disadvantages women and minority students.<sup>220</sup> However, when used effectively, the Socratic Method can help students apply what they are learning. It will also help teachers gauge whether students understand the material and if they are able to apply factual, conceptual, and procedural knowledge. Other than law school orientation, Millennials entering law school have limited exposure to the Socratic Method. Even if they are familiar with this teaching tool, teachers should spend some time at the onset of the semester explaining why and how the Socratic Method will be employed in class.<sup>221</sup> This explanation will help Millennials connect their learning activities to stated, course objectives, giving them control over their learning. While teachers should stress the importance of class preparation, teachers should also inform students that the Socratic Method

---

213. See Mika, *supra* note 206, at 5.

214. Krathwohl, *supra* note 159, at 215.

215. *Id.*

216. *Id.*

217. *Id.*

218. *Id.*

219. Larson, *supra* note 161, at 237.

220. Madison, *supra* note 173, at 301.

221. ROY STUCKEY, BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP 218 (2007).

will not be used to intentionally embarrass any student participant.<sup>222</sup> Finally, the Socratic Method is used effectively when it is not the only teaching tool employed by teachers and when it is used at the right time.<sup>223</sup>

One specific way to effectively use the Socratic Method is to use closed hypotheticals that “relate the rules and facts in the case at hand to rules and facts in cases studied earlier.”<sup>224</sup> This task requires a student “to recall and consult more material, and it requires him to replicate the deductive process that governed an earlier case by applying the process to a new set of facts.”<sup>225</sup> Open hypotheticals can be used “to demonstrate that simple fact and rule fit analyses often conceal complexity and indeterminance and that the outcomes of cases are not rigidly determinate.”<sup>226</sup> Exposure to “textual exegesis, rule choice, fact development, contextual analysis, narrative development and policy analysis” are the beginnings of thinking like a lawyer.<sup>227</sup> Allowing Millennials to form a law firm with classmates and collaborate to form collective responses to Socratic questions, exposes Millennials to different cognitive approaches and helps them gain confidence in their abilities when working independently. Finally, after engaging Millennials in a Socratic exchange with closed and open hypotheticals, teachers can provide immediate feedback that provides guidance and encourages Millennials to continue engaging in learning activities that will improve their analysis.

*b. 1L Labs and Tethered Courses*<sup>228</sup>

The ability to solve problems “is acquired through time, repetition, an understanding of consequences, and analysis of which strategies worked well and which did not.”<sup>229</sup> As discussed in Section I.C., as a result of helicopter parents and educators Millennials’ entering law school may lack the ability to independently solve problems.<sup>230</sup> Yet, problem solving is what lawyers do. Law teachers can improve Millennials’ problem-solving skills by assessing their learning through formative assessments in 1L labs and “tethered” upper-level courses.<sup>231</sup>

First-year labs dedicate one to two hours of doctrinal, course credit to a formal lab where students apply and analyze what they are learning in a course.<sup>232</sup> Through the administration of multiple formative assessments,

---

222. *Id.* at 216.

223. *Id.* at 211, 221, 224 (citations omitted).

224. *Id.* at 214.

225. *Id.*

226. *Id.*

227. *Id.* at 215.

228. Cynthia Batt, *A Practice Continuum: Integrating Experiential Education into the Curriculum*, 7 ELON L. REV. 119, 140–41 (2015).

229. *Id.* at 134.

230. Vinson, *supra* note 21, at 449–50.

231. Batt, *supra* note 228, at 141.

232. *Id.* at 140.

labs provide opportunity for students to strengthen their problem-solving skills by applying what they are learning.<sup>233</sup> Lab time should be dedicated to assessments related to the doctrinal course area of law. In labs, students should play the role of an actual lawyer and solve the types of problems lawyers practicing solve daily.<sup>234</sup> For example, in a Contract lab students can review different types of real contracts and hypothetical scenarios to determine whether a valid contract has been formed. If there are multiple sections of a first-year course, law teachers can collaborate with others who teach the same subject to create assessments that can be used in all sections. Labs also present an opportunity for collaboration between law and skills teachers. However, where there is collaboration, each teacher should be responsible for delivering instruction as well as administering and grading lab materials. Labs suit Millennials' generational learning style because they engage in active learning by solving problems related to the course. Due to the high volume of assessments, labs will require teachers to commit time to grading problems and providing feedback. However, teachers can balance the individual feedback they provide by providing rubrics, self-assessment and peer assessment tools.

Tethered courses link a doctrinal course like Family Law to a related law school course like Mediation.<sup>235</sup> These courses allow students to apply and analyze what they learn in the doctrinal course while building lawyering skills.<sup>236</sup> The overlap deepens learning.<sup>237</sup> A contemporary approach to tethered courses might allow students to obtain legal certifications while engaged in coursework. For example, students might obtain local mediation certifications while simultaneously enrolled in Family Law and Mediation courses. In addition, incorporating software platforms, like Westlaw's Firm Central, is a great way to leverage technology to engage Millennials, which could be used to bolster their academic and legal skills, like time management, by reporting client billing.

### 3. *Evaluate and Create*

Evaluate and create are the highest levels of the cognitive process dimension of the revised Bloom's taxonomy.<sup>238</sup> When students evaluate, they are "[m]aking judgments based on criteria and standards."<sup>239</sup> Evaluating includes checking and critiquing.<sup>240</sup> When students create, they are "[p]utting

---

233. *Id.*

234. *Id.*

235. *Id.* at 141.

236. *See id.*

237. *Id.*

238. Krathwohl, *supra* note 159, at 215.

239. *Id.*

240. *Id.*



elements together to form a novel, coherent whole or make an original product.”<sup>241</sup> Creating includes the cognitive activities like generating, planning, and producing.<sup>242</sup> Next, we will explore contemporary teaching strategies law teachers can employ to improve Millennials’ cognitive skills by helping them perform at the highest levels of the revised taxonomy.

*a. Writing Multiple Choice Questions*

Created by the National Conference of Bar Examiners (“NCBE”), the Multistate Bar Examination (“MBE”) is a 200-question, multiple choice examination designed “to assess the extent to which an examinee can apply fundamental principles and legal reasoning to analyze given fact patterns.”<sup>243</sup> The MBE is a component of state bar exams in all jurisdictions except Louisiana.<sup>244</sup> The exam tests knowledge of law in seven subjects: Contracts, Constitutional Law, Real Property, Torts, Criminal Law and Procedure, Civil Procedure, and Evidence.<sup>245</sup> Most often MBE questions are used in the law school classroom to test conceptual knowledge and students’ ability to apply and analyze. However, when students create MBE style questions, they are performing at the highest of cognitive process dimension. After exposure to MBE questions in a course, teachers can assess student learning by requiring them to write multiple choice questions, answers, and explanations. The NCBE has released a one-page guide with instructions on how to write a good question.<sup>246</sup> When a student creates a question, answer, and explanation, they demonstrate their abilities at all levels of the revised taxonomy. Law teachers are able to gauge student learning and questions can be used for class review sessions or to create question banks.

*b. The Multistate Performance Test*

Created by the NCBE, the Multistate Performance Test (“MPT”) “is designed to test an examinee’s ability to use fundamental lawyering skills in a realistic situation and complete a task that a beginning lawyer should be able to accomplish.”<sup>247</sup> The MPT is currently administered as a component

---

241. *Id.*

242. *Id.*

243. *Multistate Bar Examination*, NAT’L CONFERENCE OF BAR EXAMINERS, <http://www.ncbex.org/exams/mbe/> (last visited Nov. 1, 2017).

244. *Id.*

245. *Preparing for the MBE*, NAT’L CONFERENCE OF BAR EXAMINERS, <http://www.ncbex.org/exams/mbe/preparing/> (last visited Nov. 1, 2017).

246. Susan M. Case & Beth Donahue, *The One-Page Guide to Writing Multiple-Choice Questions*, NAT’L CONFERENCE OF BAR EXAMINERS (Nov. 11, 2008), [http://lawprofessors.typepad.com/academic\\_support/files/multiple\\_choice\\_drafting\\_guide-lines\\_by\\_s\\_2.%20Case%20of%20NCBE.pdf](http://lawprofessors.typepad.com/academic_support/files/multiple_choice_drafting_guide-lines_by_s_2.%20Case%20of%20NCBE.pdf).

247. *Multistate Performance Test*, NAT’L CONFERENCE OF BAR EXAMINERS, <http://www.ncbex.org/exams/mp/> (last visited Nov. 1, 2017).

of the bar exam in 45 jurisdictions.<sup>248</sup> The MPT is best used in a course designed to evaluate problem-solving skills.<sup>249</sup> Law teachers can use the MPT as early as the first year to examine students' ability to evaluate and create because it is a closed universe examination that does not require students to have any outside substantive knowledge.<sup>250</sup> Each MPT contains a fictitious client file and library.<sup>251</sup> The file contains all documents related to the facts of the case and the task memo.<sup>252</sup> The task memo describes the objective of the exercise as well as the work product like a client letter, memo, or closing argument.<sup>253</sup> The library contains the law in statutes and cases.<sup>254</sup> Each MPT can be modified to suit class time<sup>255</sup> or students can produce a work product over the course of multiple classes. Released MPTs, including point sheets, are readily available online.

### c. *Client Simulations*

Client simulations are best suited for evaluation and creation in courses where students are also acquiring knowledge. Law teachers who support "experiential education," like client simulations, recognize that "[t]o have a deep understanding of the law, students must be able to use the law to craft legal arguments, draft legal documents, and shape legal strategy."<sup>256</sup> The problems students solve in client simulations are more complex than the hypotheticals students resolve at the application and analysis levels of the revised taxonomy.<sup>257</sup> They should resemble the types of problems lawyers actually resolve in practice.<sup>258</sup> For example, in a large class like Family Law, students complete assessments like drafting settlement agreements or parenting plans. Success on these assignments depends on success at activities lower on the revised taxonomy. Law teachers can incorporate technology by requiring students to submit assessments via Google Docs.<sup>259</sup>

---

248. *Id.*

249. See John F. Murphy, *Teaching Remedial Problem-Solving Skills to a Law School's Underperforming Students*, 16 NEV. L.J. 173, 183 (2015).

250. See *id.* at 183–84.

251. *Preparing for the MPT*, NAT'L CONFERENCE OF BAR EXAMINERS, <http://www.ncbex.org/exams/mpt/preparing/> (last visited Nov. 1, 2017).

252. *Id.*

253. *Id.*

254. *Id.*

255. Murphy, *supra* note 249, at 184.

256. Jessica Erickson, *Experiential Education in the Lecture Hall*, 6 NE. U.L.J. 87, 88 (2013).

257. Tracy A. Thomas, *Teaching Remedies as Problem-Solving: Keeping It Real*, 57 ST. LOUIS U. L.J. 673, 679–80 (2013).

258. *Id.*

259. Erickson, *supra* note 256, at 102.

The more Millennial students can relate to the subject matter, the more interested they will be in the simulation.<sup>260</sup> The author once created a fictional client simulation that was loosely based on the Modern Family contract dispute<sup>261</sup> where her students represented Sofia Vergara. After reviewing the client “file,” students evaluated her likelihood of success and drafted a letter the client.

When teachers use client simulations for formative assessment, they can assess student learning through discussion and provide immediate feedback.<sup>262</sup> Here, students act as lawyers and law teachers as managing partners.<sup>263</sup> Because the outcomes will vary, model answers may send the wrong message to students. Instead, peer assessments could expose Millennials to different resolutions, allowing them to learn from each other. Law schools can support law teachers interested in creating client simulations by reducing scholarship requirements, therefore creating more time for teachers to create quality simulations.<sup>264</sup>

#### CONCLUSION

ABA Standard 314 provides an opportunity for law schools to critically evaluate their program of legal education with a focus on outcome measures and assessment. Empowered by the ABA Standard 314, law teachers have the ability to impact our students’ futures by ensuring they have the knowledge, skills, and abilities to become competent legal professionals, and ultimately, lifelong learners. Acknowledging who our students are, understanding how they learn best, and utilizing contemporary teaching strategies, will help law teachers accomplish this goal.

---

260. See Thomas, *supra* note 257, at 680.

261. Joe Flint, ‘Modern Family’ Stars Play Hardball in Salary Dispute, L.A. TIMES (June 25, 2012), <http://articles.latimes.com/2012/jul/25/business/la-fi-ct-modern-family-20120726>.

262. See Stephen M. Johnson, *Teaching for Tomorrow: Utilizing Technology to Implement the Reforms of MacCrate, Carnegie, and Best Practices*, 92 NEB. L. REV. 46, 73 (2013).

263. *Id.* at 74–75.

264. See Erickson, *supra* note 256, at 109.