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## "The millennials are coming!" : Improving Self-Efficacy In Law Students Through Universal Design In Learning

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# **“THE MILLENNIALS ARE COMING!”: IMPROVING SELF-EFFICACY IN LAW STUDENTS THROUGH UNIVERSAL DESIGN IN LEARNING**

JASON S. PALMER\*

## ABSTRACT

The Millennial generation has arrived in law school. This new generation of self-confident and extremely high-achieving learners merits a new interdisciplinary approach to legal education. Some institutions have explored formative assessments and regulated self-learning to improve academic success. Other universities have looked to universal design, specifically universal design in learning or universal design in instruction, as a mechanism for furthering educational goals for their students. All agree that a lack of self-efficacy can prevent Millennial students from overcoming challenges in their educational growth, and that high self-efficacy, the ability to put forth effort and persistence to successfully accomplish a goal, will lead to better learning outcomes and is a powerful predictor of educational success. None, however, have paired the theories of self-regulated learning and universal design in instruction as a vehicle to improve self-efficacy in the law school classroom. This article is the first to address the unique intersection of these learning theories and their potentially positive impact on self-efficacy for today’s learners.

“It was the best of times, it was the worst of times . . .”

— Charles Dickens, *A Tale of Two Cities*

“How to begin to educate a child. First Rule: leave him alone. Second Rule: leave him alone. Third Rule: leave him alone. That is the whole beginning.”

—D.H. Lawrence

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I.	INTRODUCTION .....	676
II.	MILLENNIALS IN LAW SCHOOL.....	680
III.	THE NATURE OF SELF-EFFICACY.....	690
IV.	HOW TO IMPROVE SELF-EFFICACY IN MILLENNIALS TO CREATE A NEW GENERATION OF SUCCESSFUL LAWYERS.....	693
	A. <i>Performance Oriented vs. Mastery-Goal Oriented Students</i> .....	693
	B. <i>Self-Regulated Learners</i> .....	696
	C. <i>Universal Design in Learning</i> .....	699
V.	CONCLUSION .....	706

#### I. INTRODUCTION

Millennial students, those who were born between 1980 and 1995, are now swelling the ranks of post-secondary education. Along with the influx of this new generation of students to higher education comes a trove of new challenges for educators. Millennial students are self-confident, self-assured, and assertive. However, due to the self-esteem boosting approach adopted by their parents and secondary school educators, this latest generation of post-secondary students is often not properly equipped to face the demands posed by post-secondary educational institutions. While Millennial students are supremely self-confident and brimming with high self-esteem,<sup>1</sup> many suffer from low self-efficacy, which is a failure to exert a sufficient level of effort and persistence in any given task.<sup>2</sup> This lack of self-efficacy prevents Millennial students from overcoming challenges in their educational growth. Specifically, many Millennial students are unable to adapt to the setbacks that may occur as they approach learning objectives and goals that were not incorporated into their previous learning regime.

A new generation of learners merits a new interdisciplinary approach to education. Many have recognized that higher self-efficacy leads to better learning outcomes and provides “a powerful predictor of educational success.”<sup>3</sup> Some colleges and universities have begun to look at universal design, specifically universal design in learning or universal design in instruction, as a mechanism for furthering educational goals for their undergraduate students.<sup>4</sup> Others have analyzed and explored the impact

<sup>1</sup> See JEAN M. TWENGE, *GENERATION ME: WHY TODAY’S YOUNG AMERICANS ARE MORE CONFIDENT, ASSERTIVE, ENTITLED – AND MORE MISERABLE THAN EVER BEFORE* 53-60 (2006) (discussing the pervasive, society-wide effort to increase children’s self-esteem through magazines, television talk shows, books, and the classroom).

<sup>2</sup> P.A. Heslin & U.C. Klehe, *Self-Efficacy*, in 2 *ENCYCLOPEDIA OF INDUSTRIAL/ORGANIZATIONAL PSYCHOLOGY* 705, 705 (S.G. Rogelberg ed., 2006) (citing Albert Bandura, one of the foremost experts on self-efficacy); see also Therese Bouffard-Bouchard, *Influence of Self-Efficacy on Performance in a Cognitive Task*, 130(3) *J. SOC. PSYCHOL.* 353, 353 (1990) (defining self-efficacy as “one’s capability to execute the actions required to deal with prospective situations”).

<sup>3</sup> MICHAEL HUNTER SCHWARTZ, *EXPERT LEARNING FOR LAW STUDENTS* 31 (2d ed. 2008) (citing Anastasia S. Hagan & Claire Ellen Weinstein, *Achievement Goals, Self-Regulated Learning, and the Roles of the Classroom Context*, in *NEW DIRECTIONS IN COLLEGE TEACHING AND LEARNING: UNDERSTANDING SELF-REGULATED LEARNING* 45 (Paul R. Pintrich ed., 1995)).

<sup>4</sup> See, e.g., UNIV. OF WASH., *UNIVERSAL DESIGN IN EDUCATION: PRINCIPLES AND APPLICATION*, [http://www.washington.edu/doit/Brochures/Academics/ud\\_edu.html](http://www.washington.edu/doit/Brochures/Academics/ud_edu.html) (explaining how universal design is applied in educational setting to physical spaces, information technology (IT), instruction, and student services); UNIV. OF OR., *TEACHING EFFECTIVENESS*

of formative assessments and regulated self-learning to invoke self-efficacy and improve academic success. None, however, have paired the theories of self-regulated learning and universal design in instruction as a vehicle to improve self-efficacy in the post-secondary classroom. This article addresses the unique intersection of these learning theories and their potentially positive impact on self-efficacy for today's learners.

Let's examine a real-world example. Both Michael Jordan and LeBron James are supremely self-confident and successful basketball players, but with very different approaches to the game. LeBron decided to leave Cleveland and join the Miami Heat based on his goal of winning a championship.<sup>5</sup> When Michael Jordan was interviewed about LeBron's decision, Jordan stated that he would never had made that choice.<sup>6</sup> Michael Jordan, in his own words, stated that he would never have joined forces with the superstars of his era like LeBron has done. Jordan stated: "There's no way, with hindsight, I would've ever called up Larry, called up Magic and said, 'Hey, look, let's get together and play on one team.' . . . In all honesty, I was trying to beat those guys."<sup>7</sup>

No one would dispute that LeBron James is self-confident, accomplished, driven and talented. Yet, he was roundly criticized for "taking [his] talents to South Beach" and joining the Miami Heat.<sup>8</sup> LeBron's decision as a Millennial makes perfect sense. He joined the team with the greatest possibility of success. LeBron made a team-based, outcome-oriented decision to win and get the trophy, unlike Jordan, whose motivation was to prove that he was the best as compared to other notables in his field.<sup>9</sup>

LeBron's impetus and motivation to successfully navigate the winning result is fostered in the Millennial individual from a very early age. Another example that

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PROGRAM, UNIVERSAL DESIGN IN COLLEGE INSTRUCTION, <http://tep.uoregon.edu/resources/universaldesign/intro.html>

<sup>5</sup> Jeff Zillgitt, *LeBron James on his 'Personal Goal to be the Greatest'*, USA TODAY (Oct. 29, 2013), <http://www.usatoday.com/story/sports/nba/heat/2013/10/28/lebron-james-greatest-of-all-time-threepeat-miami-michael-jordan/3289391>.

<sup>6</sup> *Jordan Wouldn't Have Called Magic, Bird*, ESPN (July 19, 2010), <http://sports.espn.go.com/nba/news/story?id=5391478>.

<sup>7</sup> *Id.* Michael Jordan can also be characterized as having a growth mindset – "the belief that your basic qualities are things you can cultivate through your efforts." CAROL M. DWECK, *MINDSET: THE NEW PSYCHOLOGY OF SUCCESS* 7 (2006).

<sup>8</sup> Trey Kirby, *Jordan and Barkley Aren't Impressed with LeBron*, YAHOO (July 19, 2010), [http://sports.yahoo.com/nba/blog/ball\\_dont\\_lie/post/Jordan-and-Barkley-aren-t-impressed-with-LeBron](http://sports.yahoo.com/nba/blog/ball_dont_lie/post/Jordan-and-Barkley-aren-t-impressed-with-LeBron).

<sup>9</sup> *Id.*; see also L. Cooney, *Giving Millennials a Leg-Up: How to Avoid the "If I Knew Then What I Know Now" Syndrome*, 96 KY. L.J. 505, 505 (2008) (discussing the Millennial students' need to focus on the outcomes of grades and performance). Based on this description, LeBron could be described as having a fixed mindset, i.e., making sure that he succeeds and that the ability to win was "safely within his grasp." DWECK, *supra* note 7, at 22. However, LeBron has now decided to move back to Cleveland stating that Miami was like the college experience that he never had and that the "past four years helped raise me into who I am." Jason Hanna, *LeBron James Returning to Cleveland, Where He Has Unfinished Business*, CNN (July 11, 2014), <http://www.cnn.com/2014/07/11/us/lebron-james/index.html>. This development can be viewed as a change of attitude – a move to a growth mindset and increased self-efficacy for someone of the Millennial generation, something that higher education academics should strive to instill in their Millennial students. See *infra* Part IV.

comes to mind arises from popular entertainment, specifically, the Billy Crystal movie, *Parental Guidance*.<sup>10</sup> In one scene, Billy Crystal's character, a baseball announcer, is watching his grandson, the pitcher of his baseball team, strike out another grade school boy. Excited at his grandson's success, he yells, "You're out!" The umpire explains to Mr. Crystal's character that in this game, no one strikes out. Ignoring the umpire, Mr. Crystal tells the young batter that he is out, which prompts a shouting match between the young boy and Mr. Crystal, culminating in the young boy striking Mr. Crystal between the legs with his baseball bat.<sup>11</sup>

The reaction of this little boy often exemplifies how our Millennial law students react to their first failure in law school—a sense of outrage and denial. To the Millennial student, it is impossible to be told you have “failed” at this task, and must try again. However, by denying Millennial students the opportunity to fail and thereby learn from their failures, Millennials have developed a false sense of confidence about their abilities and an inability to develop strong self-efficacy by overcoming obstacles and meeting new challenges.<sup>12</sup> The Millennial student is usually allowed not only a second bite at the apple, but a third, fourth, and fifth bite. The Millennial's sense of outrage, denial, and sense of lack of fairness on the part of the educator has been replayed time and time again in recent years in academia. To counter this programmed response, the educator must guide the student to develop deeper self-efficacy so that the student can learn from his or her mistakes—a goal which can be attained through application of the principles of universal design in instruction as viewed through the lens of the self-regulated learner.

Self-regulated learning is a process whereby the student “actively controls her behavior, motivation and thinking process as she is engaging in academic tasks.”<sup>13</sup> Self-regulated learners design how they will learn, implement and monitor a plan for learning, and evaluate their learning while reflecting on how to improve learning when faced with a similar learning project in the future.<sup>14</sup> Universal design **ensures that environments are “usable by all people . . . without the need for adaptation or specialized design.”**<sup>15</sup> Universal design focuses on redesigning these environments to be usable by all individuals, whether or not a disability exists, and no matter what the disability may be.<sup>16</sup> The principles of universal design found their origin in architecturally addressing issues of disability, which laid the foundation to create the

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<sup>10</sup> PARENTAL GUIDANCE (Twentieth Century Fox 2012).

<sup>11</sup> *Id.*

<sup>12</sup> *See infra* Part IV.

<sup>13</sup> SCHWARTZ, *supra* note 3, at 29.

<sup>14</sup> *Id.*

<sup>15</sup> Sheryl Burgstahler, *Universal Design: Process, Principles, and Application*, UNIV. OF WASH. (2012), available at <http://www.washington.edu/doit/universal-design-process-principles-and-applications>.

<sup>16</sup> Bettye Rose Connell et al., *The Principles of Universal Design*, N.C. ST. UNIV. CTR. FOR UNIVERSAL DESIGN (Apr. 1, 1997), available at <http://www.ncsu.edu/project/design-projects/sites/cud/content/principles/principles.html>.

concepts for universal design in instruction and learning.<sup>17</sup> Universal design for learning is defined as “a framework for designing curricula that enable all individuals to gain knowledge, skills, and enthusiasm for learning. Universal design in learning provides rich supports for learning and reduces barriers to the curriculum while maintaining high achievement standards for all.”<sup>18</sup> Applying universal design principles to information resources, faculty-student interactions, and assessments will maximize student learning and increase self-efficacy in Millennial students.

Rather than focusing on the mastery of subject material, a key component of self-regulated learning, most law students tend to focus on their ultimate goals—achieving the best grade and the best job. Millennial law students, therefore, often view constructive criticism and feedback designed to improve their ability as an impediment to their ultimate success, and even indicative of failure, rather than as a device for improvement and a tool for the attainment of goals. By ignoring these important structures that increase competency, the Millennial law student fails to obtain legal knowledge for intellectual growth and therefore misses the opportunity to develop the skills, values, and knowledge that will translate into future success. After defining the Millennial student’s core traits, Part II of this Article draws on psychology and social science research to place in context the Millennial student in post-graduate school, focusing on the students’ norms, values, and identities, while also discussing the pivotal role authority figures play in the development of the Millennials’ outlooks and understandings of their world. Part III then explains the intricacies of self-efficacy with respect to a person’s capability to successfully perform a particular task. Drawing again from leading psychologist and social scientists in the field, most notably Albert Bandura,<sup>19</sup> the Article explains how and why individuals have either high or low self-efficacy and how attitude and perseverance impacts the ability to improve self-efficacy. Through this exposition, Part III shows that despite overwhelming self-confidence, Millennials, for the most part, have limited self-efficacy that is quickly depleted when faced with academic failure. After describing the nature of self-efficacy and its correlation to mindset and self-confidence, Part IV of the Article will describe how self-efficacy can be improved in Millennial law students, utilizing principles derived from self-regulated learning and universal design in learning. Part IV will elucidate how Millennial students who enter graduate school without facing academic challenges need to accept that failure is not defining, and that learning to use these challenges to continuously assess themselves will allow them to develop greater self-efficacy. By incorporating concepts of self-regulation and principles of universal design in learning into curricula, educators can adapt learning environments to more accurately correspond to the needs and experiences of Millennial law students,

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<sup>17</sup> ABOUT UDL, CTR. FOR APPLIED SPECIAL TECH., <http://www.cast.org/udl/index.html> (last visited Mar. 13, 2013). The terms “universal design in instruction” and “universal design in learning” are used interchangeably in the literature and refer to the same principle.

<sup>18</sup> Sheryl Burgstahler, *Universal Design of Instruction (UDI): Definition, Principles, Guidelines, and Examples*, UNIV. OF WASH. 3 (2011), available at <http://www.washington.edu/doi/universal-design-instruction-udi-definition-principles-guidelines-and-examples>.

<sup>19</sup> Albert Bandura is the David Starr Jordan Professor Emeritus of Social Science in Psychology at Stanford University and is one of the foremost experts on self-efficacy. STAN. UNIV., DEP’T OF PSYCHOL., <https://psychology.stanford.edu/abandura>.

resulting in Millennial students expanding their self-efficacy and ability to succeed in law school.

## II. MILLENNIALS IN LAW SCHOOL

Millennials, those individuals who were born between 1980 and 1995,<sup>20</sup> like LeBron, who was born in 1984, can trace their traits back to early childhood where “Barney and Friends” taught them teamwork and sharing common interest,<sup>21</sup> GenXers (like Michael Jordan), on the other hand, learned from “Sesame Street” to value individualism and what makes each child unique.<sup>22</sup> Thus, as a Millennial, LeBron’s decision is not irrational to him or his generation.

Millennials exhibit seven core traits that define their generation. Millennials are special, sheltered, confident, team-oriented, conventional, pressured, and high-achieving.<sup>23</sup> As a result of these core traits, Millennials tend to be ambitious, intelligent, over-protected, and over-committed.<sup>24</sup> Millennials believe they are special with “a self-confidence that approaches boredom: why talk about it? It’s just the way things are.”<sup>25</sup> These traits are exacerbated when aligned with the daily technological

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<sup>20</sup> The author uses the term “Millennial” to describe the shared characteristics of a generation of students while recognizing that many individual differences may exist across this body of students.

<sup>21</sup> The children’s television show *Barney and Friends* debuted on April 6, 1992 on PBS, aired new episodes from 1992 to 2009, and was notable for its messages of teamwork and community. *Barney and Friends*, BARNEY WIKI, [http://barney.wikia.com/wiki/Barney\\_%26\\_Friends](http://barney.wikia.com/wiki/Barney_%26_Friends) (last visited Jan. 1, 2015). A major criticism regarding *Barney and Friends* was that the shows failed to assist children in learning to deal with negative feelings and emotions. One specific critique detailed that Barney failed “to recognize the existence of unpleasant realities. For along with his steady diet of giggles and unconditional love, Barney offers our children a one-dimensional world where everyone must be happy and everything must be resolved right away.” Chala Willig Levy, *The Bad News About Barney*, PARENTS, Feb. 1994, at 191-92.

<sup>22</sup> *Sesame Street’s* programming debuted on public broadcasting television stations on November 10, 1969. ‘*Sesame Street*’ Takes A Bow To 30 Animated Years, CNN.COM (Nov. 13, 1998, 12:19 PM), <http://www.cnn.com/SHOWBIZ/TV/9811/13/sesame.street>. *Sesame Street* focused on cognitive and affective goals in order to increase children’s self-esteem and feelings of competency. ROBERT MORROW, *SESAME STREET AND THE REFORM OF CHILDREN’S TELEVISION* 76, 106 (2005).

<sup>23</sup> NEIL HOWE & WILLIAM STRAUSS, *MILLENNIALS GO TO COLLEGE* 52-53 (2003); Brian Bourke & Heather S. Mechler, *The New Me Generation? The Increasing Self-Interest Among Millennial College Students*, 11 J. C. & CHARACTER 2 (2010). Millennial self-confidence has been explained as a result of the expectation that Millennials will receive good news and an over-riding ability to believe in themselves. Tricia Kasting, *Commentary, The “Millennial” Law Student Generation*, 186 N.J. L.J. 265 (2006). While Millennials are confident, optimistic, and team and rule-oriented, they are also risk adverse. HOWE & STRAUSS, *supra* note 23, at 46. While working as a teenager leads to self-fulfillment and an increase in self-efficacy, Millennials no longer have this experience to the extent that earlier generations did, as the number of teenagers working or looking for work, as of early 2002, had declined to 46 percent.

<sup>24</sup> HOWE & STRAUSS, *supra* note 23, at 4, 54.

<sup>25</sup> TWENGE, *supra* note 1, at 4 (including herself in the Millennial or Generation Me classification as she was born in 1971).

advances in multimedia (computers, tablets, smartphones) that create a generation used to perceived successful multi-tasking.<sup>26</sup> While previous generations, most notably Generation X, would focus on a task and then rebound quickly from any failure, Millennials are in a constant pressure-cooker to measure up and succeed, relying on reputation and credentials, rather than commitment and determination, in order to achieve the expected pay-off.<sup>27</sup> As a result of this need for instant gratification, Millennials' expectations of achievement and success are often unrealistic and, when unmet, can lead to a sense of lack of direction.<sup>28</sup>

Carol Dweck, a Stanford professor and one of the leading researchers in the fields of social and developmental psychology, has analyzed the dichotomy between effort and success, or lack thereof, and has determined that individuals fall into two camps with respect to learning—either a “fixed mindset” or a “growth mindset.”<sup>29</sup> Believing that one's attributes and intelligence are finite and “carved in stone” creates “an urgency to prove [oneself] over and over again,” which is the fixed mindset.<sup>30</sup> Individuals with a fixed mindset avoid challenges and risking failure in order to appear competent and worthwhile.<sup>31</sup> When faced with a challenge that produces negative or unsatisfactory results, such as getting a “B-” rather than an “A” on a mid-term, those with a fixed mindset have a catastrophic view of the failure and feel paralyzed by the debilitating event.<sup>32</sup>

On the other hand, the growth mindset is tied to the belief that one's basic qualities and intelligence are attributes that one can cultivate and develop through continuous effort.<sup>33</sup> Failure is simply a starting point for development and those with a growth mindset can change through application and experience.<sup>34</sup> Individuals with a growth mindset are not defeated by failure, but rather are “ready to take the risks, confront the challenges, and keep working at them.”<sup>35</sup> Rather than the fixed mindset individual who must be validated by success, the growth mindset individual stretches to learn

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<sup>26</sup> Steven K. Berenson, *Educating Millennial Students for Public Obligation*, 1 CHARLOTTE L. REV. 101, 103 (2008). Digital technology is “second nature” to the Millennial students who prefer electronic video and audio media to standard printed material. Cooney, *supra* note 9, at 508.

<sup>27</sup> HOWE & STRAUSS, *supra* note 23, at 61.

<sup>28</sup> Kasting, *supra* note 23, at 265.

<sup>29</sup> DWECK, *supra* note 7, at 6-7.

<sup>30</sup> *Id.* at 6.

<sup>31</sup> *Id.* at 7.

<sup>32</sup> *Id.* at 8-9.

<sup>33</sup> *Id.* at 6.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 9.

something new.<sup>36</sup> Thus, students can achieve expertise not through fixed ability, but rather through “purposeful engagement.”<sup>37</sup>

Millennials are often referred to as “The Entitlement Generation,”<sup>38</sup> inasmuch as they “want it all, they want it now, and believe that they deserve it.”<sup>39</sup> Such an attitude should make students self-sufficient. However, “students who have the most frequent contact with their parents are less autonomous than other students.”<sup>40</sup> These students rely on their parents for wake-up calls and reminders as to when assignments are due.<sup>41</sup> This lack of autonomy actually creates a sense of entitlement in the students and an inability to take ownership of their own beliefs and values, their own successes and failures.<sup>42</sup> Furthermore, twenty-four hour online access to products and services has resulted in an increase in consumerism and materialism with the concurrent result of elevating Millennials’ expectations and desires.<sup>43</sup> This instantaneous ability to obtain, utilize, and discard audio, video, and other forms of electronic entertainment has direct impact on the Millennial college students’ expectations for instantaneous gratification with respect to educational material and absorption of knowledge delivered by institutions of higher education.<sup>44</sup>

Millennial students are also the most “wanted” generation of children, as their “Baby Boomer” parents often have engaged in emotional, physical, and financial burdens to have these children, which increases the Millennials’ sense of entitlement.<sup>45</sup> This parental engagement, along with a corresponding desire to promote self-esteem in Millennials, resulted in Millennial children feeling not only a sense of entitlement, but also a sense of “specialness.”<sup>46</sup> This identity of “specialness” allowed the Millennial student to believe that he or she had a unique and unqualified ability to succeed that was unwarranted by the realities of accomplishment or failure.<sup>47</sup>

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<sup>36</sup> *Id.* at 15.

<sup>37</sup> *Id.* at 5 (quoting Robert Sternberg, *Intelligence, Competence, and Expertise*, in HANDBOOK OF COMPETENCE AND MOTIVATION (Andrew Elliott & Carol S. Dweck, eds., Guilford Press 2005)).

<sup>38</sup> TWENGE, *supra* note 1, at 70.

<sup>39</sup> Berenson, *supra* note 26, at 104.

<sup>40</sup> BARBARA K. HOFER & ABIGAIL SULLIVAN MOORE, THE ICONNECTED PARENT 39 (2010).

<sup>41</sup> *Id.* at 46-47.

<sup>42</sup> *Id.* at 40.

<sup>43</sup> Berenson, *supra* note 26, at 105.

<sup>44</sup> *Id.*; Scott Carlson, *The Net Generation Goes to College*, CHRON. HIGHER EDUC., Oct. 7, 2005, at A34.

<sup>45</sup> Berenson, *supra* note 26, at 105. Millennials are often characterized as entitled and needing too much direction, derived from an inability to accept criticism. See Rodney G. Snow, *Baby Boomers Meet Millennials in the Legal Workplace: From Face-Lift to Facebook*, 24 UTAH B.J. 8 (Nov./Dec. 2011) (explaining that the Millennial generation never received severe criticism, either from parents or teachers, and thus are not used to receiving it).

<sup>46</sup> Berenson, *supra* note 26, at 105.

<sup>47</sup> Many proponents of the self-esteem movement of the 1980s and 1990s argued that a strong sense of self-esteem would assist in the Millennial students’ educational achievement. However, “the academic benefits of the resulting ‘self-esteem curriculum’ have yet to be

However, due to this untested “specialness,” Millennial students of higher education often demonstrate high degrees of self-confidence, when questioned about their own ability to succeed.<sup>48</sup> Because many Millennials have been sheltered by their parents, they are likely to enter college without having had their confidence shaken or questioned. While they are highly driven to excel in their academic endeavors, the need to succeed develops from external forces, and not from internal needs and desires.<sup>49</sup> Rather than striving to succeed due to self-motivation and the need to achieve greatness for themselves, Millennials pressure themselves to succeed to meet the expectations of authority figures and please these individuals.<sup>50</sup> Due to these high expectations, Millennials need to see “a direct correlation between their efforts and the goals they seek to achieve.”<sup>51</sup> Absent such positive reinforcement, Millennials may abandon the effort.<sup>52</sup>

Take, for example, the first year law student who receives a “B-” on her first legal writing assignment and wants to meet with her professor. Rather than learn from the constructive feedback and assessment of her effort and discuss how to improve, she wants to express disgust and outrage over the lack of recognition of her abilities, evidenced by her initial comment that she has never received anything less than an “A-” during her years in school. The professor’s initial response, based on the belief that learning can be most beneficial through experiencing both success and failure, indicates to the student that she should be challenged in higher education and needs to grow intellectually from those learning challenges. Based upon this dichotomous approach to her effort, evidenced by both the student and professor’s reactions and comments, it is not surprising that this conversation will not proceed well from that point forward. The professor wants to focus on areas of improvement (the learning process) and the student wants to focus on the grade (the ultimate outcome).<sup>53</sup> Because

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substantiated.” *Id.* at 105 (citing JEAN M. TWENGE, GENERATION ME: WHY TODAY’S YOUNG AMERICANS ARE MORE CONFIDENT, ASSERTIVE, ENTITLED – AND MORE MISERABLE THAN EVER BEFORE 56 (2006)).

<sup>48</sup> Miriam E. Felsenburg & Laura P. Graham, *A Better Beginning: Why and How to Help Novice Legal Writers Build A Solid Foundation by Shifting Their Focus from Product to Process*, 24 REGENT U. L. REV. 83, 84 (2011). When 265 first year law students were specifically asked about their confidence in their ability to learn legal writing, “70% reported that they were ‘confident’ or ‘very confident.’” *Id.*

<sup>49</sup> Bourke & Mechler, *supra* note 23, at 3; Shailini Jandial George, *Teaching the Smartphone Generation: How Cognitive Science Can Improve Learning in Law School*, 66 ME. L. REV. 164, 166-167 (2013) (“Due to Millennials’ focus on achievement, rather than personal development, they many not value the benefit of lifelong learning.”).

<sup>50</sup> Bourke & Mechler, *supra* note 23, at 3.

<sup>51</sup> Berenson, *supra* note 26, at 108.

<sup>52</sup> *Id.*

<sup>53</sup> This conversation gets repeated over and over in various fashions across college and university campuses. See TWENGE, *supra* note 1, at 154 (quoting Daniel Kazez, a professor in music, who stated “[s]tudents who receive a C, D, or F on a test tend to hold the teacher personally responsible.”). Twenge also quotes Emory University professor Patrick Allitt who wrote the 2005 book *I’m the Teacher, You’re the Student*, stating that “those who didn’t fulfill their assignments, or who plagiarized . . . are now casting about angrily for someone to blame.” *Id.*

the student was solely focused on outcome, she was negatively impacted by her “failure” and educators need to recognize this distress. Instead of motivating her to improve, the grade, coupled with the extensive commenting on her paper, deflated her. When students are incapable of recovering from early disappointment and frustration, their ability to learn and process is impaired and reduced.<sup>54</sup> For today’s millennial student, it is critical that educators reflect on how to better address the student’s initial supreme self-confidence and his or her inability to understand failure and cope with challenge.

This high self-confidence and lack of sufficiently developed coping mechanisms are reinforced by the role of grade inflation in school. “By 1998, one-third of all eighth graders, and one-fourth of all tenth graders reported receiving an ‘A’ or ‘A-’ average.”<sup>55</sup> Only ten years ago, in 2004, 48% of United States college freshman stated that they received an “A” average in high school, contrasted with 18% in 1968.<sup>56</sup> These inflated averages have occurred even though students are doing less and less work while in high school. In a 2003 study, only one-third of American university freshman reported studying six or more hours a week during their senior year of high school, compared to 47% in 1987.<sup>57</sup> These Millennial high school students are still receiving these superlative grades, despite an evident decrease in scholastic output because teachers are attempting to raise self-esteem and confidence in their students.<sup>58</sup> Students do not need to comprehend, synthesize, analyze, or internalize the material taught to them; they just need to feel good about it.<sup>59</sup>

However, an unintended consequence of this self-esteem movement and the corresponding grade inflation is a rise in expectations of success in higher education institutions coupled with a decrease in the coping mechanisms of these students.<sup>60</sup> Higher self-esteem, without a concrete foundation for measurement, does not best serve the Millennial generation as it does not promote better grades or improve work performance.<sup>61</sup> Thus, the impact of all of those “As” is simply to magnify the penalty of the occasional “B” or “C”, which reinforces the Millennials’ fear of failure, their aversion to risk (and to out-of-the-box creativity), their inability to receive and

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<sup>54</sup> Felsenburg & Graham, *supra* note 48, at 85.

<sup>55</sup> HOWE & STRAUSS, *supra* note 23, at 62.

<sup>56</sup> TWENGE, *supra* note 1, at 63.

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* Twenge notes that education professor Maureen Stout has stated that “[m]y colleagues always referred to the importance of making kids feel good about themselves but rarely, if ever, spoke of achievement, ideals, goals, character, or decency.” *Id.* at 64. Students are encouraged not to compete with each other, are sheltered from the outside world, and are emotionally nourished, at the expense of academic development. *Id.*

<sup>60</sup> However, parents who teach children coping mechanisms for difficult situations at an early age and model persistence in facing challenges help to build their self-efficacy. D.H. Schunk & F. Pajares, *The Development of Academic Self-Efficacy* 1, 7 in *DEVELOPMENT OF ACHIEVEMENT MOTIVATION* (A. Wigfield & J. Eccles, eds., Academic Press San Diego 2002).

<sup>61</sup> TWENGE, *supra* note 1, at 66.

understand criticism, and their desire to fit into the mainstream.”<sup>62</sup> As a result, a generation of Millennial students are entering higher education with a fixed mindset, are actively risk-adverse, and seek to maintain the intellectual status quo. Concurrently, their self-efficacy declines as these students face greater competition as they advance, have more “norm-referencing grades,” less teacher attention, and more academic stresses associated with school transitions.<sup>63</sup> Expanding social reference groups coupled with a shift in how students are evaluated forces students to reassess their abilities and usually lead to a decline in self-efficacy, starting in middle school.<sup>64</sup> While this shift is true in middle school, it is equally, if not more apparent, in law school, where Millennial students are now evaluated against a wide swath of competitive peers, based on academic performance not previously encountered, i.e. the law school final exam that accounts for 100% of the grade.

Millennials also differ from their predecessors in their development of moral judgment, most specifically in the rise of personal interest morality and narcissistic thinking.<sup>65</sup> “Millennials have been told of their specialness their entire lives, and have internalized that belief to the point that being special has become synonymous with being entitled.”<sup>66</sup> In contrast to the early 1950s when only 12% of teenagers viewed themselves as important, by the late 1980s, 80% of teenagers agreed with the statement “I am an important person.”<sup>67</sup> Based on Jean Twenge’s study of approximately 15,000 American college students from the period between 1987 and 2006 who had completed the Narcissistic Personality Inventory, the number of narcissistic college students rose by two-thirds in less than twenty years.<sup>68</sup> A simple corollary to this narcissistic bent is the attitude that superior grades are simply something that Millennials deserve no matter what effort is made to achieve those grades.<sup>69</sup> By valuing self-esteem over self-efficacy, the student’s emotional development, rather than his or her intellectual development, is at the core of learning, resulting in “students learn[ing] that they do not need to respect their teachers or even earn their grades, so they begin to believe that they are entitled to grades, respect, or anything else . . . just for asking.”<sup>70</sup>

In addition to their overwhelming self-esteem that is fostered in elementary and secondary school, Millennials start their post-secondary education having been active decision-makers within their families, and upon their arrival on college campuses, they

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<sup>62</sup> HOWE & STRAUSS, *supra* note 23, at 62; TWENGE, *supra* note 1, at 64.

<sup>63</sup> Schunk & Pajares, *supra* note 60, at 7.

<sup>64</sup> *Id.* at 8.

<sup>65</sup> Bourke & Mechler, *supra* note 23, at 1.

<sup>66</sup> *Id.* at 2.

<sup>67</sup> TWENGE, *supra* note 1, at 69. Based on her own study of approximately 15,000 American college students from the period between 1987 and 2006, the number of narcissistic college students rose by two-thirds in less than twenty years. *Id.*

<sup>68</sup> *Id.* “The average college students in 2006 scored higher in narcissism than 65% of students just nineteen years earlier in 1987.” *Id.*

<sup>69</sup> *Id.* at 70.

<sup>70</sup> *Id.* at 71 (quoting education professor Maureen Stout).

expect to have a similar degree of control academically.<sup>71</sup> However, while Millennials have engaged in routine decision-making that have included basic household and family decisions, they have not, on the whole, made major life decisions.<sup>72</sup> Since most Millennials have been largely sheltered prior to attending college, and thus were often protected from consequences that can accompany difficult decision-making, most of them are underprepared to face the consequences of their decisions in college.<sup>73</sup> As a result, Millennials have drawn out their adolescence often into their late twenties, which has created a developmental stage coined as “emerging adulthood.”<sup>74</sup> During emerging adulthood, Millennial students often assert that they are still trying to “find themselves,” which further delays moral judgment in favor of self-indulgent behavior and lack of individual responsibility.<sup>75</sup>

Thus, while Millennials have prospered and developed as the most “wanted” generation of children, the negative corollary is that their parents doted upon and overprotect them.<sup>76</sup> However, to become competent and independent adults, children need to increase their autonomy over decision-making and self-regulation.<sup>77</sup> Nonetheless, some parents do not adjust their level of involvement and control. This parental over-protection has been coined “helicopter parenting”, describing the Generation X parents, who are “obsessed with their children’s success and safety, [and] who vigilantly hover over them, sheltering them from mistakes, disappointment, or risks, insulating them from the world around them.”<sup>78</sup> Some helicopter parents teach their children unethical behavior, such as indicating “it is acceptable to plagiarize, falsify records, or to bully others to get what they want.”<sup>79</sup>

Helicopter parents burst onto the higher education scene with the arrival of the Millennial student generation on campus. According to the College Parents of America, 30% of parents surveyed communicate daily with their college children and

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<sup>71</sup> Bourke & Mechler, *supra* note 23, at 2.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at 3. Emerging adulthood has been classified as an intermediate stage between adolescence and adulthood of individuals between the age of 18 and 20 who have not yet adopted stable adult roles. *Id.* Emerging adulthood is characterized by a delay in social, cognitive, and moral growth in young adults, such as earning a living, having a family, and even entering into long-term committed relationships. *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> Berenson, *supra* note 26, at 105.

<sup>77</sup> Holly B. Schiffrin et al., *Helping or Hovering? The Effects of Helicopter Parenting on College Students’ Well-Being*, 23 J. CHILD FAM. STUD. 548 (2013).

<sup>78</sup> Kathleen Elliott Vinson, *Hovering Too Close: The Ramification of Helicopter Parenting in Higher Education*, 29 GA. ST. U. L. REV. 423, 424 (2013).

<sup>79</sup> *Id.*; see also Kathryn Tyler, *The Tethered Generation*, HRMAGAZINE (May 1, 2007), <http://www.shrm.org/Publications/hrmagazine/EditorialContent/Pages/0507cover.aspx> (detailing how a helicopter mother demanded that the professor allow her son to submit a new paper when he was caught cheating).

73% communicate with their children at least two or three times a week.<sup>80</sup> This continuing contact in the lives of their adult children often is the result of the day-to-day interactions that began in childhood. Many of the Millennial generation grew up with helicopter parents who micromanaged their children's lives well into adulthood. The result may be "the most protected and programmed children ever"<sup>81</sup> entering college and graduate schools without life skills necessary to succeed in the realities of an increasingly competitive and complex workplace and economy. Millennial students have been "respected, nurtured, scheduled, measured, discussed, diagnosed, medicated, programmed, accommodated, included, awarded, and rewarded for as long as they can remember."<sup>82</sup> According to Darby Dickerson in her article *Risk Management and the Millennial Generation*, college students contact their parents prior to making any large or small decisions by calling, text-messaging, emailing, or through social networking three to five times a day.<sup>83</sup> Parents of Millennial students often attend new student orientations with their college freshman children, with numbers often exceeding more than 80% of new students accompanied for some or all of the university orientation.<sup>84</sup> As a result of the phenomenon of helicopter parents on college campuses, "61% of admissions officers have designed new initiatives for parents, such as setting up special websites, information sessions, newsletters, blogs, Facebook pages, tours for parents, and opening up an office for parent relations."<sup>85</sup>

As a result of helicopter parenting, college students are now more willing to accept and even invite parents into their lives. According to Hofer and Moore in their groundbreaking work on *The iConnected Parent*, "[t]he average number of times that families communicated with each other was 13.4 times per week."<sup>86</sup> Millennials share the most minute details of their lives, from the latest date or painful break-up to what they are having for lunch. With the advent of instantaneous electronic communication, they can even e-mail a term paper home, get edits from mom and dad, and submit it the next day. Thus, parents are not only intrinsically involved in their children's daily lives, but are also deeply involved in their academic pursuits. According to a study conducted by Hofer and Moore, 19% of students reported that their parents are proofreading their work prior to submission to their professors and 14% are editing the work product before they submit it.<sup>87</sup> Some parents even make substantial edits, rephrasing sentences, rearranging paragraphs, and adding new concepts and

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<sup>80</sup> Scott Jaschik, *Data on Helicopter Parents*, INSIDE HIGHER ED (Mar. 15, 2007), <https://www.insidehighered.com/news/2007/03/15/parents>. The College Parents of America conducted this survey of 1,700 parents in 2007. *Id.*

<sup>81</sup> Vinson, *supra* note 78, at 433.

<sup>82</sup> BRUCE TULGAN, NOT EVERY ONE GETS A TROPHY 8 (2009).

<sup>83</sup> Darby Dickerson, *Risk Management and the Millennial Generation*, CAMPUS ACTIVITIES PROGRAMMING, Jan./Feb.2007, at A12 (describing that students reported contacting their parents for big or small decisions by calling, text-messaging, emailing, or through social networking at least three to five times a day, with the cell phone becoming "the world's largest umbilical cord").

<sup>84</sup> TULGAN, *supra* note 82, at 57-58.

<sup>85</sup> Vinson, *supra* note 78, at 426 n.11.

<sup>86</sup> HOFER & MOORE, *supra* note 40, at 20.

<sup>87</sup> *Id.* at 47-48.

information.<sup>88</sup> Aside from the ethical and moral implications of this unauthorized collaboration, students receiving this level of assistance from their parents fail to develop a sense of their own abilities. These students “had lower GPAs . . . and had less satisfaction with their college experience and learning.”<sup>89</sup> Thus, while they might succeed in the short-term (through an “A” on an individual assignment), they fail in the long-term as they are not building any self-efficacy that will provide the resilience that will be needed in the face of eventual failure.<sup>90</sup>

These efforts at university and colleges only encourage a lack of independence in the Millennial law student and have permeated into students’ interactions with faculty and classmates in post-secondary institutions.<sup>91</sup> Helicopter parenting encourages dependence and results in diminished decision-making and coping skills. Additionally, these students have little to no ability to self-assess since all their lives they have been told that they are exceptional, their grades have been inflated, and they have no conception of their actual strengths and weaknesses. Additionally, helicopter

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<sup>88</sup> *Id.* at 66. Some students think this assistance is no different than going to the writing center for assistance. *Id.* at 65. Others, however, view this assistance as dishonest. *Id.* at 66.

<sup>89</sup> *Id.* at 48.

<sup>90</sup> A 2010 study by Higher Education Strategy Associates, partnering with the Canadian Education Project, found that 13 percent of students surveyed had help with their work and twenty-five percent secured jobs through their parents. Alex Usher, *Helicopter Parents: Grounded*, HIGHER EDUC. STRATEGY ASSOCS. (Nov. 16, 2011), <http://higheredstrategy.com/helicopter-parents-grounded/>. And this phenomena is not limited to the private sector. Executives of the United States Peace Corp report that parents make suggestions and requests regarding their children’s living arrangements and work conditions. TULGAN, *supra* note 82, at 2. One parent even requested that the Peace Corps needed to review the meals being provided as the meals did not meet his child’s dietary requirements. *Id.* The U.S. Army reports similar stories regarding parents of its soldiers. *Id.* According to a 2007 Michigan State University of 725 employers, the amount of parental involvement does not end once children graduate from college – further eroding self-efficacy. Phil Gardner, *Parent Involvement in the College Recruiting Process: To What Extent*, RESEARCH BRIEF 2-2007 (Collegiate Employment Research Institute & Mich. State University, East Lansing, MI.), at 3, <http://ceri.msu.edu/publications/pdf/ceri2-07.pdf>. This interaction has become so dramatic that beginning in the 1990s Ernst and Young created “parent packs” for college students to give to their parents since they were involved in negotiating salaries and benefits. Nancy Gibbs, *The Growing Backlash Against Overparenting*, TIME, Nov. 30, 2009, <http://content.time.com/time/magazine/article/0,9171,1940697,00.html>.

<sup>91</sup> Vinson, *supra* note 78, at 433 (describing the Millennial generation that is currently arriving on college and graduate campuses as “the most protected and programmed ever” due to helicopter parents who “micromanaged their children’s lives well into adulthood”); *see also* Louis N. Schulze, Jr., *Balancing Law Student Privacy Interests and Progressive Pedagogy: Dispelling the Myth That FERPA Prohibits Cutting-Edge Academic Support Methodologies*, 19 WIDENER L.J. 215, 264-65 (detailing how calls from helicopter parents are now the norm for the generation of Millennial students currently entering law school); Amanda M. Fairbanks, *Letting your Grad Student Go*, N.Y. TIMES, Nov. 1, 2009, at ED14, *available at* <http://www.nytimes.com/2009/11/01/education/edlife/01guidance-t.html?pagewanted=all> (describing how a helicopter parent provided a wake-up call to her daughter every morning, starting in college and continuing through her attendance at Georgetown Law School). This hovering denies the Millennial student the opportunity to develop coping strategies to deal with life’s difficulties and hardships, with the resulting inability to develop competency and self-efficacy.

parenting behavior interferes with a student's sense of competency because these actions imply to the student that the parents do not believe in their child's abilities.<sup>92</sup> Thus, Millennial law students who have been sheltered by helicopter parents often lack critical thinking skills, problem solving skills, and an ability to deal with ambiguity because their parents have always solved their problems. Unfortunately for many Millennials, these skills are necessary tools for higher education learning.<sup>93</sup>

Millennials therefore perceive that they can succeed at anything attempted because they have never faced failure. Due to helicopter parents, overcompensating teachers, and the self-esteem movement of the Millennial generation's early childhood, Millennials are often not faced with the dichotomy of success or failure. "Instead of protecting kids from failure, teachers would encourage them to face it, early and often, on sports teams, in the classroom, and in the lab."<sup>94</sup> Instead students are encouraged not to take risks and to avoid failure so as to continue to be perceived as successful, intelligent, and competent students. As a result of teachers' unwillingness to encourage failure, Millennials set artificially high expectations. When Millennials are then unsuccessful at an activity, they frustrate easily and perceive that effort expended will not correlate with goals obtained, and as a result, they may abandon their efforts prematurely.<sup>95</sup> This phenomenon is especially accurate as Millennial students of higher education view themselves as buyers in a consumer transaction.<sup>96</sup> Millennial students bring a customer service attitude in their expectations of attaining higher education degrees, and are thus more likely to believe that they are purchasing a good, rather than a service.<sup>97</sup> Such a world-view leads to the inevitable conclusion that higher education is therefore a "means to an end, rather than an experience with intrinsic value."<sup>98</sup> This attitude has a direct impact on Millennial students' abilities to nurture and develop self-efficacy during their pursuit of higher education.

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<sup>92</sup> Schiffirin et al., *supra* note 77, at 554.

<sup>93</sup> Vinson, *supra* note 78, at 433-34. Current law students are part of the Millennial generation which is used to self-esteem boosting and constant praise that negatively impacts learning and self-assessment. *Id.* (citing Anahid Gharakhanian, *ABA Standard 305's "Guided Reflections": A Perfect Fit for Guided Fieldwork*, 14 CLINICAL L. REV. 61, 73 (2007)).

<sup>94</sup> MEGAN MCARDLE, *THE UP SIDE OF DOWN: WHY FAILING WELL IS THE KEY TO SUCCESS* XII (2014).

<sup>95</sup> Berenson, *supra* note 26, at 108.

<sup>96</sup> *Id.* at 110.

<sup>97</sup> *Id.*

<sup>98</sup> *Id.* Unfortunately, this "world view" is exacerbated by the very nature of higher education. As aptly summed up by Peter Huang, legal education tends to promote "extrinsic motivations to learn, such as class rank, course grades, future job prospects, social status, and starting salaries, while crowding out intrinsic motivations to learn, such as curiosity, identity, interest, joy and seeking meaning." Peter H. Huang, *Tiger Cub Strikes Back: Memoirs of An Ex-Child Prodigy About Legal Education and Parenting*, 1 BR. J. AM. LEG. STUDIES 297, 301 (2012). Thus, the ends overtake the means and students are not seeking to develop skills and knowledge or assess their own ability, but rather want the "reward" at the end of the class or graduation, i.e., the top grade or the best job.

## III. THE NATURE OF SELF-EFFICACY

Self-efficacy, which is a strong indicator of a person's effort and persistence, reflects a "person's belief in his or her capability to successfully perform a particular task."<sup>99</sup> Through self-efficacy, a person can determine, either through positive or negative application, a level of effort and persistence in any given task.<sup>100</sup> Self-efficacy relies on a course of behavior determined by judgments and expectations surrounding the likelihood of successfully coping with demands and challenges.<sup>101</sup> At its core, self-efficacy is based "not [on] the skills one has but [on] judgments of what one can do with whatever skills one possesses."<sup>102</sup> Thus, "[s]elf-efficacy is a product of the intersection of students' past educational experiences, their perception of the degree of difficulty of the task, and their perception of the adequacy of their development of the skill(s) required by the task."<sup>103</sup>

Self-efficacy is substantiated as learners observe goal progress.<sup>104</sup> Allowing students to understand goals enhances goal commitment and promotes self-efficacy.<sup>105</sup> The benefits to developing self-efficacy depend on the proximity, specificity, and difficulty of the goals.<sup>106</sup> Goals that are more immediate enhance performance better than distant goals.<sup>107</sup> "Performance goals that are concrete, specific, and proximal (short-range) provide greater incentive and motivation and greater evidence of efficacy than goals that are abstract, vague, and set in the distant future."<sup>108</sup> Specific goals make judging progress easier than judging general goals.<sup>109</sup> Easy goals may be

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<sup>99</sup> Heslin & Klehe, *supra* note 2, at 705.

<sup>100</sup> *Id.*

<sup>101</sup> James E. Maddux, *Self-Efficacy Theory: An Introduction*, in SELF-EFFICACY, ADAPTATION, AND ADJUSTMENT: THEORY, RESEARCH, AND APPLICATION 4 (James E. Maddux ed., 1995).

<sup>102</sup> *Id.* at 7 (quoting ALBERT BANDURA, SOCIAL FOUNDATIONS OF THOUGHT AND ACTION 391 (1986)).

<sup>103</sup> SCHWARTZ, *supra* note 3, at 31. Self-efficacy can be viewed along three spectrums: magnitude, strength, and generality. Maddux, *supra* note 101, at 9. Magnitude of self-efficacy implicates the tasks undertaken of increasing difficulty that a person believes himself capable of performing. *Id.* Strength of self-efficacy refers to the resoluteness of the person's belief that he can perform the task. *Id.* Generality of self-efficacy refers to the extent in which success or failure in a task impacts self-efficacy. *Id.*

<sup>104</sup> *Id.* at 284.

<sup>105</sup> *Id.*

<sup>106</sup> Dale H. Schunk, *Self-Efficacy and Education and Instruction*, in SELF-EFFICACY, ADAPTATION, AND ADJUSTMENT: THEORY, RESEARCH, AND APPLICATION 284 (James E. Maddux ed., 1995).

<sup>107</sup> *Id.*

<sup>108</sup> James E. Maddux & John Lewis, *Self-Efficacy and Adjustment: Basic Principles and Issues*, in SELF-EFFICACY, ADAPTATION, AND ADJUSTMENT: THEORY, RESEARCH, AND APPLICATION 60 (James E. Maddux ed., 1995).

<sup>109</sup> Schunk, *supra* note 106, at 284.

more effective in initial skill acquisition, but difficult goals are more beneficial as skills develop.<sup>110</sup>

Self-efficacy should not be confused with self-confidence, which is a “generalized personality trait that relates to how confidently people feel and act in most situations,”<sup>111</sup> or with self-esteem, the extent to which people feel positive about themselves.<sup>112</sup> As a result, a person, for any set of given tasks, may have both high self-efficacy in certain areas and low self-efficacy in others,<sup>113</sup> which can account for both high self-confidence and low self-awareness for the same task or project. Therefore, self-efficacy is a better indicator of effective performance on a specific task than either self-confidence or self-esteem.<sup>114</sup>

An individual will perform a task successfully if he knows what behaviors will produce the desired outcome and if he evaluates himself as capable of performing the necessary behaviors.<sup>115</sup> Individuals with high self-efficacy and a growth mindset not only strive for more, but because they persist, they accomplish more.<sup>116</sup> They also continue to search for solutions in the face of obstacles, while those with low self-efficacy reflect on personal deficiencies rather than devote efforts towards assessing and addressing the obstacle.<sup>117</sup> Efficacy influences how people feel, think, motivate themselves, and behave, and is directly tied to the belief about ability.<sup>118</sup> If ability is an acquired skill that can be developed through trial and error, then improved ability leads to greater self-efficacy.<sup>119</sup> However, if ability is believed to be inherent, then any error is viewed as a deficiency that must be minimized, often at the doorstep of learning, intellectual growth, and improved efficacy.<sup>120</sup> Students with high self-efficacy “strive to improve their assumptions and strategies,” while those with low self-efficacy tend to have “erratic analytic thinking that undermines the quality of problem solving.”<sup>121</sup> Students with high self-efficacy tend to approach difficult tasks as challenges to be mastered, create goals and maintain pursuit of them, and attribute

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<sup>110</sup> *Id.*

<sup>111</sup> Heslin & Klehe, *supra* note 2, at 705.

<sup>112</sup> *Id.*

<sup>113</sup> *Id.* (citing Albert Bandura, one of the foremost experts on self-efficacy).

<sup>114</sup> *Id.*

<sup>115</sup> *Id.* “A high degree of self-efficacy leads people to work hard and persist in the face of setbacks[,]” as evidenced by Thomas Edison who tested over 3,000 different prototypes before developing the incandescent light bulb and Abraham Lincoln who suffered numerous public failures prior to his eventual political success. *Id.*

<sup>116</sup> Maddux & Lewis, *supra* note 108, at 43; Dweck, *supra* note 7, at 6-7.

<sup>117</sup> Maddux & Lewis, *supra* note 108, at 43-44.

<sup>118</sup> Albert Bandura, *Perceived Self-Efficacy in Cognitive Development and Functioning*, 28 *EDUC. PSYCHOLOGIST* 117, 118 (1993).

<sup>119</sup> *Id.* at 120.

<sup>120</sup> *Id.*

<sup>121</sup> Heslin & Klehe, *supra* note 2, at 705.

failure to insufficient knowledge that must be acquired.<sup>122</sup> Students with low self-efficacy and a fixed mindset shy away from difficult tasks, as the tasks are seen as threats to their image and ability. These students give up quickly when faced with adversity, and dwell on personal deficiencies.<sup>123</sup> Low self-efficacy makes students despondent over their capacity to cope effectively with challenges and demands.<sup>124</sup> Additionally, self-efficacy is eroded by “consistently being assigned unchallenging task; receiving praise for mediocre performance . . . or being offered unsolicited help.”<sup>125</sup> Non-constructive criticism is also damaging as it undermines the students’ motivation to learn and take risks.<sup>126</sup>

However, if students can learn to accept and internalize constructive feedback regarding performance, stronger self-efficacy will result. Stronger self-efficacy leads to greater task initiation and persistence; whereas weaker self-efficacy produces task avoidance and less persistence.<sup>127</sup> For instance, a Millennial law student may know what is expected in an effective piece of legal writing and understand the steps necessary to complete the task, but if the student lacks the belief that he can achieve the outcome, then effective behavior will not result.<sup>128</sup> So, how does one develop the belief that he can achieve the outcome? In a study of self-efficacy, McCarthy, Meier, and Rinderer defined high anxiety as an intense feeling of uneasiness. They opined that high anxiety is directly correlated to poor self-efficacy and leads to negative performance on writing problems.<sup>129</sup> Thus, students who think negatively about their abilities (i.e. have low self-efficacy) suffer increased anxiety and cannot develop significantly improved writing skills because they limit their strategies when writing.

To combat this anxiety and improve writing, evaluations about students’ abilities, which are self-efficacy expectations, develop as students attempt behaviors and receive feedback about the quality of their performance.<sup>130</sup> Positive or negative

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<sup>122</sup> Bandura, *supra* note 118, at 120.

<sup>123</sup> *Id.*; Dweck, *supra* note 7, at 6.

<sup>124</sup> Heslin & Klehe, *supra* note 2, at 706. “These low self-efficacy expectations may lead them to give up or stop trying to be effective in their lives and then, after repeated failure, come to believe that they will continue to be ineffective in coping with difficulties in life.” Maddux & Lewis, *supra* note 108, at 47.

<sup>125</sup> Heslin & Klehe, *supra* note 2, at 707.

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> Patricia McCarthy, Scott Meier & Regina Rinderer, *Self-Efficacy and Writing: A Different View of Self-Evaluation*, 36 C. COMPOSITION & COMM. 465, 466 (1985).

<sup>129</sup> *Id.* at 466-67.

<sup>130</sup> According to the Rosenthal (or Pygmalion) effect, the greater the expectation placed upon students, the better they perform – a form of self-fulfilling prophecy. Robert Rosenthal & Lenore Jacobson, PYGMALION IN THE CLASSROOM: TEACHER EXPECTATION AND PUPILS’ INTELLECTUAL DEVELOPMENT (1992). Students with poor expectations internalize their negative labels, while those with positive labels succeed accordingly. *Id.* However, professors with high self-efficacy about their teaching, which is a personal belief about their capability to assist student learning, promotes self-efficacy in students through their “use of praise, individual attention to students, and checking on students’ progress in learning.” Schunk, *supra* note 106, at 298-99.

feedback will impact self-confidence and self-efficacy and influence students' decision-making about their learning strategies. The belief that a strategy has been learned that aids the learning process instills a sense of control over the process, and, as a direct result, raises the level of self-efficacy with respect to that particular process. This increased sense of control leads the student to continuously apply the strategy diligently.<sup>131</sup> High self-efficacy allows students to react less defensively when receiving negative feedback. When a student has low self-efficacy, negative outcomes reinforce the perception of incompetence that the student already perceives in himself.<sup>132</sup> This mentality then becomes self-fulfilling — poor results are considered evidence of perceived inability, thereby lowering self-efficacy, effort, and future performance. Additionally, students with low self-efficacy will blame either the situation (i.e. the assignment was too difficult) or another person (i.e. the instructor is incompetent) when failure occurs, rather than take responsibility for the failure and grow from the experience.<sup>133</sup> This lack of responsibility for the poor performance destroys any chance of learning how to perform more effectively on future assignments.

#### IV. HOW TO IMPROVE SELF-EFFICACY IN MILLENNIALS TO CREATE A NEW GENERATION OF SUCCESSFUL LAWYERS

##### A. Performance Oriented vs. Mastery-Goal Oriented Students

So, how do we combat the helicopter parent phenomenon that creates co-dependent, overly self-confident Millennials who are not ready to self-assess or accept constructive critiques of their abilities and are therefore unable to rise to the occasion of growing in the environment of higher education? With its attention on grades, class rank, and dwindling employment opportunities, law school has been criticized as unduly focused on performance-based criteria. “Law schools rely too much on grading systems (as opposed to evaluation systems) that . . . undermine an effective learning environment.”<sup>134</sup> Law school thrives on competition among its students and an external one-time assessment at the end of a specific course, which is a performance-oriented structure.<sup>135</sup> Because a student's sense of achievement and law school

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<sup>131</sup> D.H. Schunk, *Self-Efficacy and Academic Motivation*, 26 EDUC. PSYCHOLOGIST 209, 215 (1991).

<sup>132</sup> *Id.*

<sup>133</sup> Other researchers have termed these concepts as an external locus of control or internal locus of control. Bourke & Mechler, *supra* note 23, at 5 (citing J. Twenge, L. Zhang, & C. Im, *It's Beyond My Control: A Cross-Temporal Meta-Analysis of Increasing Externality in Locus of Control*, 8 PERSONALITY & SOC. PSYCHOL. REV. 308-19 (2004)). Individuals who display an external locus of control assert outside forces have more control over their lives than their own actions, and consequently, they blame external people or events for their failures. *Id.* Conversely, persons with an internal locus of control attribute successes and failures to their own actions as they are in complete control of their decision-making. *Id.* Individuals with external locus of control have low academic achievement and poor self-regulation, two characteristics linked to low self-efficacy. *Id.*

<sup>134</sup> Barbara Glesner Fines, *Competition and the Curve*, 65 UMKC L. REV. 879, 879 (1997).

<sup>135</sup> Leah M. Christensen, *Enhancing Law School Success: A Study of Goal Orientations, Academic Achievement and the Declining Self-Efficacy of Our Law Students*, 33 L. & PSYCHOL. REV. 57, 63 (2009).

success is based on academic performance as determined by grades, most law school courses fit within the framework of performance-based learning.<sup>136</sup> Despite the performance-based nature of law school, however, the most successful law students are those who are “mastery-oriented.”<sup>137</sup> How, then, can law school professors, especially those who teach first-year legal writing classes, affect student motivation to learn and teach Millennials to embrace “mastery-oriented” learning in a performance-oriented environment?

Traditionally, mastery-oriented students tend to have high self-efficacy and welcome challenges associated with education and learning.<sup>138</sup> However, according to one study, high-ranking law students, who also identified themselves as mastery-oriented learners, respond to law school by expressing a disbelief in their own abilities; in other words, by expressing low self-efficacy.<sup>139</sup> Noted author Carol Dweck has referred to this disbelief as a “helpless” response to challenge since students “view that once failure occurs, the situation is out of control and nothing can be done.”<sup>140</sup> This feeling of failure and corresponding loss of academic self-efficacy occurs as law students struggle to understand complex legal theory and learn new writing skills without concrete, on-going feedback, and is compounded by a single grade on a performance-based exam that does not necessarily measure effort or engagement. Millennial students are particularly susceptible to this helpless response and corresponding loss of self-efficacy as they have been sheltered by parents and teachers and have not learned from failure. Law school educators need to combat students’ loss of self-efficacy through changes in teaching methodology and approaches to student learning.

The relationship between engagement and student success is critical to the growth and development of self-efficacy in Millennial students.<sup>141</sup> One aspect of engagement is personal interaction with faculty and fellow students.<sup>142</sup> While advances in technology, such as IMs, SMS, and social media, have provided new means for students to communicate, these electronic communications have removed interpersonal dynamics from face-to-face interactions, with a resulting dehumanization of the communication experience. Students have grown accustomed to this lack of interpersonal communication and have allowed it to permeate their educational experience. As a result, Millennial students not only expect to have little

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<sup>136</sup> *Id.* Performance-oriented learners do not want to overtly challenge their ability as setbacks personally threaten them, and as such they tend to pursue activities in which they can guarantee their own success. *Id.*

<sup>137</sup> *Id.* at 58. “Mastery-oriented learning are focused on learning as something valuable and meaningful in itself.” *Id.* Mastery-oriented learners have a growth mindset and are more apt to have higher self-efficacy and ability to learn from constructive criticism. For a fuller discussion of growth mindsets and their application to education, see CAROL M. DWECK, MINDSET: THE NEW PSYCHOLOGY OF SUCCESS 173-212 (2006).

<sup>138</sup> Christensen, *supra* note 135, at 77-78.

<sup>139</sup> *Id.* at 78.

<sup>140</sup> CAROL S. DWECK, SELF-THEORIES: THEIR ROLE IN MOTIVATION, PERSONALITY, AND DEVELOPMENT 6 (1999).

<sup>141</sup> Bourke & Mechler, *supra* note 23, at 6.

<sup>142</sup> *Id.*

or no direct engagement with faculty, but some actually prefer the electronic communication with which they have grown up. Thus, the increased reliance on virtual means of communication results in fewer and lower-quality interpersonal interactions with faculty and other students.<sup>143</sup> By increasing the one-on-one interactions in first year law school courses, educators can devote time to providing Millennials with concrete learning objectives that can be readily assessed by both the student and the professor. By providing enhanced opportunities for Millennials to participate in engaging face-to-face educational interactions, law school faculty may promote Millennial student growth and development in ways that increase self-efficacy.<sup>144</sup> Meaningful, face-to-face interactions promote reflective reasoning, an essential component toward becoming an expert learner with increased self-efficacy.<sup>145</sup>

In conjunction with the lack of personal communication, another challenge for over-protected and “iConnected” Millennials is to learn to manage their own behavior. This self-regulation includes time-management, organization, and study skills.<sup>146</sup> As Millennial law students often read their material electronically, they fail to critically read a document from start to finish, but rather tend to click on hyperlinks and review cross-referenced material, which impacts their ability to learn and synthesize the material.<sup>147</sup> According to Nicolas Carr—who posed the question “Is Google making Us Stupid?”—Millennials are kids who grew up using the Web, which has “affected the way they absorb information. They don’t necessarily read a page from left to right and from top to bottom. They may instead skip around, scanning for pertinent information of interest.”<sup>148</sup> As a result, students are “cherry-picking” the information they believe they need without any deep, analytical reflection on the material as a whole.

Faculty must also have to ensure that it is not engaged in “helicopter teaching” by repeatedly reminding students of academic deadlines, being available and reachable twenty-four hours a day, and repeatedly providing deadline extensions, rather than having their students fail at a given task.<sup>149</sup> Hofer and Moore asked students to respond to the question “I plan ahead for academic assignments and I set small goals for myself

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<sup>143</sup> *Id.*

<sup>144</sup> *Id.*

<sup>145</sup> *Id.*; Michael Hunter Schwartz, *Teaching Law Students to be Self-Regulated Learners*, 2003 MICH. ST. DCL L. REV. 447, 470 (2003) (“Critical self-reflectiveness is a quality complementary to autonomous learning. It does double duty both as an element of learning-to-learn and as a prerequisite to evaluating performance as a legal practitioner and to evaluating the operation of law in society in general.”).

<sup>146</sup> Among the keys to success for Millennials is the ability at an early age to develop self-discipline and the ability to delay gratification. See Walter Mischel, Yuichi Shoda & Monica L. Rodriguez, *Delay of Gratification in Children*, 244 (No. 4907) SCI. 933 (1989) (finding that four-year-old children who delayed gratification grew up to be more cognitively and socially competent adolescents who tended to perform better scholastically).

<sup>147</sup> George, *supra* note 49, at 169.

<sup>148</sup> NICHOLAS CARR, *THE SHALLOWS: WHAT THE INTERNET IS DOING TO OUR BRAIN* 9 (2010) (quoting Don Tapscott, *How to Teach and Manage ‘Generation Net’*, BUSINESSWEEK ONLINE, Nov. 30, 2008, [www.businessweek.com/technology/content/nov2008//tc20081130\\_713563.htm](http://www.businessweek.com/technology/content/nov2008//tc20081130_713563.htm)).

<sup>149</sup> Vinson, *supra* note 78, at 448.

so I can keep up with bigger tasks.”<sup>150</sup> Students who answered these questions affirmatively had positive self-regulation which correlated with a positive enthusiasm for learning, satisfaction with their academics, and a higher GPA.<sup>151</sup> According to a study of academic self-efficacy in graduate science and engineering students, students feeling prepared by undergraduate studies and students who had obtained a Master’s degree possessed high self-efficacy, which again correlates to positive self-regulation and enthusiasm for learning.<sup>152</sup>

### B. Self-Regulated Learners

“Learning is best when students are self-regulating, engaged, and motivated learners, and when the learning process is active, experiential, collaborative, and reflective.”<sup>153</sup> As part of this self-regulation, Millennial students must be trained to become expert learners. Expert or self-regulated learners view academic learning as something they do for themselves rather than as something done for them.<sup>154</sup> Self-regulated learning that will increase self-efficacy is proactive and self-initiated.<sup>155</sup> However, Millennial students have little ability to engage in self-learning and self-assessment due to their beliefs that everyone is exceptional, their lack of any real understanding of their own strengths and weaknesses, and their complete inability to accept, process, and internalize constructive criticism.<sup>156</sup> “[L]aw students [who] take control over their learning process and increase their self-efficacy for learning . . . are more likely to focus on mastery of the material rather than on performance or grades.”<sup>157</sup> This mastery of the material will result in fewer lost students, improved

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<sup>150</sup> HOFER & MOORE, *supra* note 40, at 46.

<sup>151</sup> *Id.*

<sup>152</sup> A.M. Santiago & M.K. Einarson, *Background Characteristics as Predictors of Academic Self-Confidence and Academic Self-Efficacy Among Graduate Science and Engineering Students*, 39 RES. IN HIGHER EDUC. 163, 187 (1998).

<sup>153</sup> Timothy W. Floyd, Oren R. Griffin & Karen J. Sneddon, *Beyond Chalk and Talk: The Law Classroom of the Future*, 38 OHIO N.U. L. REV. 257, 266 (2011).

<sup>154</sup> Schwartz, *supra* 145, at 452. Self-regulated learning, also referred to as expert learning in educational psychology literature, “involves the active, goal-directed, self-control of behavior, motivation, and cognition for academic task by an individual student.” *Id.* (quoting R. Pintrich, *Understanding Self-Regulated Learning*, in NEW DIRECTIONS FOR TEACHING AND LEARNING: UNDERSTANDING SELF-REGULATED LEARNING, NUMBER 63 5 (Paul R. Pintrich ed. 1995)).

<sup>155</sup> *Id.* (quoting 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 (Dale H. Schunk & Barry J. Zimmerman eds. 1998)).

<sup>156</sup> Vinson, *supra* note 78, at 437.

<sup>157</sup> Christensen, *supra* note 135, at 82 (citing Michael Hunter Schwartz, *Humanizing Legal Education: An Introduction to a Symposium Whose Time Came*, 47 WASHBURN L.J. 235, 243-44 (2008), and MICHAEL HUNTER SCHWARTZ, EXPERT LEARNING FOR LAW STUDENTS 3-5, 27-78 (2005)).

quality classroom discussions, improved student morale, and improved student test performance.<sup>158</sup>

Students in the process of becoming self-regulated learners grow in their learning efficiency and in their self-efficacy by accomplishing learning tasks and by developing a keener understanding of subject matter content. “Self-regulated learning involves a recursive cycle [of] three phases: forethought, performance, and reflection, each of which has multiple components.”<sup>159</sup> The forethought or planning stage involves the thought process where the student decides what to learn and how it will be learned as the precursor to engaging in the learning activity.<sup>160</sup> In this phase, students should identify and classify the task to determine its relevance to their learning, determine the reason for undertaking the particular task, and assess their self-interest and self-efficacy in accomplishing the task.<sup>161</sup> The self-regulated learner then sets goals and outcomes with respect to the task and devises a strategy for achieving the goal.<sup>162</sup> For instance, to succeed in the planning stage in a legal writing class, a Millennial law student could identify and classify the research he or she will undertake for a final memorandum of law assignment. The student would then evaluate his or her competency to perform the legal research in a research-related report to the professor. The report would detail the goals for locating the primary and secondary sources necessary to evaluate the legal questions and set forth a strategy for locating these source materials.

The performance phase involves the learning activity itself as well as an assessment of whether the student understands the activity.<sup>163</sup> Students engage simultaneously in three processes during this phase—attention-focusing, implementation, and self-monitoring.<sup>164</sup> In this phase, self-regulated learners employ cognitive strategies to focus their attention on their learning and perform the learning tasks.<sup>165</sup> This performance includes reviewing already-learned material to aid comprehension, utilizing auxiliary sources to supplement knowledge, reading cases several times to develop fuller command of the law, taking notes on the material read,

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<sup>158</sup> Schwartz, *supra* note 145, at 467 (citing Peggy A. Ertner & Timothy J. Newby, *The Expert Learner: Strategic, Self-Regulated, and Reflective*, 24 INSTRUCTIONAL SCI. 1, 13-16 (1996)).

<sup>159</sup> *Id.* at 454-55; Schwartz, *supra* note 3, at 3.

<sup>160</sup> Schwartz, *supra* note 145, at 455.

<sup>161</sup> *Id.* at 456; SCHWARTZ, *supra* note 3, at 35-44 (describing the first three steps taken in the forethought phase as perceiving the task, classifying the learning task, and invoking self-interest and self-efficacy, and providing examples of each).

<sup>162</sup> Schwartz, *supra* note 145, at 456; SCHWARTZ, *supra* note 3, at 44-51 (describing the last two steps taken in the forethought phase as setting learning goals and selecting strategies, and providing examples of each).

<sup>163</sup> Schwartz, *supra* note 145, at 454-55; SCHWARTZ, *supra* note 3, at 3.

<sup>164</sup> Schwartz, *supra* note 145, at 455; SCHWARTZ, *supra* note 3, at 3.

<sup>164</sup> SCHWARTZ, *supra* note 3, at 67.

<sup>165</sup> *Id.*

and comparing and contrasting the newly-reviewed material to material already learned.<sup>166</sup>

The final stage is the reflection or evaluation stage, which guides the student in future learning activities through careful review of the process to determine if it has produced efficient and optimal learning.<sup>167</sup> During this analytical stage students reflect on the work completed and determine how effective it was, in addition to considering the implications for future learning activities through self-evaluation, attribution, self-reaction and adaptation.<sup>168</sup> Students who are self-regulated learners will review their own performance in light of the professor's objectives and "evaluate how they are doing promptly and accurately" and then modify learning strategies based on their experiences.<sup>169</sup>

While students can use these tools to become expert learners, educators should also use mastery-oriented learning experiences to promote students' ability to grasp content and improve skills and become self-regulated learners. Law school professors can provide meaningful tasks, acknowledge student effort and improvement, use formative assessment, and insure opportunity for feedback and revision of work product.<sup>170</sup> Mastery-oriented learning can occur through small group conferences, such as "Play the Partner" conferences where students brief the "partner" about the research they have conducted in anticipation of answering a legal question, either in class or through a written assessment such as a memorandum of law. This oral interaction allows students to use different learning styles to improve their understanding of the law. Rather than read cases and write answers, students can process information through a conversation about the law and receive instant oral feedback on their progress and understanding of the law. These oral conferences build self-efficacy in students as they realize their ability to comprehend and explain the law in a specific context.<sup>171</sup>

Professors should also provide feedback several times throughout the semester by using ungraded in-class assignments that can be discussed in small groups or collectively with the class. For instance, in a legal writing class, students could develop the explanatory case description section of an office memo based on a fact pattern and two short cases provided in class. Once the students are given the opportunity to draft, the professor can then discuss the process for drafting the section, provide feedback on examples that are successful, and offer constructive evaluation of those examples that fail to meet the objectives of effective case synthesis. Students should then have the opportunity to repeat this exercise using different fact scenarios and case law, with a repetition of the feedback loop. Successful understanding and completion of small goals which are consistently assessed and demonstrate progression to a final project

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<sup>166</sup> Schwartz, *supra* note 145, at 459.

<sup>167</sup> *Id.* at 455; SCHWARTZ, *supra* note 3, at 3.

<sup>168</sup> Schwartz, *supra* note 145, at 461; SCHWARTZ, *supra* note 3, at 73.

<sup>169</sup> Schwartz, *supra* note 145, at 461.

<sup>170</sup> Christensen, *supra* note 135, at 84.

<sup>171</sup> Positive student/faculty interactions impact self-efficacy. The better the student feels about the interaction, the higher the student's self-efficacy. Santiago & Einarson, *supra* note 152, at 187.

promotes a learning strategy for Millennial students that can be transferrable across the law school curriculum.

Importantly, students should not be allowed to procrastinate in setting goals and completing assignments. Students with weak self-efficacy seek to avoid tasks and will not persist when faced with new and challenging tasks.<sup>172</sup> In order to avoid procrastination, and, at the same time, encourage self-efficacy in Millennial students, students should establish specific goals, set dates for realistic completion of tasks, provide “rewards” for progress made, design an efficient plan of time management when undertaking a new task, and recall past accomplishments to help with the current project.<sup>173</sup>

### C. Universal Design in Learning

Self-efficacy in Millennial students also can be impacted through an adaptation of the universal design theory advocated by the disability community. Universal design is geared towards the development of processes that allow maximum participation for every person—those who are disabled and those who are non-disabled.<sup>174</sup> At its optimum, universal design provides solutions by proactively designing features that “benefit all, not merely accommodate the few.”<sup>175</sup> The ultimate goal of universal design is to provide environments and consumables that are “usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.”<sup>176</sup>

Universal design focuses on seven principles:

**Equitable Use**—The design is useful and marketable to people with diverse abilities.

**Flexibility in Use**—The design accommodates a wide range of individual preferences and abilities.

**Simple and Intuitive Use**—Use of the design is easy to understand, regardless of the user’s experience, knowledge, language skills, or current concentration level.

**Perceptible Information**—The design communicates necessary information effectively to the user, regardless of ambient conditions or the user’s sensory abilities.

**Tolerance for Error**—The design minimizes hazards and the adverse consequences of accidental or unintended actions.

**Low Physical Effort**—The design can be used efficiently and comfortably and with minimum fatigue.

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<sup>172</sup> L.A. Haycock, P. McCarthy & C.L. Skay, *Procrastination in College Students: The Role of Self-Efficacy and Anxiety*, 76 J. COUNSELING & DEV. 317, 321 (1998).

<sup>173</sup> *Id.* at 322.

<sup>174</sup> RICHARD M. JACKSON, NAT’L CTR. ON ACCESSING THE GEN. CURRICULUM, CURRICULUM ACCESS FOR STUDENTS WITH LOW-INCIDENCE DISABILITIES: THE PROMISE OF UNIVERSAL DESIGN FOR LEARNING 2 (2011),

available at [http://www.aim.cast.org/sites/aim.cast.org/files/lowincidencereport\\_101305.pdf](http://www.aim.cast.org/sites/aim.cast.org/files/lowincidencereport_101305.pdf) [hereinafter NCAC].

<sup>175</sup> *Id.*

<sup>176</sup> Connell et al., *supra* note 16.

**Size and Space for Approach and Use**—Appropriate size and space is provided for approach, reach, manipulation, and use regardless of user’s body size, posture, or mobility.<sup>177</sup>

Higher education has adapted these universal design principles, specifically focusing on “inflexible, ‘one-size-fits-all’ curricula,” and developed universal design for learning.<sup>178</sup> Universal design in learning is defined as “a framework for designing curricula that enable all individuals to gain knowledge, skills, and enthusiasm for learning. Universal design in learning provides rich supports for learning and reduces barriers to the curriculum while maintaining high achievement standards for all.”<sup>179</sup> Universal design in learning “anticipates diversity of learners and provides a framework for college faculty to incorporate inclusive strategies in their teaching.”<sup>180</sup> Through this effort, universal design in learning promotes experts learners who are resourceful and knowledgeable, strategic and goal-directed, and purposeful and motivated.<sup>181</sup> The goal of universal design in learning is to maximize all student learning and increase self-efficacy in Millennial students by applying universal design principles to information resources, personal interactions, and assessments.

Three distinct principles are at work in universal design in learning. The first is to “Provide Multiple Means of Representation,” which give students a variety of methods for gathering information and knowledge.<sup>182</sup> Under this principle, no one

<sup>177</sup> Burgstahler, *supra* note 15, at 2-3.

<sup>178</sup> CAST, UNIVERSAL DESIGN FOR LEARNING GUIDELINES: VERSION 2.0 14 (2011), *available at* <http://www.udlcenter.org/aboutudl/udlguidelines>. The Center for Applied Special Technology (CAST), a non-profit research and development organization, has been at the forefront of universal design for learning (UDL). CAST, TRANSFORMING EDUCATION THROUGH UNIVERSAL DESIGN FOR LEARNING, *available at* <http://www.cast.org/about#.VTIAu1wXw3g>. “UDL provides a blueprint for creating instructional goals, methods, materials, and assessments that work for everyone – not a single, one-size-fits-all solution but rather flexible approaches that can be customized and adjusted for individual needs.” *Id.* Universal design in learning applies equally to the “gifted and talented” student and the disabled student. CAST, UNIVERSAL DESIGN FOR LEARNING GUIDELINES: VERSION 2.0 4 (2011), *available at* <http://www.udlcenter.org/aboutudl/udlguidelines>. In the field of education, universal design principles are often referred to as universal design in learning (UDL), universal design in education (UDE), or universal design in instruction (UDI). SHERYL BURGSTÄHLER, UNIV. OF WASH., EQUAL ACCESS: UNIVERSAL DESIGN OF INSTRUCTION, DO-IT 1-5 (2009), *available at* [http://www.washington.edu/doi/Brochures/PDF/equal\\_access\\_udi.pdf](http://www.washington.edu/doi/Brochures/PDF/equal_access_udi.pdf); *see also* Aida M. Alaka, *Learning Styles: What Difference Do the Differences Make?*, 5 CHARLESTON L. REV. 133 (2011).

<sup>179</sup> Burgstahler, *supra* note 18, at 3. For purposes of universal design in learning, curricula is developed to meet the needs of students with a wide range of abilities, learning styles, and preferences. UNIV. OF WASH., UNIVERSAL DESIGN IN EDUCATION, *supra* note 4.

<sup>180</sup> UNIV. OF OR., TEACHING EFFECTIVENESS PROGRAM, *supra* note 4.

<sup>181</sup> CAST, UNIVERSAL DESIGN FOR LEARNING GUIDELINES, *supra* note 178, at 6-7.

<sup>182</sup> DAVID H. ROSE ET AL., NAT’L CTR. ON UDL, UNIVERSAL DESIGN FOR LEARNING IN POSTSECONDARY EDUCATION: REFLECTIONS ON PRINCIPLES AND THEIR APPLICATION 5 (2006), *available at* <http://www.udlcenter.org/sites/udlcenter.org/files/UDLinPostsecondary.pdf>; ABOUT UDL, CTR. FOR APPLIED SPECIAL TECH., *supra* note 17; Meredith George & Wendy Newby, *Inclusive Instruction: Blurring Diversity and Disability in Law School Classrooms Through Universal Design*, 69 U. PITT. L. REV. 475, 494 (2008).

method is used to access the information and knowledge; rather, it means that the techniques for teaching, the means of highlighting critical information, and the connection of information to knowledge are fully accessible to all.<sup>183</sup> Educators should provide information through various modalities and provide information in a format the student finds useful.<sup>184</sup> “When you teach to accommodate diverse learning styles, all learners are included in the learning process, not just those whose learning is similar [to the professors].”<sup>185</sup> Law professors must recognize that they are teaching to Millennial students who embrace a variety of learning styles: “verbal (learning through written text), visual (learning through pictures, diagrams, models), oral (learning through talking out ideas), aural (learning through listening to lectures, discussions, or recordings), tactile (learning through touching and manipulating material) and kinesthetic (learning through moving and doing).”<sup>186</sup> Significantly, as many as 50-70% of the population are “multi-modal learners,” those who prefer to use two, three, or even four different learning styles.<sup>187</sup> Learning optimally occurs when multiple means of learning are used “because it allow students to make connections within, as well as between, concepts.”<sup>188</sup> Use of visual aids, such as video and PowerPoints, along with in-class exercises and lectures, will address the multi-modal learner.

The second principle is to “Provide Multiple Means of Action and Expression,” which allow students alternative ways to demonstrate competency in what they have learned and receive feedback that is critical to growth and learning.<sup>189</sup> Under this principle, educators use multiple scaffoldings, including options for oral and written expression, as well as assessments and feedback that build upon themselves as students gain competency.<sup>190</sup> In this regard, traditional law professors can learn from the world of experiential education, where clinical educators provide scaffolding of the clinical experience with (1) discussion where theory and practice are analyzed, (2) exercises that are developed to maximize student learning, and (3) collaboration occurs between teacher, supervisor, and student to develop more fully the lawyering skills of the clinical experience.<sup>191</sup> Based on this model, educators can assist students in setting long-term goals, plan effective strategies for achieving those goals, monitor

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<sup>183</sup> David Rose et al., *Universal Design for Learning in Postsecondary Education: Reflections on Principles and their Application*, 19 J. POSTSECONDARY EDUC. & DISABILITY 17 (2006).

<sup>184</sup> CAST, UNIVERSAL DESIGN FOR LEARNING GUIDELINES, *supra* note 178, at 14.

<sup>185</sup> M.H. Sam Jacobson, *Learning Styles and Lawyering: Using Learning Theory to Organize Thinking and Writing*, 2 J. ASS’N LEGAL WRITING DIRECTORS 27, 29 (2004).

<sup>186</sup> George, *supra* note 49, at 186; *see also* SCHWARTZ, *supra* note 3, at 63 (describing various learning styles, including multi-modal learners, who prefer using multiple learning styles, and providing examples of how these learning styles may be addressed in the classroom).

<sup>187</sup> Schwartz, *supra* note 3, at 63.

<sup>188</sup> CAST, UNIVERSAL DESIGN FOR LEARNING GUIDELINES, *supra* note 178, at 14.

<sup>189</sup> Rose et al., *supra* note 183, at 4.

<sup>190</sup> *Id.*

<sup>191</sup> Cynthia Batt, *A Practice Continuum: Integrating Experiential Education into the Curriculum*, 7 ELON L. REV. \_\_\_\_ (2015).

progress, and modify strategies as necessary.<sup>192</sup> To satisfy this principle it is critically important that educators provide “formative” feedback that encourages “learners to monitor their own progress effectively and to use that information to guide their own effort and practice.”<sup>193</sup>

The third is to “Provide Multiple Means of Engagement” which challenges students appropriately, focuses on their interests, and motivates them to learn.<sup>194</sup> Some students are motivated by extrinsic rewards or conditions while others develop intrinsic motivation.<sup>195</sup> “Some learners are highly engaged by spontaneity and novelty while other are disengaged, even frightened, by those aspects, preferring strict routine. Some learners might like to work alone, while others prefer to work with their peers.”<sup>196</sup> Thus, educators must employ a variety of methods to engage student learners. Educators should encourage student self-awareness and growth, provide motivation, and aid in the development of self-critiquing.

All of these universal design in learning principles are aimed at “address[ing] learner variability by suggesting flexible goals, methods, materials, and assessments that empower educators to meet these varied needs.”<sup>197</sup> Utilizing flexible goals, methods, materials, and assessments, will create “expert learners” that are resourceful, knowledgeable, strategic, goal oriented, purposeful, and motivated.<sup>198</sup> Four distinct types of education performance indicators employ principles of universal design and are applicable to maximizing self-efficacy: interaction, delivery method, assessment, and feedback.<sup>199</sup> Focusing on these four performance indicators will allow the Millennial student to achieve greater self-efficacy.

Interaction “encourages regular and effective” meetings between Millennial students and their professors to ensure communication methods are accessible and understood.<sup>200</sup> Interactive teaching methods allow for cooperative learning and group assignments.<sup>201</sup> By allowing Millennials to assert more control in these interactions

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<sup>192</sup> CAST, UNIVERSAL DESIGN FOR LEARNING GUIDELINES, *supra* note 178, at 24-26.

<sup>193</sup> *Id.* Formative feedback, one of the most powerful learning tools, is “information communicated to the learner that is intended to modify his or her thinking or behavior for the purpose of improving learning.” Valerie J. Shute, *Focus on Formative Feedback*, 78 REV. OF EDUC. RES. 153, 154 (2008).

<sup>194</sup> *See supra* note 182.

<sup>195</sup> *Id.*

<sup>196</sup> CAST, UNIVERSAL DESIGN FOR LEARNING GUIDELINES, *supra* note 178, at 28.

<sup>197</sup> *Id.* at 4.

<sup>198</sup> *Id.*

<sup>199</sup> Dr. Sheryl Burgstahler has developed eight universal instructional design principles in the context of higher education: class climate, interaction, physical environment and products, delivery methods, information resources and technology, feedback assessment, and accommodation. Burgstahler, *supra* note 18, at 2-3. 2. Four of these principles - interaction, delivery methods, feedback, and assessment - are discussed in this article in the context of law school education and self-efficacy.

<sup>200</sup> *Id.* at 2.

<sup>201</sup> Douglas K. Rush & Suzanne J. Schmitz, *Universal Instructional Design: Engaging the Whole Class*, 19 WIDENER L.J. 183, 191 (2009).

and ultimately holding them responsible for the outcomes, Millennials are more likely to feel an obligation to participate in their academic requirements.<sup>202</sup> Through regular meetings, whether designed as group work that accesses different learning styles and challenges Millennials to adapt to their peers or one-on-one evaluations with the professor that provide effective assessment and feedback, Millennials can learn to engage and develop coping skills that improve their self-efficacy.

The second indicator, delivery method, requires that educators use a variety of instructional delivery methods to reach students with different learning styles.<sup>203</sup> “Many of today’s law students are visual, tactual, or kinesthetic learners, rather than auditory learners.”<sup>204</sup> Indeed, less than one-third of today’s population are auditory learners, who learn best through hearing;<sup>205</sup> rather, today’s law students are most likely to be visual learners, conditioned “through use of computers, videos, television, and other visual tools.”<sup>206</sup> Additionally, Millennial students’ undergraduate experience has them conditioned to expect a variety of learning strategies and teaching tools.<sup>207</sup> To address these varied learning styles, professors need to move away from solely using the Socratic method of lecturing to the class. While law school professors can still include lecture for auditory learners, professors should also build into their courses collaborative exercises for tactual learners, and PowerPoints, videos, and other instructional aids for visual learners. Educators can also provide supportive, supplemental material to students for additional learning outside of the classroom environment.<sup>208</sup> By providing different modes of instructional delivery, the instructor “communicate[s] information to law students [and] improve[s] accessibility for all law students, regardless of the students’ sensory ability, mental or emotional states.”<sup>209</sup> PowerPoints and samples of work product to critique and discuss can greatly assist students who are poor note takers or who are otherwise experiencing challenges with auditory learning.

The third and fourth indicators, feedback and assessment, must be continuous and on-going throughout the learning process. Educators should provide feedback early in the semester and as frequently as possible. “An assessment at one point in time has little value for understanding someone’s ability, let alone their potential to succeed in

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<sup>202</sup> Bourke & Melcher, *supra* note 23, at 6.

<sup>203</sup> Burgstahler, *supra* note 18, at 2 (stating that the delivery methods guideline recommends using “multiple, accessible instructional methods that are accessible to all learners”).

<sup>204</sup> Jennifer Jolly-Ryan, *Bridging the Law School Learning Gap Through Universal Design*, 28 *TOURO L. REV.* 1393, 1395 (2012) (citing Lisa T. McElroy, *The Other Side of the Story: Using Graphic Organizers to Counter the Counter Analysis Quandary*, 34 *U. BALT. L. REV.* 227, 238 (2010)). For a further discussion of learning styles, see Robin A. Boyle and Rita Dunn, *Teaching Law Students Through Individual Learning Styles*, 62 *ALB. L. REV.* 213 (1998).

<sup>205</sup> Jolly-Ryan, *supra* note 204, at 1400 (citing ROBERT L. PARTIN, *THE CLASSROOM TEACHER’S SURVIVAL GUIDE: PRACTICAL STRATEGIES, MANAGEMENT TECHNIQUES, AND REPRODUCIBLES FOR NEW AND EXPERIENCED TEACHERS* 161 (3d ed. 2009)).

<sup>206</sup> Jacobson, *supra* note 185, at 39.

<sup>207</sup> Jolly-Ryan, *supra* note 204, at 1402.

<sup>208</sup> *Id.* at 1424-25.

<sup>209</sup> *Id.* at 1427.

the future.<sup>210</sup> Assessment is a critical step in developing learning and measuring student success.<sup>211</sup> Law school professors can assess student learning and success through either, or both, summative and formative assessment.

Traditionally, law schools have measured student success through summative assessment, such as finals exams, which is used solely to “evaluate student achievement and assign grades.”<sup>212</sup> On the other hand, formative assessment enhances student learning as it provides students a chance to perform and receive feedback throughout the semester on their performance.<sup>213</sup> Because law school student assessment is traditionally a three or four hours essay exam at the end of the semester that is graded on a curve, it lacks adequate formative assessment and feedback to promote student learning and improve self-efficacy.<sup>214</sup> Since students do not have the opportunity to practice the skills and theory they learned prior to the final exam and receive feedback on that learning, they cannot gauge their performance.<sup>215</sup> This lack of assessment often demoralizes Millennial students, causing the students to place too much focus on the performance-based nature of law school and the all-too-critical final grade, rather than the mastery-oriented learning required to gain skills and knowledge that will promote efficacy in their studies. This trend initiates a downward spiral that leads to negative performance, and ultimately to a self-fulfilling prophecy of failure and lowered academic self-efficacy.<sup>216</sup>

Formative assessment can significantly promote student learning and consequently improve student self-efficacy in law school. “Effective formative feedback has four characteristics: specific (based on explicit criteria); positive (identifies student strengths); corrective (points out weaknesses and strategies for improvement); and

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<sup>210</sup> DWECK, *supra* note 7, at 29. However, due to the fear of failure and incompetency, “people deliberately seek out easy tests where they can shine, rather than tackling harder material that isn’t as comfortable.” MCARDLE, *supra* note 94, at 9.

<sup>211</sup> ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION 78 (2007) [hereinafter BEST PRACTICES].

<sup>212</sup> Gerald F. Hess, *Value of Variety: An Organizing Principle to Enhance Teaching and Learning*, 3 *ELON L. REV.* 65, 86-87 (2011).

<sup>213</sup> *Id.*; see also BEST PRACTICES, *supra* note 211, at 255-56.

<sup>214</sup> Hess, *supra* note 212, at 88-89 (“The lack of formative feedback, validity and reliability problems, and competition spurred by the curve have the result of quashing motivation to learn for many students, especially after the first year of law school.”); BEST PRACTICES, *supra* note 211, at 255; see also Ruth Ann McKinney, *Depression and Anxiety in Law Students: Are We Part of the Problem and Can We be Part of the Solution?*, 8 *LEGAL WRITING: J. LEGAL WRITING INSTITUTE* 229, 242 (2002) (arguing that self-efficacy erodes as “[law] students receive little or no direct feedback, and grades almost always rest on one long final exam in each course.”).

<sup>215</sup> Hess, *supra* note 212, at 88.

<sup>216</sup> “[Students] participate less in class, avoid their peers who appear to be excelling, begin to experience stress symptoms, and often stop reading or briefing cases thoroughly.” McKinney, *supra* note 214, at 241. Additionally, the mandatory curve often found in legal education negatively impacts students’ self-efficacy as students focus on the impact grades will have on their job choices, rather than focusing on mastering the material taught in class. *Id.* at 243.

timely (before the next assessment).<sup>217</sup> Specific formative feedback can take the form of written comments on an ungraded memo assignment that assist the student in understanding rule synthesis. A rubric is provided with the assignment and explains to the student the competencies upon which his or her performance will be evaluated. The student is assessed via the rubric and accompanying comments, which identify the areas in which the student succeeded on the assignment, e.g., identifying the rule from the case law, and correct areas where the student failed to meet the objective, e.g., while identifying the correct rule, the student neglected to identify the exceptions to the rule and synthesize these exceptions into the rule statement. Rubrics provide standardization for students in both writing expectations and assessment, which allows for consistency and improved self-efficacy.<sup>218</sup> Likewise, a student can draft and submit assignments like an office memorandum of law in parts, while receiving feedback and assessment as he or she progresses or submit an analysis section of an office memorandum, or have a one-one-one “live critiquing” conference where the professor can ask a series of questions that prompts the student to focus on structure, organization, methodology, and content, including rule synthesis, case synthesis, and analogical reasoning. The professor and student can discuss the legal reasoning of the cases, how to properly explain that reasoning in the memo, and how to correctly analogize and distinguish the law. The student should be required to take notes on his or her copy of the work and then re-write the memo. This interactive approach requires the student to actively engage in the feedback loop, which improves the student’s comprehension of legal writing and fosters a positive ability to produce the next draft of the document, which consequently improves self-efficacy.<sup>219</sup>

Formative feedback does not have to be written or oral one-on-one comments, but rather can be presented in a variety of additional ways, including “pair and share” group work with subsequent fuller class discussion to review results, in-class exercises with feedback and discussion that focuses on the learning theories modeled in the exercises, multiple choices, short answer, or true/false exercises. These classes can then conclude with students writing what they learned during that session, or the next class may begin with students indicating on note cards what still confuses them. The professor can gather those cards, quickly assess what deficiencies are still present on a particular subject, and review specific material to bolster student learning and address weaknesses.

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<sup>217</sup> Hess, *supra* note 212, at 90; *see also* MICHAEL HUNTER SCHWARTZ, SOPHIE SPARROW, & GERALD HESS, *TEACHING LAW BY DESIGN: ENGAGING STUDENTS FROM THE SYLLABUS TO THE FINAL EXAM* 21, 143 (2009) (describing effective formative feedback to law students).

<sup>218</sup> *See generally* Jessica Clark & Christy DeSanctis, *Toward a Unified Grading Vocabulary: Using Grading Rubrics to Set Student Expectations and Promote Consistency in Legal Writing Courses*, 63 J. LEGAL ED. 3 (2012) (setting forth the proposition that detailed grading rubrics establish standards by which legal writing can be measured and assessed). Rubrics provide the opportunity to “articulate expectations and benchmarks for evaluating any segment or aspect of legal writing.” *Id.* at 14.

<sup>219</sup> In its 2007 report, the Carnegie Foundation for the Advancement of Teaching recognized the importance of the feedback loop stating, “[f]ormative practices directed toward improving learning ought to be the primary means of assessment.” WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND & LEE S. SHULMAN, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 189* (Jossey Bass 2007).

## V. CONCLUSION

Millennial students need to accept that failure is not defining and that success can be measured in more ways than by a grade at the end of the semester. Rather than be demoralized and disheartened in law school, law school professors need to reach out to law students and provide on-going, consistent, and constructive formative feedback that will improve student morale and increase self-efficacy. Students should be taught to recognize that a paper with extensive comments is a learning tool, not a judgment. To remove the unwarranted pressure on law students and encourage students to become self-regulated learners, professors should develop small, ungraded assignments that can be used as in class exercises so that skills can be digested and synthesized. As students grasp and refine their ability to self-regulate, they can be expected to grow in their learning efficiency and in their perceived self-efficacy for accomplishing additional and more difficult learning tasks. The benefits of this effort are fewer “lost” students, improved quality classroom discussion, improved student morale, and improved student test performance.<sup>220</sup>

Law school educators have a unique opportunity to teach the incoming group of Millennial students to integrate the parts to understand big picture concepts and then break these concepts into their working components. By using recursive teaching, professors can assess and re-assess student understanding and help Millennial law students to develop greater self-efficacy so that these students can experience failure without self-destructing.

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<sup>220</sup> Schwartz, *supra* note 145, at 467 (citing Peggy A. Ertner & Timothy J. Newby, *The Expert Learner: Strategic, Self-Regulated, and Reflective*, 24 INSTRUCTIONAL SCI. 1, 13-16 (1996)).