Drawing Inspiration from the Flipped Classroom Model:
An Integrated Approach to Academic Support for the Academically Underprepared Law Student

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I.   INTRODUCTION

As the call for paper proposals for this conference[1] and recent legal education scholarship indicate, there is growing concern that the current generation of law students is less prepared for the challenges of legal education than ever before.[2] This concern about in-

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1. Call for Proposals, *"Teaching the Academically Underprepared Law Student," The Fourth "Colonial Frontier" Legal Writing Conference* (Dec. 6, 2014).

2. *See, e.g.*, Eric A. DeGroff, *The Dynamics of the Contemporary Law School Classroom: Looking at Laptops Through A Learning Style Lens*, 39 U. DAYTON L. REV. 201, 202–03 (2014) (noting that today's law students "are less accustomed than their predecessors to thinking sequentially and logically and are ill–prepared for the rigorous questioning, sorting, cataloguing, and synthesizing of conceptual frameworks that are essential for legal analysis"); Christine Bartholomew, *Time: An Empirical Analysis of Law School Time Management Deficiencies*, 81 U. CIN. L. REV. 897 (2013); Shailini Jandial George, *Teaching the Smartphone Generation: How Cognitive Science Can Improve Learning in Law School*, 66 ME. L. REV. 163, 165 (2013); Susan Stuart & Ruth Vance, *Bringing a Knife to the Gunfight: The Academically Underprepared Law Student & Legal Educational Reform*, 48 VAL. L. REV. 41 (2013), and additional articles cited therein; Jennifer Jolly–Ryan, *Bridging the Law School Learning Gap Through Universal Design*, 28 TOURO L. REV. 1393 (2012); Deborah Zalesne & David Nadvorney, *Why Don't They Get It?: Academic Intelligence and the Under–Prepared Student As "Other"*, 61 J. LEGAL EDUC. 264 (2011); Leah M. Christensen, *Enhancing Law School Success: A Study of Goal Orientations, Academic Achievement and the Declining Self–Efficacy of Our Law Students*, 33 LAW & PSYCHOL. REV. 57, 81–86 (2009); Cathaleen A. Roach*, Is the Sky Falling? Ruminations on Incoming Law Student Preparedness (And Implications for the Profession) in the Wake of Recent National and Other Reports*, 11 LEGAL WRITING 295 (2005); Elizabeth M. Bloom, *A Law School Game Changer: (Trans)formative Feedback*, 41 OHIO N.U. L. REV. (forthcoming 2015), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2437060; Rebecca C. Flanagan, *The Kids Aren't Alright: Rethinking the Law Student Skills Deficit*, 15 BYU EDUC. & L. J. (forthcoming 2015), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2478823; Jennifer M. Cooper, *Illusions of Competence: Using Empirical Research on Undergraduate Study Behaviors to Maximize Law Learning* (Sept. 24, 2014), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2501128; Michele Goodwin, *Law Professors See the Damage Done by "No Child Left Behind"*, CHRON. OF HIGHER EDUC., THE CONVERSATION (Mar. 12, 2013), http://chronicle.com/blogs/conversation/2013/03/12/law-professors-see-the-damage-done-by-no-child-left-behind/.

coming law students' level of preparation puts ever increasing pressure on law school faculty and academic support professionals to find efficient and cost–effective ways of teaching students the skills that they need to be successful in law school, on the bar exam, and in the legal profession.[3] At the same time, this challenge has also had positive side effects: increased dialogue and collaboration among law school administrators, faculty, and academic support professionals;[4] an increased willingness of legal educators to embrace best practices from not only legal education[5] but higher education in general;[6] and thoughtful, creative approaches to pedagogy and assessment.[7] The instant conference is one such example of the positive direction of legal education that is beginning to emerge. Law school academic support programs, with their common mission

3. The need to be efficient and cost–effective is further emphasized by the fact that, at many law schools, there is only one administrator or professor involved in academic support efforts, as well as limited financial resources. *See* Louis N. Schulze, Jr., *Alternative Justifications for Law School Academic Support Programs: Self–Determination Theory, Autonomy Support, and Humanizing The Law School*, 5 CHARLESTON L. REV. 269, 271 (2011) [hereinafter *Alternative Justifications I*] (stating that some law "schools find it crucial to advertise academic support but fail to fund it adequately"); *see also* Flanagan, *supra* note 2, at 28 ("[T]he majority of [academic support programs] are understaffed, underfunded, and unprepared to help students at a systemic level").

4. See, for example, some of the recent conferences hosted by the Institute for Law Teaching and Learning, such as *What the Best Law Teachers Do* (held June 25–27, 2014), and *Assessment Across the Curriculum* (held Apr. 5, 2014), details available at: http://lawteaching.org/conferences/ (last accessed on Nov. 25, 2014), as well as Duquesne University School of Law's, *The Fourth "Colonial Frontier" Legal Writing Conference*.

5. *See, e.g.*, ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (2007); Albany Law School, Center for Excellence in Law Teaching, *A Place to Discuss Best Practices for Legal Education*, http://bestpracticeslegaled.albanylawblogs.org/ (last updated Jan. 14, 2015).

6. *See, e.g.*, Cara Cunningham Warren, *Achieving the American Bar Association's Pedagogy Mandate: Empowerment in the Midst of a "Perfect Storm"* (Aug. 7, 2014), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2477475 (drawing from a teaching effectiveness framework created by education experts with the National Research Council of the National Academies); Beverly Petersen Jennison, *Beyond Langdell: Innovating in Legal Education*, 62 CATH. U. L. REV. 643, 647–57 (2013) (comparing the law school educational model to those of business schools, medical schools, and policy schools); Cody Thornton, *Shared Visions of Design and Law in Professional Education*, 6 NE. U. L. J. 21 (2013) (exploring how legal experiential education could draw from the studio education approach of the design professions); Jennifer S. Bard, *"Practicing Medicine and Studying Law": How Medical Schools Used to Have the Same Problems We Do and What We Can Learn from Their Efforts to Solve Them*, 10 SEATTLE J. SOC. JUST. 135 (2011) (arguing that law schools can learn from medical schools' approach to education); Geoffrey B. Shields, *Legal Pedagogy: What Can We Learn from Business Schools?*, 39 U. TOL. L. REV. 369 (2008) (arguing that law schools can learn from the business school model).

7. *See, e.g.*, MICHAEL HUNTER SCHWARTZ, GERALD F. HESS & SOPHIE M. SPARROW, WHAT THE BEST LAW TEACHERS DO (2013); SOPHIE M. SPARROW, GERALD F. HESS, & MICHAEL HUNTER SCHWARTZ, ASSESSMENT: A COMPREHENSIVE GUIDEBOOK FOR LAW SCHOOLS (2014); *see also* CENTER FOR LEGAL PEDAGOGY, TEX. S. U. T. MARSHALL SCH. OF L., http://centerforlegalpedagogy.org/ (last visited Feb. 13, 2015); Herbert N. Ramy, *Moving Students from Hearing and Forgetting to Doing and Understanding: A Manual for Assessment in Law School*, 41 CAP. U. L. REV. 837 (2013).

of empowering law students to be more effective learners, have an important role to play in this "new normal" of legal education.

The concept of law school academic support programs is not new.[8] Although there has been an increase in the number of schools employing full–time academic support professionals in recent years, some schools have had established programs for decades.[9] Often, law schools have established academic success initiatives that function separately and independently from the law school curriculum in the form of workshops, seminars, and individual tutoring sessions.[10] These initiatives are important components of a law school academic support program, but they have their limitations. First, students commonly have difficulty connecting academic skills that they learn in the abstract to the course material in specific doctrinal classes.[11] Second, there are often few consequences for failing to attend workshops or pay attention to workshop presenters, and therefore some students do not realize the value of those presentations. Third, in many schools law students do not access targeted academic support programming until they have already completed a semester or even a full year of coursework, and, even with intervention at that point, the remainder of law school may be an uphill climb.[12] Finally, although tutoring sessions can have a significant effect on an individual student's performance in coursework and on exams, an academic support program's limited resources may make that approach an inefficient way of working with large numbers of students.

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8. For a brief overview of the history of law school academic support programs, see Schulze, *Alternative Justifications I*, *supra* note 3, at 274–78; Flanagan, *supra* note 2, at 26–28.

9. *See* Schulze, *Alternative Justifications I*, *supra* note 3, at 275 & n.12; DeGroff, *supra* note 2, at 203.

10. For an explanation of the main types of law school academic support initiatives, see Schulze, *Alternative Justifications I*, *supra* note 3, at 278–88; Richard Cabrera & Stephanie Zeman, *Law School Academic Support Programs—A Survey of Available Academic Support Programs for the New Century*, 26 WM. MITCHELL L. REV. 205 (2000); *see also* Section III, *infra*.

11. Schulze, *Alternative Justifications I*, *supra* note 3, at 284 ("Empirical evidence suggests that academic support is more effective the closer an [academic support program] works with the actual cases and rules covered in doctrinal classes."); *see also* Kristine S. Knaplun & Richard H. Sander, *The Art and Science of Academic Support*, 45 J. LEGAL EDUC. 157, 177 (1995) (noting that one academic support program experienced noticed improvement when academic support was tied more closely to what students were covering in other classes).

12. For example, individualized tutoring may not be available to students until after they have received their final grades at the end of the first semester or even not until the end of the first year, especially if grades are based solely on final exams. Until grades are final, there may not be a formal mechanism in place to identify which students need specialized academic support. By this point, a student's grade may have already put her on academic probation, requiring even higher grades to remove the student from probationary status.

Thus, although law school academic support programs have much to offer, they, like other areas of legal education, need to consider what more can be done to ensure that law students have the academic skills needed for success in law school. In some ways this is a daunting task, as the need for academic support professionals' services and expertise is increasing at the very time that law school budgets are often being squeezed. But there are important resources that we can draw from, both within the legal academy and in higher education more generally, in terms of learning theory, pedagogy, and assessment practices.[13]

Building upon the author's own experiences, this article examines how a law school academic support program can draw inspiration from the "flipped classroom" pedagogical model to teach foundational academic legal skills in a way that integrates directly with first–year students' required courses. In Section II, the article explores the characteristics of the current generation of law students. Section III addresses the range of current approaches to academic support, as well as the benefits and drawbacks of those approaches. In Section IV, the article investigates some important trends in law school pedagogy and learning theory, including the use of cognitive science in education theory, new approaches to pedagogy such as the flipped classroom and blending learning, and the increased use of formative assessment. Section V describes the first–year academic support program at Savannah Law School and explains how it draws from both current trends in law school academic support and these innovative approaches to pedagogy and learning theory to enhance new law students' academic success. Finally, Section VI further explores the benefits and limitations of this new program and how it could be further tweaked and expanded in the future.

II.   CHARACTERISTICS OF TODAY'S LAW STUDENTS

As a preliminary matter, it is important to have a basic understanding of some of the common characteristics of the current generation of law students, many of whom are identified as Millennials. By its nature, these descriptions include generalizations that may not be true of all law students. Still, even with its limitations, identifying student qualities can help law schools set educational objectives and develop strategies for meeting those objectives.[14] Some

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13. *See* Section IV, *infra*.

14. As Professor Cassandra Hill has noted, "[m]any law students, as adult learners, bring wide–ranging experiences and skills with them to law school, and, for law professors, 'understanding what experiences, biases, habits, and learning preferences each person brings' is the first step in developing students' metacognitive skills." Cassandra L. Hill, *The Elephant*

student characteristics create potential obstacles for academic success in law school and therefore are a matter of concern. Not all of these characteristics are problematic, however. Law schools may capitalize on their students' positive qualities to maximize academic success.

A. The Effect of the Current "Crisis" in Legal Education on Law Student Characteristics

One only has to take a cursory glance at many of the blogs on the Internet to know that there is a growing consensus that law schools in the United States are in the midst of a "crisis."[15] While the reasons for that crisis and its possible solutions are hotly debated,[16] some of its consequences are not. The numbers unequivocally show that law school enrollment has been on the decline for the past few years and is currently at the lowest it has been in decades.[17] Moreover, declining enrollment has been accompanied by another trend:

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in the Law School Assessment Room: The Role of Student Responsibility and Motivating Our Students to Learn, 56 HOW. L.J. 447, 482 (2013) (quoting Andrew S. Niedwiecki, Lawyers and Learning: A Metacognitive Approach to Legal Education, 13 WIDENER L. REV. 33, 57 (2006)).

15. See, e.g., Commentary on BRIAN LEITER'S LAW SCHOOL REPORTS, http://leiterlawschool.typepad.com/leiter/ (last updated Feb. 2, 2015); see also, TAXPROF BLOG, http://taxprof.typepad.com/ (last updated Feb. 3, 2015); Law Schools, ABOVE THE LAW, http://abovethelaw.com/law-schools/ (last visited Feb. 3, 2015). Concerns about the future of legal education also dominate the ongoing dialogue surrounding Brian Z. Tamanaha's book, FAILING LAW SCHOOLS (2012); see, e.g., Michael Simkovic & Frank McIntyre, Populist Outrage, Reckless Empirics: A Review of Failing Law Schools, 108 NW. U.L. REV. COLLOQUY 176 (2014); Ray Worthy Campbell, Law School Disruption, 26 GEO. J. LEGAL ETHICS 341 (2013); Elizabeth Chambliss, It's Not About Us: Beyond the Job Market Critique of U.S. Law Schools, 26 GEO. J. LEGAL ETHICS 423 (2013); Bryant G. Garth, Crises, Crisis Rhetoric, and Competition in Legal Education: A Sociological Perspective on the (Latest) Crisis of the Legal Profession and Legal Education, 24 STAN. L. & POL'Y REV. 503 (2013); Paul Horwitz, What Ails the Law Schools?, 111 MICH. L. REV. 955 (2013); Lucille A. Jewel, Tales of A Fourth Tier Nothing, A Response to Brian Tamanaha's Failing Law Schools, 38 J. LEGAL PROF. 125, 127 (2013); Deborah Jones Merritt & Daniel C. Merritt, Unleashing Market Forces in Legal Education and the Legal Profession, 26 GEO. J. LEGAL ETHICS 367 (2013); Michael A. Olivas, Ask Not for Whom the Law School Bell Tolls: Professor Tamanaha, Failing Law Schools, and (Mis)diagnosing the Problem, 41 WASH. U. J.L. & POL'Y 101 (2013); Philip G. Schrag, Failing Law Schools—Brian Tamanaha's Misguided Missile, 26 GEO. J. LEGAL ETHICS 387 (2013); Brian Z. Tamanaha, The Problems with Income Based Repayment, and the Charge of Elitism: Responses to Schrag and Chambliss, 26 GEO. J. LEGAL ETHICS 521 (2013); Jay Sterling Silver, The Case Against Tamanaha's Motel 6 Model of Legal Education, 60 UCLA L. REV. DISCOURSE 50 (2012).

16. See id.

17. Jennifer Smith, U.S. Law School Enrollment Falls: Lack of Jobs Has Students Steering Away from a Legal Career, WALL ST. J., Dec. 17, 2013; Paul Caron, Number of LSAT Test Takers in June Falls to 14–Year Low, TAXPROF BLOG (July 12, 2014), http://taxprof.typepad.com/taxprof_blog/2014/07/number-of-lsat-.html; Matt Leichter, LSAT Tea–Leaf Reading: June 2014 Edition, THE LAW SCHOOL TUITION BUBBLE (July 11, 2014), http://lawschooltuitionbubble.wordpress.com/2014/07/11/lsat-tea-leaf-reading-june-2014-edition/; Paul Caron, 1L Enrollment Fell More Than 20% at 40 Law Schools in 2013, TAXPROF BLOG (Mar. 4, 2014), http://taxprof.typepad.com/taxprof_blog/2014/03/1l-enrollment.html.

declining academic indicators such as undergraduate grades and Law School Admission Test (LSAT) scores.[18]   Although there is some debate about the extent to which the LSAT is an accurate predictor of academic performance in law school,[19] based upon that data, there has been a perception that at least some law schools are enrolling less qualified students in an attempt to boost their enrollment figures.[20]

B.   The "Underprepared" Law Student

Beyond any debate about the effect of declining enrollment and declining LSAT scores on law student qualifications, there is a growing belief that this generation of law students is different than preceding generations.[21]   In recent years, legal educators have noted that many students come to law school less prepared for its

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18.   *See* Jerry Organ, *Understanding Trends in Demographics of Law Students—Part Two*, THE LEGAL WHITEBOARD (Oct. 17, 2013), http://lawprofessors.typepad.com/legalwhiteboard/2013/10/understanding-trends-in-demographics-of-law-students-part-two.html.   *But see* Aaron Taylor, *Why today's law students are not less qualified*, THE NAT'L JURIST (April 15, 2014), http://www.nationaljurist.com/content/why-todays-law-students-are-not-less-qualified (arguing that the decline in LSAT scores between 2010 and 2013 was not statistically significant).

19.   *See, e.g.*, Marjorie M. Shultz & Sheldon Zedeck, *Predicting Lawyer Effectiveness: Broadening the Basis for Law School Admission Decisions*, 36 LAW & SOC. INQUIRY 620, 621 (2011) (noting that law students' undergraduate grade point averages and LSAT scores "have proven to be valuable predictors of first–year law school grades [but] do not account for success in the legal profession or for law school outcomes other than first–year grades"); Christensen, *supra* note 2, at 87 ("The relatively weak correlation between the LSAT score and class rank (0.23), as compared to the stronger correlation between lawyering skills, grades, and class rank (0.57), suggests that the LSAT may not be a reliable predictor of success in law school.").

20.   *See* Taylor, *Why today's law students are not less qualified*, *supra* note 18. Taylor disputes this perception, however, and asserts that the decline in LSAT scores and other academic indicators is minimal and that law school admissions programs have acted in "good faith." *See id.*; *see also* Aaron N. Taylor, *As Law Schools Struggle, Diversity Offers Opportunities*, CHRON. OF HIGHER EDUC. (Feb. 10, 2014), http://chronicle.com/article/As-Law-Schools-Struggle/144631/ (arguing that LSAT scores and undergraduate grades "have some value in predicting student success, the value is focused on the first year of law school," and they "have little to no value in predicting longer–term outcomes, like subsequent grades, bar passage, or professional success").

21.   *See, e.g.*, Flanagan, *supra* note 2, at 1 ("Criticism of lackadaisical, underprepared, or unmotivated students has a long history, but recent research suggests that incoming law students are less prepared than previous generations of law students."); DeGroff, *supra* note 2, at 202–03 (noting that the today's law students are "less accustomed than their predecessors to thinking sequentially and logically and are ill–prepared for the rigorous questioning, sorting, cataloguing, and synthesizing of conceptual frameworks that are essential for legal analysis"); Nancy B. Rapoport, *Changing the Modal Law School: Rethinking U.S. Legal Education in (Most) Schools*, 116 PENN. ST. L. REV. 119, 122–23 (2012); Judith Wegner, *Reframing Legal Education's "Wicked Problems"*, 61 RUTGERS L. REV. 867, 987 (2009).

academic demands than in the past.[22] Legal educators sometimes describe these law students as "underprepared,"[23] and it is undisputed that these students face significant challenges in law school.[24]

Underprepared law students can be successful in law school, on the bar examination, and in the legal profession, but they usually require additional support as they develop academic skills. A toolbox makes for a useful analogy. A successful law student will have a range of tools in his or her toolbox—including advanced critical thinking skills, problem–solving skills, verbal communication skills, and writing skills, among others.[25] Underprepared students lack some of the tools required for academic success when they first begin law school.[26] In order to complete law school, pass the bar, and become productive members of the legal profession, these students will have to collect any tools that were missing at the start.

The deficits that legal educators have identified are not directly related to the current crisis in legal education; according to many legal educators, they are part of a larger trend in higher education in recent years.[27] Noting that current law students received much of their K–12 training after passage of the No Child Left Behind Act

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22.   Flanagan, *supr*a note 2, at 1 ("Many of today's college graduates do not have the fundamental thinking and reasoning skills necessary to master the law school curriculum."); DeGroff, *supra* note 2, at 202–03.

23.   *See generally* Stuart & Vance, *supra* note 2; Flanagan, *supra* note 2.

24.   *See*, *e.g*., Flanagan, *supra* note 2, at 6 ("[L]earning to 'think like a lawyer' is associated with higher–order thinking familiar to students with strong academic preparation, but foreign to students from non–traditional backgrounds.").

25.   Hill, *supra* note 14, at 486.

26.   *Id.* ("[W]ith under–prepared students, the concern is not necessarily about the amount of effort the students put forth in doing the work (they attend class and listen, take notes, stay up late, and read assignments), but rather about their legal reasoning and synthesis skills."); *see also id.* (quoting Zalesne & Nadvorney, *supra* note 2, at 267) ("Although under–prepared students do the work, their performance on exams 'indicate[s] that in some profound way . . . [they] cannot put the material together to understand what the law is and how it works.'").

27.   In recent years, a number of critiques have explored weaknesses in undergraduate education in the United States. *See*, *e.g*., RICHARD ARUM & JOSIPA ROKSA, ACADEMICALLY ADRIFT: LIMITED LEARNING ON COLLEGE CAMPUSES (2011); DEREK BOK, OUR UNDERACHIEVING COLLEGES (2006); ANDREW HACKER & CLAUDIA DREIFUS, HIGHER EDUCATION?: HOW COLLEGES ARE WASTING OUR MONEY AND FAILING OUR KIDS—AND WHAT WE CAN DO ABOUT IT (2010); and MARK C. TAYLOR, CRISIS ON CAMPUS: A BOLD PLAN FOR REFORMING OUR COLLEGES AND UNIVERSITIES (2010). *But cf.* Alexander W. Astin, *In 'Academically Adrift,' Data Don't Back Up Sweeping Claim*, CHRON. OF HIGHER EDUC. (Feb. 14, 2011), http://chronicle.com/article/Academically-Adrift-a/126371/ (arguing that the statistical analysis in *Academically Adrift* was flawed and therefore did not support its authors broad conclusions regarding student learning). In a recent article, Rebecca Flanagan explored the empirical basis of Arum and Roksa's analysis of undergraduate student learning. *See* Flanagan, *supra* note 2, at 3–5.

in 2001, Professors Susan Stuart and Ruth Vance present a scathing indictment of that statute's educational limits.[28]   More importantly, regardless of the quality of K–12 education prior to the time that students enter colleges and universities, undergraduate institutions are not graduating students with the same level of critical thinking and problem–solving skills as in the 1970s and 1980s.[29] Legal educators criticize today's undergraduate education as less rigorous than it has been in the past.[30] Furthermore, college students today are accustomed to only spending approximately half the number of hours studying each week than they were accustomed to only fifty years ago, [31] a trend that does not set students up for law school's academic demands.

  So what specific challenges do our students face as they come into law school? What "tools" do they still need to acquire in order to build academic success? As mentioned before, many incoming law students lack critical thinking skills and analytical skills.[32] Their

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  28.   Stuart & Vance, *supra* note 2, at 44–45; *see generally* Goodwin, *supra* note 2.

  29.   Stuart & Vance, *supra* note 2, at 41, 44–45, 56; *see also id.* at 44 ("Today, more students enter the legal academy without even rudimentary problem–solving skills"); *id.* at 59 (arguing that "higher education itself has become a major factor in the degradation of basic critical thinking skills for many of our students"); Cooper, *supra* note 2, at 1 ("Law schools are inheriting students less prepared for law study than ever before."); Flanagan, *supra* note 2, at 5; DeGroff, *supra* note 2, at 202–03.

  30.   Stuart & Vance, *supra* note 2, at 60 (citing ARUM & ROKSA, *supra* note 27, at 70 ("[U]ndergraduate education is simply no longer as rigorous, which unfortunately fits the consumer–student who wants the best educational credentials with the least amount of effort."). These criticisms do not just come from legal educators, as Stuart and Vance note. Richard Arum and Josipa Roksa have also criticized undergraduate higher education for failing to teach higher thinking and reasoning skills. *See* Stuart & Vance, *supra* note 2, at 58 (quoting ARUM & ROKSA, *supra* note 27, at 21) ("Arum and Roksa's conclusions are a devastating indictment of higher education's failure to deliver on 'core outcomes espoused by all higher education—critical thinking, analytical reasoning, problem solving and writing.'"); Joan Catherine Bohl, *Generations X and Y in Law School: Practical Strategies for Teaching the "Mtv/google" Generation*, 54 LOY. L. REV. 775, 786 (2008) ("The American school system imposed fewer academic requirements on the Gen X Y student than it had imposed on any previous generation in modern times, and this difference left an indelible mark on the students who sit in law school classes today.").

  31.   Stuart & Vance, *supra* note 2, at 59–60 (citing ARUM & ROKSA, *supra* note 27, at 3 ("Average study time . . . was twenty–five hours per week in the 1960s, twenty hours per week in the 1980s, and thirteen hours per week in 2003"); *see also* Cooper, *supra* note 2, at 3 ("Undergraduate students spend an average of 15 hours per week studying, down from an average of 24 hours a week in the 1960's and only 1 in 4 college students devote more than 20 hours a week to studying, which is relatively consistent across demographics."); Flanagan, *supra* note 2, at 12–13.

  32.   Stuart & Vance, *supra* note 2, at 43 ("[E]merging empirical evidence reveals that fewer students possess the basic higher–order cognitive processes that the academy has assumed are the threshold educational achievement for success in law school."); George, *supra* note 2, at 164 ("[S]cholars agree that these students are entering law school with weaker reading and reasoning skills than prior generations, due in large part to the way students multitask through life"); Flanagan, *supra* note 2, at 5–7; Cooper, *supra* note 2, at 1–2.

problem–solving skills are often deficient.[33] Furthermore, these students may have difficulty effectively communicating their arguments and analysis in both written and oral form.[34] In short, students often do not know how to employ higher–level cognitive processes.[35] Moreover, according to some legal educators, the problem is not just that many students are entering law school without skills that are required for academic success; that initial problem is compounded by the fact that many law professors *assume* that students have already learned those skills in their undergraduate institutions.[36] Based on assumptions that the quality of undergraduate education has remained unchanged over time, "law professors expect entering law students to be equipped with the basic linguistic and analytical skills needed to rapidly grasp the techniques of case and statutory analysis."[37]

These problems are not uniform; instead, some students face more academic challenges in law school than others. Students from liberal arts colleges tend to have more developed critical thinking and writing skills than students from other types of colleges.[38] Students from privileged backgrounds tend to experience significant improvement in their critical thinking skills during their years as an undergraduate, in contrast to students whose parents are less educated and those who come from more diverse socioeconomic backgrounds.[39] The end result is that "[l]aw schools that admit a

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33. Professor Nancy Rapoport has explained the need to transition law students from legal analysis to problem solving. *See* Rapoport, *supra* note 21, at 1152; *see also* Larry O. Natt Gantt, II, *The Pedagogy of Problem Solving: Applying Cognitive Science to Teaching Legal Problem Solving*, 45 CREIGHTON L. REV. 699 (2012) (discussing the need for law students to become legal problem solvers and suggesting how students can be taught that skill).

34. *See generally* James Etienne Viator, *Legal Education's Perfect Storm: Law Students' Poor Writing and Legal Analysis Skills Collide with Dismal Employment Prospects, Creating the Urgent Need to Reconfigure the First–Year Curriculum*, 61 CATH. U. L. REV. 735 (2011–2012).

35. *See generally* A TAXONOMY FOR LEARNING, TEACHING, AND ASSESSING: A REVISION OF BLOOM'S TAXONOMY OF EDUCATIONAL OBJECTIVES (Lorin W. Anderson & David Krathwohl, eds., 2001).

36. Stuart & Vance, *supra* note 2, at 54 ("[D]eveloping and honing critical thinking skills have long been considered, theoretically, one of the primary missions of higher education. As a consequence, the legal academy presumed their students' familiarity with these processes—application, analysis, synthesis, evaluation, creation—as a function of their undergraduate training and a foundation for the new discipline of law."); *see also id.* at 43. According to Professors Deborah Zalesne and David Nadvorney, the *Carnegie* and *MacCrate* reports also rely on these kinds of faulty assumptions. *See* Zalesne & Nadvorney, *supra* note 2, at 272 (stating that "Carnegie and MacCrate both overlook a critical component of legal education, assuming a standard level of academic preparation and an equal starting point for all entering law students, which disserves the students who enter law school with less than an optimum level of academic intelligence").

37. Viator, *supra* note 34, at 753.

38. Flanagan, *supra* note 2, at 5–6.

39. *Id.*

more diverse population of students, from across the socioeconomic spectrum and from a variety of undergraduate schools, have students with widely differing levels of academic preparation" for law school.[40]

Legal educators also point to the effects of modern technology and social media on their students' ability to analyze difficult legal problems and communicate information.[41] Studies demonstrate that the ability to rapidly type notes on a computer has resulted in students not fully processing what is going on in the classroom.[42] Students' use of texting and social media platforms like Twitter has created a new abbreviated language that makes for quick and efficient communication of social information but may not translate to competent academic and professional writing. The end result is that students do not always understand what is required of formal writing and may lack fluency in grammar and other writing conventions that are required in law school and the legal profession.[43]

C.   Other Characteristics of Millennials That Have the Potential to Create Challenges in Law School

Millennials often have other traits that may act as obstacles to academic success in law school. Teachers who work with Millennials report that their students "are more concerned with getting good grades than with learning."[44] Students' focus on grades has often

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40.   *Id.* at 6.

41.   *See*, *e.g.*, Stuart & Vance, *supra* note 2, at 64 ("Employers blame colleges, and colleges blame K–12, but some of the blame lies with Millennials using technological modes of communicating via texts, instant messages, and email. Social networking has contributed to Millennials' poor writing skills, not only in terms of spelling, punctuation, and grammar, but also when it comes to writing clear, organized prose and arguing persuasively."); *see also* George, *supra* note 2, at 164 ("Today's law student enters law school as a digital native, constantly 'plugged in' and accessing information at a moment's notice, often during class time itself," but students' multitasking has contributed to their weaker reading and analytical skills); Peter Sankoff, *Taking the Instruction of Law Outside the Law Outside the Lecture Hall: How the Flipped Classroom Can Make Learning More Productive and Enjoyable* (*For Professors and Students*), 51 U. ALBERTA L. REV. 891 (2014) (noting that today's student is often disengaged and distracted by social media).

42.   *See generally* Pam A. Mueller & Daniel M. Oppenheimer, *The Pen is Mightier than the Keyboard: Advantages of Longhand over Laptop Note Taking*, 25 PSYCHOL. SCI. 1159 (2014).

43.   Stuart & Vance, *supra* note 2, at 64 (citing RON ALSOP, THE TROPHY KIDS GROW UP: HOW THE MILLENNIAL GENERATION IS SHAKING UP THE WORKPLACE 155 (2008)) ("Employers complain that Millennials can't compose a 'coherent, and well–written memo and that their writing lacks clarity and logical organization.' They also complain that Millennials can't make persuasive arguments to support their assertions.").

44.   Stuart & Vance, *supra* note 2, at 63 (citing ALSOP, *supra* note 43, at 14, 104); *see also* Joshua Silverstein, *A Case for Grade Inflation in Legal Education*, 47 U.S.F. L. REV. 487, 525 (2013) ("Grades are critically important in the lives of our students").

been reinforced by their experiences in primary and secondary education, as well as undergraduate education.[45] For many years, there has been a concern about grade inflation in education.[46] Regardless of whether one fully agrees with the numerous indictments against current grading trends, the grades that most students have earned prior to law school are higher than they were in the past.[47]

New law students' past experiences with grades do not adequately prepare them for the reality of law school grading systems.[48] In most law schools, fewer students earn As in their classes than is the case in most undergraduate classes.[49] Even students with higher GPAs do not always make As in their classes. Some of these differences may be reinforced by grade distribution requirements, where only so many students earn As, so many earn Bs, and

45. Concerns that students are focused on grades rather than learning are not new; they have been voiced by educators in many fields and at numerous education levels. *See, e.g.*, Steve Byrd, *In grade–obsessed society, learning gets left behind*, CHRISTIAN SCI. MONITOR (May 24, 2004), http://www.csmonitor.com/2004/0525/p14s01-legn.html; Brad Kuntz, *Focus on Learning, Not Grades*, 54 ASSOC. FOR SUPERVISION & CURRICULUM DEV. EDUC. UPDATE (May 2012), http://www.ascd.org/publications/newsletters/education-update/may12/vol54/num05/Focus-on-Learning,-Not-Grades.aspx; Alfie Kohn, *The Case Against Grades*, 69 EDUC. LEADERSHIP (Nov. 2011), http://www.alfiekohn.org/teaching/tcag.htm.

46. In recent years, there has been much debate about the extent and consequences of grade inflation in higher education. *See, e.g.*, Rebecca Schuman, *Grading Time: I Give Up, You're All Exceptional*, HUFFPOST COLLEGE, THE BLOG (May 7, 2012), http://www.huffingtonpost.com/rebecca-schuman/grading-time-i-give-up-yo_b_1489430.html; Bryan Goodwin, *Research Says / Grade Inflation: Killing with Kindness?*, 69 EDUC. LEADERSHIP 80 (Nov. 2011), http://www.ascd.org/publications/educational-leadership/nov11/vol69/num03/Grade-Inflation@-Killing-with-Kindness%C2%A2.aspx; Catherine Rampell, *A History of College Grade Inflation*, N.Y. TIMES, July 14, 2011, http://economix.blogs.nytimes.com/2011/07/14/the-history-of-college-grade-inflation/?_r=0. For further discussion of the history of grade inflation, see Flanagan, *supra* note 2, at 15–18.

47. *See generally* Rampell, *supra* note 46.

48. Silverstein, *supra* note 44, at 526 ("C grades are common in legal education. They are generally awarded to students whose performance is satisfactory. In other words, C marks indicate that one has achieved basic proficiency and should continue in the program. But that is not how many—and perhaps most—law students see such grades. Large numbers of students (and often their families) perceive C's as a sign of poor performance or even failure. And this is so despite regular explanations from faculty that C marks are acceptable."). "The reaction of [law] students at my school to C grades is consistent with national trends in higher education. Today's college students regard grades in the C range as 'loathsome and a sign of failure,' a 'devastating insult,' and an indication that the student 'has disappointed the teacher.' . . . Accordingly, students today expect A and B grades for average work." *Id.* at 527; *see also* John O. Sonsteng, Donna Ward, Colleen Bruce & Michael Petersen*, A Legal Education Renaissance: A Practical Approach for the Twenty–First Century*, 34 WM. MITCHELL L. REV. 303, 338 & nn.170–73 (2007) ("Prior to law school, many students had outstanding scholastic records and developed a belief system that equates self–worth with achievement. Students arrive at law school with control issues because they have become accustomed to, and expect to continue, a record of outperforming other students. Law school may be frustrating and damaging to those whose self–esteem depends on repeated demonstrations of success. A significant number of law students lose self–confidence and their motivation to learn.").

49. Songteng et al., *supra* note 48, at 338.

so forth.[50] Many law schools mandate that faculty apply these types of grade distributions to their classes, while other law schools use grade distributions as recommended guidelines.[51] But even schools that do not utilize grade distributions to determine grades usually have results that are much different from students' expectations coming into law school.[52]

Moreover, research has found that people motivated by intrinsic factors, such as the desire to be a good attorney, have a much greater rate of long–term success than students who are motivated by extrinsic factors, such as grades, fame, or money.[53] The reasons for these results are not entirely clear, but one reason could be that students who focus on internal motivations are more resilient in the face of adversity or potential obstacles.[54] Law students who focus primarily on grades hit a roadblock when they do not receive the grades they expected at the end of the semester.[55] They often argue about "points" on an exam rather than focusing on learning from past exams and assignments to improve their academic skills going forward.

Some first–year law students lack important social skills, including interpersonal and listening skills.[56] The informalities that accompany social media participation, texting, and even many emails are much different from the professional expectations of law school and legal practice. Students may have to learn for the first time in law school how to communicate orally and in writing in a tone and manner that meet those professional expectations. Students may also need to develop effective listening skills.[57] Regardless of the

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50.   Many law schools have either mandatory or recommended grade distribution policies. *See* Sonsteng et al., *supra* note 48, at 345. For examples of some law schools' grading policies, s*ee*, *e.g.*, OHIO ST. U. MICHAEL E. MORITZ C. OF L., http://moritzlaw.osu.edu/registrar/academic-information/grading-policy/ (last visited Nov. 25, 2014); WASH. U. SCH. OF L., http://law.wustl.edu/registrar/pages.aspx?id=2243 (last visited Nov. 25, 2014); *Frequently Asked Questions Regarding the Grading Curve*, CAL. W. SCH. OF L., https://www.cwsl.edu/registration-and-records/more-services/grade-information (last visited Nov. 25, 2014); *Grading Policies*, U. OF THE PAC. MCGEORGE SCH. OF L., http://www.mcgeorge.edu/Students/Academics/Exams_and_Assessments/Grading_Policies.htm (last visited Nov. 25, 2014).

51.   *See id.*

52.   *See* Sonstreng et al., *supra* note 48, at 338.

53.   *See generally* Amy Wrzesniewski et al., *Multiple Types of Motives Don't Multiple the Motivation of West Point Cadets*, 111 PROCEEDINGS NAT'L ACAD. SCI. U.S. 10990 (2014).

54.   For an analysis of how resilience may correlate to academic success, see Martina Kotzé & Rita Niemann, *Psychological Resources as Predictors of Academic Performance of First–Year Students in Higher Education*, 45 ACTA ACADEMICA 25 (2013).

55.   *See* Sonstreng et al., *supra* note 48, at 338.

56.   Stuart & Vance, *supra* note 2, at 65.

57.   For a discussion of some of the important listening skills required of both law students and lawyers, see Jennifer Romig, LISTEN LIKE A LAWYER, http://listenlikealawyer.com/ (last updated Jan. 27, 2015); *see also* Neil Hamilton, *Effectiveness Requires Listening: How*

cause of these deficiencies, law school educators are tasked with helping their students develop those social skills as well, so that students are successful in law school and as attorneys in the future.

Scholars have also observed that the current generation of undergraduate students "would like the fruits of a college degree but are either unaware of required rigors or do not make an intentional decision to commit to the necessary rigors of study."[58] Those qualities are not limited to undergraduate students; many students enter law school without an understanding of what a legal education requires of them academically, in terms of time, amount of reading and other work, and complexity of course content.[59] They approach law school passively rather than engaged in its challenges.[60] As Professors Stuart and Vance have observed, "[w]hereas the academy still maintains vestiges of a cognitive apprenticeship model [in line with the *Carnegie Report* conceptualization of legal education], many of its students come to the academy indifferent to the cognitive process, believing they are already journeymen and all they have to do is wait out the three years, pass the bar, and get a job."[61]

D.   *Potentially Beneficial Characteristics of This Generation of Law Students*

There is a tendency to view all educational characteristics of Millennials as negative, but those negative trends observed by educators are not universal. Students coming from certain undergraduate disciplines tend to have fared better than others in obtaining the skills required for success in law school.[62] Specifically, students who major in liberal arts subjects, such as English or history, often have stronger problem–solving skills than graduates from other disciplines.[63] Moreover, although non–traditional students may

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to Assess and Improve Listening Skills, 13 FLA. COASTAL L. REV. 145, 145 (2011–2012) ("Listening skills are critically important for effectiveness in both law school and the practice of law . . . .").

58.   Carolyn Davis, *Challenging the Academically Adrift: A New Decision–Making Tool to Help Improve Student Commitment to Academic Preparation*, 7 INT'L J. SCHOLARSHIP TEACHING & LEARNING, Article 14, at 1 (2013), *available at* http://digitalcommons.georgiasouthern.edu/ij-sotl/vol7/iss2/14.

59.   *See* Bohl, *supra* note 30, at 780 ("Since internet information appears on one's computer screen with little investment of time or effort, Gen X Y students have developed a predominantly passive relationship to information and an expectation of instant gratification.").

60.   *See id.*

61.   Stuart & Vance, *supra* note 2, at 81.

62.   *Id.* at 44.

63.   *See id.* Rebecca Flanagan has noted that students from liberal arts colleges performed differently on learning assessments than students from other types of institutions. *See* Flanagan, *supra* note 2, at 5–6.

face other challenges in law school, particularly if they have been away from school for an extended period of time, their educational background—or even their life experiences—may have helped them to develop some relevant problem–solving skills.[64]

In general, Millennials often have positive traits that contribute to success in law school and the profession, if educators recognize those traits and maximize them. For example, having grown up in an age when working in groups in a classroom environment is common, the current generation of law students brings more collaborative skills to law school.[65] Although it may be necessary to clarify and reinforce students' understanding of appropriate collaborative behavior to avoid plagiarism and other forms of misconduct, collaborative skills are in high demand in the work place. Enhancing those skills through collaborative learning in law school will allow law school graduates to work collaboratively with their colleagues in the profession.[66]

Furthermore, today's law students are more technologically proficient than earlier generations.[67] Although students' dependence on technology can sometimes be an obstacle to academic success,[68] there is also a value to their interest in technology. If approached thoughtfully, with an attention to learning objectives and pedagogical value and not just for the sake of using technology, legal educators can tap students' enthusiasm for technology, potentially engaging them in new, innovative ways.[69] There is also a growing dialogue regarding the importance of technological competence once

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64. Stuart & Vance, *supra* note 2, at 44.

65. 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, 275 (2011) ("Millennials are characterized by their willingness to work collaboratively, providing a chance for shared learning experiences").

66. Sophie M. Sparrow, *Can They Work Well on a Team? Assessing Students' Collaborative Skills*, 38 WM. MITCHELL L. REV. 1162, 1162–63 (2012) ("Working with others is an important legal skill; and as law practice increasingly relies on collaboration among lawyers, legal staff, clients, and other individuals, so have legal employers raised the demand for effective collaborative skills among law students and recent graduates.").

67. Sonsteng et al., *supra* note 48, at 356; DeGroff, *supra* note 2, at 201–02.

68. DeGroff, *supra* note 2, at 202.

69. Peter Sankoff discusses this phenomenon in his article—he notes that today's students (Generation Y) "were born and raised on technology [and] regard devices like the laptop, tablet and mobile phone as the preferred platforms for learning, communication and entertainment." Sankoff, *supra* note 41, at 4. Several Australian legal educators have recently started a blog project, *Social Media in Legal Education*, which focuses on ways that law professors can incorporate social media into their teaching by linking it to sound pedagogy. *See* SMILE, http://socialmediainlegaleducation.com/ (last updated July 15, 2014); *see also* Kristen B. Gerdy et al., *Expanding Our Classroom Walls: Enhancing Teaching and Learning through Technology*, 11 J. LEGAL WRITING INST. 263 (2005) (describing some of the benefits of incorporating technology into law school courses).

law students graduate and enter the profession.[70] The use of technology as a pedagogical tool can reinforce and expand those students' technological proficiency. It can also introduce current technology and strengthen technological competency of students who may have entered law school without as much technological experience.

III.　CURRENT APPROACHES TO LAW SCHOOL ACADEMIC SUPPORT

As Professor Sheilah Vance has explained, a law school academic support program (commonly referred to as ASP) is "a comprehensive program designed to help law students succeed academically through a combination of substantive legal instruction, study skills, legal analysis, legal writing, and attention to learning styles."[71] Today, most law schools in the United States have some kind of academic support program, although those programs may vary significantly.[72] It has long been recognized that academic support programs are not one–size–fits–all; instead, what works best for one law school and its students may not work as well for another.[73] The following factors are important to the development of a law school academic support program: (1) the unique characteristics of that particular law school's students; (2) the characteristics of faculty and administration; (3) institutional characteristics (including not just the characteristics of the law school but, if the law school is part of a larger university, the characteristics of that university as well); and (4) the resources available to the program (including financial resources, but also human resources, library resources, etc.).[74]

70.　The American Bar Association's eLawyering Task Force, with the assistance of the Standing Committee on the Delivery of Legal Services, completed a survey in 2013 of ABA–accredited law school's efforts to teach legal technology. *See* Richard Granat & Marc Lauritsen, *Teaching the Technology of Practice: The 10 Top Schools*, 40 LAW PRAC. (2014), http://www.americanbar.org/publications/law_practice_magazine/2014/julyaugust/teaching-the-technology-of-practice-the-10-top-schools.html. As a result of that survey, the Task Force "identified 10 law schools that presently offer significant attention to the technology of practice, by which we mean they offer multiple courses or have dedicated centers." *Id.*; *see also* Sonsteng et al., *supra* note 48, at 356 ("Students who use technology during law school will be more prepared to work with technology as it applies to practice").

71.　Sheilah Vance, *Should the Academic Support Professional Look to Counseling Theory and Practice to Help Students Achieve?*, 69 UMKC L. REV. 499, 503 n.24 (2001).

72.　Schulze, *Alternative Justifications I*, *supra* note 3, at 271.

73.　*Id.* at 278; *see also* Louis N. Schulze, Jr., *Alternative Justifications for Academic Support II: How "Academic Support Across the Curriculum" Helps Meet the Goals of the Carnegie Report and Best Practices*, 40 CAP. U.L. REV. 1, 22 (2012) [hereinafter *Alternative Justifications II*].

74.　Paula Lustbader, *From Dreams to Reality: The Emerging Role of Law School Academic Support Programs*, 31 U.S.F. L. REV. 839, 842 n.13 (1997); *see also* Schulze, *Alternative Justifications I*, *supra* note 3, at 278.

There are multiple ways to articulate law schools' approaches to academic support, as demonstrated below.

A.   *Relating Academic Support to the Law School Time Continuum*

One way that law school academic support programs can be categorized is along a time continuum. Using this approach, academic support programs correspond with four major stages of law student development.[75] The first stage is that of the pre–law student.[76] A number of law school academic support programs begin working with admitted or conditionally admitted students during the summer prior to the first year of law school, with the goal of introducing those students to the expectations of law school while simultaneously improving academic skills.[77] Some of these summer programs only last one or two weeks, but others span much of the summer.[78] Summer programs may be open to all students or only target nontraditional, minority, or other students who have been identified as "at risk" of not successfully completing law school.[79]

The second stage takes place during the first year of law school.[80] The focus of the second stage is to further develop the universal academic skills that are required for success in law school. The scope of academic support activities may vary in this stage. Some

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75.   *See* Schulze, *Alternative Justifications I*, *supra* note 3, at 278–88; Schulze, *Alternative Justifications II*, *supra* note 73, at 22.

76.   Schulze, *Alternative Justifications II*, *supra* note 73, at 22.

77.   *Id.*

78.   For example, the Council on Legal Education Opportunity (CLEO) offers six–week programs for students from minority, low–income and disadvantaged backgrounds during the summer prior to their first–year of law school. *See What is CLEO*, CLEO, http://www.cleoscholars.com/index.cfm?fuseaction=Page.viewPage&pageId=482 (last visited Nov. 25, 2014). In contrast, John Marshall Law School in Chicago offers a one–week Pre–Law Summer Institute, targeting students from "groups historically under–represented in the law," and focuses on inspiring those students to become lawyers. *See Prepare for Law School with Our Pre–Law Summer Institute*, JOHN MARSHALL LAW SCHOOL, OFFICE OF DIVERSITY AFFAIRS, http://www.jmls.edu/diversity/programs/pre-law-summer-institute.php (last visited Nov. 25, 2014).

79.   *See, e.g.*, Dana N. Thompson Dorsey, *Accessing the Legal Playing Field: Examining the Race–Conscious Affirmative Action Legal Debate Through the Eyes of the Council of Legal Education Opportunity (Cleo) Program*, 16 TEX. WESLEYAN L. REV. 645 (2010) (describing the history and current status of the CLEO Program); Patricia A. Wilson, *Recreating the Law School to Increase Minority Participation: The Conceptual Law School*, 16 TEX. WESLEYAN L. REV. 577, 587–88 (2010) (describing the CLEO summer institutes); Leslie Yalof Garfield, *The Academic Support Student in the Year 2010*, 69 UMKC L. REV. 491, 498 n.47 (2001) (describing Pace University School of Law's prelaw summer program, which is "designed to give entering students training in dealing with the academic requirements of law school, including the Socratic method, case briefing, legal analysis, writing skills and class exam preparation").

80.   Schulze, *Alternative Justifications II*, *supra* note 73, at 23.

schools may offer only limited general support to first–year law students, in the form of occasional academic skills workshops, library print resources, or web–based resources.[81] Other law schools may require all first–year students to take an academic–support related course.[82] It is in this second stage that some students begin receiving individualized support.[83] Once again, first–year academic support programming may target all students or only "at risk" students.[84]

The third stage targets upper–level students. Some upper–level programs still reach out to all law students, but the majority focus their attention on students whose first–year grades put them at risk of not completing law school or passing the bar examination.[85] Much of the academic support programming that takes place is individualized, although more schools now offer for–credit academic skills courses as well.[86]

The fourth and final stage of law school academic support focuses on preparation for the bar exam.[87] This programming begins prior to law school graduation and extends from graduation until the bar examination;[88] in some cases, law schools continue to offer academic support resources to graduates who fail the bar examination and are preparing to take it again.[89] Schools that offer bar support often have an academic support program which functions as a one–stop shop, including both academic support for law school and bar support upon graduation.[90]

Having programming for each of these four stages of law student development requires significant resources, and academic support programs that do not have as many resources may focus on only one or two stages instead. Most commonly, law schools have some type of program for 1Ls and then more limited programming, focusing on "at risk" students, after that first year of law school.

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81.   *Id.*
82.   *Id.*
83.   *Id.*
84.   *Id.*
85.   Flanagan, *supra* note 2, at 27–28; Schulze, *Alternative Justifications II*, *supra* note 73, at 5, 24.
86.   Schulze, *Alternative Justifications II*, *supra* note 73, at 24.
87.   *See* Flanagan, *supra* note 2, at 27; Schulze, *Alternative Justifications II*, *supra* note 73, at 24–25.
88.   Schulze, *Alternative Justifications II*, *supra* note 73 at 24–25.
89.   *Id.* at 25.
90.   Flanagan, *supra* note 2, at 27.

B.   *Considering Alternative Forms of Law School Academic Support*

Another way to think about law school academic support is as a range of different program *forms*. The most common form is focused on the individual law student.[91] It usually includes individualized guidance in developing academic and study skills, and, in some cases, tutoring in substantive law.[92] Academic support programs do not have the resources to tailor their offerings to every law student.[93] Instead, individualized academic support targets students who have been identified as "at risk" because of their academic indicators coming into law school, such as undergraduate grades and LSAT scores, or because of their academic performance in law school.[94] This type of programming can be very resource–intensive.[95]

Another common form is the workshop.[96] Workshops can be an efficient way to communicate information to large numbers of students. Workshops, which may be optional or mandatory, address topics of interest to new law students during their first semester, such as briefing cases, outlining, and writing essay exams.[97] One challenge with workshops is that academic skills are often taught in a vacuum.[98] Students may have difficulty applying abstract lessons about study and exam skills to specific courses that they are taking.[99]

Academic support offices may also offer other resources, such as resource centers or libraries with study materials that students can

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91.   *See id.* (noting that academic support programs "are time and labor intensive, because students often require one–on–one counseling to determine the source of their academic challenge, and frequently require additional meetings to ameliorate academic deficiencies").

92.   *See id.*

93.   *See id.* at 27–28.

94.   *Id.* at 27.

95.   *Id.* at 27–28.

96.   Schulze, *Alternative Justifications II, supra* note 73, at 23.

97.   *Id.*

98.   For example, the academic support program may offer a workshop on outlining. The person teaching the workshop may provide general descriptions of how students should outline course materials and even provide an example or two of what an outline might look like, but the workshop will usually not use specific examples from a course that the students are actually taking or require students to apply these general outlining concepts to create their own outline of course material.

99.   *See* Tonya Kowalski, *True North: Navigating for the Transfer of Learning in Legal Education*, 34 SEATTLE U. L. REV. 51, 55 (2010) ("When law students are asked to carry discrete, locally–bound knowledge and skills into uncharted waters, they can feel lost at sea."). Professor Eric DeGroff has observed that many first–year law students may have difficulty with abstract thinking, creating obstacles for success in law school. *See* DeGroff, *supra* note 2, at 268.

borrow or websites with handouts about study tips, stress management, and time management.[100] A resource center requires a commitment from the law school in terms of a dedicated space and budget for study aids and manpower. In contrast, a website requires fewer financial resources to develop but can be time–consuming to create.

Finally, some law schools are beginning to offer a range of academic support–related courses for credit.[101] Two types of courses are most common. First, there are the courses for "at risk" and probationary students, offered either in the second or third semester of law school and focused on building academic skills.[102] Law schools often require "at risk" students to take these courses. Secondly, after the American Bar Association began allowing law schools to offer for–credit bar–related courses, some law schools have developed bar skills courses, primarily for students in their final year of studies.[103] These for–credit courses have the benefit of targeting larger numbers of students more efficiently than individualized programming, but they still require significant resources and thoughtful attention to pedagogy and course design to be fully effective.

C.   *Varying Targets of Law School Academic Support*

A third way of thinking about law school academic support programs is to focus on their target audiences. There are really two different types of target audiences, which may be further sub–categorized based upon their stage of development in law school: "at risk" students and all students. The earliest law school academic support programs usually focused solely on "at risk," minority, or nontraditional students,[104] but, as academic support programs have evolved, more and more programming is offered to all students in law school.[105] This trend is particularly true for first–year law students.[106] As discussed *supra*, some forms of programming are more

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100.   *See* Schulze, *Alternative Justifications II*, *supra* note 73, at 23.

101.   *See id.* at 24–25.

102.   *See id.* at 24.

103.   *See id.* at 24–25.

104.   *See*, *e.g.*, Lustbader, *supra* note 74, at 317 ("When I began teaching, my mission was to develop an Academic Assistance Program to increase retention and enhance academic performance of students who are admitted into the law school via our alternative admissions program."); Flanagan, *supra* note 2, at 25 ("[L]aw schools have a long history providing extra support to students who are underprepared for law school").

105.   *See* Schulze, *Alternative Justifications II*, *supra* note 73, at 23. Schulze argues that academic support should be integrated across the curriculum and include all students. *See id.* at 65.

106.   *See id.* at 66.

conducive to individualized support, while others handily lend themselves to larger groups.[107]

D.   *Competing Objectives of Law School Academic Support Programs*

The final consideration for law school academic support programs is their larger objectives. Most objectives really fall into one of two camps: retention or bar passage. Retention objectives are focused on keeping students in law school,[108] while bar passage objectives are focused solely on strengthening skills needed for passing the bar examination. Although the two types of objectives can sometimes overlap—for example, the skills required for success in law school examination essays are often the same ones required for success in bar examination essays—the objectives are not entirely synonymous. In some cases, retention objectives may actually contradict bar passage objectives, as students in the bottom portion of the class are statistically less likely to pass the bar examination.[109]

IV.   CURRENT TRENDS IN LAW SCHOOL PEDAGOGY AND LEARNING THEORY

For a number of years, there has been increasing interest among law school faculty and academic support professionals in incorporating best practices from educational theory and pedagogy into law school courses.[110] Because the academic support program described in Section V draws from some of these theories, the following subsections provide a brief overview of what some of these theories encompass and why they are relevant to law school curriculum design.

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107.   *See id.* at 23.

108.   *See* Lustbader, *supra* note 74, at 317; Flanagan, *supra* note 2, at 26.

109.   *See* Ellen Yankiver Suni, *Academic Support at the Crossroads: From Minority Retention to Bar Prep and Beyond–Will Academic Support Change Legal Education or Itself Be Fundamentally Changed?*, 73 UMKC L. REV. 497, 507–08 (2004) ("Teaching students how to pass the bar, which is exclusively directed and focused on one test, is very different from preparing students for a lifetime of learning. Moreover, focusing on passing the bar does little to empower students to maximize their potential as lawyers, to have an impact on the profession, and to serve as vehicles for social change. As academic support professionals focus their efforts on bar passage, they will become more important to the institution, but they may be in less of a position to affect the overall academic program, since preparation for the bar exam is even further removed from the mainstream of legal education than assisting students in maximizing their ability to learn in the law school itself.").

110.   See Section IV and accompanying footnotes, *infra*, for a representative sample of scholarly articles demonstrating that interest.

A. Cognitive Science and Education Theory

Since the 1870s, the Socratic Method has been the mainstay of the law school classroom in the United States.[111] In most law schools, little thought was given to pedagogy or learning theory.[112] In recent years, however, that has changed. There has been an increased interest in how learning theory can be applied to legal education, with a focus particularly on the relationship between cognitive theory and learning.[113] According to cognitive theory, people learn best "when data is selected, processed, transformed into meaningful information, and stored in memory."[114] Educational psychologists use cognitive theory to better understand adult education.[115]

Cognitive and educational psychologists believe that students should be taught metacognitive skills—in other words, students should be active learners who are taught to think about and manage their own thinking and learning.[116] In order to create a "scaffold" for student learning, Professor Christine Venter has argued that legal educators can use a taxonomy like *Bloom's Taxonomy* in

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111. *See* Sonsteng et al., *supra* note 48, at 321–37 (describing the history of legal education in the United States and the dominance of the Socratic Method).

112. In fact, Professor Paula Lustbader has critiqued the traditional approach to pedagogy in legal education, arguing that it "creates barriers to learning because it is not responsive to law students' learning processes." Lustbader, *supra* note 74, at 319; *see also id.* at 319–20 ("Learning theories suggest that law school pedagogy may be a major reason for the lack of correlation between student effort and performance because it does not explicitly provide a context for understanding, analyzing, and applying legal concepts."). *But cf.*, Hillary Burgess, *Deepening the Discourse Using the Legal Mind's Eye: Lessons from Neuroscience and Psychology that Optimize Law School Learning*, 29 QUINNIPIAC L. REV. 1, 2–3 (2011) ("Although many traditional law school teaching methods are pedagogically sound teaching tools, it seems increasingly necessary to complement traditional teaching methods with methods that improve and expand learning while not increasing the burden for either students or professors.").

113. *See, e.g.*, Ruth Jones, *Assessment and Legal Education: What Is Assessment, and What the **#* Does It Have to Do with the Challenges Facing Legal Education?*, 45 MCGEORGE L. REV. 85 (2013); Michael T. Gibson, *A Critique of Best Practices in Legal Education: Five Things All Law Professors Should Know*, 42 U. BALT. L. REV. 1 (2012); Burgess, *supra* note 112; Anthony S. Niedwiecki, *Lawyers and Learning: A Metacognitive Approach to Legal Education*, 13 WIDENER L. REV. 33 (2006); Christine M. Venter, *Analyze This: Using Taxonomies to "Scaffold" Students' Legal Thinking and Writing Skills*, 57 MERCER L. REV. 621 (2006); Pamela Lysaght & Cristina D. Lockwood, *Writing–Across–the–Law–School Curriculum: Theoretical Justifications, Curricular Implications*, 2 J. ASS'N LEGAL WRITING DIRECTORS 73 (2004); Robin A. Boyle, *Employing Active–Learning Techniques and Metacognition in Law School: Shifting Energy from Professor to Student*, 81 U. DET. MERCY L. REV. 1 (2003); Michael Hunter Schwartz, *Teaching Law By Design: How Learning Theory and Instructional Design Can Inform and Reform Law Teaching*, 38 SAN DIEGO L. REV. 347, 352 (2001); Lustbader, *supra* note 74.

114. Venter, *supra* note 113, at 635.

115. *See* Burgess, *supra* note 112, at 2.

116. *See* Schwartz, *supra* note 113, at 376.

course design and instruction.[117]   Outside of legal education, *Bloom's Taxonomy* "has been widely documented as supporting student mastery of learning and as an assessment tool to measure student competency and knowledge acquisition."[118]   The designer of *Bloom's Taxonomy*, psychologist Benjamin Bloom, divided cognitive thinking skills into six levels ranked according to their level of complexity: Knowledge and Comprehension, which he ranked as least complex; Application, which fell in the middle; and Analysis, Synthesis, and Evaluation, which indicate high–complexity thinking.[119] Legal educators have increasingly used *Bloom's Taxonomy* in course development and assessment.[120]

B.   The Value of Formative Assessment

As part of the foregoing focus on pedagogy and learning theory in the design of law school courses and other types of educational programming, some legal educators have also realized the importance of assessing student learning and recognizing the connections between learning and assessment.[121]   One criticism of the traditional approach to law school education is that, by only providing one assessment at the end of the semester in the form of a single graded exam, instructors provide no positive reinforcement of what students have learned.[122]   By the time the student receives his or her

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117.   *See* Venter, *supra* note 113, at 635. Other law professors have also advocated using Bloom's taxonomy to teach law students metacognitive skills. *See* Stuart & Vance, *supra* note 2, at 50–53; Burgess, *supra* note 112, at 6–7; Lysaght & Lockwood, *supra* note 113, at 79–81; Gibson, *supra* note 113, at 6–12; Jones, *supra* note 113, at 98–99.

118.   Venter, *supra* note 113, at 637.

119*.   See id.* For a more detailed discussion of Bloom's taxonomy, *see* Stuart & Vance, *supra* note 2, at 50–53.

120.   *See*, *e.g.*, Penny L. Willrich, *The Path to Resilience: Integrating Critical Thinking Skills into the Family Law Curriculum*, 3 PHOENIX L. REV. 435, 445 (2010).

121.   *See*, *e.g.*, STUCKEY ET AL., *supra* note 5, especially Chapter 7; Jones, *supra* note 113; Ramy, *supra* note 7, at 842; Anthony Niedwiecki, *Teaching for Lifelong Learning: Improving the Metacognitive Skills of Law Students Through More Effective Formative Assessment Techniques*, 40 CAP. U. L. REV. 149 (2012); Rogelio A. Lasso, *Is Our Students Learning? Using Assessments to Measure and Improve Law School Learning and Performance*, 15 BARRY L. REV. 73 (2010); Gregory S. Munro, *How Do We Know If We Are Achieving Our Goals? Strategies for Assessing the Outcomes of Curricular Innovation*, 1 J. ALWD 229 (2002).

122.   *See* Sonsteng et al., *supra* note 48, at 337, 408; *see also* George, *supra* note 2, at 188 ("[M]any law school classes have only a midterm and final, or even just a final exam which constitutes the entire grade, yielding an assessment system which directly conflicts with learning theory"); STUCKEY ET AL., *supra* note 5, at 236 ("In the traditional law school course, especially in the all important first year, the only evaluation of how well a student is learning, and the entire basis for the student's grade for the course, is a three hour end–of–the–semester essay exam that requires students to apply memorized legal principles to hypothetical fact patterns."); Robert C. Downs & Nancy Levit, *If It Can't Be Lake Woebegone . . . A Nationwide Survey of Law School Grading and Grade Normalization Practices*, 65 UMKC L. REV. 819, 822–23 (1997) (noting that the end–of–the–term essay examination is still the primary

grade from the course, it is too late to do anything to improve.[123] Legal educators are increasingly implementing more assessment into law school courses, connecting assessment to course goals and learning objectives.[124] Good assessment is not just about testing students.[125] A comprehensive approach to student assessment, coupling graded summative assessments with formative assessments that provide both students and professors with information about student learning and the effectiveness of instruction, more adequately addresses what learning theory has shown to be important in the learning process.[126]

Formative assessment is particularly important because it provides feedback to both students and educators.[127] One purpose of feedback is to motivate students.[128] "Frequent feedback provides an opportunity to help students understand how well they are solving a problem or performing a particular task, and how to make their problem–solving or learning process more effective."[129] Legal educators can provide this type of feedback to students by using grading rubrics.[130] Professor Herbert Ramy has defined a grading rubric as "a systematic scoring guideline used to evaluate student performance."[131] Rubrics and other forms of feedback help students to develop their own metacognitive skills.[132]

As beneficial as assessment can be for law students, if not done thoughtfully, it can also have negative consequences. Overuse of assessment can create more stress for students by taking up valuable time that otherwise is needed to study for their classes.[133] Faculty members should coordinate their assessment efforts to ensure that students are not overwhelmed with assignments within a short

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form of student assessment in law school, but it is among the least recommended by professional educators).

123.   Sonsteng et al., *supra* note 48, at 408.

124.   *See generally* Ramy, *supra* note 7; Michael Hunter Schwartz et al., Teaching Law by Design: Engaging Students from the Syllabus to the Final Exam (2009).

125.   Sonsteng et al., *supra* note 48, at 407.

126.   *See* George, *supra* note 2, at 188–89; Ramy, *supra* note 7, at 843–45.

127.   Ramy, *supra* note 7, at 844 ("Unlike summative assessments, where grading plays a central role, formative assessments emphasize feedback to both teacher and student").

128.   Sonsteng et al., *supra* note 48, at 407 ("Learning theorists agree that adult students need specific feedback in order to stay motivated.").

129.   *Id.* at 408.

130.   *See* Ramy, *supra* note 7, at 857; Sophie M. Sparrow, *Describing the Ball: Improve Teaching by Using Rubrics–Explicit Grading Criteria*, 2004 Mich. St. L. Rev. 1, 7 (2004).

131.   Ramy, *supra* note 7, at 857.

132.   *See* George, *supra* note 2, at 188–89.

133.   Hill, *supra* note 14, at 484–85; *see also* Emily Zimmerman, *What Do Law Students Want?: The Missing Piece of the Assessment Puzzle*, 42 Rutgers L. J. 1, 67 (2010).

time period.[134] Furthermore, it is important that these assessments actually assess what we need to know about our students, particularly those underprepared students, such as the status of their legal analytical skills.[135]

C.   *The Introduction of the Flipped Classroom and Blended Learning*

New pedagogical models have been introduced to education in recent years, including blended learning and the flipped classroom.[136] Blended learning has been defined as "'instruction that has between 30 and 80 percent of the course content delivered on line.'"[137] "[A] blended course may be viewed as either a face–to–face course with online enhancement or an online course with face–to–face enhancement."[138] A "flipped" classroom "is a pedagogical model which reverses what typically occurs in class and out of class."[139] By requiring students to watch video lectures before coming to class, the professor can reserve class time for active learning activities.[140]

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134. Hill, *supra* note 14, at 485; Zimmerman, *supra* note 133, at 67 ("It is one thing to have multiple assignments in a single course; it is quite another thing to have multiple assignments in a number of courses simultaneously.").

135. *See*, *e.g.*, Hill, *supra* note 14, at 486 ("Thus, with under–prepared students, the concern is not necessarily about the amount of effort the students put forth in doing the work . . . , but rather about their legal reasoning and synthesis skills.").

136. *See* MARY BART, FACULTY FOCUS SPECIAL REPORT, BLENDED AND FLIPPED: EXPLORING NEW MODELS FOR EFFECTIVE TEACHING AND LEARNING (July 2014), at 2; *see also* Mary Bart, *Survey Confirms Growth of the Flipped Classroom*, *in* FACULTY FOCUS SPECIAL REPORT, BLENDED AND FLIPPED: EXPLORING NEW MODELS FOR EFFECTIVE TEACHING AND LEARNING (July 2014), at 18. For a more detailed discussion of what blended learning is and what its potential benefits are see generally D. Randy Garrison & Heather Kanuka, *Blended Learning: Uncovering Its Transformative Potential in Higher Education*, 7 THE INTERNET IN HIGHER EDUC. 95 (2004).

137. Bart, *supra* note 136, at 2.

138. Rob Kelly, *Blended Learning: Integrating Online and F2F*, *in* FACULTY FOCUS SPECIAL REPORT, BLENDED AND FLIPPED: EXPLORING NEW MODELS FOR EFFECTIVE TEACHING AND LEARNING (July 2014), at 6.

139. Bart, *supra* note 136, at 2; *see also* Barbi Honeycutt & Jennifer Garrett, *Expanding the Definition of a Flipped Learning Environment*, *in* FACULTY FOCUS SPECIAL REPORT, BLENDED AND FLIPPED: EXPLORING NEW MODELS FOR EFFECTIVE TEACHING AND LEARNING (July 2014), at 12.

  The most widely used description of the flipped class is a learning environment in which the activities traditionally completed outside of class as homework are now completed in class during instruction time. And, the activities traditionally completed in class are now completed on students' own time before class. In many definitions and models, this means students watch a video of prerecorded lectures before class. Then, when they arrive to class, they work through assignments or activities with their peers and the instructor.

Id. For a more detailed discussion of approaches to flipped classroom design see JONATHAN BERGMANN & AARON SAMS, FLIP YOUR CLASSROOM (2012).

140. Bart, *supra* note 136, at 2.

Flipped classrooms are also known as inverted classrooms.[141] Many educators categorize the flipped classroom model as a form of blended learning.[142]

Some law professors have started integrating the flipped classroom concept into their courses.[143] For example, Professor Peter Sankoff of the University of Alberta began utilizing a flipped classroom approach to his Evidence class in 2012, creating short video "capsules" for students to watch prior to class and reserving class time primarily for problem–solving exercises.[144] Professor Sankoff has noted that his video capsules "preserve[d] class time for where [it was] needed most—whether for problem solving or other means of engaging students."[145] Librarian Catherine A. Lemmer has also utilized an inverted classroom approach to teaching legal research to students in an international L.L.M. program.[146]

Educators have identified a variety of benefits of a flipped classroom approach to learning:

- Videos engage visual and audio learners.[147]
- The flexibility of video access allows students to "choose exactly when they wish to learn."[148]
- Students can watch the videos repeatedly if they are having a hard time understanding concepts or wish to review material.[149]
- Professors can use the videos to present basic information or review concepts already explored in class.[150]

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141.   *Id.*

142.   *Id.*

143.   Legal educators have both discussed the pedagogical benefits of the flipped classroom method and, at times, have incorporated it into their own classrooms. *See, e.g.*, Catherine A. Lemmer, *A View from the Flip Side: Using the "Inverted Classroom" to Enhance the Legal Information Literacy of the International LL.M. Student*, 105 LAW LIBR. J. 461 (2013); K.K. DuVivier, *Goodbye Christopher Columbus Langdell?*, 43 ENVTL. L. REP. NEWS & ANALYSIS 10475, 10480 (2013); Nancy B. Rapoport, *Rethinking U.S. Legal Education: No More "Same Old, Same Old"*, 45 CONN. L. REV. 1409, 1421–22 (2013); W. Warren H. Binford, *Envisioning a Twenty–First Century Legal Education*, 43 WASH. U. J.L. & POL'Y 157 (2013); Todd E. Pettys, *The Analytic Classroom*, 60 BUFF. L. REV. 1255, 1302–03 (2012).

144.   *See generally* Sankoff, *supra* note 41.

145.   *Id.* at 11.

146.   *See generally* Lemmer, *supra* note 143.

147.   Sankoff, *supra* note 41, at 11–12; *see also id.* at 12 ("By combining audio description from the professor with visual imagery, capsules allow students with different learning styles to interact with the information in a multi–sensory fashion.").

148.   *Id.* at 12.

149.   *Id.*; *see also* Barbi Honeycutt, *Looking for "Flippable" Moments in Your Class*, *in* FACULTY FOCUS SPECIAL REPORT, BLENDED AND FLIPPED: EXPLORING NEW MODELS FOR EFFECTIVE TEACHING AND LEARNING (July 2014), at 15 ("Maybe [students] need a video to watch and re–watch several times before and after class to reinforce the main points.").

150.   Sankoff, *supra* note 41, at 12–13.

- Using video to present course content allows more class time for practicing what students are learning.[151]
- Materials created for a flipped classroom can be used over and over.[152]

Although there can be some significant benefits to using a flipped classroom approach to a course, there are also some drawbacks. First, a flipped classroom requires a major time investment on the front end of the process, when the professor must identify the topic of each module, plan how the module integrates with what will happen during class, draft a script or develop other materials for the module, develop competency in using the technology needed to create the video, and creating and editing the video.[153] Second, students who are less technologically proficient or lacking access to high speed Internet may have difficulty using video modules.[154] A video's length is also an important consideration. If the video is too long, its demands on law students' limited time may be too onerous.[155] Finally, it may be challenging to make sure that students are actually watching the video before coming to class, an essential requirement to achieve academic objectives.

V.   A New Approach to Academic Support for First–Year Law Students

As the first full–time Director of the Office of Academic Achievement at Savannah Law School, I was tasked with developing the law school's academic success initiatives. One of my primary efforts was to create a comprehensive first–year academic success program that: (1) takes into account the unique characteristics of today's incoming law students;[156] (2) builds upon the benefits of traditional

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151. *See* Maryellen Weimer, *Blended Learning: A Way for Dealing with Content*, *in* Faculty Focus Special Report, Blended and Flipped: Exploring New Models for Effective Teaching and Learning (July 2014), at 5.

152. *Id.*

153. As Peter Sankoff noted, "the most significant challenge in transitioning to a flipped classroom environment lies in the fact that capsules or similar initiatives are time–consuming to create and require a large investment from any professor who wishes to use them. The expenditure of effort lies in two places: the planning and the execution stages." Sankoff, *supra* note 41, at 14; *see also* Weimer, *supra* note 151, at 5; Bart, *supra* note 136, at 18.

154. Sankoff, *supra* note 41, at 14. However, Sankoff noted that, when he began using video "capsules" as part of his Evidence class, he received no complaints about students' ability to access the videos. *Id.*

155. *Id.* at 15.

156. *See* Section II, *supra*.

approaches to academic support;[157] (3) draws inspiration from recent pedagogical innovations in education, such as flipped classrooms and use of assessment as a teaching/learning tool;[158] (4) increases collaboration between academic support professionals and law school faculty;[159] and (5) integrates academic support into the first–year curriculum in a direct, nuanced way. In short, my goal was to develop an academic support program which responded to recent critiques and recommendations regarding best practices in legal education.[160] The following subsections describe the institutional and pedagogical foundations for this new first–year program and explain how the program was implemented.

A.   *Foundations of the First–Year Academic Support Program*

The initial step in developing Savannah's first–year academic success program, known as the Professional and Academic Success Seminar, or PASS, was obtaining buy–in from first–year faculty members and law school administration. It would be impossible to succeed in efforts to integrate academic support with the first–year curriculum without administrative approval and faculty support. Fortunately, I had significant support from both quarters in developing the PASS program. In the first year, we primarily integrated PASS with two first–year courses for each student: Legal Writing and Property for the 1L day students, and Legal Writing and Torts for the 1L night students.

Second, I developed the concept for the PASS program's structure and content. Based upon my research, past experiences with the academic support program, and discussions with faculty and administrators, I identified a set of core academic skills that contribute to law students' success in law school and on the bar examination: critical reading and case briefing; classroom note–taking; the

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157.   See Section III, *supra*, for a discussion of traditional approaches to law school academic support.

158.   *See* Section IV, *supra*.

159.   The idea of academic support professionals collaborating with faculty is not a new idea. *See*, *e.g.*, Adam G. Todd, *Academic Support Programs: Effective Support Through a Systemic Approach*, 38 GONZ. L. REV. 187 (2003).

160.   *See* Section V, *supra*; *see also*, *e.g.*, WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007) (also known as the Carnegie Report); STUCKEY ET AL., *supra* note 5. The idea that Academic Support Programs can and should support best practices is not a new idea. Louis N. Schulze, Jr., has written substantially on that topic. *See generally* Louis N. Schulze, Jr. & A. Adam Ding, *Alternative Justifications for Academic Support III: An Empirical Analysis of the Impact of Academic Support on Perceived Autonomy Support and Humanizing Law Schools*, 38 OHIO N.U. L. REV. 999 (2012); Schulze, *Alternative Justifications II*, *supra* note 73.

ability to analyze and critique arguments based upon logic; synthesis (also known as outlining); issue spotting; exam skills (both multiple choice and essay writing); and critical self–assessment. The program's objectives focus on developing students' competencies in each of these important skills.

In its completed form, PASS consists of a series of eight modules and five workshops. The first workshop takes place during Orientation.[161] From the beginning of first–year students' introduction to law school, academic skills training is linked directly to the content of the students' courses; the Orientation workshop uses the first reading assignment from Property or Torts, depending on the students' status as a day or night student. After Orientation, students complete a series of eight learning modules and four more workshops during their first semester. Each module is based upon a skill that students need for academic success and, once again, those modules are integrated with first–year courses. Various formative assessment tools are used to evaluate students' skills competencies, improve their self–assessment abilities, and provide a starting point for remediation when necessary.[162] After students master the skill(s) within one module, they are permitted to move on to the next. The supplemental workshops complement the modules, providing opportunities for students to practice the skills they are learning in the modules and obtain additional guidance on specific challenges they may be facing in learning those necessary academic skills.

The final version of the PASS program draws from the various approaches to academic support described *supra* in Section III. First, it is focused specifically on one of the stages of law student development: the first year. Second, the program is basically a hybrid of the traditional approach to academic support for law students, the workshop, and a more traditional academic skills course. Because the program targets first–year students during their first semester of law school, it includes all students, not just those who have been identified as "at risk." As such, it lends itself to addressing the challenges faced by underprepared law students who may have earned high grades in undergraduate institutions or relatively high LSAT scores, as well as students who traditionally have been labeled "at risk." Finally, as a first–semester program offering, the PASS program's key objective is student retention, although it may

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    161.   There are separate Orientations for day and night students.
    162.   The approach to module design and assessment drew from such resources as Ramy, *supra* note 7; Sparrow, *supra* note 130; and Schwartz, *supra* note 113.

also promote development of test–taking and study skills that are applicable to the bar examination.

B. *Using the Flipped Classroom Approach to Integrate Academic Support and First–Year Courses*

In designing the PASS learning modules, I drew inspiration from recent approaches to pedagogy both inside and outside of the law school environment—in particular, the flipped or inverted classroom approach and the concept of blended learning.[163]   Flipped classroom pedagogy was intriguing for several reasons. First, a primary objective of PASS was to have students integrate what they were learning about law school academic skills with what they were doing in their first–year courses. When the students went into their Torts, Property, or Legal Writing classes, they were going to see that professor—not me—in the classroom. Using short videos to communicate how students should approach academic skills was a way of signaling to students that what they were learning in PASS was not meant to be separate from what they were doing in their other classes. This message was reinforced by the PASS assignments, which linked directly to the content they were learning in those other classes. Each module was designed to improve students' cognitive skills, focusing especially on the higher–level learning processes identified in *Bloom's Taxonomy*.[164]

The flipped classroom approach also allowed the PASS workshops to be more productive. Rather than me standing in front of the 1Ls talking for extended periods of time without students engaging in the workshop content, students watched the videos prior to each workshop. Depending on the module(s) that the workshop corresponded to, students might even have started applying what they learned from the video to an assigned module task. When students then came into the workshop, they were primed to ask questions and participate actively in a dialogue about that skill. Depending on the workshop, there could even be opportunities for further practice of the skills they were learning, such as practice multiple–choice questions or even a practice essay exam.

Specifically, each module starts with a short video teaching the basic approach to that module's skill(s). Students can watch the video at their convenience and can go back and view it again as many times as they like. Students then practice the skill by applying it to the relevant class materials. During the practice phase,

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163.   *See* Section IV.B, *supra.*
164.   *See* Section IV.A, *supra.*

students have the opportunity to ask questions and seek additional help by: (a) raising questions in an online discussion forum; (b) attending a related skills workshop; and (c) seeking help during office hours. Having practiced the skill(s) related to that module, students complete a formative assessment. Afterwards, they receive feedback based upon the assessment. If students have demonstrated competence in the skill(s) at issue, they then move on to the next module; if not, a remediation plan is implemented.

C.   *Maximizing Formative Assessment*

Formative assessment is a key component of each PASS module. These assessments complement the feedback that students may be getting in other classes. Because many law school courses base grades on a single final exam, the PASS assessments are particularly helpful to students. At the same time, the assessments provide valuable information for the Office of Academic Achievement, allowing me to identify, much earlier, students who may need additional academic support in their first semester of law school.

Another educational tool that I make use of in the PASS modules is the rubric.[165] The PASS program utilizes rubrics in three different ways. First, many of the PASS modules use rubrics to communicate the expectations for that module's assessment task. Second, rubrics provide an efficient way for the PASS instructor to give students timely and helpful feedback on the status of their skills mastery. Finally, rubrics provide the opportunity to teach students self–guided learning. That process begins as they interact with the rubrics both before and after completing each module task. In the eighth and final module, however, that process is taken even further. Basically, in the final module students learn how to create their own rubrics to evaluate their learning. There is also a side benefit to the use of rubrics: giving students guidance regarding what is expected of them for each assignment, as well as providing formative feedback of their understanding of the material in other courses, helps to reduce students' stress.

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165. Outside of legal education, there has been some criticism of the use of rubrics in higher education recently. *See, e.g.*, Steven Conn, *The Rise of the Helicopter Teacher*, THE CONVERSATION, CHRON. OF HIGHER EDUC. (Aug. 5, 2014), http://chronicle.com/blogs/conversation/2014/08/05/the-rise-of-the-helicopter-teacher/; Diana Senechal, *Don't Criticize—Retire!*, DIANA SENECHAL: ON EDUCATION AND OTHER THINGS (Aug. 13, 2014), http://dianasenechal.wordpress.com/2014/08/13/dont-criticize-retire/. These criticisms reflect a lack of understanding of how rubrics are ordinarily utilized in higher education, especially in the context of legal education. For an explanation of the value of using rubrics in legal education, see generally Sparrow, *supra* note 130.

VI.　Conclusion

The approach to first–year academic support described in Section V has both benefits and limitations. First, because PASS is designed to be integrated with first–year courses, it is essential to obtain faculty buy–in and cooperation for the program to be successful. If faculty members are supportive, the program has the potential to increase dialogue about pedagogy and learning theory and further inspire innovation in teaching. If faculty members are not interested in collaborating with academic support professionals on the program, it is much more difficult to make it work. Importantly, PASS does not need to be integrated with all first–year courses; it can work successfully with only one or two.

Second, the program makes no assumptions regarding what academic skills students have upon entering law school. In many ways this is a positive attribute of the program. PASS provides numerous opportunities to identify underprepared students and provide the training and academic support they need to be successful in law school, either through their own voluntary efforts (watching videos multiple times, utilizing supplemental resources, or asking questions by email or during office hours), or because the PASS instructor identifies skills deficits and creates plans for how those skills will be improved. If not done carefully, however, the program has the potential to make students who enter law school with advanced academic skills believe that they are wasting their time. By tying each PASS module's task to their other courses and things that good students should be doing anyhow, like briefing cases, outlining, and taking practice exams, this potential downside can be avoided. Furthermore, by creating a comprehensive academic support program for all incoming 1Ls, a law school can address the needs of underprepared law students without creating the types of marginalization and stigmatization associated with some earlier academic support efforts.[166]

The PASS program has an added benefit for students with disabilities. For example, it has been argued that courses presented in the form of modules make learning more accessible for students who have Attention Deficit Hyperactivity Disorder by "breaking a course into manageable units."[167] The videos that correspond with each module are compliant with the Americans with Disabilities

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166.　*See* Flanagan, *supra* note 2, at 26–27.
167.　Michael Wilson & Leslie E. Gerber, *How Generational Theory Can Improve Teaching: Strategies for Working with the "Millennials"*, 1 Currents in Teaching & Learning 29, 35–36 (2008).

Act, having both an audio and text component (including both Pow-erPoint slides and closed–captioning of all spoken components).[168] The videos may also be helpful to students with learning disorders because of the multiple forms of information transmission and stu-dents' ability to review the material multiple times.

One of the greatest challenges for creating and maintaining the PASS program is limited resources—especially time. The initial design and implementation of PASS has taken a significant time investment, as is the case for any blended learning or flipped class-room project. Although each video lasts only ten to twenty minutes, depending on topic, they each require the creation of a script and corresponding PowerPoint presentation and the time it takes to rec-ord and edit the video and closed captioning text. Even if the in-structor has experience with whatever video program he or she is using, several hours to a few days will be needed to create each video. There are also other materials that must be created for each module, including instruction sheets, tasks (such as logic exercises, issue spotting exercises, and practice exams), and feedback rubrics. The first time that the course is taught, the start–up costs in terms of time are therefore substantial. Assuming that the instructor has thought the course through before beginning, many of these costs will be one–time investments. Once resources have been created, they can be used over and over again with little to no modification.

The other major time component for PASS is the time that it takes to provide feedback for each module task. Obviously, the more first–year students there are participating in such a program, the more time this feedback will require. Well–designed rubrics made it easier provide quicker, effective feedback to each student. There are also other ways to approach this aspect of the program.[169] For example, a faculty member who seeks to incorporate more form-ative assessment into his or her class may be willing to share the feedback duties with the academic support professional, or it may be possible to train student teaching assistants to provide feedback. Some modules may also lend themselves to peer assessment that could be done within the PASS workshops.

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168.   I used Adobe Presenter 10 to create the videos for PASS, as its recording and editing functions were fairly intuitive, and it also had the capability to import the scripts into the closed captioning program so that limited text editing was necessary. It also is compatible with PowerPoint and could easily split the screen between a view of the speaker and the PowerPoint slides at the same time.

169.   Herbert Ramy has provided numerous suggestions of how formative assessments can be designed to reduce the amount of time that professors must spend on giving individual feedback while ensuring that the underlying purpose of the assessment is still maintained. *See generally* Ramy, *supra* note 7.

Ultimately, I hope that this article contributes to the dialogue about how academic support professionals and law school faculty can think "outside the box" to create effective, efficient, and innovative ways to improve our students' chances for long–term academic and professional success. Rather than viewing law school academic support programs as peripheral, focused only on a limited number of "at risk" students, it is time to explore how these programs, such as the PASS program described *supra*, can be fully integrated into the law school curriculum.