

FLEXIBILITY & RESILIENCE ARE ESSENTIAL LEGAL SKILLS

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The legal profession is facing an era of change driven by technological advancements, environmental crises, shifting client expectations, and evolving societal norms. This article argues that flexibility and resilience are not just positive personality traits but essential legal skills that should be intentionally cultivated in law school curricula. By integrating adaptability into legal education—through emphasizing the evolving nature of law, incorporating interdisciplinary approaches, reshaping assessments, and fostering collaborative learning—law schools can better equip students to navigate an unpredictable future. Encouraging law students to embrace flexibility and resilience as a professional skill will not only enhance their long-term success but also strengthen the legal profession’s ability to lead in times of transformation.

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INTRODUCTION

The only thing constant in life is change.¹ The past century alone has seen tremendous changes in the lives of human beings due to

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1. On the first and last days of her classes the author reminds her students “the only thing constant in life is change.” This article was inspired by the realization that this statement has a much broader implication in the age of climate change, generative

technological changes, which have also impacted the practice of law in continually rippling ways.² And the only thing that most future-oriented scholars seem to agree upon is that even more changes are coming soon.³

Thus, it is highly likely that our current and future law students will experience drastic changes in their lives and careers, often due to forces beyond their control. Yet many law school curriculums still focus on the law as it exists in the moment, and deemphasize that the law, the practice of law, and possibly even society as a whole will change in the decades to come.

This article proposes a shift in perspective in legal education, which hopefully will result in an increase in recognizing flexibility and resilience as valuable characteristics for future lawyers.⁴ Whether future changes generate from climate change, evolving technologies, changing societal norms, client expectations, or all of the above,⁵ Law students will need to understand that adapting rapidly is a valuable skill for law and leadership, and cultivating flexibility while practicing resilience in times of inevitable stress are essential legal skills.

artificial intelligence, and other potential impending changes to modern American society and legal education.

2. See, e.g., Eric Biber, *Law in the Anthropocene Epoch*, 106 GEO. L. J. 1, 13 (2017) (“Since World War II, society’s impairments of global systems have undergone what some scientists have called the ‘Great Acceleration.’ The Great Acceleration is a result of globalization, rapid population growth, and rapid technological change over the past seventy-five years”).

3. See, e.g., Stuart A. Forsyth, *Perspectives from a Legal Futurist: Challenges to the Courts and the Legal Community*, 51 S. TEX. L. REV. 913, 919 (2010) (“Our jobs, careers and lives are changing, changing, changing, at a seemingly unprecedented rate.”); René Reich-Graefe, *Foreword: Anthropocenic Disruption, Community Resilience and the Law*, 41 W. NEW ENG. L. REV. 411 (2019) (predicting dire changes for the future, including a dire reduction of human influence and control, as well as related wealth and control over natural resources).

4. A consulting company specializing in legal resilience reports that most lawyers score well below the average person in tests that measure resilience. Larry Richard, *Resilience and Lawyer Negativity*, LAWYERBRAIN (Sept. 19, 2012), <https://www.lawyerbrain.com/2012/09/resilience-and-lawyer-negativity/> [<https://perma.cc/VBM3-DYH5>].

5. Many of the changes to the profession in the future will likely be caused by forces that have yet to be contemplated or fully understood as of the publication of this article.

I. THE ONLY THING CERTAIN IS CHANGE IS COMING

In addition to continuing technological advancements,⁶ current and future law students will also face drastic environmental changes,⁷ calls for large-scale reforms to the bench and the bar from the public,⁸ economic shifts, and unprecedented societal challenges.⁹ This environment of rapid and inevitable change will require future lawyers to continually review and renew their skills throughout their careers in order to keep up.¹⁰

Changing technologies, business models, and client needs will require modern law students and lawyers to have increased flexibility and the ability to evolve. This means that whatever knowledge and skills new lawyers learn in their first few years of practice will need to be constantly reshaped and resharpened if they are going to survive and thrive throughout their legal careers.

6. See, e.g., Joseph J. Avery, Patricia Sánchez Abril & Alissa del Riego, *ChatGPT, Esq.: Recasting Unauthorized Practice of Law in the Era of Generative AI*, 26 YALE J. L. & TECH. 65 (2023) (arguing that the rules against the unauthorized practice of law will be inevitably changed in the era of generative AI and those changes will have broad implications for the current business model used by lawyers); Michael Simon, Alvin F. Lindsay, Loly Sosa & Paige Comparato, *Lola v. Skadden and the Automation of the Legal Profession*, 20 YALE J. L. & TECH. 234 (2018) (discussing the potential for generative AI programs to replace attorneys in the document review process); Brenda M. Simon, *Using Artificial Intelligence in the Law Review Submissions Process*, 56 U.C. DAVIS L. REV. 347 (2022) (analyzing the promise and potential perils of integrating artificial intelligence into the law review publication process and pointing out that it could be a huge benefit for law students but could also deepen the biases that are already present in legal academia which would then have a negative impact on the entire American legal system).

7. See, e.g., Warren G. Lavey, *Toolkit for Integrating Climate Change into Ten High-Enrollment Law School Courses*, 49 ENV'T. L. 513 (2019).

8. See, e.g., Elizabeth Yoder, *The Dobbs Leak as an Illustration of the Impasse Between Legal Ethics and Reality*, 36 GEO. J. L. ETHICS 881 (2023); Charles Gardner Geyh, *Can the Rule of Law Survive Judicial Politics?*, 97 CORNELL L. REV. 191 (2012).

9. See, e.g., Julia Puauschunder & Martin Gelter, *The Law, Economics, and Governance of Generation COVID-19 Long Haul*, 19 IND. HEALTH L. REV. 47 (2002) (detailing some of the major challenges young people will face in their life-times through the lens of people with long-haul COVID-19 complications; predicted challenges include increased economic disparity, decreased privacy, and new health threats and health-care challenges).

10. See, e.g., Simon, Lindsay, Sosa & Comparato, *supra* note 6 (explaining how this new wave of technical changes will be unending, and some of the many ways in which lawyers will need to adapt their practice).

Legal academia has seen a growing call for “increasing resilience” in law students,¹¹ but that discussion is usually had in the context of personal identity and mental health.¹² The larger pedagogy of law schools has yet to fully embrace the idea that expecting change is a professional skill, but in the future it will be vital that all professors teach students to expect change and to cultivate flexibility and resilience. Law schools have the opportunity to subtly shift the way students relate to the law by broadening the approach to encouraging flexibility and resilience. This in turn has real potential to increase future student success,¹³ and increase the longevity of law schools in these evolving times as well.

II. OPTIMISTIC SUGGESTIONS AND POTENTIAL PRACTICAL APPROACHES

Here is a list of potential starting points and practical suggestions for law professors, legal education professionals, and administrators who are contemplating how to best increase resilience in the profession starting in law school by helping equip law students for the challenges of the future.

A. Increase Assessments of Critical Thinking Skills and Problem Solving Abilities

The call for increased assessments in law school pedagogy is not a new one,¹⁴ and will likely become inevitable as more states adopt the new

11. See, e.g., Kaci Bishop, *Framing Failure in the Legal Classroom: Techniques for Encouraging Growth and Resilience*, 70 ARK. L. REV. 959 (2018); Kenneth Townsend, *Forming Good Lawyers*, 58 WAKE FOREST L. REV. 981, 998 (2023) (“Developing virtues such as resilience, honesty, civility, and open-mindedness is intrinsically valuable.”).

12. See, e.g., Heather D. Baum, *Inward Bound: An Exploration of Character Development in Law School*, 39 U. ARK. LITTLE ROCK L. REV. 25 (2016); see also Natalie Netzel, *Trauma-Informed (As A Matter of) Course*, 31 AM. U. J. GENDER, SOC. POL’Y & L. 383 (2023).

13. Paula Davis-Laack, *Building Resilience in the Law Makes Good Business Sense*, 88 WIS. LAW. 41 (2015).

14. See, e.g., Emily Zimmerman, *What Do Law Students Want?: The Missing Piece of the Assessment Puzzle*, 42 RUTGERS L.J. 1, 4 (2010) (citing Douglas A. Henderson, *Uncivil Procedure: Ranking Law Students Among Their Peers*, 27 U. MICH. J.L. REFORM 399, 411–13 (1994)); cf. Joseph A. McClain, Jr., *Legal Education: Extent to Which “Know-How” in Practice Should be Taught in Law Schools*, 6 J. LEGAL EDUC. 302, 302 (1954) (arguing for integrating more practical skills in legal education as early as 1954) (citing ALFRED Z. REED, CARNEGIE FOUNDATION FOR THE ADVANCEMENT OF TEACHING, REVIEW OF LEGAL EDUCATION IN THE UNITED STATES AND CANADA FOR THE YEAR 1929, at 4 (1930)).

NextGen Bar Examination.¹⁵ Fortunately, changing curriculum approaches to help students succeed on the new bar examination can also be an opportunity to weave in assessments of critical-thinking skills, problem-solving abilities,¹⁶ and a willingness to embrace new challenges. The good news is that law schools do not have to figure this out alone: there is already extensive research on ways schools can evolve to increase their students' readiness for unpredictable challenges and critical thinking skills.¹⁷

Developing robust decision-making capabilities for high-stakes environments with imperfect information will be vital to the success of lawyers in the coming decades. The future holds no shortage of difficult judgment calls on complex issues at the intersection of law, technology, the environment, and human rights. When law schools commit to adapting their pedagogical approaches and assessment methods to meet the call of the NextGen Bar Exam, they will hopefully also be increasing their students' adaptability skills as well.

B. Form Interdisciplinary Partnerships for Increased Pedagogical Success

The challenges facing legal education are complex and multifaceted and cannot be solved by small task forces or siloed curriculum committees. Keeping up with constantly evolving bar rules, business trends, technological developments, and unpredictable future needs is more than what current faculties are equipped for, and a massive challenge in already challenging times. Future success will require higher levels of understanding of evolving technology, business economics, political forecasting, and pedagogical techniques than any one law professor or small faculty group can achieve alone.

An interdisciplinary approach that pulls in more voices will not only increase confidence in decisions but also increase chances of success.

15. Melissa Bezanson Shultz, *Professor, Please Help Me Pass the Bar Exam: #NextGenBar2026*, 71 J. LEGAL EDUC. 141 (2021) (explaining some of the rapid shifts law schools will need to make to help their students pass the new bar exam and its focus on practical skills).

16. Julianne Hill, *Less Litigation, More Practical Skills in Law School Needed, Junior Associates Say*, ABA JOURNAL (Apr. 30, 2024, 10:55 AM), <https://www.abajournal.com/web/article/less-litigation-more-practical-skills-in-law-school-needed-junior-associates-say> [https://perma.cc/H6VZ-6NNX].

17. See, e.g., Tenielle Fordyce-Ruff, *Research Across the Curriculum: Using Cognitive Science to Answer the Call for Better Legal Research Instruction*, 125 DICK. L. REV. 1 (2020) (describing the various calls for reform in legal education going back to the 1800s when the "case method" was first introduced, and discussing some of the major studies and reports that have been published in the past thirty years suggesting changes).

Also, legal academia is not the only place in higher education to face these challenges, and the law schools who adapt an early willingness to learn from their interdisciplinary peers will likely be the law schools who continue to thrive in the future.

C. Reframe Student Honor Codes to Allow for More Collaboration in Writing-Based Assessments

Building law student resilience does not mean that law schools must train students to practice complete self-reliance. Research indicates the opposite: increased resilience is easier in communal environments with strong social support.¹⁸ The traditional approach to ethics in law school has tended to encourage students to operate in silos, something that must be rapidly unlearned when they enter the practice of law.¹⁹ While the curved nature of law school assessments means that every course must have a heavily-weighted individual assessment component, finding more ways to incorporate partnered and grouped exercises will help students understand that individual success can be enhanced with group collaboration in a rapidly changing world. By fostering a collaborative mindset early in the careers of future lawyers, law schools can help prepare students to tackle the interconnected challenges of the future with increased creativity, innovation, and confidence.

D. Resist the Resistance from Student, Faculty, and Administration

Modern law students crave certainty,²⁰ which is unfortunately in scarce supply as individuals and institutions prepare to face the challenges of the coming century. In addition, most law students (and most law professors) have traditionally preferred the well-worn path of least resistance towards a destination bestowed with honors indicating inevitable success.²¹ Unfortunately, the twin tornadoes of generative AI

18. See, e.g., Steven M. Southwick, Lauren Sippel, John Krystal, Dennis Charney, Linda Mayes & Robert H. Pietrzak, *Why Are Some Individuals More Resilient Than Others: The Role of Social Support*, 15 *WORLD PSYCHIATRY* 77, 77–79 (2016) (“Social support from one’s community can also help foster resilience in the individual”).

19. Charity Scott, *Collaborating with the Real World: Opportunities for Developing Skills and Values in Law Teaching*, 9 *IND. HEALTH L. REV.* 409 (2012) (suggesting numerous ways to increase student collaboration in law school curriculums).

20. See generally Laura P. Graham, *Generation Z Goes to Law School: Teaching and Reaching Law Students in the Post-Millennial Generation*, 41 *UNIV. ARK. LITTLE ROCK L. REV.* 29 (2018).

21. See, e.g., Anita Bernstein, *Pitfalls Ahead: A Manifesto for the Training of Lawyers*, 94 *CORNELL L. REV.* 479, 500 (2009) (explaining “law schools teach risk aversion to a population inclined in that direction” and “legal educators . . . ‘train lawyers to be more adept at criticizing ideas than creating them’”) (quoting Paul Brest & Linda Krieger, *On Teaching Professional Judgment*, 69 *WASH. L. REV.* 527, 541 (1994)).

and climate change mean that many well-worn paths of certainty and stability have been taken over by the raging wildfires of societal change. So when law students come to administrators with inevitable complaints about new teaching ways, law schools will need to resist the temptation to offer false reassurances. Instead law school communities can embrace the opportunity to practice what they preach and remind students they are preparing them for the volatility of the future by teaching them to approach inevitable challenges with adaptability and resilience.

Resistance to the idea of embracing a tolerance of uncertainty will likely come from some law professors and traditional administrators as well. Many scholars have commented on the reputation of law schools and law professors as being infamously resistant to change.²² Professors who are comfortable with their current teaching methods, and confident in their ability to replicate past successes in the current environment,²³ have traditionally pushed back against calls for improvement.²⁴

E. Embrace Opportunities to Discuss Ethical Considerations

As technology advancements, environmental crises, and economic shifts reshape the legal landscape, law professors also have an opportunity to help law students consider the ethical implications related to the future practice of law. The American Bar Association is already encouraging law schools to foster discussions about bias and societal challenges,²⁵ and law professors can reinforce overall societal resilience by embracing change as an opportunity to challenge students to consider how cultural change cultivates the growth of tough issues. It is well-documented that many of today's law students will go on to become tomorrow's leaders of society.²⁶ By teaching students that changes are

22. See generally Lauren Carasik, *Renaissance or Retrenchment: Legal Education at a Crossroads*, 44 IND. L. REV. 735 (2011); Patrick H. Gaughan, *Facilitating Meaningful Change Within U.S. Law Schools*, 16 U.N.H. L. REV. 243 (2018).

23. See Carasik, *supra* note 22, at 810.

24. See *id.* at 814 (noting that some professors' "[r]eluctance to support curricular reform may in fact reveal some discomfort with curricular modifications that may make certain faculty members feel a lack of confidence in their ability to take part in new, more modern visions of law teaching") (citing Toni M. Fine, *Reflections on U.S. Law Curricular Reform*, 10 GERMAN L.J. 717, 729–30 (2009)).

25. See, e.g., Jennifer M. Fernandez, *The Time is Now: ABA Standard 303(c) as the Impetus for a Truly Inclusive 1L Classroom*, 73 WASH. U. J.L. & POL'Y 78 (2024).

26. Leah Teague, *Modernizing Legal Education Through Leadership Development Programs: Equipping Lawyers for Success, Significance and Satisfaction Through Service*, 58 WAKE FOREST L. REV. 943, 944 (2023) (explaining that lawyers "disproportionately serve in positions of influence and leadership in all manner of organizations" and advocating that law schools "must teach, train and mentor future lawyers to fulfill these roles.").

not just challenges but instead opportunities, law professors can plant early seeds to help prepare law students to navigate the complexities of the future with resilience, integrity, and compassion.

CONCLUSION

By adopting an approach that encourages students to develop flexibility and resilience in an ever-changing legal landscape, law schools can help their students succeed in an uncertain future. And with a focus towards fostering flexible and resilient legal and local communities in addition to singular self-reliance, law schools can help educate future lawyers and leaders who can help society survive and even thrive in the decades ahead.