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HELP YOU, HELP ME: WHY LAW STUDENTS NEED PEER TEACHING

Lynn C. Herndon*

*Studies have shown that the best way to learn is to have frequent exams on small amounts of material and to receive lots of feedback from the teacher. Consequently, law school does none of this.*¹

James D. Gordon III

I. INTRODUCTION

Think back to your last trip to the local Cineplex. What did you see? Was it a movie claiming to be “based on a true story” or “based on actual events”? Despite a marketing campaign focused on a story’s real-worldliness, you were still whisked away to some fictional universe.² Perhaps the writers took liberties with or embellished the story, as they often do, but you forgave the exaggerations, for the sake of good storytelling. Now, picture any book, television show, or movie you have ever read, seen, or heard of about life as a law student. Maybe only a few come to mind. Whether these works were based on real life or were merely caricature is irrelevant. In all probability, no piece of work attempting to represent the annals of law school could ever hyperbolize any task of the ordinary law student: the LSAT³ scores needed to get into a prestigious law school; the frenetic palpitations of an unprepared student called on to recite and explain the elements needed to form a contract; the sheer volume of information to be memorized and applied adequately to pass one law school final, let alone five. Law school is *that* stressful. And *that* overwhelming. And *that* tedious.

* J.D., May 2010, The University of Missouri – Kansas City School of Law. The author thanks Professor Barbara Glesner-Fines for her guidance, feedback, and encouragement with this Comment; the UMKC Law Review for showing her the true value of peer teaching and collaboration in legal education; and her husband Austin for his love and support.

¹ James D. Gordon III, *How Not to Succeed in Law School*, 100 YALE L.J. 1679, 1692 (1991) (offering a wry, comical perspective on the law school experience).

² For example, the sinking of the mighty Titanic as the backdrop for one of the sappiest love stories in the history of cinema in *TITANIC* (Twentieth Century-Fox 1997); the phoenix-like redemption of a brilliant mathematician who overcame a debilitating diagnosis as a paranoid schizophrenic wrought with visits from some CIA blowhard, to be bestowed with the prestigious Nobel Prize for Economics in *A BEAUTIFUL MIND* (Universal Pictures 2001); or the underdog story of the diminutive, blue-collar, football dreamer, who won the hearts of his teammates, coaches, and at the entire fan base of the University of Notre Dame with his will power, resolve, and “put me back in, coach” attitude in *RUDY* (TriStar Pictures 1993).

³ The Law School Admissions Test is the standardized exam necessary to apply to most U.S. law schools. Professor Gordon teases that the purpose of the exam is to “measure[] how well you can use a number 2 pencil to fill in the little circles on the computer sheet.” Gordon, *supra* note 1, at 1680.

Scholars have identified a number of reasons for students' negative perceptions of the law school experience.⁴ These perceptions include "the overwhelming workload, intimidating classroom dynamics, excessive competition, astronomical debt, personal isolation, lack of feedback, and the nearly exclusive emphasis on linear, logical, doctrinal analysis."⁵ Students learning under these conditions exhibit a number of alarming behaviors displaying signs of stress. For example, students experience increased psychological distress, have problems with substance abuse, and experience plummeting self-confidence.⁶ Students lose enthusiasm for public interest work and desire to learn the law, in part perhaps, due to the stressful demands of law school.⁷ The changing, pejorative attitudes of law students are especially pronounced in women and students of color.⁸

Some members of the legal education community continue to support this stressful system, although their reasons for resistance to reducing law school stress are not always clear. One justification is that the rigors of law school are in place to teach the student to "think[] like a lawyer."⁹ Yet critics argue that the process does more than simply improve analytical skills, but also requires students to shed their individual ideals and commitments in order to acquiesce in a process of "identity homogenization,"¹⁰ adopt a "zero-sum competitive approach,"¹¹ and detach from any sense of self that existed prior to entering law school.¹² Another explanation wholly dodges the issue, suggesting law school draws in a certain type of student already predisposed to stress.¹³ One more rationalization is the stress associated with legal education has always been present¹⁴—essentially, the proverbial "deal with it" attitude. Regardless of the reason, the question remains whether continuing to tolerate this type of learning environment is effectual.

Traditionally speaking, legal education is often criticized—by those inside and outside of the institution—for not embracing the type of pedagogies helpful for learning or for participating as a member of the legal profession.¹⁵ One of

⁴ Gerald F. Hess, *Heads and Hearts: The Teaching and Learning Environment in Law School*, 52 J. LEGAL EDUC. 75, 75-76 (2002).

⁵ *Id.*

⁶ *Id.* at 75.

⁷ *Id.*

⁸ *Id.* at 77; see also *infra* note 38 (noting legal education challenges impact the changing demographics of law students).

⁹ Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112, 117 (2002).

¹⁰ Note, *Making Docile Lawyers: An Essay on the Pacification of Law Students*, 111 HARV. L. REV. 2027, 2032 (1998) [hereinafter *Making Docile Lawyers*].

¹¹ Krieger, *supra* note 9, at 117.

¹² *Making Docile Lawyers*, *supra* note 10, at 2032.

¹³ Krieger, *supra* note 9, at 115 (indicating that such an assumption carries no weight).

¹⁴ *Id.*

¹⁵ See generally Clifford S. Zimmerman, "Thinking Beyond My Own Interpretation:" *Reflections on Collaborative and Cooperative Learning Theory in the Law School Curriculum*, 31 ARIZ. ST. L.J. 957, 971 (1999) ("The root of institutional concern lies in four notions embedded in traditional

these pedagogies is peer teaching and learning.¹⁶ Even the groundbreaking MacCrate report¹⁷ in 1992, which criticized legal education for focusing too heavily on doctrine and not incorporating professional skills and values, hardly mentioned a goal addressing students' abilities to cooperate, collaborate, or develop group skills.¹⁸ To say these skills are not only necessary for the success of any law student, but also constitute an important foundation for the profession, is an understatement.¹⁹ These abilities, once established, can alleviate some of the psychological pressure law students inevitably face in their studies. While extensive scholarship exists among legal academic circles to thwart this "dehumanization" of law school,²⁰ it is unclear whether legal educators have altered their teaching habits away from the same, traditional pedagogies.²¹

legal education: competitiveness, teacher control, authorship/individualism, and individualized grading.").

¹⁶ See BARBARA GLESNER FINES, UMKC PEER TEACHING MANUAL, PEER TEACHING: ROLES, RELATIONSHIPS & RESPONSIBILITIES (2008), <http://www.law.umkc.edu/faculty/profiles/glesnerfines/bgf-ed1.htm#pt2> [hereinafter GLESNER FINES, MANUAL] (defining peer teaching by both the "relationship between teacher and student" and the "method of teaching." "Generally, one thinks of a peer as one who is equal in rank or experience. Thus, a pure peer teaching model would have first year law students teaching first years and upper-class students enrolled in the same course teaching each other the material. This model is common among law students in their informal study groups or study partnerships. . . . Rather than viewing the relationship as one in which knowledge is given from teacher to student, the peer learner is more likely to see the process of working with a peer teacher as a cooperative process in which both participants are actively learning.").

¹⁷ ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM: REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992) (more commonly known as the "MacCrate Report"), available at <http://www.abanet.org/legaled/publications/onlinepubs/maccrate.html>.

¹⁸ Zimmerman, *supra* note 15, at 963.

¹⁹ Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34, 34-35 (1992) (juxtaposing the increased reliance on "pure theory" in the classroom, and the movement toward "pure commerce" in the law office, and expressing concern about who is addressing the important middle ground—legal ethics).

²⁰ See, e.g., Symposium, *Humanizing Legal Education*, 47 WASHBURN L.J. 235 (2008) (including articles and essays by Lawrence S. Krieger, Barbara Glesner Fines, and Gerald F. Hess, among others).

²¹ See Steven I. Friedland, *How We Teach: A Survey of Teaching Techniques in American Law Schools*, 20 SEATTLE U. L. REV. 1, 28-30 (1996) (sharing results of a nationwide survey of law professors which showed that ninety-seven percent of those responding utilized the Socratic method in first-year classes in some form, compared with the use of pure lecture, which was used by thirty-one percent of respondents in first-year courses "at least some of the time," and compared with use of small group interaction, which only seventeen percent of professors reported using in first-year classes. Use of small group learning in upper-level classes was much more pronounced at sixty-two percent.). Friedland acknowledged that while the disparity was great, it was "encouraging that [small group learning] would be used at all in a 'traditional' large class of any kind. Even in large classes, small groups can be an effective means of encouraging student involvement, interaction and conceptual analysis." *Id.* at 30.

The goal of teaching law students to be self-educators, but focused only on the students as independent learners, misses an important lesson in legal education. Students and lawyers self-educate by teaching one another. The self-educator and the group learner are not mutually exclusive. In order to become self-educators, law students should have an understanding of the best learning methods. Using collaborative methods is integral to this process.

Law schools, however, only rarely use cooperative or collaborative²² learning methods in the classroom, because law faculties are reluctant or unprepared to adopt these methods.²³ Most faculty model their teaching on that which they found most effective when they were law students.²⁴ It may be true that law faculty were, as students, less likely to work in collaborative groups. Thus, they may continue to undervalue collaborative learning in their classes. Certainly, the relative scarcity of co-authored scholarship and team-taught courses suggests that law professors are inclined to prefer to work alone. Moreover, even if inclined to adopt more collaborative learning methods, a professor may feel entirely unprepared to make this change. Law professors are lawyers by education, not educators. Law schools habitually hire faculty with little or no experience in teaching,²⁵ propounding the concern that alternative methodologies for effectively teaching students the law are less important than being an expert in a particular area of law. However, giving teachers insight into how students feel about learning methods that work for them could change the course of this critique.

The debilitating effect of stress on lawyers²⁶ and law students warrants exploring how law schools are educating students, and how students are educating themselves. As one concerned author wrote, "if law schools promote an environment in which alternative perspectives and approaches to learning are not supported, they may be denying the legal profession and its clients the advantages of creative tension, of solving problems by synthesizing information from diverse sources."²⁷ Encouragingly, studies by the Carnegie Foundation²⁸

²² Defined *infra* Part IV.C-D.

²³ See *infra* notes 174-78 and accompanying text.

²⁴ See William R. Trail & William D. Underwood, *The Decline of Professional Legal Training and a Proposal for Its Revitalization in Professional Law Schools*, 48 BAYLOR L. REV. 201, 211 (1996) (portraying the typical professor as someone without much professional experience, who graduated at the top of his class, worked in a judicial clerkship for a federal judge, and garnered little practical experience in a large law firm).

²⁵ Gregory W. Bowman, *The Comparative and Absolute Advantages of Junior Law Faculty: Implications for Teaching and the Future of American Law Schools*, 2008 BYU EDUC. & L.J. 171, 177 (2008).

²⁶ See Hess, *supra* note 4, at 79 (citing alarming statistics of dissatisfaction among lawyers, illustrated by higher levels of depression (nineteen percent) and substance abuse (fifteen to eighteen percent) than those of other professions).

²⁷ LANI GUINIER ET AL., BECOMING GENTLEMEN: WOMEN'S EXPERIENCES AT ONE IVY LEAGUE LAW SCHOOL 16-17 (1997).

²⁸ WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007).

and the Clinical Legal Education Association²⁹ have proposed approaches to improve the law school experience to more practically prepare students for the legal profession.³⁰

Despite law schools encouraging students to be “self-educators,” law school faculty should not discount the importance of peer-to-peer teaching, its prevalence in law school already, its positive effect on the law student, and its potential to prevent the “dehumanization” of law school. Part II of this Comment will briefly review the traditions of the law school experience and how a failure to adapt to the changing faces of students may be adversely affecting the experience and the education. Part III will define peer-teaching techniques and explain how they benefit student learning. Part IV will discuss various collaborative pedagogies under the peer-teaching umbrella. Part V will summarize the results of a student study inquiring into the use of peer-teaching techniques by current law students.

II. THE TRADITIONS OF LAW SCHOOL

The conventional law school education has come to epitomize an archetypal student, once filled with inspiration and drive to make the world a better place, but who throughout law school becomes fixated on competition, winning, and money, now inattentive to the reasons he or she entered school in the first place. So, what causes this severe change in direction? Perhaps the three most dreaded components of law school that contribute to this discontent are the professors’ insistence on using the Socratic method of instruction; class standing, or the graded curve;³¹ and the “teacher-centered” classroom.³²

²⁹ ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (2007), *available at* http://cleaweb.org/documents/Best_Practices_For_Legal_Education_7_x_10_pg_10_pt.pdf.

³⁰ *See id.* at 28 (“It is not clear to what extent law schools have contributed to the public’s loss of trust in lawyers, but we should be trying to be part of the cure by educating students about the traditions and values of the legal profession, by serving as role models, and by striving to infuse in every student a commitment to professionalism.”); SULLIVAN ET AL., *supra* note 28, at 170 (proposing “Criterion-Reference Assessment,” where students are graded on “numerical scale of quality, above which students receive one grade and below which they receive another. So, for example, a 100-point scale might award A’s to any student who obtains a score of 94 or above, B’s to anyone who scores between 86 and 93, inclusive, and so on. . . . [G]rades should reflect students’ absolute level of accomplishment . . . superior performance in legal argument and analysis by an individual student can and should be judged on the inherent quality of what is produced, not on the basis of what other students have produced.”).

³¹ *See* Gordon, *supra* note 1, at 1685-86 (joking that the Socratic method is something in which a professor has a black belt, dismantling students for “sheer sport,” and the grade curve “is what saves law school from being a boring, cooperative learning experience and makes it the dynamic, exciting, survival-of-the-fittest, cutthroat, competitive, grueling treadmill of unsurpassed joy that it is.”).

³² *See* Zimmerman, *supra* note 15, at 976.

A. The Socratic Method

The Socratic method, or case method, describes a teaching technique where the professor asks a student a question regarding a previously assigned case, and responds to the student's answers with more inquiries.³³ Each question builds on the last, ideally until the student can articulate the relevant points of the case without actually having the professor validate any of the student's responses.³⁴ Essentially, this strategy leads the student to his own answer.³⁵ The goal of the Socratic method is to challenge and sharpen students' legal analysis, force them to prepare for class, engage them in skillful oral dialogue, and, ultimately, to train them for the legal profession.³⁶

Critics, however, view the technique as archaic, evocative of an era when a law school's student body was exceptionally homogenous.³⁷ Indeed, the method is perceived as ineffective at educating a rapidly growing and diverse law student contingent, especially minority and female students.³⁸ The method is believed to be responsible, moreover, for fostering an environment wrought with alienation and inducing a lacking confidence—particularly for those students unfortunate enough to be the victim of the professor's "perceived bullying."³⁹ The continued criticism of the approach over the years has lead many professors to dilute the frequency and severity of its use, although a large percentage of professors still use it in first-year and upper-level courses.⁴⁰ Very few, however, still use the method in its purest form.⁴¹ Even so, the practice is forever a feared feature of law school.

Regardless of its value in accomplishing its learning objectives, the Socratic method involves almost no collaboration. While the professor may perceive his or her dialogue with the student as a collaboration of sorts, the students rarely feel that the professor is approaching the exercise in the spirit of cooperation.

³³ See BLACK'S LAW DICTIONARY 1425 (8th ed. 2004).

³⁴ See *id.*

³⁵ Tanisha Makeba Bailey, *The Master's Tools: Deconstructing the Socratic Method and Its Disparate Impact on Women Through the Prism of the Equal Protection Doctrine*, 3 MARGINS: MD. L.J. RACE, RELIGION, GENDER, & CLASS 125, 129-30 (2003).

³⁶ Benjamin V. Madison, III, *The Elephant in Law School Classrooms: Overuse of the Socratic Method as an Obstacle to Teaching Modern Law Students*, 85 U. DET. MERCY L. REV. 293, 304 (2008) (preparing students for the post-graduate "trial by fire" interaction with the judge).

³⁷ *Id.* at 299-300 (describing the method as exclusive, only engaging the "elite" law student).

³⁸ *Id.* at 301 ("Evidence suggests that the large-class Socratic format discourages participation of many students, particularly women and minorities."); see also GUINIER ET AL., *supra* note 27, at 12, 14 (contrasting women's and men's respective behaviors in asking questions in class—men are more likely to do so out of a sense of entitlement; women wait for safety cues that the professor is open to answering questions); Bailey, *supra* note 35 (analogizing the unfairness of the method's use as a violation of Equal Protection against women).

³⁹ Patricia Mell, *Taking Socrates' Pulse: Does the Socratic Method Have Continuing Vitality in 2002?*, MICH. B.J., May 2002, at 46, 46.

⁴⁰ *Id.* at 46-47 (citing a survey where only thirty percent of professors teaching first-year courses utilize the method; ninety-four percent use it in upper-level courses "some of the time").

⁴¹ *Id.*

Moreover, the dialogue is between teacher and student and rarely involves peer collaboration. Rather, in the most competitive classrooms, the students who are not being called on to respond to Socratic questioning are likely more relieved than desiring the opportunity to join in the dialogue. If they do seek to join in, it is to “best” their colleague rather than to help.

B. Class Standing

Grades, as many argue, serve several purposes.⁴² Administratively, grades facilitate efficient record keeping.⁴³ They advise various third parties of a student’s achievement.⁴⁴ Motivationally speaking, grades provide feedback, both positive and negative.⁴⁵ Lastly, they serve as a diagnostic function to identify a student’s strengths and weaknesses.⁴⁶ For law students, end-of-semester testing and grading accomplish these purposes.⁴⁷ Especially for first-year law students, these grades provide the only indication of performance, as the majority of law schools use a single, essay-based exam to determine the students’ comprehension of material learned over an entire semester.⁴⁸

The distribution of class rank that follows the determination of grades has many uses and criticisms. The clearest benefit justifying the use is its value to employers.⁴⁹ Other reasons include weeding out underperforming students, or stimulating competition, thereby motivating students to improve their performance.⁵⁰ Helpful to employers, class rank arguably dictates the direction of legal careers. It influences whether a student will be invited to participate in law review or other scholarly journals.⁵¹ Class rank defines opportunities for scholarships or financial aid.⁵² Indeed, students’ class rank and grades follow them their entire professional career, or at least define their marketability.⁵³

But use of class standing also has detractors. Chief among the displeasure is the basis of class standings: the accumulation of grades based on courses where only one essay exam is administered to test a student’s ability to issue-spot, identify legal authorities, and apply such authorities to complicated

⁴² Douglas A. Henderson, *Uncivil Procedure: Ranking Law Students Among Their Peers*, 27 U. MICH. J.L. REF. 399, 402 (1994).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.* at 403. But see Barbara Glesner Fines, *Competition and the Curve*, 65 UMKC L. REV. 879 (1997) [hereinafter Glesner Fines, *Competition*] (arguing that none of the aforementioned purposes for the grade curve are accomplished by end-of-year summative grades).

⁴⁸ What Professor Gordon irreverently refers to as the “FINAL EXAM OF THE LIVING DEAD.” Gordon, *supra* note 1, at 1692.

⁴⁹ Henderson, *supra* note 42, at 404.

⁵⁰ *Id.* at 405.

⁵¹ *Id.* at 405-06.

⁵² See *id.* at 406.

⁵³ *Id.*

hypotheticals.⁵⁴ Critics argue this testing method does not test a “full range of legal skills,” nor does it allow for consistent, reliable grading results.⁵⁵ Furthermore, because many faculties administer exams only at semester’s end, and thereafter grade anonymously, students are not likely to seek feedback, especially if they received a poor grade.⁵⁶ Most dangerous of all, the effect of the forced curve elevates psychological stress levels,⁵⁷ which in turn instigates reduced interaction and detachment from law school altogether.⁵⁸ For these reasons, class standing is an undesirable tradition of the law school experience. In terms of peer learning, this competitive environment undermines motivations for collaborations among students. In fact, in some classes, student collaboration is considered cheating.⁵⁹

C. Teacher-Centered Classroom

A presumption exists that education flows in one direction in law school – from the teacher to the student.⁶⁰ Some admonish this “banking model,” where professors “teach[] by the book,” because of the rigid control it bestows on teachers to determine what is in the students’ best interests.⁶¹ A teacher’s authority to structure the learning material presented, to grant rewards and inflict punishment, generates acceptance that students are not trusted in this scenario. They are presumed unqualified to contribute anything innovative to the learning

⁵⁴ *Id.* at 407 (citing Philip C. Kissam, *Law School Examinations*, 42 VAND. L. REV. 433, 440-41 (1989)).

⁵⁵ *Id.* at 408, 410 (noting an experiment at the University of Wisconsin Law School, where two professors each graded a final exam, where students who were bestowed with the highest grades by one, received the lowest grades from another).

⁵⁶ *Id.* at 413; see also Ted Becker & Rachel Croserky Roberts, *Avoiding Common Problems in Using Teaching Assistants: Hard Lessons Learned from Peer Teaching Theory and Experience*, 13 LEGAL WRITING: J. LEGAL WRITING INST. 269, 309 (2007) (elaborating that students are also dissuaded from seeking advice from other students, because it conveys a message that the student is not cut out for law school).

⁵⁷ See ALAN WATSON, *THE SHAME OF AMERICAN LEGAL EDUCATION*, at xii (2006) (“The curve, however, was the least of my worries. Discovering that each student is graded against one another was the biggest shock.”).

⁵⁸ Glesner Fines, *Competition*, *supra* note 47, at 900-01 (noting that “[e]ven for the student who is ordinarily intrinsically motivated in learning, ‘evaluative competitive conditions have been found to diminish intrinsic interest.’” (quoting JOHN G. NICHOLLS, *THE COMPETITIVE ETHOS AND DEMOCRATIC EDUCATION* 92 (1989))).

⁵⁹ *Id.* at 896 (“[C]ompetitive’ has become a synonym for ‘high quality’ in our description of educational institutions. As with American education generally, competitive learning is the norm within most law schools. So ingrained into our education system is the norm of competitive learning, that ‘most teachers misunderstand the very word *cooperation*; they use it to refer to obedience We have another word for genuine cooperative effort: it is *cheating*.” (quoting ALFIE KOHN, *NO CONTEST: THE CASE AGAINST COMPETITION* 26-27 (1992))).

⁶⁰ Zimmerman, *supra* note 15, at 976.

⁶¹ *Id.*

process.⁶² Critics argue, however, that this structure, used in most law school classrooms, results in “extremely limited types of learning.”⁶³ This occurs because faculty force students, with various learning styles and preferences, to tailor their learning experience to the way the teacher wishes to teach, failing to take into account the diverse ways students learn.⁶⁴ Ideally and more practically, students and teachers are learning in the classroom, making the education highway a two-way street.⁶⁵ However, modifying the traditional teaching model in the law school classroom is difficult because of the highly competitive nature of the environment and pressure put upon students.⁶⁶

Whose job is it to alleviate this pressure, ultimately? Many believe the faculty and law school itself should address the psychological rigors of law school.⁶⁷ Campaigning against the “dehumanization”⁶⁸ of law school, these advocates encourage faculty members to question whether the current requirements result in working students too hard.⁶⁹ While putting the onus on the student to exercise healthy habits in pursuing her legal education is easy, perhaps law schools and faculties can help form paths and gently push their students to succeed in ways that still allow for comprehending important legal theory, but also prepare them for life in the real world. The following parts define and characterize some alternative methods that may provide a possible solution.

⁶² *Id.* at 977.

⁶³ Carole J. Buckner, *Realizing Grutter v. Bollinger's "Compelling Educational Benefits of Diversity"—Transforming Aspirational Rhetoric into Experience*, 72 UMKC L. REV. 877, 941-42 (2004).

⁶⁴ Jason M. Dolin, *Opportunity Lost: How Law School Disappoints Law Students, the Public, and the Legal Profession*, 44 CAL. W. L. REV. 219, 223 n.13 (2007).

⁶⁵ See Zimmerman, *supra* note 15, at 978. For alternative “centered” classrooms, see 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, 393-94 (2007) (comparing learner-centered, knowledge-centered, and assessment-centered education).

⁶⁶ See Sonsteng et al., *supra* note 65, at 394 (students in typical teacher-centered classrooms are afraid to ask questions for fear of getting a wrong answer and being perceived as unknowledgeable).

⁶⁷ Glesner Fines, *Competition*, *supra* note 47, at 910; see also Krieger, *supra* note 9, at 129 (“Beyond working with our students, [professors] need to begin focused, honest dialog among ourselves”).

⁶⁸ See Rebecca Flanagan, *Lucifer Goes to Law School: Towards Explaining and Minimalizing Law Student Peer-to-Peer Harassment and Intimidation*, 47 WASHBURN L.J. 453, 460 (2008). Professor Flanagan characterizes a law school setting ripe with “ten-hour days, often spent in the company of a limited number of peers . . . [where b]ecause of the intense competition for grades and subsequent summer clerkships, students become distrustful of their peers.” *Id.* She rejects the notion that this method provides useful professional preparedness. See *id.*

⁶⁹ Krieger, *supra* note 9, at 124.

III. PEER TEACHING

Peer teaching is a learning and teaching technique that focuses on learning through interaction with one's equals.⁷⁰ Simply put, peer teaching, or peer assisted learning, involves "learners assisting other learners"⁷¹ or one student teaching another.⁷² The use of peer teaching originates from the theory that students are eagerly available—if infrequently used—instructional resources in their own right.⁷³ While the term is typically applied to situations in which higher-achieving learners assist lower-achieving learners, this is not necessarily the only form of the technique.⁷⁴

Though much of the research on peer teaching in law school centers on the benefits provided using teaching assistants ("TAs") in a law school's first-year legal writing program, the benefits of peer teaching are myriad beyond this one setting.⁷⁵ One-on-one interaction and the peer teacher's imperfect mastery create an opportunity for both teacher and learner to trek through material together. This situation is distinguished from normal professor-student interaction, where the professor's knowledge is so advanced that his or her modeling of the thought process may skip a few important steps.⁷⁶ In peer teaching, opportunities exist to respond, make errors, make corrections to those errors, and better apply the rules learned to new situations.⁷⁷ Peer teachers better learn the material, because they are required to prepare, organize, and present information to someone other than themselves.⁷⁸ This review process creates new insights and a deeper understanding of the material.⁷⁹ With these learning advantages also come increased mental engagement—a passive learner becomes an active learner.⁸⁰ As such, that peer teaching benefits the student cognitively is also evident.

⁷⁰ See GLESNER FINES, MANUAL, *supra* note 16.

⁷¹ Toni Beardon, *Peer Assisted Learning and Raising Standards*, in STUDENTS AS TUTORS AND MENTORS 104 (Sinclair Goodlad ed., 1995) (also called peer tutoring, student tutoring, or mentoring).

⁷² Scott G. McNall, *Peer Teaching: A Description and Evaluation*, 2 TEACHING SOC. 133, 134 (1975).

⁷³ MARY MCNEIL PIERCE, KRISTINA STAHLBRAND & SUZANNE BRYANT ARMSTRONG, INCREASING STUDENT PRODUCTIVITY THROUGH PEER TUTORING PROGRAMS, at vi (1984).

⁷⁴ *Id.* at 6 ("there is virtually no correlation between the tutor's intellectual credentials and his effectiveness of tutoring"); K.J. Topping, *The Effectiveness of Peer Tutoring in Further and Higher Education: A Typology and Review of the Literature*, 32 HIGHER EDUC. 321, 322 (1996) (noting that a workable definition of "peer teaching" has become somewhat bland as its focus is not always on the learner, but on the teacher too).

⁷⁵ See Becker & Roberts, *supra* note 56 (analyzing effective means of utilizing TAs in the legal writing program); Julie Cheslik, *Teaching Assistants: A Study of Their Use in Law School Research and Writing Programs*, 44 J. LEGAL EDUC. 394, 395-400 (1994).

⁷⁶ Becker & Roberts, *supra* note 56, at 277.

⁷⁷ Topping, *supra* note 74, at 325.

⁷⁸ Becker & Roberts, *supra* note 56, at 277.

⁷⁹ *Id.*

⁸⁰ *Id.* at 277-78.

Peer teaching also has affective advantages.⁸¹ Because of their role as guides to those students desiring peer instruction, peer teachers build confidence and learn how to empathize with others.⁸² The potential for social isolation may be reduced while “individualistic competition” among students diminishes.⁸³ Peer teaching requires active learning at its core.⁸⁴ Though disadvantages generally exist to peer-teaching concepts as well,⁸⁵ in the law school setting, peer-teaching methods are a powerful learning choice not to be overlooked.

A. “[L]earning is a social phenomenon”⁸⁶: Study Groups or Student Learning Groups as a Method of Peer Teaching

An informal subgroup of active learning and peer teaching exists in self-directed study groups. A typical informal study group includes five or less students sharing course outlines and jointly preparing for exams.⁸⁷ This unique learning model focuses on “how students learn from each other and from learning experiences in which they have an active part and assume responsibility for their learning.”⁸⁸ This setting may be particularly helpful for those who learn best orally or aurally.⁸⁹

Several studies demonstrate that achievement levels can be strong for students who participate in these groups.⁹⁰ Besides the practical benefits of learning from one another, the groups provide a forum for sharing fears, developing coping techniques, and gaining confidence in speaking to others.⁹¹ Of course, inhibiting factors can diminish a group’s potential. Some factors, like

⁸¹ *Id.* at 278.

⁸² *Id.*; Topping, *supra* note 74, at 325.

⁸³ Topping, *supra* note 74, at 325; see Cathaleen A. Roach, *A River Runs Through It: Tapping into the Informational Stream to Move Students from Isolation to Autonomy*, 36 ARIZ. L. REV. 667, 669-70 (1994) (theorizing that by diluting the importance of “grades, prestigious appointments and future job opportunities,” new instructional methods can “move [students] from isolation to empowerment and autonomy”).

⁸⁴ See Barbara Goldschmid & Marcel L. Goldschmid, *Peer Teaching in Higher Education: A Review*, 5 HIGHER EDUC. 9, 12 (1976).

⁸⁵ See Topping, *supra* note 74, at 325-26.

⁸⁶ Dorothy H. Evensen, *To Group or Not to Group: Students' Perceptions of Collaborative Learning Activities in Law School*, 28 S. ILL. U. L.J. 343, 354 (2004).

⁸⁷ Morrison Torrey, Jennifer Ries & Elaine Spiliopoulos, *What Every First-Year Female Law Student Should Know*, 7 COLUM. J. GENDER & L. 267, 301 (1998).

⁸⁸ See Goldschmid & Goldschmid, *supra* note 84, at 18.

⁸⁹ See Danielle C. Istl, *The Law School Experience: Staying Grounded and Enjoying the Journey*, 80 U. DET. MERCY L. REV. 485, 489 (2003).

⁹⁰ See Goldschmid & Goldschmid, *supra* note 84, at 18 (citing to studies done by L.R. Beach, which showed that students partaking in independent study group performed well on their exams. The gregarious students succeeded more than the withdrawn students. In a study where one experimental study group only met as a group and never went to lecture, and a control group attended regular lecture, the experimental group finished more coursework, both assigned and unassigned, and referenced more materials for writing assignments for the course.).

⁹¹ Torrey et al., *supra* note 87, at 301.

lack of confidence in one's grasp of the material or the ability to transfer that knowledge to others successfully, are affective ones.⁹² Other groups may suffer from mere logistical or organizational problems associated with informal study groups.⁹³ To combat this, the following steps provide a framework for a successful study group: (1) orientation phase, when participants share information and distribute assignments; (2) stimulus phase, which includes a review of the material preceding the presentation of a problem to solve; (3) response phase, when group members evaluate the problem; (4) confirmation phase, where the preferred (teacher's) solution is shared; (5) validation phase, where weaknesses are referred to the instructor; and (6) review phase, with the teacher present.⁹⁴ Imperative to this type of learning experience is the individual preview and review of the information discussed.⁹⁵

B. The Problem with Study Groups and Law School

Many reasons exist why study groups are either unsuccessful or uncommon in law school. Some reasons demonstrate the personal preferences of students who simply find the groups exhausting; others are due to the constraints of the legal education environment. In regards to students' individual perceptions, disadvantages of study groups range: some students dislike these groups because they sense that they always work harder in the groups than others.⁹⁶ Others fear their peers will judge them for not knowing the correct answers.⁹⁷ Still others simply prefer to work alone, whether out of convenience⁹⁸ or because they believe study groups have no impact one way or another on academic performance.⁹⁹ Some students purely prefer to process information independently.

Study groups may not frequent the hallways of law schools because of the structure of the institution itself. For example, despite the benefits of active peer-to-peer teaching and study groups, ultimately, students are graded based on

⁹² See Goldschmid & Goldschmid, *supra* note 84, at 18. In their finer form, study groups provide an emotional backbone for students too. See Rena Durrant, Comment, *Developments in the Law: Electronic Discovery. VII. Spoliation of Discoverable Electronic Evidence*, 38 LOY. L.A. L. REV. 1803, 1803 n.* (2005) ("Special thanks to my law school study group—the brightest group of women I know—for their support and laughter when I needed it most.").

⁹³ For example, never finding a time to meet that fits in everyone's schedules, suffering through who will be the "leader," or what other various roles group members will maintain, not to mention making sure everyone is on task and contributing equally to the task.

⁹⁴ Goldschmid & Goldschmid, *supra* note 84, at 19 (describing A.I. Berman's research).

⁹⁵ *Id.*

⁹⁶ Evensen, *supra* note 86, at 378.

⁹⁷ *Id.* at 383 (reflecting on the popular vernacular given to those whose loyalty is questioned: "slackers," "showcasers," "gunners," or even "cheaters").

⁹⁸ *Id.* at 385 (quoting a student from a focus group, "I'd rather fumble and find my own way of doing it.").

⁹⁹ *Id.* at 386 (quoting another student from a separate focus group, "I got the highest grade in the class, so I don't think you have to do study groups to do well in law school.").

individual merit only, thereby dissuading collaboration among students.¹⁰⁰ The incentive to engage in collaborative work is simply nonexistent.¹⁰¹ This goes back to the “culture of competition” precluding any benefit to study group work.¹⁰² More subconsciously, with sprawling libraries, various study nooks and crannies, and student offices, law school isolates students from each other.¹⁰³ Without encouragement from professors or from the law school institution itself, empowering students to work together in learning can be challenging.

When used effectively, study groups not only aid with understanding law school coursework, they also serve as a view to a real lawyer problem-solver. Lawyers do not work in a vacuum once outside the law school walls; they ask questions of each other, run interesting arguments by their peers for feedback, draft portions of briefs in groups, and prepare for trials in teams. For one lawyer to have the capability to handle all aspects of a legal issue on his or her own is rare.¹⁰⁴ For these reasons, encouraging a discussion about the goals and benefits of peer teaching during law school, prior to entering the workforce, not only helps in understanding learning, but also prepares law students for what lies ahead.

IV. MODERN ALTERNATIVES INCORPORATING PEER TEACHING AT THEIR CORE

As stated previously, “learning is a social phenomenon.”¹⁰⁵ However, learning in law school can feel like a regular exercise in isolation. This does not need to be so. The use—or lack thereof—of other learning pedagogies in the classroom is not at all surprising, given the normal traditions of self-educating in law school.¹⁰⁶ However, if professors find no qualm with letting students work outside the classroom, using structured means to duplicate the energy in out-of-classroom study groups may reduce the stress so many students experience.¹⁰⁷ This section dissects various learning methods that require collaborative efforts among students in order for learning to be successful. The success of these techniques illustrates how crucial the social component of learning is, and why use of peer teaching in law school will aid law students.

¹⁰⁰ Mark V. Tushnet, *Evaluating Students as Preparation for the Practice of Law*, 8 GEO. J. LEGAL ETHICS 313, 314 (1995).

¹⁰¹ *Id.*

¹⁰² Evensen, *supra* note 86, at 385.

¹⁰³ *Id.* at 382 (“[T]here’s a hesitancy to get really too close, give too much away, or to share too much.”).

¹⁰⁴ BARBARA GLESNER FINES, *After Class Review*, in LAW SCHOOL—MATERIALS FOR SUCCESS (2000), <http://www.law.umkc.edu/faculty/profiles/glesnerfines/success4.html>.

¹⁰⁵ Evensen, *supra* note 86, at 354.

¹⁰⁶ Zimmerman, *supra* note 15, at 965 (citing Peggy Cooper Davis & Elizabeth Ehrenfest Steinglass, *A Dialogue About Socratic Teaching*, 23 N.Y.U. REV. L. & SOC. CHANGE 249, 250 (1997)).

¹⁰⁷ *Id.* at 960.

A. Humanizing Legal Education: “Begin thus by making a more careful study of your pupils, for it is clear that you know nothing about them.”¹⁰⁸

To combat the less-than-appealing attributes of legal education, many educators have advanced a novel approach to facilitating a more positive law school experience. This professorial movement is referred to as the “Humanization of Law School.” Though many definitions of the phrase exist,¹⁰⁹ the theme is clear: “law schools need to identify negative stressors in the law school environment, reduce or eliminate those as much as possible, and help the students to manage those that cannot be eliminated.”¹¹⁰ Those driving this movement want to develop students to function as competent, law-abiding legal professionals, insisting on an education not merely based on doctrine and analysis, but on being confident, thoughtful professionals.¹¹¹ The movement asserts that students need not be intimidated in order to feel invested in their education.¹¹²

Trailblazers of the humanizing group offer numerous suggestions toward shifting legal education to a more positive environment. Something as straightforward as explaining to new students at the outset what to expect during their first year provides comfort, diminishes confusion, and eases anxiety among students.¹¹³ Building on that, faculty can suggest ways to mitigate this anxiety: praise students for their obvious maturity in attending law school, persuade them to maintain “who they are” while beginning the rigors of the curriculum, and

¹⁰⁸ Barbara Glesner Fines, *Fundamental Principles and Challenges of Humanizing Legal Education*, 47 WASHBURN L.J. 313, 319 (2008) [hereinafter Glesner Fines, *Humanizing Legal Education*] (quoting Jean Jacques Rousseau, *EMILE, OR ON EDUCATION* (Grace Roosevelt trans.) (1762), available at <http://www.ilt.columbia.edu/pedagogies/rousseau/index.html> (last visited Jan. 25, 2010)).

¹⁰⁹ For definitions discussed in a recent Washburn Law Journal symposium, see *id.* at 314 (defining the movement by breaking down “humanize” to mean “having or showing compassion or benevolence”); Lawrence S. Krieger, *Human Nature as a New Guiding Philosophy for Legal Education and the Profession*, 47 WASHBURN L.J. 247, 260 (2008) [hereinafter Krieger, *Human Nature*] (defining the movement as promoting experiences that allow a person to function optimally, like regular occurrences of competence and relatedness to others, intrinsic values that dominate over extrinsic ones, continuous personal growth, a sense of morality, and a general feeling that life is good); see also Susan Grover, *Personal Integration and Outside Status as Factors in Law Student Well-Being*, 47 WASHBURN L.J. 419, 421-22 (2008) (explaining the dehumanizing issue as one where the student “relinquishes” various aspects of himself, like personal ethics, work ethic, perspective, and spirituality). This is what the movement to humanize legal education attempts to improve.

¹¹⁰ Glesner Fines, *Humanizing Legal Education*, *supra* note 108, at 314.

¹¹¹ Michael Hunter Schwartz, *Humanizing Legal Education: An Introduction to a Symposium Whose Time Came*, 47 WASHBURN L.J. 235, 239-40 (2008) (summarizing Professor Glesner Fines’ view on humanizing law school).

¹¹² Lisa T. McElroy, *From Grimm to Glory: Simulated Oral Argument as a Component of Legal Education’s Signature Pedagogy*, 84 IND. L.J. 589, 599 (2009) (encouraging use of simulated oral argument exercises to engage students in learning).

¹¹³ Krieger, *Human Nature*, *supra* note 109, at 287.

rationalize for students the importance of their newfangled legal skills, but also their limited relevance in life's grand scheme.¹¹⁴

This praise is followed by helping students not "lose themselves" once in the system. For example, schools can train faculty members on the differences in learning styles for specific cultures, and to embrace, rather than constrict, diversity.¹¹⁵ Faculty can make themselves more available to student questions by encouraging e-mail contact.¹¹⁶ More progressive goals may be combining clinical aspects and analytical aspects of school in the first year or limiting class curriculum in the first year to accommodate a better work-life balance.¹¹⁷ The recipe of "[a]dd humanizing and stir" is neither a quick fix nor a superficial one.¹¹⁸ This is especially so when old axioms of competition and control pervade.¹¹⁹

Not to be discounted are students' abilities to humanize legal education themselves. A law school culture that embraces peer teaching and learning through social interaction among students also serves to reduce the negative, competitive spirit that saturates law school. Peer teaching could also function as a "destressor" for anxious students. In the end, humanizing legal education focuses on reaching out to students, instead of isolating them. Perhaps law students, if given a push in the right direction, can humanize legal education on their own.

B. Self-Regulated Learning: Forethought, Performance *and* Reflection¹²⁰

Learning is a task one accomplishes both actively and passively. Depth of knowledge increases, though, when active learning occurs. The theory of self-regulated learning promotes active learning of the individual student, requiring motivation and self-control.¹²¹ This concept, also called expert learning, is viewed as a possible solution to helping law students succeed in their legal education, by forcing students to be responsible and accountable for their learning.¹²² This is so, not because of the general pressures to succeed in law school, but because learning is important.¹²³ Self-regulated learning also requires students to think about their learning style, a term psychologists refer to as "metacognition."¹²⁴ A wealth of research suggests that a student's ability to self-

¹¹⁴ *Id.*

¹¹⁵ See Grover, *supra* note 109, at 442.

¹¹⁶ *Id.* at 443.

¹¹⁷ Glesner Fines, *Humanizing Legal Education*, *supra* note 108, at 318.

¹¹⁸ *Id.*

¹¹⁹ See *id.*

¹²⁰ See MICHAEL HUNTER SCHWARTZ, *EXPERT LEARNING FOR LAW STUDENTS* 29-33 (2008).

¹²¹ Michael Hunter Schwartz, *Teaching Law Students to Be Self-Regulated Learners*, 2003 MICH. ST. DCL L. REV. 447, 452 (2003) [hereinafter Schwartz, *Teaching Law Students*].

¹²² See *id.* at 452-53.

¹²³ *Id.*

¹²⁴ Leah M. Christensen, *The Psychology Behind Case Briefing: A Powerful Cognitive Schema*, 29 CAMPBELL L. REV. 5, 20 (2006) (quoting a student's suggestion that, "I would say know how you

regulate his or her learning drives academic success in college, and relates to success in one's career.¹²⁵

Schwartz suggests giving law students the tools to self-reflect on their own education to determine the most effective way to learn.¹²⁶ Points to consider are "My best times and places for studying are . . .", "My greatest learning successes . . . were . . .", "I performed so well because . . ." and "When I feel myself starting to lose my focus while I am studying, I will . . .".¹²⁷

The benefits of encouraging law students to be self-regulated learners include improved self-observation, self-monitoring, goal-setting, and learning strategies.¹²⁸ Because of these benefits, students have a better grasp of the material generally, are more efficient learners, and have greater self-efficacy, or understanding, for why learning is important.¹²⁹ The outcome is also positive for professors.¹³⁰ All in all, the idea provides an optimistic perspective on learning and teaching.¹³¹ While this theory puts the onus of learning on the student to be more engaged in his or her education, it also provides a foundation for the following alternative methods of learning, which focus on ways educators can advance student understanding.

Through encouraged peer teaching in law school, students can efficiently and effectively monitor their learning to become apt self-regulated learners. When students have the opportunity to compare the learning approaches of their peers, they can immediately evaluate the strengths and weaknesses. They can discuss various methods' appeals with other students who currently utilize them. Law professors' personal stories about "how I learned it," on the other hand, are somewhat meaningless and antiquated, because professors are experts in their field, likely not to recall exactly how they overcame learning anxiety. Novice-peers, however, are perfect mirrors to help each other reflect and regulate law student learning. Peer teaching, then, facilitates not only group learning, but self-regulated learning as well.

learn. I'm an auditory learner and so I can read an opinion and I can visually see the words, but that is not going to help me. It really helps to get those CD's about cases that you can listen to while exercising, while you're going to bed. And, they'll review the context of the case and it will just drive home what we've been doing in the classroom. So, if you're an auditory learner, try to find something other than just reading a case brief. Try to make flashcards for yourself or do something inventive." (citation omitted)). To this end, for students to learn not what they need to know to pass the class, but, rather, need to know to be successful in their careers, is imperative.

¹²⁵ Schwartz, *Teaching Law Students*, *supra* note 121, at 469-70; see also DANIEL GOLEMAN, *WORKING WITH EMOTIONAL INTELLIGENCE* (1998) (showing that emotional intelligence, of which self-regulation is a component, plays an increasingly vital role in a corporation's upper echelon).

¹²⁶ Schwartz, *Teaching Law Students*, *supra* note 121, at 488 (including use of a diary or log).

¹²⁷ *Id.* at 488-89.

¹²⁸ *Id.* at 467.

¹²⁹ *Id.*

¹³⁰ *Id.* (suggesting that self-regulated law students lead to (1) fewer "lost" students; (2) improved classroom discussions; (3) more classroom interest in the topic at hand; (4) less need for teacher to control the class; (5) improved student morale; and (6) better student testing performance).

¹³¹ *Id.* at 466.

C. Collaborative Learning

Collaborative learning is “any pedagogical theory or method that advocates or involves using groups, everything from free discussions . . . to highly structured systems for organization.”¹³² The method is also described as “working together to achieve an intellectual pursuit.”¹³³ Practically speaking, collaborative learning is observed in informal study groups, formal groupings of students working to complete a group assignment, or in a peer teaching or team-learning environment.¹³⁴ Usually, small groups of students—four to six—are assigned to dissect and solve a problem, create a document, examine a situation, or assess possible solutions.¹³⁵ Collaborative learning’s focus is a “rich context,” where learners are diverse and learning is a social initiative.¹³⁶ This diversity is imperative to leverage the necessary group dynamic that makes collaborative learning so successful.¹³⁷ Also essential is student preparation, and students must come ready to function in their appropriate roles within the group for the process to work.¹³⁸ The collaborative learning mantra states: “[T]hrough peer interaction, what individuals learn is more and qualitatively different than what they would learn on their own.”¹³⁹

The benefits of collaborative learning are diverse. First, collaborative learning encourages academic excellence.¹⁴⁰ Through the increased group interaction, students are challenged to compare perspectives, share insights, and, as a result, strengthen their own understanding of material.¹⁴¹ Collaborative learning provides a practical view to participating in a legal career: students, like real lawyers, push each other to produce excellent work, meet deadlines, be accountable, and be aware of their role in American culture as agents of social justice.¹⁴²

¹³² Brigitte LuAnn Willauer, Comment, *The Law School Honor Code and Collaborative Learning: Can They Coexist?*, 73 UMKC L. REV. 513, 514 (2004) (quoting David W. Smit, *Some Difficulties with Collaborative Learning*, 9 J. ADVANCED COMPOSITION (1989), available at http://www.jacweb.org/Archived_volumes/Text_articles/V9_Smit.htm).

¹³³ Barbara G. Tanenbaum & Elwin R. Tilson, *Collaborative Learning Works!*, RADIOLOGIC TECH. (Nov. 1, 1998), available at http://findarticles.com/p/articles/mi_hb3387/is_1998_Nov/ai_n28716453/.

¹³⁴ Willauer, *supra* note 132, at 515.

¹³⁵ Tanenbaum & Tilson, *supra* note 133.

¹³⁶ Zimmerman, *supra* note 15, at 995-96.

¹³⁷ Tanenbaum & Tilson, *supra* note 133.

¹³⁸ *Id.*

¹³⁹ Zimmerman, *supra* note 15, at 996.

¹⁴⁰ STUCKEY ET AL., *supra* note 29, at 120 (“Engaging pairs or teams of students in activities such as group projects, presentations, papers, study groups, peer tutoring, peer teaching, and peer evaluation can improve learning.”).

¹⁴¹ *Id.* at 121.

¹⁴² *Id.* (suggesting that to involve students more in collaborative course design, instructors should “[i]nvite students to help make decisions about course goals, learning activities, and evaluation methods. Consider giving students options on due dates for assignments, and choices of writing assignments.”). The authors also recommend creating a feedback form for students to candidly

To understand more concretely how benefits of collaborative learning manifest themselves in the practice of law, Clifford Zimmerman suggests a hypothetical where two attorneys—Attorneys A and B—are given a distinct and multifaceted legal issue by a judge.¹⁴³ Attorney A attacks the issue by herself by researching, outlining, drafting, and editing the brief, neglecting to seek out the advice or perspective of other attorneys in her office.¹⁴⁴ Attorney B, on the other hand, does not complete the project in a vacuum, but instead consults her colleagues, asking questions, raising new questions from those answers, and incorporating what she learns while researching, outlining, drafting, and editing her brief.¹⁴⁵ Attorney B even has a colleague read her work to find flaws or weaknesses, and re-edits based on that person's criticism, before filing her brief.¹⁴⁶ Zimmerman asks, "[w]ho will likely have written the stronger, more persuasive brief? Chances are better than not that the brief from Attorney B will be clearer, better organized, stronger, and more persuasive."¹⁴⁷

Collaborative learning is not without its disadvantages, though. Many a driven student cringes at the thought of "group work," something students were not exposed to at an earlier point in their education or, alternatively, were exposed to with resulting negative feelings.¹⁴⁸ As such, students approach the method with caution.¹⁴⁹ This skepticism is likely aggravated by the highly competitive nature of the law school environment. The level of preparedness required to succeed as a group likely worries students that they will enable a free-rider among them. Additionally, the role of the professor as a guardian over the groups, ensuring everyone is carrying out his or her role, may be difficult to carry out in classes with many students, or worse yet, where the professor is not completely engaged in the collaborative learning method.¹⁵⁰ Collaborative learning is one alternative method to traditional legal pedagogy that, although not frequently used, provides great learning potential and communication for both students and teachers.¹⁵¹ If professors utilized this approach in the classroom, it would show law students how to apply the approach outside the classroom successfully as well.

address the professor's teaching effectiveness. *Id.* Collaborative methods like these "enhance student commitment and foster mutual respect. They can also reduce student stress associated with feelings of powerlessness and paranoia." *Id.*

¹⁴³ Zimmerman, *supra* note 15, at 961.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.* at 962.

¹⁴⁷ *Id.*

¹⁴⁸ See *supra* Part II.C for discussion on "teacher-centered" classrooms.

¹⁴⁹ Willauer, *supra* note 132, at 520.

¹⁵⁰ See Elizabeth L. Inglehart, Kathleen Dillon Narko, & Clifford S. Zimmerman, *From Cooperative Learning to Collaborative Writing in the Legal Writing Classroom*, 9 LEGAL WRITING: J. LEGAL WRITING INST. 185, 195 n.60 (2003).

¹⁵¹ Zimmerman, *supra* note 15, at 1004.

D. Cooperative Learning¹⁵²

Another learning alternative that differs from the competitive and hierarchical traditions of law school is cooperative learning.¹⁵³ Followers of this established technique praise its ability to improve scholastic achievement and to mitigate the malevolent side effects of law school.¹⁵⁴ Indeed, studies over the past one hundred years conclude higher achievement, better psychological health, and positive student relationships are all benefits of cooperative learning methods.¹⁵⁵

The definition for cooperative learning is so open-ended one can easily understand why it could be implemented incorrectly. Cooperative learning is a structured strategy requiring small groups of students to work with one another to achieve a common goal.¹⁵⁶ This broad definition underlies the true emphasis of cooperative learning, which requires five essential elements in order for the practice to produce positive results: (1) positive interdependence, where each student plays an essential role, so the group's goal will be successfully met only if everyone carries out her role; (2) face-to-face promotive interaction, requiring students to support one another in each one's efforts to learn; (3) individual accountability, meaning a student's performance is evaluated and shared between the group in addition to the individual; (4) social skills, including leadership, trust, communication, decision-making, and conflict-resolution; and (5) group processing, giving the respective group the opportunity to reflect on the group performance by asking each member to share something that another did that was helpful and something to be improved upon next time.¹⁵⁷ These factors distinguish collaborative learning from a traditional discussion group, with an emphasis on joint work that allows for individual mastery of the material.¹⁵⁸

Instances of cooperative learning in formal and informal settings are abundant and varying. One example is the use of small groups for in-class

¹⁵² Though they look and sound very similar, collaborative and cooperative learning are distinctive. Professor Zimmerman contrasts the two as follows:

Cooperative learning and collaborative learning do have different aims: cooperative learning focuses on individual mastery of a subject via a group process, while collaborative learning focuses on group work toward a unified final product. The group process in cooperative learning ends earlier . . . and is graded individually. Collaborative learning extends to the final product which is group-created, at least partially group-graded, and possibly all or partly group-written.

Zimmerman, *supra* note 15, at 961 (footnote omitted).

¹⁵³ Vernellia R. Randall, *Increasing Retention and Improving Performance: Practical Advice on Using Cooperative Learning in Law Schools*, 16 T.M. COOLEY L. REV. 201, 202-03 (1999).

¹⁵⁴ *Id.* at 203.

¹⁵⁵ Hess, *supra* note 4, at 94.

¹⁵⁶ Randall, *supra* note 153, at 234; Zimmerman, *supra* note 15, at 993 (citing Morton Deutsch, *A Theory of Co-operation and Competition*, 2 HUM. REL. 129, 132 (1949)).

¹⁵⁷ DAVID W. JOHNSON, ROGER T. JOHNSON & KARL A. SMITH, COOPERATIVE LEARNING: INCREASING COLLEGE FACULTY INSTRUCTIONAL PRODUCTIVITY 6-8 (1991).

¹⁵⁸ *Id.* at 8; Zimmerman, *supra* note 15, at 993.

discussion.¹⁵⁹ A class is divided into specific groups for an entire semester.¹⁶⁰ Periodically, the groups are given several minutes to discuss a particular topic and generate thoughts or ideas.¹⁶¹ The exercise ends by one person sharing the team's insights.¹⁶² A more intensive activity involves instructing teams to read a statute, advocate for its change, and suggest revisions.¹⁶³ Once in agreement, the team puts together a presentation given by one member of the group.¹⁶⁴ At the core, cooperative learning focuses on creating a system whereby students feel safe asking questions often.¹⁶⁵

The benefits of cooperative learning are extensive. When conducted correctly, it increases achievement, more so than competitive or individualistic environments.¹⁶⁶ Cooperative learning allows students to more easily apply what they learned to other situations and is particularly effective at helping students retain knowledge.¹⁶⁷ Due to its inherently inclusive nature, cooperative learning, perhaps most importantly, encourages a social support system that is imperative in a highly competitive setting, such as law school.¹⁶⁸ Overall, the method promotes more learning than "competitive or individualistic environments."¹⁶⁹

The method is not without criticisms from both students and professors regarding its practicality in the law school setting. Indeed, learning to cooperate is not easy.¹⁷⁰ From a student's perspective, cooperative learning, without emphasis on the necessary components, becomes merely "group work," which many students abhor. This happens because "[s]imply placing individuals in groups and telling them to work together does not . . . promote higher achievement and greater productivity."¹⁷¹ Possible side effects include (1) the "free-rider" effect, when certain members withhold their efforts relying on others to do the work; (2) the "sucker effect," when members recognize they will have to expend more effort and stubbornly lessen their efforts to avoid doing all the work; and (3) the "rich-get-richer effect," when students defer to those students with higher abilities who then jeopardize the key leadership roles.¹⁷² These

¹⁵⁹ Hess, *supra* note 4, at 95.

¹⁶⁰ *Id.* at 96.

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ David Dominguez, *Seven Principles for Good Practice in Legal Education: Principle 2: Good Practice Encourages Cooperation Among Students*, 49 J. LEGAL EDUC. 386, 388 (1999).

¹⁶⁶ Randall, *supra* note 153, at 218-19.

¹⁶⁷ *Id.* at 219.

¹⁶⁸ *See id.* at 220-21.

¹⁶⁹ *Id.* at 220.

¹⁷⁰ JOHNSON ET AL., *supra* note 157, at 15 (analogizing Aesop's fable of the man with four sons who could not get them to work together to break a bundle of sticks).

¹⁷¹ *Id.*

¹⁷² *Id.*; *see also* Randall, *supra* note 153, at 269 (characterizing these negative behaviors as passive uninvolved, active uninvolved, and taking charge).

behaviors can destroy a group's functioning, ruining the cooperative learning experience.¹⁷³

Professors have apprehension about instituting cooperative learning techniques for their students as well. Because the method encourages the onus be put on the students to learn and teach, professors are disinclined to abandon their "sage" character in the classroom.¹⁷⁴ Furthermore, professors likely thrived on traditional law school emphases on the Socratic method and curved grading, so they are less comfortable enabling a process that steers away from those traditions.¹⁷⁵ By allowing the cooperative technique in the classroom, professors feel it may expose the traditional learning environment as a practice not "terribly complicated or intellectually sophisticated."¹⁷⁶ Professors may plausibly react that this type of group learning system simply does not work. Typically, though, the system has not been utilized correctly, so the conclusion may be made hastily.¹⁷⁷ Many other dilemmas exist to give professors pause when considering an alternative like cooperative learning.¹⁷⁸ Despite these concerns, when educators use collaborative learning techniques, adhering to the principles set forth above, the rewards exceed those seen in traditional competitive settings. Like collaborative learning pedagogy, correct use of the cooperative learning method in the classroom shows students how integral peer teaching and learning is. The cooperative learning method has great opportunity outside the classroom to help students in their legal education if they are only given the tools to use it effectively.

V. SURVEY RESULTS INDICATING THE PRESENCE AND EFFICACY OF STUDY GROUPS IN LAW SCHOOL

A 2007 study conducted by the Law School Survey of Student Engagement ("LSSSE") found that, "[d]espite research suggesting that students benefit from collaborative learning during class, only 13% of students reported that they frequently engage in such activities."¹⁷⁹ However, when outside of the classroom, one in three students frequently collaborated with their peers on assignments.¹⁸⁰ This mirrors results of the 2006 study, which found that nearly one third of students collaborated frequently with classmates outside of class,

¹⁷³ Randall, *supra* note 153, at 269.

¹⁷⁴ *Id.* at 266.

¹⁷⁵ *Id.* ("Few professors have training in education. Few professors have taught themselves about the principles of learning and teaching.").

¹⁷⁶ *Id.*

¹⁷⁷ *Id.* at 266-67.

¹⁷⁸ *See id.* at 259-71. These dilemmas include the possible loss of precious teaching time as compared to normal lecture class and the potential impact on a professor's ability to acquire tenure. *See id.* at 268-71.

¹⁷⁹ LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, 2007 ANNUAL SURVEY RESULTS, *available at* http://lssse.iub.edu/2007_Annual_Report/pdf/EMBARGOED__LSSSE_2007_Annual_Report.pdf [hereinafter 2007 ANNUAL SURVEY RESULTS] (citation omitted).

¹⁸⁰ *Id.*

though eighty-eight percent did not work together on projects during class.¹⁸¹ In fact, eighty-four percent of students in the 2006 survey reported collaborating with their peers on assignments at least “occasionally.”¹⁸² Moreover, sixty-five percent of students surveyed discussed course concepts or ideas with classmates outside of class.¹⁸³ Indeed, the next generation of students, collectively dubbed the “Millennials,” is more likely to interact with peers by working together outside of class to complete assignments, sharing differing opinions on important issues, and socializing.¹⁸⁴ The 2006 survey also reported that “[s]tudents who frequently collaborated with other students on assignments and projects reported higher gains in several desirable areas.”¹⁸⁵ Compared to students who never worked collaboratively, students who did reported gains in writing clearly and effectively,¹⁸⁶ thinking critically and analytically,¹⁸⁷ speaking clearly and effectively,¹⁸⁸ and developing legal research skills.¹⁸⁹ The results presented in both 2006 and 2007 indicate the need to follow this general study with more intensive inquiry into how and why students study together.

A. The Study

To examine more carefully the group study habits and attitudes of fellow students, the author conducted one-on-one interviews, each lasting approximately fifteen to twenty minutes, with twelve third-year law students at the University of Missouri – Kansas City School of Law at the start of the 2009 academic year and throughout the beginning of the fall semester. Each person selected to participate in the survey as an interviewee was selected at random by me, the interviewer.

The interviews sought information regarding the attitudes and approaches to group study while in law school. Specifically, the questions asked in the interview focused on whether the student sought others’ help to prepare for class or final exams, how the help was realized—through informal study groups or school-sponsored study groups, and the student’s general perceptions about group learning and whether it was encouraged in law school. The purpose of the survey was solely to gather information with the intention of illustrating the prevalence of group learning in law school.

The survey was limited in many respects. Besides including only a small percentage of third-year students, the survey did not attempt to distinguish which form of group study is most beneficial in law school. The survey did not collect

¹⁸¹ LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, 2006 ANNUAL SURVEY RESULTS, *available at* http://lsse.iub.edu/2006_Annual_Report/pdf/LSSSE_2006_Annual_Report.pdf. [hereinafter 2006 ANNUAL SURVEY RESULTS].

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ 2007 ANNUAL SURVEY RESULTS, *supra* note 179.

¹⁸⁵ 2006 ANNUAL SURVEY RESULTS, *supra* note 181.

¹⁸⁶ *Id.* at Figure 5 (nineteen percent gain; from twenty-seven to forty-six percent).

¹⁸⁷ *Id.* (eighteen percent gain; from forty-one to fifty-nine percent).

¹⁸⁸ *Id.* (twenty-one percent gain; from nineteen to forty percent).

¹⁸⁹ *Id.* (nineteen percent gain; from thirty-two to fifty-one percent).

information on student performance in law school or attempt to draw any correlation between the uses of group learning in law school with overall academic performance. Finally, the information collected merely describes personal insights of the students. Whether their perceptions were accurate is irrelevant; the students' willingness to engage in any form of group learning was the sole focus.

For each interview, the author asked the following questions:

1. Do you work with others to prepare for class? If so, how often and in what ways?
2. Do you work with others to prepare for final exams? If so, how often and in what ways?
3. With whom did you work? How did you come to work with those individuals?
4. Do you feel your professors encourage study groups? Why or why not?
5. Do you feel the law school encourages study groups, generally? Why or why not?
6. Do you participate in any school-sponsored study group activity? Why or why not?
7. What are your thoughts on the use of study groups or group learning in law school?

Depending on student responses to these introductory questions, additional information was obtained to clarify particular opinions.

B. The Results

1. Do You Work with Others to Prepare for Class? If so, How Often and in What Ways?

Answers to this question were surprisingly mixed. Six out of the twelve students said they previously worked with, or currently work with, others to prepare for class. Three students said that, even in their third year of school, they regularly consult a study group to prepare for class. Two students explained how they met with their respective study groups every day before class, mostly to review cases from the assigned reading, as one student put it, to "talk it out." Another student described how he meets with his study group about once a week, less frequently now than when he first started law school, but still to mull over the class discussion and the next assignment. One respondent clarified that he did not have what he perceived to be a study group, but would simply talk to a few classmates, waiting to go in the classroom, regarding the current assignment. Several students who answered this question affirmatively limited their response

by explaining that they only used a study group regularly throughout their first year of law school. Again, going over holdings from cases to prepare for class, these students utilized their study groups in varying amounts—some daily, others a few times a week. When asked why they did not meet with their first-year study group as they progressed through law school, several students had similar comments: It was too distracting, the group went off-topic too easily, or it was too easy to socialize and not focus on the material. One student noted that, eventually, he just did not feel like he needed the additional help.

Five students stated that they had never consulted a study group in law school. For these students, the reasons were consistent. The constraint for these students was time. They found more efficiency in completing the assignments themselves.¹⁹⁰ Interestingly, one student noted how assignments focused on reading cases. The assignments never asked students to consult with one another, thus, eliminating the need to acquire feedback from other students in order to be prepared for class. Another student believed with efficiency also came the flexibility to make his own study schedule, instead of meeting others' needs, illustrating how students have different study goals.¹⁹¹ The focus on efficiency perhaps demonstrates an important learning point. If a student cannot see the benefit of group learning, relative to the benefit found in completing the work in the time the student allots, he or she will be less willing to seek out group learning.¹⁹²

2. Do You Work with Others to Prepare for Final Exams? If so, How Often and in What Ways?

In comparison to Question 1, students were generally less likely to answer affirmatively to Question 2. Three students consistently worked with others to study for final exams. All three had done so for every class, every semester of law school. The groups' primary goals were creating and comparing outlines, evaluating hypothetical test questions, sharing perspectives on practice tests, and generally reviewing material. A few worked in their respective study groups only to create outlines. One student detailed how her study group collected notes, handouts, supplements to the text, and old outlines to build an outline together. Once the outline was complete, the study group disbanded so each group member could prepare on his or her own. This student called the interaction a good "give and take," as one student excelled at organizing the information, while another was more capable at analyzing it.¹⁹³ Another student

¹⁹⁰ One student noted his own proclivity to converse in a group setting, saying simply, "I just talk too much."

¹⁹¹ This student was not a fan, generally, of using study groups, but also reflected that, as his time in law school progressed, he found himself bouncing ideas off others students in more "practical" classes, like clinics or externships.

¹⁹² See *supra* Part IV.D on the elements of cooperative learning tasks.

¹⁹³ This type of symbiotic interaction begs the question whether the use of the group improves weaknesses of the individual students, or simply provides a means not to improve them. In the example above, group diversity was not based on differing perspectives, but on learning

explained that his study group met after each person had studied his or her own outline, thereby already having a sound grasp of the material. As a group, they would drill important rules and discuss and dissect various arguments. This student believed listening to differing perspectives for a particular hypothetical helped not only to solidify the material in his mind due to the in-depth discussion, but also provided opportunities for considering additional arguments that could be helpful in gaining points on the final exam.

A few students used a study group sporadically. One student said she rarely met with other students. If she did, it was to go over old tests, strictly. The group did not discuss legal concepts or share notes or outlines. Another student reported that she consulted only occasionally with others during exam time just to compare concepts that were still confusing after studying her outline. This student hesitated to reach out to her study group during finals time because students were usually at varying levels of understanding in their study. This could make group study stressful, as some students were not ready to carry on in-depth conversation, while others were too willing to scrutinize too much. Lastly, one student said she only used group study for exam preparation during her first year of law school.

Still others refused to rely on any form of group study to prepare for finals. One student reasoned that if she had questions about the material, the professor could provide clarification better than any student.¹⁹⁴ For others, as was the case for not studying in groups for class, time management was the primary motive behind not utilizing a study group in this way, believing the interaction was not needed. For one student, individual study was simply a “personal habit.” Another student believed he learned better by teaching himself whatever concepts required additional study. The most interesting insight from one student was that group study for finals was not only too distracting, but also a setting creating too much apprehension. “I blank out when answering other people’s questions.”¹⁹⁵

differences. If one student excels at organization, while another is more capable in analysis, does the organized student ever improve her analytical skills? To some extent, surely the strengths of one student would “rub off” on the other, would they not? For further discussion on this, see Evensen, *supra* note 86, at 400-08 (describing student survey results where study groups were found to be most beneficial). In one instance, students would take “copious notes in class in order to ‘get the important stuff,’ essentially having ‘no time to think.’” *Id.* at 406. The members of the study group then did their “thinking together outside of class.” *Id.*

¹⁹⁴ To take the sting out of implying that other students would be unable to help her, this interviewee also admitted that she just may not have found the right person to consult for study group purposes. Furthermore, she had not tried to actively reach out to other students either.

¹⁹⁵ Perhaps the result of too many run-ins with the Socratic method causes a Pavlovian, “deer-in-the-headlights” response in law students. See Gordon, *supra* note 1, at 1685 (“Remember those horror movies in which somebody wearing a hockey mask terrorizes people at a summer camp and slowly and carefully slashes them all into bloody little pieces? That’s what the first year of law school is like. Except it’s worse, because the professors don’t wear hockey masks, and you have to look directly at their faces.”).

3. With Whom Did You Work? How Did You Come to Work with Them?

For those who participated in study group learning, the characteristics of the individual study group remained largely constant. All the students said they met their study group members during the first year of law school.¹⁹⁶ One student met the individuals who would come to form her study group before the first day of law school, at a week-long enrichment program and in the orientation events. Groups consisted mostly of four to five people. One student shared how the first study group in which he participated had nine people in it. This group quickly, and organically, bifurcated into two groups. One participant worked only with one other, her "study buddy," having decided to work with the individual after studying together for a mid-term. Another student consciously chose to work with others she perceived as bright with a higher level of understanding than other students in the class, who would be able to provide different perspectives on the material.

This information illustrates students' capacities in forming study groups. Whether knowingly or not, students determined the ideal size and responsibilities for the individuals in the group. They reached out to students with whom they were comfortable. They sought opinions different from their own. These characteristics describe precisely why group learning, when structured appropriately, can work.

4. Do You Feel Study Groups Were Encouraged by Professors? By the Law School? Why or Why Not?

Outside of encouragement during the first year of law school, students responded to these two questions negatively. The majority of respondents believed that both professors and the law school encouraged the use of study groups during the first year. Several students distinctly remembered a first-year contracts professor sharing insight into the structure of study groups: "It should be composed of three people. 1) you; 2) someone smarter than you; and 3) someone less smart than you. In this way, the student would learn from the smarter student, and be able to explain it to the less smart student for added enrichment."¹⁹⁷ Students recalled an emphasis on study group interaction during first-year orientation. Moreover, several students heeded advice among professors to participate in school-sponsored formal study group programs in their first year.¹⁹⁸

Outside of this encouragement during the first year, none of the students felt their professors or the law school encouraged use of study groups. Interviewees

¹⁹⁶ At UMKC School of Law, first-year students are divided into three sections—A, B and C. The section designates whom students will have for professors throughout the school year. The section will not change during the school year, so students will be in the same first-year classes with the same group of students.

¹⁹⁷ Of course, the professor was careful to point out that one should never tell the members of the study group which role each student serves.

¹⁹⁸ See *infra* Part V.B.5.

were also quick to point out that study groups were not discouraged either. It simply was a non-issue. One student perceived the school's ambivalence as sensible because of the Socratic nature of many of her classes. The school had no reason to encourage study groups if students were responsible to only themselves once in the classroom. Lastly, one student noted how one first-year professor plainly discouraged group study, because fellow students were likely to have incomplete information and provide a wrong answer.

The one exception to the sentiment that study groups were neither encouraged nor discouraged was in regards to the first-year writing program. Several students pointed out how they felt the law school's promotion of study groups in the first year was manifestly contradicted by the stringent limitations on sharing writing assignments or seeking feedback on one's writing from anyone other than the legal writing professor. One student perceived that because of the severity of the consequences of sharing work based on the honor code, group study was "highly discouraged."

5. Did You Participate in Any School-Sponsored Study Group Activity? Why or Why Not?

UMKC sponsors two formal study groups for first-year law students: Structured Study and Comprehensive Study.¹⁹⁹ Both study groups meet weekly throughout the school year and are led by a 2L or 3L student group leader.²⁰⁰ Structured Study groups strictly discuss one particular first-year subject.²⁰¹ Even more, the study group leader attends class with the students to facilitate the study group discussion.²⁰² Comprehensive Study groups discuss a multitude of topics related to the first-year experience, in less depth than Structured Study.²⁰³

All but three students admitted to participating in school-sponsored study groups during their first year of law school. Those three that did not participate attributed it to scheduling constraints or because not participating was a more efficient use of time. For students who did participate in school-sponsored or "formal" study groups, the reasons for participation varied. The groups kept many of the students updated on the relevant material and provided an outlet to restudy the material to make sure nothing was missing from their notes. For others, formal study groups provided a means for the student to "get through" the class.²⁰⁴ Two students reasoned that the formal study group provided enough structure, a sufficiently limited scope of discussion and it was an efficient use of their time to attend. In any case, all the students who utilized the study environment did so because they believed it was a "safe place" for asking

¹⁹⁹ See GLESNER FINES, MANUAL, *supra* note 16.

²⁰⁰ See *id.*

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ *Id.* Study topics might include other first-year classes; how to brief cases, take notes, outline, study for exams; or even issues related to student well-being or learning style. *Id.*

²⁰⁴ Two students characterized their participation as "out of fear" because the nature of the class "scared the 'bejesus'" out of them.

questions amongst their fellow classmates or to the study group leader, who was a 2L or 3L student. Discussion in this environment was encouraged and not so intimidating. One student noted how the environment helped her to feel less isolated. Many students concluded that participating in the formal study group helped them understand the material.²⁰⁵ Even those that failed to attend the sessions consistently acknowledged that they would have expected to do better in the class if they had attended more regularly. These answers demonstrate that even students who did not use informal study groups were open to participating in a study group environment if discussion was controlled, in smaller groups and they felt comfortable asking those questions they were hesitant to ask in class.

6. What Are Your Thoughts on the Use of Study Groups or Group Learning in Law School?

This open-ended question elicited student feedback on any form of group study—be it formal or informal, inside or outside the classroom. Responses to this question varied, regardless of whether the student participated in study groups. Mostly, students seemed conflicted—they appreciated the benefits group study provides, but were doubtful as to their own involvement because of the perceived drawbacks to group work.

Drawbacks mentioned were numerous. One student believed study groups allowed for too much socializing. Another said scheduling was too much of a constraint, and that students should not be encouraged to put “study group” on a to-do list that is already booked in law school. Another respondent believed the presence of a strict honor code got in the way of making students comfortable with the idea of group study. A student who had participated in study groups in her first year communicated that in a stressful environment like law school, group study could potentially create more tension due to a perception of distrust among students forced to compete with another for grades and rank. The tension also fostered a lack of confidence among students, who felt pressured to perform well. These combined sentiments do not endear students to studying cooperatively in or out of the classroom.

In relation to in-class group learning, one student was concerned that a group assignment was dangerous to a proactive law student who was forced to work with someone not committed to the group, at the risk of receiving a bad grade because of someone else’s lack of responsibility. Another described group learning in the classroom as an exercise that was “not voluntary” to the student, and without that, the student would have no incentive to want to contribute to such activities. One student described in-class group learning as “worthless” because of the distraction it created during the learning process. Students would not take such exercises seriously and would “float through it.”

Despite criticisms about how group learning is perceived, many students were still optimistic that, in a controlled environment, it could be worthwhile.

²⁰⁵ One student realized throughout the course of his interview that his best grades during his first year in law school were in those classes for which he attended the Structured Study group.

One example provided by an interviewee was to encourage group learning in low-pressure situations, perhaps where the only or primary grade for the class was not a group project, or where students were working with other student study group leaders or teaching assistants. Another interviewee reiterated this suggestion, believing group study was more beneficial when the subject matter lent itself well to discussion, interpretation, and where the students felt safe to speak without being judged by their peers. This sentiment was mirrored by yet another student who felt group learning was more desirable in "relaxed" environments. Careful explanation in the first year and throughout law school of what types of interaction do and do not violate the honor code would help students feel more confident about maintaining study groups.

Students had other suggestions on how to improve the use of group study. Two students believed group study would be beneficial if it was efficiently run, with rules and concrete goals so that students were disinclined to get off track. Another interviewee felt group study would help in certain areas, if used correctly. However, the student was unsure what it meant to utilize a study group "correctly." One suggestion was to make group study voluntary, although more encouraged throughout law school and not just in the first year. This suggestion reasons that if group learning were forced on a student, the mindset for cooperation would be lost. Another student shared a similar attitude in his interview, believing that "students *should* work together, because you will naturally miss *something* in class." But, if students have not bought into the concept, there is very little that will encourage them to enjoy group study. These ideas demonstrate a great deal about student perceptions of group learning. Students believe the use of group study is beneficial, but are keen in the criticisms that surround it. If legal educators can provide a narrow scope in work and an environment that does not generate an overly competitive character, students are willing to buy in.

VI. CONCLUSION

Your most important educational experience in law school will be with the other students. You will learn more from them than from your teachers. Relationships forged in law school are like those forged in war: what you share with these people is unlike any experience any of you have had before.²⁰⁶

While the traditions of the law school experience have held time-tested and true for many years, as the legal profession becomes increasingly unhappy, many educators, both in and out of the legal arena, are questioning whether the methods used to teach budding lawyers are effective. Through the molding and shaping process students endure in law school, many students come to feel detached, isolated, and forget the inspiring reasons why they entered law school. As the law school student body has continued to change shape and become more

²⁰⁶ Corinne Cooper, *Letter to a Young Law Student*, 35 TULSA L.J. 275, 278-79 (2000).

diverse, law schools may have failed to evolve. Now it is apparent that some exclusive forms of instruction, though used today, may indeed be an antiquated remnant of a different time. Students have different learning styles and different ways of retaining and applying information. To presume the old methods of teaching are sufficient to accommodate these differing styles is detrimental to the legal profession.

As evidenced in the interviews, students can achieve more in their education by utilizing learning and teaching methods not indicative of the teacher-centered classroom. Methods like collaborative learning, cooperative learning, and peer-to-peer teaching, when situated appropriately, can have meaningful benefits to students. Use of theories like self-regulation and the humanizing movement help teachers understand how these alternative methods can be incorporated in or out of the classroom, encouraging students to accomplish more. Now that students have communicated that these methods are worth trying, teachers and administrators should listen up. In the end, the ultimate lesson for everyone in law school is that no law student is, or should be, an island.