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## As a Last Resort, Ask the Students: What They Say Makes Someone An Effective Law Teacher

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# AS A LAST RESORT, ASK THE STUDENTS: WHAT THEY SAY MAKES SOMEONE AN EFFECTIVE LAW TEACHER

James B. Levy\*

## I. INTRODUCTION

There is an adage among doctors that “as a last resort, ask the patient.” It is a not so facetious reference to the observation that because doctors are so highly educated and trained, they can start to believe they know what’s best for their patients better than the patients themselves. Consequently, these doctors may discount, or altogether ignore, the opinions of the very people they are suppose to be helping.

The same observation could be made about the law professor-student relationship. Unlike doctors, though, our relationship with students is hierarchical, and thus we may be even less inclined to “ask the patients” for their opinions about how best to help them. To be sure, a teacher’s job is to establish, often unilaterally, appropriate classroom rules and requirements. Indeed, if teachers gave students an equal voice in all such decisions, students might never show up for class or do the assigned work. At the other extreme, it is a serious mistake to exclude students from the dialogue about how best to teach them because their input can only serve to better inform our own judgment about how to improve the overall quality of classroom instruction.<sup>1</sup>

To that end, this article discusses the results of a student survey I conducted at two schools, the University of Colorado School of Law (CU) and William S. Boyd School of Law at the University of Las Vegas, Nevada (UNLV), during the spring and summer of 2002, respectively, that asked students to give their opinions about what makes someone an effective, and conversely an ineffective, law school teacher.<sup>2</sup> In particular,

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\* James B. Levy, Assistant Professor, Nova Southeastern University School of Law. I would like to thank the Association of Legal Writing Directors (ALWD) for providing a grant which helped to fund the work reflected in this article. I would also like to thank all the students at the University of Colorado School of Law and William S. Boyd School of Law who participated in this survey. This article is dedicated to the loving memory of my mother.

1. Interestingly, studies show that college students and their teachers often share the same opinion about what makes an effective teacher. See Kenneth A. Feldman, *Effective College Teaching from the Students' and Faculty's View: Matched or Mismatched Priorities?* 28 RES. HIGHER EDU. 291, 298, 319 (1988). This study surveyed thirty-one independent research studies that compared college students' opinions about effective teacher behaviors, characteristics, and pedagogy with faculty opinions about the same criteria and found there was a generally strong correlation between the two. *Id.* at 320. “As it happens, extant evidence shows faculty members not to be much different from students in their views on good teaching—at least in terms of the expressed importance the two groups place on various components of teaching.” *Id.* at 319.

2. Prior to his study comparing student and faculty views on effective college teaching, Professor Feldman conducted a study that synthesized a large body of research on the teacher classroom behaviors, personality traits, and instructional techniques that college students identified as important to effective teaching. Kenneth A. Feldman, *The Superior College Teacher from the Students' View* 5 RES. HIGHER EDUC. 243 (1976). Professor Feldman sought to determine whether there were any common trends among the forty-nine independent studies he examined. *Id.* at 243-44, 246. Those studies involved both structured surveys—in which students were asked to identify certain traits or behaviors among the lists provided by

the survey focused on asking students to identify the personality traits, personal characteristics, and classroom behaviors that make someone a good teacher. Students were asked to rate the importance of several characteristics generally associated with good teaching, such as respect for students, holding students to high standards, and teacher friendliness. The survey also included open-ended questions that asked students to explain in their own words what they believe makes someone a good, as well as a poor, teacher.

This article, and the survey results discussed *infra*, are premised on the notion that teaching consists of two components. There is an instructional component which refers to the instructional techniques teachers use to facilitate learning, such as the Socratic method, syllabus design, and modes of performance assessment such as exams. The second component is the socio-emotional one, which refers to the teacher's ability to influence learning through the emotional milieu she creates in the classroom based on her rapport and interaction with students. It is this aspect of law school teaching that this article explores.

Each of us is hardwired to receive and communicate a tremendous amount of information through our emotions. Evolutionary theory posits that these emotional transactions aided survival by enabling one mammal to sense the threats, motives, and emotional states of surrounding mammals.<sup>3</sup> Attunement to the emotions of others is what, for example, enables a mother to know whether her pre-verbal infant is in distress.<sup>4</sup> Not only do we have the ability to sense the emotional state of others, but as social animals we also synchronize our emotional state with those around us.<sup>5</sup> Thus, panic literally does sweep through a crowd and the laughter of a movie audience is indeed contagious.<sup>6</sup>

Researchers working in the fields of education and social psychology, among others, have long recognized the vital influence of these socio-emotional effects in the classroom context. The emerging consensus holds that these considerations may play the greatest role in determining whether, and how much, our students learn.<sup>7</sup> Because

the researchers—and unstructured surveys—in which students volunteered criteria for identifying effective teachers. *Id.* at 245. As discussed *infra* Part IV.A-B, there are several similarities between Professor Feldman's findings and the survey results reported here.

3. See ELAINE HATFIELD ET AL., EMOTIONAL CONTAGION 79 (1994); THOMAS LEWIS ET AL., A GENERAL THEORY OF LOVE 62-63 (First Vintage ed. 2001).

4. HATFIELD ET AL., *supra* note 3, at 86; LEWIS ET AL., *supra* note 3, at 60-61.

5. DANIEL GOLEMAN, EMOTIONAL INTELLIGENCE 116-17 (1997); HATFIELD ET AL., *supra* note 3, at 16-18; LEWIS ET AL., *supra* note 3, at 63-64.

6. HATFIELD ET AL., *supra* note 3, at 115; LEWIS ET AL., *supra* note 3, at 64.

7. See GOLEMAN, *supra* note 5, at 34-36. See also KEN BAIN, WHAT THE BEST COLLEGE TEACHERS DO 78, 189 (2004) (explaining that a study of sixty-three outstanding teachers over fifteen years concluded that the secret to excellent teaching is not particular practices but the *attitude* those teachers had towards their students). As two professors note: "Teaching necessarily entails a relationship between faculty and students. The quality of that [relationship] may go a long way towards determining the outcome of teachers' efforts." David J. Walsh & Mary Jo Maffei, *Never in a Class by Themselves: An Examination of Behaviors Affecting the Student-Professor Relationship*, 5 J. EXCELLENCE C. TEACHING 23, 24 (1994). Professors Walsh and Maffei note further that a large body of educational scholarship suggests there is a substantial link between the professor-student relationship and educational outcomes. *Id.* More specifically:

There are a variety of theoretical grounds for suspecting that a more positive student-

of recent technological advances that allow neuroscientists to peer into the inner workings of the brain, we now have scientific evidence that confirms the essential role socio-emotional considerations play in all cognitive activity, including learning.<sup>8</sup>

More specifically, things such as teacher expectations, support, encouragement, and warmth toward students can have a profound effect on their success in school.<sup>9</sup> Law school teachers, however, have been slow to appreciate the power and importance of these considerations.<sup>10</sup> That is especially ironic given our general acknowledgment that we are at least partially responsible for fostering a culture that causes much of the distress reported by our students.<sup>11</sup> This article argues, therefore, that law professors

professor relationship will lead to increased learning. Social psychologists have long maintained that communication sources that are liked, trusted, and credible are more persuasive. Balance theory, in particular, suggests that we tend to agree with those we like in order to maintain cognitive consistency.

*Id.* at 27 (citation omitted). Moreover, students are likely to be more motivated to learn from a professor who they have established a positive relationship with because they like being with the professor, care about seeking his approval, and have improved intrinsic motivation because they feel more confident about their ability to succeed. *Id.* Accord GOLEMAN, *supra* note 5, at 86, 88 (emotional considerations are better predictors of college students' success than SAT or IQ scores); JOSEPH LOWMAN, *MASTERING THE TECHNIQUES OF TEACHING* 3, 26 (2d ed. 1995) (formulating that above all else, teaching is an enterprise involving students' emotions and personalities as well as their cognitive abilities).

8. Neuroscience studies "suggest that the proper social relationship may stimulate the neural plasticity required for new learning." LOUIS J. COZOLINO, *THE NEUROSCIENCE OF PSYCHOTHERAPY: BUILDING AND REBUILDING THE BRAIN* 53 (2002). Accord RENATE NUMMELA CAINE & GEOFFREY CAINE, *MAKING CONNECTIONS: TEACHING AND THE HUMAN BRAIN* 90 (1994) (explaining that because emotions and cognition are inexorably linked, teachers need to monitor the emotional climate of the classroom); ROBERT SYLWESTER, *A CELEBRATION OF NEURONS: AN EDUCATOR'S GUIDE TO THE HUMAN BRAIN* 86 (1995) [hereinafter SYLWESTER, *CELEBRATION OF NEURONS*] (stating that by understanding the power that emotion brings to learning, we can "materially increase the effectiveness of [our] schools").

9. See discussion *infra* notes 20-60 and accompanying text.

10. See Lila A. Coleburn & Julia C. Spring, *Socrates Unbound: Developmental Perspectives on the Law School Experience*, 24 *LAW & PSYCHOL. REV.* 5, 7 (2000). The authors write that:

Our profession has neither explored the law student-professor relationship in any psychological depth nor provided a way to think theoretically and practically about what each means to the other. Apart from a handful of personal accounts, this relationship—as a heart-to-heart matter, not just head-to-head transmission of information and skills—has remained in the background of the legal landscape, shadowy and unarticulated. Yet pedagogical methods are necessarily employed in a relational context and in an emotional field and within a specific developmental frame.

*Id.* (citation omitted). Accord Robin S. Welford-Slocum, *The Law Student-Faculty Conference: Towards a Transformative Learning Experience*, 45 *S. TEX. L. REV.* 255, 259-60 (2004) (arguing that legal scholarship has not done an adequate job of considering how dynamics of the student-teacher relationship affect the learning process); B. Glesner Fines, *The Impact of Expectations on Teaching and Learning*, 38 *GONZ. L. REV.* 89, 113 (2002-03). Some commentators suggest that it is not just the legal academy which has been slow to appreciate the importance of the professor-student relationship to student success. "Relative to other aspects of college teaching, the social and interpersonal issues in dealing with students have received scant attention." Walsh & Maffei, *supra* note 7, at 24.

11. See B.A. Glesner, *Fear and Loathing In the Law Schools*, 23 *CONN. L. REV.* 627 (1991) (writing that students blame the process of legal education for the stress they experience); Gerald F. Hess, *Heads and Hearts: The Teaching and Learning Environment in Law School*, 52 *J. LEGAL EDUC.* 75, 77 (2002); 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, 123 (2002) (explaining that psychic distress among students is largely attributable to the process of legal education); Ruth Ann

need to redefine their notion of teaching competence to include not only mastery of instructional techniques like the Socratic method and use of classroom technology, but also an appreciation of the importance of, and facility with, the skills needed to foster an effective classroom socio-emotional climate. The survey results discussed in this article are an attempt to understand which socio-emotional considerations law students say matter most to them.

Unfortunately, much of the existing literature on this subject in the law school context is anecdotal and, at times, conflicting. Because so little empirical research has been done, the literature that does exist consists primarily of law professors exchanging with each other their personal experiences and teaching philosophies.<sup>12</sup> While one professor may advise that it is important to socialize with students outside the classroom as a way to enhance classroom rapport, another says it is important to avoid that kind of interaction in order to maintain appropriate boundaries between teacher

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McKinney, *Depression and Anxiety in Law Students: Are We Part of the Problem and Can We Be Part of the Solution?*, 8 LEGAL WRITING 229, 229 (2002) (noting that up to 40% of law students may experience depression as a result of the law school experience); Stephen B. Shanfield & G. Andrew H. Benjamin, *Psychiatric Distress in Law Students*, 35 J. LEGAL EDUC. 65, 69 (1985) (“[L]aw students have higher rates of psychiatric distress than either a contrasting normative population or a medical student population.”). See also Ann L. Iijima, *Lessons Learned: Legal Education and Law Student Dysfunction*, 48 J. LEGAL EDUC. 524, 525 (1998). For several first-hand accounts of the psychic distress first year students suffer, see Matthew M. Dammeyer & Narina Nunez, *Anxiety and Depression Among Law Students: Current Knowledge and Future Directions*, 23 LAW & HUM. BEHAV. 55, 57, 63 (1999) and Lawrence Silver, *Anxiety and the First Semester of Law School*, 1968 WISC. L. REV. 1201 (1968).

12. See Kent D. Syverud, *Taking Students Seriously: A Guide for New Law Teachers*, 43 J. LEGAL EDUC. 247 (1993). See also *infra* note 13. That is not to say there has been no effort to solicit student opinion on effective law school teaching. See Hess, *supra* note 11, at 76. Professor Hess interviewed seventy-two students at seven different law schools over a year-long period to find out what they believed made someone an effective law professor. *Id.* He reported excerpts of their comments in his article referenced *supra* note 11. See also Susan B. Apel, *Principle 1: Good Practice Encourages Student-Faculty Contact*, 49 J. LEGAL EDUC. 371, 371 n.2 (1991) (soliciting student e-mail comments on the importance to them of faculty-student contact); James R. Elkins, *Rites de Passage: Law Students “Telling Their Lives,”* 35 J. LEGAL EDUC. 27, 27-29 (1985) (author describing journal entries kept by first year students recounting what law school feels like from the perspective of a 1L); Douglas D. McFarland, *Students and Practicing Lawyers Identify the Ideal Law Professor*, 36 J. LEGAL EDUC. 93 (1986). Professor McFarland’s study involved a relatively small number of students who volunteered to participate in research to help identify which law professor persona, among the three archetypes presented to them, they preferred. The archetypes were the “Caring Teacher,” the “Socratic Trainer,” and the “Anti-Socratic Practitioner.” *Id.* at 95. The “Caring Teacher” archetype spurns the sarcasm and humiliation of the Socratic method in favor of a style that is encouraging and supportive and tuned in to student distress and anxiety. *Id.* at 96. The “Socratic Trainer” engages students in a harsh and intense dialogue intended to train them to think like lawyers, spurning practical training in favor of imparting in students the ability to think critically. *Id.* at 96-97. The “Anti-Socratic Practitioner” is focused on providing students with the knowledge and skills they will need to practice law. *Id.* at 97-98. Professor McFarland’s study showed that although students initially favored the “Caring Teacher” and “Socratic Trainer” evenly over the “Anti-Socratic Practitioner,” they exhibited a much stronger preference for the “Caring Teacher” and “Anti-Socratic Practitioner” in their second and third years of law school. *Id.* at 98.

and student.<sup>13</sup> Rather than try to reconcile this advice, this article goes right to the source by asking “the patients” what they think.

Thus, while professors may disagree about whether it enhances our effectiveness to socialize with students outside the classroom, I wanted to find out what the students themselves had to say. Much has been written about how stressful the law school experience is for students and, in particular, how stressful they find the Socratic method.<sup>14</sup> But what do students say about how the way in which we question them affects their learning? These questions and others resulted in a twenty question survey given to all full-time students at the University of Colorado School of Law during the spring of 2002 where I was a legal writing professor at the time.<sup>15</sup> In the interest of developing some comparative data, the survey was also given to the entire first year class of part-time, evening students enrolled at William S. Boyd School of Law in Las Vegas, Nevada during the summer of 2002 where I was a visiting legal writing professor.<sup>16</sup>

Despite differences in demographics between the two groups, the responses were surprisingly similar in many respects concerning what students say makes someone an

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13. Douglas K. Newell, *Ten Survival Suggestions for Rookie Law Teachers*, 33 J. LEGAL EDUC. 693 (1983). See Hess, *supra* note 11, at 89 (noting that it's important to “get to know students outside of the classroom” through office hours, lunches, or attending student events). But see Apel, *supra* note 12, at 371 (recognizing that while some teachers and students value out-of-classroom contact, others do not); Susan J. Becker, *Advice for the New Law Professors: A View From the Trenches*, 42 J. LEGAL EDUC. 432, 435, 445 (1992) (advising teachers to maintain a certain amount of distance from students to create appropriate boundaries in the classroom); Douglas J. Whaley, *Teaching Law: Advice for the New Professors*, 43 OHIO ST. L.J. 125, 133-34 (1982) (stating that social contact with students is a matter of balance between approachability and remaining somewhat aloof).

14. See Paul Bateman, *Toward Diversity in Teaching Methods in Law Schools: Five Suggestions from the Back Row*, 17 QUINNIPIAC L. REV. 397, 404 (1993) (positing typical student reaction to Socratic instruction as inducing “bead[s] of sweat,” sweaty palms, and a racing heart); Hess, *supra* note 11, at 75, 77, 81; Marilyn Heins et al., *Law Students and Medical Students: A Comparison of Perceived Stress*, 33 J. LEGAL EDUC. 511, 522 (1983) (reporting research showing law students experience more academic stress than medical students); Peter Kutulakis, *Stress and Competence: From Law Student to Professional*, 21 CAP. U. L. REV. 835, 836-37 (1992) (reporting that use of the Socratic method “traumatizes” many law students). But see Elkins, *supra* note 12, at 45 (some students report that the challenge of law school motivates them); Ronald M. Pipkin, *Legal Education: The Consumers' Perspective*, 4 AM. B. FOUND. RES. J. 1161, 1186 (1976) (discussing results of a 1975 survey of law student opinions about the quality of legal education in which first year students said their educational experience would be enhanced by greater use of the Socratic method); Suzanne C. Segerstrom, *Perceptions of Stress and Control in the First Semester of Law School*, 32 WILLAMETTE L. REV. 593, 593-97 (1996) (noting that some studies show that students do not find the Socratic method as stressful as teachers perceive it to be); Alan A. Stone, *Legal Education on the Couch*, 85 HARV. L. REV. 392, 406-07 (1971) (reviewing empirical and anecdotal evidence that students find the Socratic instructional technique effective).

15. At the time this survey was conducted, University of Colorado School of Law was a “first tier” law school, ranked 42 out of 187 accredited law schools by the US News and World Report's (USNRW) annual survey of American law schools. See *infra* Part III.C for mean undergraduate GPA and LSAT scores for students surveyed.

16. The William S. Boyd School of Law at the University of Las Vegas, Nevada was a provisionally accredited law school at the time of this survey and thus was not included in the USNRW rankings that year. As of spring 2005, however, UNLV is a “second tier” law school ranked 87 out of 187 accredited law schools by USNRW. See *infra* Part III.C for the mean undergraduate GPA and LSAT scores for the UNLV students surveyed.

effective and, alternatively, an ineffective teacher.<sup>17</sup> Responses also remained substantially consistent among the different graduating classes of students.

Based on the responses, the profile of the ideal law school professor from the students' perspective is someone who is an expert in her field, projects confidence about that expertise, respects students, cares that they learn, and has great enthusiasm for teaching. Somewhat surprisingly, characteristics that we usually presume to be very important to students, such as the teacher learning students' names, the ability to entertain students in class, or socializing with them outside of class, were not as important to students as we often believe.

The purpose of the survey was to provide some feedback to law school teachers interested in improving their own classroom emotional intelligence skills.<sup>18</sup> These skills, like any others, can be learned. Law school teachers can in fact learn to become more warm and supportive, and develop the kind of classroom relationships with students that enhance learning.<sup>19</sup> Just as important, by recognizing the importance of these socio-emotional considerations to learning, law professors can become more self-aware of the ways in which their own classroom behaviors impact learning and thus avoid those behaviors that impede it.<sup>20</sup>

Section II of this article discusses the interdisciplinary research on the effect of socio-emotional considerations on learning. Research from several fields including education, psychology, and now neuroscience all support the critical role these considerations play in learning. Against that background, the survey results discussed in Section VI may be more meaningful to teachers interested in using the data to better inform their own teaching.

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17. See generally *infra* Part IV.

18. "Emotional intelligence" refers to the role emotions play in success in all aspects of our personal lives, careers, and school. GOLEMAN, *supra* note 5, at 34. Although the term "emotional intelligence" is often attributed to Dr. Goleman, author of the 1995 best selling book by the same name, it was actually coined by psychologists Peter Salovey of Yale and John Mayer of the University of New Hampshire in the late 1980s. JOHN J. RATEY, *A USER'S GUIDE TO THE BRAIN* 251 (2001).

19. See Harry G. Murray, *Effective Teaching Behaviors in the College Classroom in 7 HIGHER EDUCATION: HANDBOOK OF THEORY AND RESEARCH* 135, 166 (John C. Smart ed. 1991). Certain teaching behaviors have shown a consistent causal link in the college classroom to student satisfaction, student learning of course content, and student motivation to pursue further exploration of the subject. *Id.* at 161. These include "teacher enthusiasm, teacher clarity and teacher-student interaction." *Id.* at 161-62. There is no reason to think these behaviors are not acquirable, and if adopted, research suggests they would result in greater student satisfaction, motivation, and learning. *Id.* at 162. See also MARY ELLEN WEIMER, *IMPROVING YOUR CLASSROOM TEACHING* 6-16 (1993) (arguing the key characteristics of good teaching—enthusiasm, preparation, organization, and ability to stimulate student thought and interest—are acquirable skills).

20. See Filippa Marullo Anzalone, *It All Begins With You: Improving Law School Learning Through Professional Self-Awareness and Critical Reflection*, 24 *HAMLIN L. REV.* 324, 327 (2001). Anzalone suggests that law professors need to reflect on their classroom relationship with students and whether their own personality and demeanor creates "dissonance in the classroom" that impedes learning, in order to avoid it and thus improve the quality of instruction. *Id.* at 336.

## II. BACKGROUND—THE EFFECT OF SOCIO-EMOTIONAL CONSIDERATIONS ON LEARNING

A convergence of research from both the behavioral and “hard” sciences demonstrates the critical influence of the classroom’s emotional climate on learning and academic success. Educators, psychologists, and social psychologists have long observed that teacher characteristics like warmth, support, and expectations can play a larger role in student achievement than almost any other consideration, including I.Q.<sup>21</sup> Recent advances in understanding how the brain works now provides scientific evidence confirming the essential role the classroom’s emotional milieu has on learning.<sup>22</sup>

Neuroscience tells us that the commonly held belief that emotion and cognition are independent functions is false.<sup>23</sup> To the contrary, emotion plays an indispensable role in all cognition, especially learning and problem solving.<sup>24</sup> The first biological response the brain has to any new information is an emotional one. Emotion triggers our attention and tells the brain that something important is coming.<sup>25</sup> Once the brain has been alerted, emotion tells it what meaning to ascribe to that information.<sup>26</sup> Emotion acts as a value system to assess, for example, whether the stimulus is pleasurable or threatening, and whether it is important enough to warrant further attention.<sup>27</sup> Most

21. GOLEMAN, *supra* note 5, at 34-36, 86. See BAIN, *supra* note 7, at 72, 78; Hess, *supra* note 11, at 92; Wellford-Slocum, *supra* note 10, at 286-87.

22. See COZOLINO, *supra* note 8, at 56, 292. Social interactions stimulate production of neurotransmitters that drive the cortex. These neurotransmitters, which are responsible for mood and emotion, shape all our experiences including cognitive functions. *Id.* Accord SYLWESTER, CELEBRATION OF NEURONS, *supra* note 8, at 75-77, 86 (scientific evidence now supports the important role emotion plays in learning, both in terms of the individual student as well as the emotional climate of the classroom); ROBERT SYLWESTER, A BIOLOGICAL BRAIN IN A CULTURAL CLASSROOM 37 (2003) [hereinafter SYLWESTER, BIOLOGICAL BRAIN].

23. DANIEL J. SIEGEL, THE DEVELOPING MIND: HOW RELATIONSHIPS AND THE BRAIN INTERACT TO SHAPE WHO WE ARE 159 (1999) (“Creating artificial and didactic boundaries between thought and emotion obscures the experiential and neurobiological reality of their inseparable nature.”) (emphasis omitted). Emotions and thoughts actually interpenetrate and shape the other. *Id.* Accord CAINE & CAINE, *supra* note 8, at 136; GOLEMAN, *supra* note 5, at 40-41.

24. SIEGEL, *supra* note 23, at 123, 159; SYLWESTER, BIOLOGICAL BRAIN, *supra* note 22, at 37; SYLWESTER, CELEBRATION OF NEURONS, *supra* note 8, at 86, CAINE & CAINE, *supra* note 8, at 63, 136.

25. SYLWESTER, BIOLOGICAL BRAIN, *supra* note 22, at 37. It is “biologically impossible to learn something if we’re not attending to it, and we don’t attend to things that aren’t emotionally meaningful to us.” *Id.* Accord SYLWESTER, CELEBRATION OF NEURONS, *supra* note 8, at 78, 86. Emotion drives attention which drives learning, and thus our ability to focus and maintain that attention is critical to learning. *Id.* Emotion “activates attentional and problem-solving processes that develop the [brain’s] response.” SYLWESTER, BIOLOGICAL BRAIN, *supra* note 22, at 39. See also CAINE & CAINE, *supra* note 8, at 34 (stating that emotion influences states of arousal which is key to learning); COZOLINO, *supra* note 8, at 292; Alan M. Lerner, *Using Our Brains: What Cognitive Science and Social Psychology Teach Us About Teaching Law Students to Make Ethical, Professionally Responsible, Choices* 23 QUINNIPIAC L. REV. 643, 669 (2004).

26. See SIEGEL, *supra* note 23, at 126, 131, 135. The limbic system, which is responsible for our emotions, processes social information, evaluates its meaning, activates attention, and coordinates the body’s response including higher cognitive activity. *Id.* See RATEY, *supra* note 18, at 186; Lerner, *supra* note 25, at 669.

27. STEVEN PINKER, HOW THE MIND WORKS 43 (1997); SYLWESTER, CELEBRATION OF NEURONS, *supra* note 8, at 71. Specifically, the brain’s limbic system is responsible for appraising the meaning of



of this emotional assessment mechanism occurs below the level of consciousness, although at other times we are acutely aware of our emotional response to incoming information and the importance we ascribe to it.<sup>28</sup>

At the risk of greatly oversimplifying the extremely complex workings of the human mind, the neurobiology of learning involves the brain's ability to record and store information—functions that occur continuously at both a conscious and sub-conscious level—and later bring to bear that accumulated experience to solve problems.<sup>29</sup> The brain places an emotional “tag” on each of our experiences which determines the way in which the brain will connect it up with prior experiences already stored in memory, the significance of that new information, and the ease with which the brain will later be able to call it into service for learning and problem-solving purposes.<sup>30</sup> Consequently, emotion is such an integral part of our brain's cognitive functioning that we literally would be unable to learn or solve problems if not for its role in assigning meaning and a context to every experience.<sup>31</sup>

Emotion also serves the essential biological function of creating the motivation needed to pay attention long enough for learning to occur.<sup>32</sup> Obviously we attend to, and persist at, the tasks we associate with positive feelings while avoiding those we associate with negative ones.<sup>33</sup> That's another reason why emotions have been called

stimuli. SIEGEL, *supra* note 23, at 122, 135.

28. SIEGEL, *supra* note 23, at 132, 135.

29. See CAINE & CAINE, *supra* note 8, at 45-47; SYLWESTER, CELEBRATION OF NEURONS, *supra* note 8, at 92. For those interested in a detailed and comprehensive explanation of the relationship between emotion, experience, memory, and learning, there are several books on the subject written for a lay audience. See, e.g., PINKER, *supra* note 27; RATEY, *supra* note 18; SIEGEL, *supra* note 23.

Consistent with the notion that experience and recall are important to learning, research tells us that “expert” problem solvers, such as experienced attorneys for example, are not just better thinkers or “smarter” than novices. Rather, they are able to draw from a wider base of meaningful experiences in order to recognize the similarities and analogies that allow them to formulate appropriate responses to the problem at hand. See HOW PEOPLE LEARN: BRIDGING RESEARCH AND PRACTICE 12 (M. Suzanne Donovan et al. eds, Nat. Academy Press 4th Printing 2002).

30. RATEY, *supra* note 18, at 186; SYLWESTER, CELEBRATION OF NEURONS, *supra* note 8, at 96; Lerner, *supra* note 25, at 669.

31. See CAINE & CAINE, *supra* note 8, at 63 (noting that the interconnectedness of thinking and emotions should be expected given that the limbic system mediates both emotion and memory); GOLEMAN, *supra* note 5, at 41.

32. See RATEY, *supra* note 18, at 248 (explaining that motivation arises from the brain's emotional labeling of our experiences); SIEGEL, *supra* note 23, at 123 (“All information processing is emotional, in that emotion is the energy that drives, organizes, amplifies, and attenuates cognitive activity . . .”); SYLWESTER, CELEBRATION OF NEURONS, *supra* note 8, at 72. In fact, the word “emotion” is derived from the Latin word *movere* which means “to move.” See GOLEMAN, *supra* note 5, at 81. The research suggests “that moods and emotions automatically activate, or ‘prime,’ cognitive processes that are congruent with the emotional state. For example, a happy mood can direct a person's attention towards objects and ideas associated with happiness, leading to superior learning of that material.” W. Gerrod Parrot, *Emotion and Social Cognition*, in EMOTIONS IN SOCIAL PSYCHOLOGY: ESSENTIAL READINGS 199 (W. Gerrod Parrot ed., 2001).

33. RATEY, *supra* note 18, at 248. See DON HAMACHEK, PSYCHOLOGY IN TEACHING, LEARNING & GROWTH 26 (5th ed. 1995). Students who associate positive feelings with learning and school are more motivated, whereas students who associate school with negative experiences, such as humiliation and ego deflation, tend to be less motivated. *Id.* Positive emotions associated with a task help marshal feelings of “enthusiasm, zeal, and confidence” essential to achievement. GOLEMAN, *supra* note 5, at 79. Good moods

the biological “control center of learning.”<sup>34</sup> Emotions shape and direct all our thoughts and thus “are the enablers and paradoxically the constrainers of what and how we learn.”<sup>35</sup> Indeed, intellectual curiosity is itself an emotion.<sup>36</sup>

Emotion also plays an essential role in the psychology of learning. Dr. Goleman, the author of *Emotional Intelligence*, has characterized emotion as “indispensable” for thinking and learning.<sup>37</sup> To take one important example, emotion plays a critical role in self-efficacy, which refers to a student’s belief in her ability to successfully accomplish the task at hand, such as passing an exam.<sup>38</sup> Educational psychologists agree that having self-efficacy for a particular task is essential to succeeding at it and self-efficacy depends on an emotionally positive state of mind.<sup>39</sup> Research supports the contention that enhancing student self-efficacy for a particular task leads to measurable cognitive efficiencies that produce better results and achievement.<sup>40</sup> Conversely, conditions that lower student self-efficacy, such as a confidence-defeating classroom atmosphere, can lead to psychological and neurobiological effects that actually impede learning.<sup>41</sup>

enhance creative thinking and problem solving abilities. *Id.* at 85; MICHAEL BREARLEY, *EMOTIONAL INTELLIGENCE IN THE CLASSROOM* 43 (2001).

34. BREARLEY, *supra* note 33, at iv (noting that successful learning is a combination of feeling, thinking, and doing, and that emotions are indispensable for rational decisions, thinking, and learning); GOLEMAN, *supra* note 5, at 28.

35. BREARLEY, *supra* note 33, at iv. *Accord* GOLEMAN, *supra* note 5, at 6-7 (stating that in biological terms, a state of happiness activates the brain center that inhibits negative feelings and their consequences, as well as increasing available energy). *See also* CAINE & CAINE, *supra* note 8, at 136 (finding that emotions shape every one of our thoughts).

36. PINKER, *supra* note 27, at 372.

37. GOLEMAN, *supra* note 5, at 12, 28. *Accord* CAINE & CAINE, *supra* note 8, at 90 (recognizing that “[e]motions and cognition cannot be separated.”).

38. A person’s emotional state has an impact on their self-efficacy for a particular task. *See* James E. Maddux, “*Self-Efficacy Theory: An Introduction*,” in *SELF-EFFICACY, ADAPTATION, AND ADJUSTMENT: THEORY, RESEARCH AND APPLICATION* 3, 11-12 (James E. Maddux ed., 1995). As an interesting aside, teachers who have high self-efficacy for teaching and believe they can have a positive affect on student learning are more likely to create a positive socio-emotional classroom environment, leading to greater student achievement. *Id.* at 298.

39. Self-efficacy differs from self-esteem in that the latter refers to a person’s overall sense of self-worth, while the former refers to a person’s belief in her ability to function well in specific areas. *See* McKinney, *supra* note 11, at 234. People’s beliefs about their abilities to succeed at a given task have a profound effect on their abilities to do so. GOLEMAN, *supra* note 5, at 90 (quoting Albert Bandura from an interview with the author). Indeed, hope and optimism—a sense things will turn out alright despite setbacks—is a better predictor of how successful high school students will do in their freshman year of college than SAT scores. *Id.* at 88. Conversely, students who lack self-efficacy for a task because they do not feel positively about their ability to accomplish it, will find that learning is brought to a grinding halt. *Id.* at 78 (“Students who are anxious, angry, or depressed don’t learn; people who are caught in these states do not take in information efficiently or deal with it well.”). *See* McKinney, *supra* note 11, at 234 (stating that empirical studies show unequivocally that individuals with high self-efficacy for a particular task are more likely to succeed at it).

40. James E. Maddux & John Lewis, *Self-Efficacy and Adjustment: Basic Principles and Issues*, in *SELF-EFFICACY, ADAPTATION, AND ADJUSTMENT: THEORY, RESEARCH AND APPLICATION* 37, 43 (James E. Maddux ed., 1995).

41. Stress, anxiety, and depression are frequently the consequence of low self-efficacy—a sense that the individual does not have control over the good and bad things that happen in life. Maddux & Lewis, *supra* note 40, at 37-38. Appropriate levels of stress cause the brain to produce neurotransmitters which

Studies also tell us that the quality of a teacher's interpersonal relationship with her students has a demonstrated affect on learning.<sup>42</sup> From a neurobiological standpoint, we know that social interactions stimulate the production of neurotransmitters that direct the brain's cognitive functioning.<sup>43</sup> Neuroscience also tells us that as the result of limbic synchronization, people tend to share emotional states, and thus a teacher who is positive and self-confident about her students' ability to succeed tends to engender those same feelings in her students.<sup>44</sup> From a social-psychology standpoint, good relationships between teacher and student often result in an elevated mood which enhances self-efficacy, confidence, and motivation.<sup>45</sup>

Indeed, educational psychology has yielded numerous studies that show that a teacher's positive expectations about her students' abilities often become self-fulfilling prophecies that lead to enhanced student performance.<sup>46</sup> The seminal study illustrating this phenomenon involved grade school teachers who were told by the researchers that the incoming class of students had been tested for intellectual "bloomers," meaning that some students were expected to experience a burst of intellectual growth during the school year while others were not.<sup>47</sup> The resulting study showed that the students whom teachers had been told were "bloomers" demonstrated greater intellectual

enhance learning. COZOLINO, *supra* note 8, at 292. However, excessive levels of stress result in the body producing the hormone cortisol, which inhibits cognitive activity resulting in a psychological condition known as "downshifting." CAINE & CAINE, *supra* note 8, at 71-72.

42. According to one author, there is a substantial body of research which shows "that [college] professors who encourage student contact both in and out of the classes enhance student motivation, intellectual commitment, and personal development." Mary Deane Sorcinelli, *Research Findings on the Seven Principles*, in APPLYING THE SEVEN PRINCIPLES FOR GOOD PRACTICE IN UNDERGRADUATE EDUCATION 13, 14 (Arthur W. Chickering & Zelda F. Gamson eds., 1991). Indeed, the author references one comprehensive report that reviewed studies on the effect of teacher-student contact on educational outcomes in the undergraduate context from the 1950s forward and found positive correlations with greater "satisfaction with college, educational aspirations, intellectual and personal development, academic achievement, and persistence in college beyond the freshman year." *Id.* at 15. See also BAIN, *supra* note 7, at 139 (noting that one of the hallmarks of excellent college teachers is the relationship they develop with their students based on trust and caring); Glesner Fines, *supra* note 10, at 113 (stating that teachers who establish a positive, caring socio-emotional climate will increase student motivation to achieve); Hess, *supra* note 11, at 83, 111; Wellford-Slocum, *supra* note 10, at 286-87.

43. COZOLINO, *supra* note 8, at 316. Studies show that a positive social relationship in the context of a patient-therapist relationship enhances neural plasticity and learning. *Id.* at 292-93.

44. See, e.g., GOLEMAN, *supra* note 5, at 117; HATFIELD ET AL., *supra* note 3, at 169 (stating that "a number of researchers have pointed out that people are most likely to mimic those they like and to catch their emotions"); LEWIS ET AL., *supra* note 3, at 63-64.

45. See GOLEMAN, *supra* note 5, at 85, 116-17 (stating that good moods enhance ability to think flexibly and with more complexity which makes it easier to problem solve); HATFIELD ET AL., *supra* note 3, at 151 (noting that research shows "that happy people are more attentive to incoming stimuli and better able to process and recall it"). See generally LEWIS ET AL., *supra* note 3.

46. See generally ROBERT ROSENTHAL & LENORE JACOBSON, PYGMALION IN THE CLASSROOM: TEACHER EXPECTATION AND PUPILS' INTELLECTUAL DEVELOPMENT (expanded ed. Irvington Publ. 1992) (1968). See also BAIN, *supra* note 7, at 72 (noting that research has shown that the best teachers have faith in their students' ability to achieve, and students, in turn, are buoyed by those positive expectations); Glesner Fines, *supra* note 10, at 90-91 (a century of research establishes that teachers' expectations of students tend to become self-fulfilling prophecies).

47. Documentation of the "Pygmalion Effect," as it is sometimes called, was the result of the "Oak School Experiment" conducted in 1966. ROSENTHAL & JACOBSON, *supra* note 46, at 65-66.

achievement than the group of students identified to those same teachers as “non-bloomers.”<sup>48</sup> In reality, there was no test for intellectual blooming; it was a ruse by the researchers.<sup>49</sup> The explanation offered by the researchers as to why certain students outperformed others was that higher expectations lead teachers to act more warmly and supportive towards those students identified as “bloomers.”<sup>50</sup> Increased warmth and support was communicated to those students through subtle changes in teacher body language, tone of voice, and other similar cues.<sup>51</sup> All of this gave students a positive emotional boost that increased their self-efficacy and motivated them to work harder, resulting in greater achievement.<sup>52</sup>

The influence of a teacher’s interpersonal relationship with her students is not just limited to the phenomenon of self-fulfilling prophecies. Rather, the nature and quality of that relationship permeates virtually all aspects of the learning experience. This was recently confirmed by Professor Richard Light of Harvard’s Graduate School of Education, who found, based on a ten-year study of nearly 1600 Harvard undergraduates, that one of the best things students could do to improve their overall college experience was to establish a supportive relationship with at least one faculty member during their time at school.<sup>53</sup> As Professor Light noted: “A great college education depends upon human relationships.”<sup>54</sup> Such a mentoring relationship is the key to providing students with the emotional support and encouragement they need to stay motivated through the challenges and obstacles they will undoubtedly face.<sup>55</sup>

48. *Id.* at 70.

49. *Id.* at 121, 140.

50. *See id.* at 33, 160, 180. *Accord* Glesner Fines, *supra* note 10, at 113-14.

51. ROSENTHAL & JACOBSON, *supra* note 46, at 160-61, 180-81. *See* HAMACHEK, *supra* note 33, at 26; HATFIELD ET AL., *supra* note 3, at 12; SIEGEL, *supra* note 23, at 121 (“nonverbal behavior is a primary mode in which emotion is communicated”); Glesner Fines, *supra* note 10, at 113-14 (“A teacher’s presentation, tone of voice, manner of dress, personality, and so on all have stimulator potential in that each characteristic will cause students to respond in various ways.”).

52. *See* ROSENTHAL & JACOBSON, *supra* note 46, at 178. *Accord* BAIN, *supra* note 7, at 72; MYRON H. DEMBO, *APPLYING EDUCATIONAL PSYCHOLOGY IN THE CLASSROOM* 213-14 (2d ed. 1981); Glesner Fines, *supra* note 10, at 98-99; Hess, *supra* note 11, at 90; Sorcinelli *supra* note 42, at 20-21 (stating that in general, research shows that if teachers set high but attainable goals, academic achievement usually increases, but if teachers set low goals, academic achievement usually decreases).

53. RICHARD J. LIGHT, *MAKING THE MOST OF COLLEGE: STUDENTS SPEAK THEIR MINDS* 87 (2001). Professor Light’s conclusion is consistent with earlier research in the undergraduate context showing the myriad educational benefits resulting from greater teacher-student contact. *See* Sorcinelli, *supra* note 42, at 14-15. *See also* BREARLEY, *supra* note 33, at 55 (noting that learning is a collaborative endeavor between student and teacher and the relationship between the two must serve that purpose. It must “be a relationship based on emotional understanding and rapport”); Hess, *supra* note 11, at 76 (discussing research similar to that done by Professor Light in which seventy-two students were interviewed about what teacher behaviors hindered, or alternatively, helped them learn).

54. *See* LIGHT, *supra* note 53, at 85. In contrast to the undergraduate experience, law students typically have very little contact with faculty members. Lack of such a support network is known to undermine learning. *See* Iijima, *supra* note 11, at 528. *See also infra* notes 56-65 and accompanying text.

55. *See* BAIN, *supra* note 7, at 72; Glesner Fines, *supra* note 10, at 113-15 (stating that teachers who establish a positive, caring socio-emotional climate will increase student motivation to achieve); HATFIELD ET AL., *supra* note 3, at 100 (noting that people who associate with other cheerful, positive people tend to catch those emotions as well); Hess, *supra* note 11, at 99 (writing that making students feel welcome and included enhances their internal motivation); Wellford-Slocum, *supra* note 10, at 289 (arguing that professors must foster the kind of teacher-student relationships and learning environment which increases

A common theme running through much of the foregoing discussion reflects the vital importance of teacher warmth and support to student success.<sup>56</sup> These characteristics are now almost unanimously accepted as essential to effective teaching.<sup>57</sup> Conversely, learning is extremely difficult in their absence.

Unfortunately, the typical first year law school class lacks many of the socio-emotional characteristics that have been shown to have a positive impact on learning. To the contrary, the socio-emotional climate of a typical law school classroom tends to disadvantage learning in many ways. To begin with, it is well recognized that law school is among the most stressful of all educational environments, including medical school.<sup>58</sup> Moreover, contrary to Professor Light's advice, first year students generally have little opportunity for the kind of teacher contact that militates against the feelings of alienation and isolation that lead to stress.<sup>59</sup>

In part, this is due to the fact that scholarship, rather than teaching, has paramount importance at most schools.<sup>60</sup> Although this teaching-scholarship dichotomy exists in

student motivation and self-efficacy by challenging them in a supportive, encouraging manner).

56. See BAIN, *supra* note 7, at 122-23 (noting that the best teachers use "warm" language to communicate with their students); GARY GROTH-MARNAT, HANDBOOK OF PSYCHOLOGICAL ASSESSMENT 47 (John Wiley & Sons, Inc. 3d ed. 1997) (referring to numerous studies showing that positive verbal reinforcement increased student performance, while mildly disapproving comments resulted in "significantly" lowered performance); MARTIN E. FORD, MOTIVATING HUMANS—GOALS, EMOTIONS, AND PERSONAL AGENCY BELIEFS 131 (Sage Publ'ns 1992) (noting that warmth and social support have been linked to enhanced motivation, learning, and performance in school as well as other contexts); LOWMAN, *supra* note 7, at 31-33; Hess, *supra* note 11, at 92, 101. Emotional support is crucial to academic success. See Thomas Bartlett, *Back From the Brink*, CHRON. HIGHER EDUC., May 14, 2004, at A39. In his book, *Emotional Intelligence*, Dr. Goleman writes that a good teacher has the ability to create a positive, emotionally supportive climate in the classroom which has a positive influence on student learning. GOLEMAN, *supra* note 5, at 116-17. Indeed, teacher warmth and caring have consistently been rated among the top ranking personality traits of effective teachers by students in research studies. Feldman, *supra* note 2, at 254, 264; Glesner Fines, *supra* note 10, at 113.

57. See BAIN, *supra* note 7, at 122-23 (noting that the best instructors communicate good intentions and speak in conversational tones, using "warm" language); ROSENTHAL & JACOBSON, *supra* note 46, at 33 (basing conclusion about importance of "warmth" to success on several studies in both academic and non-academic contexts). "It does seem generally to be the case that intellectually more competent performance is obtained by warmer rather than cooler examiners." *Id.* See also Sorcinelli, *supra* note 42, at 14-15; Wellford-Slocum, *supra* note 10, at 289.

58. Glesner, *supra* note 11, at 631; Hess, *supra* note 11, at 75; Iijima, *supra* note 11, at 524-26; Segerstrom, *supra* note 14, at 594; Shanfield & Benjamin, *supra* note 11, at 65, 69. See also Elkins, *supra* note 12, at 32-39 (reporting journal entries kept by 1Ls that describe the first months of law school as filled with anxiety, fear, and despair).

59. See Bateman, *supra* note 14, at 416 (noting that the most common complaint among law students is lack of feedback); Bethany Rubin Henderson, *Asking the Lost Question: What is the Purpose of Law School?*, 53 J. LEGAL EDUC. 48, 67 (2003); Iijima, *supra* note 11, at 528 (noting that law students lose contact with support networks that sustained them during their undergraduate years). See also Apel, *supra* note 3, at 375-76; Peter G. Glenn, *Some Thoughts About Developing Constructive Approaches to Lawyer and Law Student Distress*, 10 J.L. & HEALTH 69, 73 (1995-1996) (noting that ineffective peer relationships are the cause of much of the reported stress among practicing attorneys); Patrick J. Schiltz, *Legal Ethics in Decline: The Elite Law Firm, the Elite Law School, and the Moral Formation of the Novice Attorney*, 82 MINN. L. REV. 705, 771-74 (1998). In addition, because of the competitive nature of law school, law students often lack peer support networks that are often the key to success in school. See Glesner, *supra* note 11, at 664; Iijima, *supra* note 11, at 528.

60. Marin Roger Scordato, *The Dualist Model of Legal Teaching and Scholarship*, 40 AM. U. L. REV.

all academic disciplines, the opportunities for teacher-student mentoring relationships may be less in law school because, in part, the professoriate's perceived mission is to instill self-reliance in students by remaining somewhat distant and unavailable.<sup>61</sup>

Even for those professors who genuinely care about their students, the size of the typical first year class means that as a practical matter, there is little opportunity to develop the kind of supportive relationships found by Professor Light to be essential to academic success.<sup>62</sup> Adding to the problems caused by lack of teacher contact, is lack of teacher feedback which further lowers students' self-efficacy with a concomitant negative affect on learning.<sup>63</sup>

While some data suggests otherwise, the conventional wisdom is that the Socratic method causes in students much confidence-defeating stress and anxiety.<sup>64</sup> Most law professors long ago abandoned the "Kingsfield" archetype—to the extent it ever existed. Nevertheless, many students may still expect a Kingsfield-like grilling which leads to expectations of an adversarial, rather than a supportive learning environment.<sup>65</sup>

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367, 373 (1990) ("scholarship does not simply share a co-equal position with classroom teaching in the dualist model, but has come to dominate the equation"). One faculty member has gone so far as to advise new faculty that any time spent with students is a "waste" because it detracts from time spent on scholarship. Schiltz, *supra* note 59, at 755. See Apel, *supra* note 12, at 376; Glenn, *supra* note 59, at 76; J. Cunyon Gordon, *A Response from the Visitor from Another Planet*, 91 MICH. L. REV. 1953, 1960 (1993).

61. See Banks McDowell, *The Dilemma of a (Law) Teacher*, 52 B.U. L. REV. 247, 248, 251 (1972) (stating that the primary function of law school is to decide whom shall become a member of the profession). See also Timothy P. Terrell, *A Tour of the Whine Country: The Challenge of Extending the Tenets of Lawyer Professionalism to Law Professors and Law Students*, 34 WASHBURN L.J. 1, 11 (1994) (stating that one purpose of law school is to separate the "wheat" from the "chaff"); Wellford-Slocum, *supra* note 10, at 289 (observing that the traditional law professor mentality is to be the "master of [] human deflation") (quoting Peairs, *Essay on the Teaching of Law*, 12 J. LEGAL EDUC. 323, 369-70 (1960)).

62. See Henderson, *supra* note 59, at 64 (stating that the standard law school class is large, resulting in little opportunity for meaningful faculty-student interaction); Segerstrom, *supra* note 14, at 601. Lack of teacher "feedback" was one of the three highest ranked law school stressors in a study of fifty-two first year students. The other two were "time pressure" and "difficulty of the material." *Id.*

63. See Heins et al., *supra* note 14, at 519 (reporting that law students report feeling more academic stress than medical students in part because of lack of teacher feedback); Henderson, *supra* note 59, at 67 (stating that teachers spend limited time grading exams and papers); Iijima, *supra* note 11, at 528 (asserting that close relationships with teachers are not established due to large classes); Pipkin, *supra* note 14, at 1186 (reporting that first year students respond to the survey that they want more teacher feedback on their academic progress).

64. See sources cited *supra* note 14.

65. See Catharine W. Hantzis, *Reappraising the Male Models of Law Teaching*, 38 J. LEGAL EDUC. 155, 156 (1988) ("Although Kingsfield is . . . not the norm of law school teaching, he is . . . a dominant figure in student expectations."). Compare Glesner, *supra* note 11, at 651 (noting that the "merciless" evisceration associated with a Kingfield-like grilling is largely a thing of the past). It is remarkable the extent to which John Houseman's Kingsfield character has become ingrained in the public consciousness generally and an enduring part of law school mythology, particularly because the majority of current law students were born at least a decade after *The Paper Chase* premiered. The origin of a Kingsfield teaching archetype is unclear, but there are traces of it in some of the seminal essays on law school teaching. For instance, in Professor Lon Fuller's essay, "On Teaching," he characterizes the law school experience as an "indoctrination" and "boot-training" and compares law teaching to a bull fight where the professor is the "matador" preparing to "slaughter" his prey. 3 STAN. L. REV. 37, 40 (1950-1951). Even Professor Prosser's well-known humorous piece, *Lighthouse No Good*, describes a young professor "demolishing" his poor student and reducing him to a "condition of palpitating collapse." 1 J. LEGAL EDUC. 257, 262 (1948-1949).

Other observers suggest that it is not the Socratic method which contributes to such a stressful classroom environment, but instead, it is the intellectual challenge of the material itself that overtaxes many students, leading to confidence-defeating stress.<sup>66</sup> Professor Wangerin describes this as a shift new law students must make from dualistic thinking, which involves the belief in objectively right and wrong answers, to multiplistic thinking which is a more relativistic approach in which students eventually come to accept that the law presents no objectively correct answers.<sup>67</sup> According to Professor Wangerin, the difficulty law students experience in making this cognitive shift accounts for much of the distress they report.<sup>68</sup>

Lack of student interest and motivation also contributes to a classroom socio-emotional milieu that is inimical to learning.<sup>69</sup> These are certainly not problems unique to law school. But the problem may be worse in law school simply because the Juris Doctor has become the default degree of choice for college graduates who do not know what else to do with their lives.<sup>70</sup> Professor Terrell argues that many students come to

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66. In a study involving fifty-two first year law students, "difficulty of material" was rated as one of the three greatest stressors of the first year experience. Segerstrom, *supra* note 14, at 599-601. The others were "time pressure" and "lack of feedback." *Id.* at 601. The students did not find the Socratic method, by itself, to be the most significant cause of stress. *Id.* at 602. See also Stone, *supra* note 14, at 406-07 (reviewing empirical and anecdotal evidence that students' opinions of the Socratic instructional technique have changed over time).

Several studies of grade and high school students have demonstrated the effectiveness of the Socratic method as a teaching technique because of its ability to raise critical thinking skills. See Bateman, *supra* note 14, at 405 nn.29-32 (listing several studies demonstrating the effectiveness of the Socratic instructional technique on critical thinking skills). Thus, this suggests it is something else—the material or the particular way in which we question students—that creates so much distress among our students. Indeed, Professor Bateman noted that law professors who used the Socratic teaching method in undergraduate courses found that students "responded with enthusiasm and energy." *Id.* at 406 (quoting Kevin M. Clermont & Robert A. Hillman, *Why Law Teachers Should Teach Undergraduates*, 41 J. LEGAL EDUC. 289, 294 (1991)).

67. The transition from thinking in a dualistic fashion, which is based on the presumption that there are objectively correct answers, to multiplistic thinking, which is based on the presumption that knowledge is relativistic and contextual, "is the most difficult instructional moment faced by students." Paul T. Wangerin, *Objective, Multiplistic, and Relative Truth in Developmental Psychology and Legal Education*, 62 TULANE L. REV. 1237, 1255-56 (1988).

68. *Id.* at 1256-58.

69. See Glenn, *supra* note 59, at 74-75. This commentator suggests that some of the distress and depression suffered by members of the bar is due to the fact that some of them "drift into law school by default. [They] have no informed interest in practicing law. . . [and] are ill-suited by temperament, personality or even intellect to effectively practice law." *Id.* at 74. See generally Terrell, *supra* note 61, at 34 (describing a vicious cycle of poor student motivation leading to poor teacher morale which further diminishes student motivation in the classroom).

70. "[T]here is a significant minority of students for whom professional aspirations and professional ideals are secondary to the simple desire to extend further" the status quo of remaining in a safe school environment. Glenn, *supra* note 59, at 75. Accord Glesner Fines, *supra* note 10, at 90 (lack of student motivation at American law schools has reached a crisis) (citing Deborah Maranville, *Infusing Passion and Context into Traditional Law Curriculum Through Experiential Learning*, 51 J. LEGAL EDUC. 51, 51 (2001)).

As early as 1977, faculty of at least one elite law school were noticing that a significant number of students were disengaged and disinterested in the study of law and simply did not seem to have any particular reason for wanting to be there. See Paul D. Carrington & James J. Conley, *The Alienation of Law Students*, 75 MICH. L. REV. 887, 890 (1977) [hereinafter Carrington & Conley, *Alienation*]. Some ten

law school, ironically enough, with little interest in practicing law.<sup>71</sup> Instead, they misperceive law school as a relatively easy way to earn a degree that they believe confers instant status, respectability, and a good salary in comparison to other post-graduate degree programs that require a greater time commitment or are less remunerative.<sup>72</sup> Placing unmotivated students into the intellectually demanding environment that is law school can certainly contribute to a general state of classroom dysphoria.<sup>73</sup> Moreover, the phenomenon of emotional contagion suggests that lack of student motivation lowers teacher morale which is eventually reflected back again to the students.<sup>74</sup>

If all of that were not enough, Professor Kreiger and the followers of the “Humanizing Legal Education” movement argue that the study of law itself accounts for much of the poor socio-emotional atmosphere infecting our law school classrooms.<sup>75</sup> Professor Kreiger argues that the nature of legal training causes a shift away from students’ personal values and beliefs, the pursuit of which have a demonstrated positive correlation with happiness, towards such things as status, prestige, and high salaries which generally correlate poorly with happiness.<sup>76</sup> Still others suggest that the field of law attracts personality types that are predisposed to unhappiness which further contributes to a dysfunctional classroom climate.<sup>77</sup>

years earlier, one commentator noted that it was already well known that law students lose interest after their first year. See David W. Robertson, *Some Suggestions on Student Boredom in English and American Law Schools*, 20 J. LEGAL EDUC. 278, 278 (1968).

71. See Terrell, *supra* note 61, at 1-8.

72. See *id.* at 8. A contributing factor to low morale in some classes is that law school is simply not as difficult to get into as many might think. Approximately 50% of the nationwide applicant pool gets admitted someplace. See Glenn, *supra* note 59, at 74-75. “Thus, for college graduates who are reasonably verbally skilled, law school is a relatively accessible and socially respectable post-graduate activity that is attractive to those who reach their senior year in college without another clear career choice and who want to extend their time in the environment.” *Id.*

73. The conventional wisdom that law schools, as elite graduate programs, are immune from the consumer mentality forces that have diluted the morale and rigor within many undergraduate programs may be false. One commentator suggests that these forces are already at work in the legal academy. “[O]ne of the impacts of such [weak] students . . . is that law teachers have diluted their courses to satisfy these uncommitted students.” Glenn, *supra* note 59, at 75 n.13 (citing MARY ANN GLENDON, *A NATION UNDER LAWYERS* 199-203 (1994)).

74. HATFIELD ET AL., *supra* note 3, at 16-17. See Elkins, *supra* note 12, at 49, n.23 (alienated students affect the morale of other students as well as the teacher, which “detracts from the quality of life” in the law school classroom).

75. Krieger, *supra* note 11, at 122-23 (suggesting that the law school experience itself, with its emphasis on rationality at the expense of personal values, beliefs, and ideals exacerbates the dysphoria of law students). See also Professor Kreiger’s website devoted to the “Humanizing Legal Education” movement, [http://www.law.fsu.edu/academic\\_programs/humanizing\\_lawschool.php](http://www.law.fsu.edu/academic_programs/humanizing_lawschool.php).

76. Krieger, *supra* note 11, at 119-121. Accord Glenn, *supra* note 59, at 72; Iijima, *supra* note 11, at 529 (observing that law students learn to suppress their feelings, come to care less about others, and are taught that their value systems are irrelevant).

77. See Carrington & Conley, *Alienation*, *supra* note 70, at 898; Elkins, *supra* note 12, at 47 (noting that law professors were the “stars” of the classes and thus may be more compulsive than the average student, which can, in turn, imbue the classroom with that same atmosphere); Glenn, *supra* note 59, at 72 (noting that people who are drawn to the practice of law tend to be more obsessive-compulsive, hostile, aggressive, slightly paranoid, and depressed than the general population); McKinney, *supra* note 11, at 230. Professors Carrington and Conley suggest that some student alienation in law school is attributable to the



For all these reasons, it is imperative that law teachers become knowledgeable about the emotional intelligence skills needed to transform the existing classroom culture into one that is more favorable to learning. Personal characteristics such as warmth, support, and positive expectations of students, which have all been demonstrated to correlate favorably with student achievement, are learnable skills. Thus, we can and need to better develop these skills as part of our commitment to better teaching competence.<sup>78</sup> The survey results discussed below are intended to help understand which of these considerations students say matter most.

### III. THE SURVEY

#### A. Methodology

The survey questions were organized into three general categories: 1. Structured questions that asked students to rate the importance of certain teacher traits and characteristics; 2. Structured questions that ask students to identify which aspects of student-teacher social relationships are important to them; and 3. Unstructured, open-ended questions that allowed students to elaborate on any of their previous answers or volunteer their thoughts about what they believe makes someone an effective, or ineffective, teacher.

Some of the questions, such as the importance students place on teachers being entertaining, were selected because they are behaviors traditionally believed by researchers to correlate positively with student views about effective teaching.<sup>79</sup> Other questions, such as the importance of teacher confidence, were included at the suggestion of the students themselves as the result of several focus groups held in connection with the drafting of this survey.

The majority of survey questions were designed as category scale response questions.<sup>80</sup> This format allowed students to rate the importance of certain teaching

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fact that law school attracts the kind of personalities prone to alienation. By alienation, the authors mean students who are not part of a caring, active community of learners; they derive little enjoyment from their classes and do not have clear reasons for attending law school. See Paul D. Carrington & James J. Conley, *Negative Attitudes of Law Students: A Replication of the Alienation and Dissatisfaction Factors*, 76 MICH. L. REV. 1036, 1036 (1978) [hereinafter Carrington & Conley, *Negative Attitudes*].

It follows that because learning is so dependant on the teacher-student relationship, an emotionally unhealthy teacher can, and will, poison the classroom environment and its impact on learning. See GOLEMAN, *supra* note 5, at 20, 25. Thus, the path to better teaching and, hence, better learning, can be achieved when professors become more self-aware of the ways in which their behaviors influence the learning environment, for better or worse. See Anzalone, *supra* note 20, at 327, 336; Carrington & Conley, *Negative Attitudes*, *supra* at 1036.

78. See *supra* notes 19 & 20; LOWMAN, *supra* note 7, at 290. Certainly, some people are more naturally predisposed to the classroom behaviors that make someone an effective teacher. However, any professor can learn to better adopt those behaviors that correlate well with teaching effectiveness. *Id.* See Walsh & Maffei, *supra* note 7, at 42.

79. PETER SACKS, GENERATION X GOES TO COLLEGE 143, 146-47 (Open Court 1996); John E. Ware, Jr. & Reed G. Williams, *The Dr. Fox Effect: A Study of Lecturers Effectiveness and Ratings of Instructors* 50 J. MED. EDUC. 149 (1975) (although now discredited due to faulty methodology—it is a widely referenced study that purports to show that students favor a teacher's lecture style over substance).

80. ROBERT M. KAPLAN & DENNIS P. SACCUZZO, PSYCHOLOGICAL TESTING: PRINCIPLES, APPLICATIONS, AND ISSUES 164-66 (6th ed., Brooks/Cole Publishing 2005).

behaviors on a seven-point scale with "1" being "not important" and "7" being "extremely important." This format is especially well suited to surveys like this one that seek to measure the attitudes and opinions of the subject group because it allows for the collection of more nuanced data than other survey methods.<sup>81</sup>

The survey was administered to all full-time students enrolled at the University of Colorado School of Law during the spring of 2002, where I was a legal writing professor at the time. It was also administered to the entire first year evening class at UNLV that same summer where I was a visiting legal writing professor. The second school was chosen for the purpose of developing comparative data to see whether the survey results varied between schools and what, if any, trends emerged.

At CU, copies of the survey were left in each student's campus mailbox. Students were given two weeks to anonymously complete and then return the surveys to a designated drop box on campus. Small cash prizes were randomly awarded to students for completing the survey as a way to encourage participation and thus obtain an acceptable response rate. With the cooperation of the UNLV faculty, I was able to administer the survey during the 1L's mandatory legal writing class that summer which ensured a very high response rate since the students were a captive audience.

### *B. The Response Rate*

All 164 full time 1L students enrolled at CU during spring 2002 received a survey. Eighty-nine of those students completed the survey yielding a response rate of 54%. With respect to the 2L students, surveys were distributed to all 154 full time students enrolled during the spring 2002 semester. Fifty-seven of those students returned surveys yielding a response rate of 35%. Surveys were also distributed to all 172 full-time 3L students. Seventy-nine of those surveys were returned, which yielded a response rate of 45% for that class. The combined response rate for the entire full time CU law school student body as of spring 2002 was 45%.

The survey was also distributed to all fifty-three first year, part-time students at UNLV as of the summer of 2002.<sup>82</sup> Because students were asked to complete the survey during class time, I received forty-nine responses yielding a response rate of 92%.

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81. *Id.* at 162-63.

82. The survey was distributed only to the part-time 1Ls because they were the only group of students required to be on campus during the summer semester.

### C. Demographics.

The demographics of each group surveyed are reported below.<sup>83</sup>

#### CU Class of 2004—1L students

	Total Enrolled	Percentage of Total Population <sup>84</sup>	# Surveys Returned	Percentage of Responding Population	Overall Response Rate
Male	80	48%	38	43%	
Female	87	52%	50	57%	
<b>TOTAL</b>	<b>167</b>	<b>100%</b>	<b>88</b>	<b>100%</b>	<b>54%</b>

Median age—24 (range 21-43)

Median LSAT score—162

Median GPA—3.55

#### CU Class of 2003—2L students

	Total Enrolled	Percentage of Total Population <sup>85</sup>	# Surveys Returned	Percentage of Responding Population	Overall Response Rate
Male	64	42%	24	42%	
Female	90	58%	33	58%	
<b>TOTAL</b>	<b>154</b>	<b>100%</b>	<b>57</b>	<b>100%</b>	<b>35%</b>

Median age—25 (range 21-50)

Median LSAT score—160

Median GPA—3.56

83. The statistics that follow are based on the annual report filed by the Dean with the ABA Section on Legal Education and Admissions to the Bar reflecting student demographics as of October 1, 2001. Because the survey was administered during March 2002, it is possible that these numbers changed slightly by the time the survey was administered by the addition or loss of a student or two but nothing that is materially significant.

84. The minority populations reported to the ABA, *see supra* note 83, (African American, American Indian, Asian, Hispanic and "other") comprised a relatively small percentage of the overall student population so that the response rates for those groups is statistically insignificant. Compounding the problem is the fact that some survey respondents identified themselves as belonging to multiple ethnic groups. Consequently, if any of these individuals identified themselves differently in their law school applications (such as African American *or* Hispanic heritage rather than *both*), or depending upon how the school identified them in its report to the ABA, it would further call into question the significance of the response rate for these groups. Nevertheless, I have reported the figures below for the sake of interest and completeness.

The following reflects the composition of the 1L class with respect to minority students:—African American—ten enrolled reflecting 5.9% of the total population, two of those responded reflecting a 20% response rate for that group; American Indian—five enrolled reflecting 2.9% of the total population, four of those responded reflecting an 80% response rate for that group; Asian American—six enrolled reflecting 3.5% of the total population, one of those responded reflecting a 17% response rate; Hispanic—eleven enrolled reflecting 6.5% of the total population, six of those responded reflecting a 55% response rate.

85. *See supra* note 84. The following reflects the composition of the 2L class with respect to minority students: African American—seven enrolled reflecting 4.5% of the total population, none of whom responded; American Indian—five enrolled reflecting 3% of the total population, one of those responded reflecting a 20% response rate for that group; Asian American—nine enrolled reflecting 5.8% of the total population, six of those responded reflecting a 67% response rate; Hispanic—thirteen enrolled reflecting 8.4% of the total population, six of those responded reflecting a 46% response rate.

*CU Class of 2002—3L students*

	Total Enrolled	Percentage of Total Population <sup>86</sup>	# Surveys Returned	Percentage of Responding Population	Overall Response Rate
Male	81	49%	36	46%	
Female	83	51%	42	54%	
<b>TOTAL</b>	<b>164</b>	<b>100%</b>	<b>78</b>	<b>100%</b>	<b>45%</b>

Median age—25 (range 20-45)

Median LSAT score—161

Median GPA—3.52

*UNLV Class of 2005—1L students*

	Total Enrolled	Percentage of Total Population <sup>87</sup>	# Surveys Returned	Percentage of Responding Population	Overall Response Rate
Male	26	49%	25	51%	
Female	27	51%	24	49%	
<b>TOTAL</b>	<b>53</b>	<b>100%</b>	<b>49</b>	<b>100%</b>	<b>92%</b>

Median age—30 (range 22-56)

Median LSAT score—154

Median GPA—3.36

IV. THE SURVEY RESULTS<sup>88</sup>

The survey was divided into three sections. Part A contained eight questions that sought student opinion about specific aspects of teacher classroom behaviors. Part B involved a series of six questions that asked students to rate the importance of certain aspects of student-teacher rapport and social contact. Part C included three open-ended questions that allowed students to elaborate on any of their previous answers or provide additional comments about the things they believe makes someone an effective, or ineffective, law school teacher. Finally, the last series of questions asked students to provide demographic information, which is summarized on the preceding pages. The results of the remaining questions are reported below.

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86. See *supra* note 84. The following reflects the composition of the 3L class with respect to minority students: African American—seven enrolled reflecting 4% of the total population, four of those responded reflecting a 57% response rate for that group; American Indian—five enrolled reflecting 3% of the total population, two of those responded reflecting a 40% response rate for that group; Asian American—five enrolled reflecting 3% of the total population, one of those responded reflecting a 20% response rate; Hispanic—eleven enrolled reflecting 6.7% of the total population, five of those responded reflecting a 45% response rate.

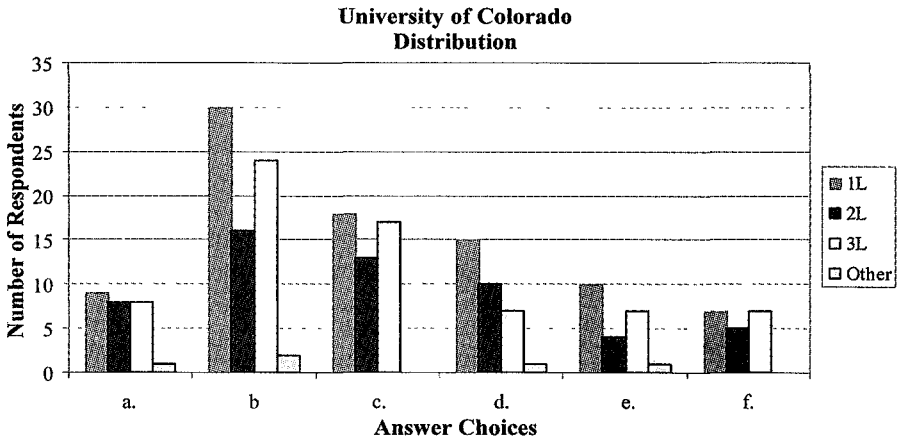
87. The 1L part-time class included the following minority group populations: African American—two enrolled reflecting 3% of the total population, one of those responded reflecting a 50% response rate for that group; American Indian—one enrolled reflecting 2% of the total population, although he/she did not respond; Asian American—four enrolled reflecting 7% of the total population, four of those responded reflecting a 100% response rate; Hispanic—five enrolled reflecting 9% of the total population, five of those responded reflecting a 100% response rate. In addition, there were two female students responding to the survey who identified themselves as “other.”

88. All surveys, survey materials, and student comments quoted in the following discussion are on file with the author.

A. Questions on Teachers' Classroom Conduct

1) Which one of the following statements do you agree with?

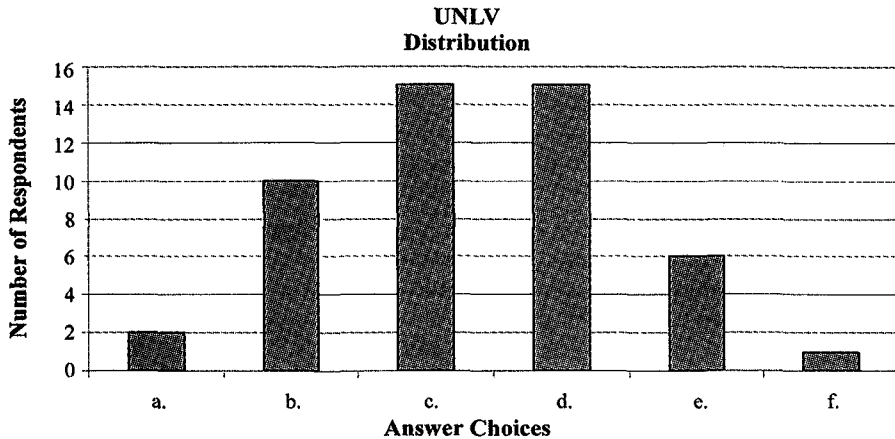
- a. I learn best when my teachers randomly call on students in class and penalize those who are not prepared.
- b. I learn best when my teachers randomly call on students in class but do not penalize those who are not prepared.
- c. I learn best when my teachers tell students in advance when they will be called on in class.
- d. I learn best when my teachers ask students to volunteer answers rather than calling on them in class.
- e. It has no effect on my learning whether or not my teachers call on students during class.
- f. Other: \_\_\_\_\_



Students	A	B	C	D	E	F
1L	10%	34%	20%	17%	11%	8%
2L	15%	29%	24%	18%	7%	9%
3L	11%	34%	24%	10%	10%	10%

**Responses by Percentage<sup>89</sup>**

89. In calculating percentages, the results were rounded to the nearest value.



Students	A	B	C	D	E	F
1L	4%	21%	31%	31%	13%	2%

#### Responses by Percentage

The Socratic method is still the most widely used instructional technique in law school.<sup>90</sup> In non-law school contexts, it has proved to be effective at instilling critical thinking skills.<sup>91</sup> Yet its use in law school has been blamed for causing much of the distress reported by our students, especially 1Ls.<sup>92</sup> That raises the possibility that it is not the Socratic method itself which causes the problem, but something about the way it is used in law school. One possibility is the way in which law professors use the Socratic method to hold students accountable for the assigned reading.

The purpose of this question was to find out from students which of the “accountability” techniques they found to be the most effective at helping them learn. Presenting students with an appropriate challenge aids learning; it is only when we engender excessive stress that teachers have a negative effect on student learning.<sup>93</sup> This question sought to determine where students say the proper balance is struck.

90. According to a 1996 survey of law schools, 97% of first year classes and 67% of upper-level seminars use the Socratic method. Steven I. Friedland, *How We Teach: A Survey of Teaching Techniques in American Law Schools*, 20 SEATTLE U. L. REV. 1, 27 (1996). Traditionally, law school teachers called on students at random with no advance warning in the belief that keeping students on their toes forced them all to prepare for each class. Henderson, *supra* note 59, at 65. Perhaps as a result of a general interest among legal educators in creating a kinder, gentler law school environment, it is now more common for professors to tell students in advance when they will be called on. *Id.*

91. Several studies of grade and high school students have demonstrated the effectiveness of the Socratic method as a teaching technique which raises critical thinking skills. See Bateman, *supra* note 14, at 405, & nn.29-32 (listing several studies demonstrating the effectiveness of the Socratic instructional technique on critical thinking skills).

92. See *supra* note 11.

93. Stress is not always bad. In fact, mild to moderate stress actually facilitates learning. See *supra* note 41 and sources cited therein. It “stimulates neural growth hormones and leads to increased production of cells in brain areas involved in learning.” COZOLINO, *supra* note 8, at 23-24. See also Elkins, *supra* note 12, at 45 (noting that some students report that the challenge of law school motivates them); Glesner,

As the above results show, the greatest number of CU students, at all levels, said they learned best when the teacher called on them at random but did not penalize them for lack of preparedness. The next most popular choices, in descending order, were having the teacher call on students with advance notice and having the teacher rely on volunteers for class discussion. Students ordered their preferences nearly the same regardless of graduating class. Among UNLV evening students, the majority said they learned best when the teacher gave them advance notice they would be called on or when the teacher relied on volunteers. Few students at either school said they learned best when the teacher used the threat of penalties to motivate them to prepare for class.

Although there are a variety of accountability techniques we can use to ensure preparation, these students said that threatening them with a penalty for not being prepared is counterproductive to their learning.<sup>94</sup> This is consistent with one of the central tenets of good teaching that the optimal learning environment is one in which teachers create an atmosphere of high challenge but make it a low-risk proposition for students to participate.<sup>95</sup> Student comments written in response to the open-ended questions at the end of the survey support this.

For instance, a first year CU student made the following statement: "Randomness gives you an incentive to be prepared and keep up, but no penalties are more kind in case you are nervous or unable to keep up for that day, etc. Volunteers don't always produce an effective dialogue."<sup>96</sup> Another said that "professors who make the Socratic method intimidating" are ineffective, while effective teachers use "empathy balanced with holding us responsible for the day's material."

Other 1L students noted that the Socratic method is an effective technique provided teachers use it skillfully in a way that does not leave more questions than answers: "The Socratic method is good, but professor [sic] needs to make sure points are well explained either by [the] student or by [the] professor." Another 1L said, "the Socratic method works best when the questions are phrased carefully to elicit answers. Overall, open-ended questions are a waste of time." A third student said, "effective teachers call on students to answer questions, but lead them and give hints when students don't know the answer or get it wrong."

On the other hand, a few Colorado 1Ls criticized the Socratic method altogether. One said, simply, "the Socratic method is hell." Another added, "I think that in general the Socratic method is a terror tactic, putting student against teacher and fostering a better-you-than-me mentality."

Interestingly, the only comments left by upper-class students concerning the use of the Socratic method were that they found it less effective after the first year. As one 2L student explained, "the Socratic method is highly overrated. It is more effective to

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*supra* note 11, at 644-45; Nancy J. Soonpaa, *Stress in Law Students: A Comparative Study of First-Year, Second-Year, and Third-Year Students*, 36 CONN. L. REV. 353, 355 (2004). Only extreme or unmanageable stress is counterproductive to learning. See COZOLINO, *supra* note 8, at 23; Heins et al., *supra* note 14, at 525.

94. Professor Bain, in his study of sixty-three outstanding teachers, found that the teachers best hold students accountable for the material by calling on them rather than relying on volunteers but "they do so with care." BAIN, *supra* note 7, at 131.

95. See *id.* at 96, 108-09; CAINE & CAINE, *supra* note 8, at 94-95, 143.

96. The student comments are on file with author and are available upon request.

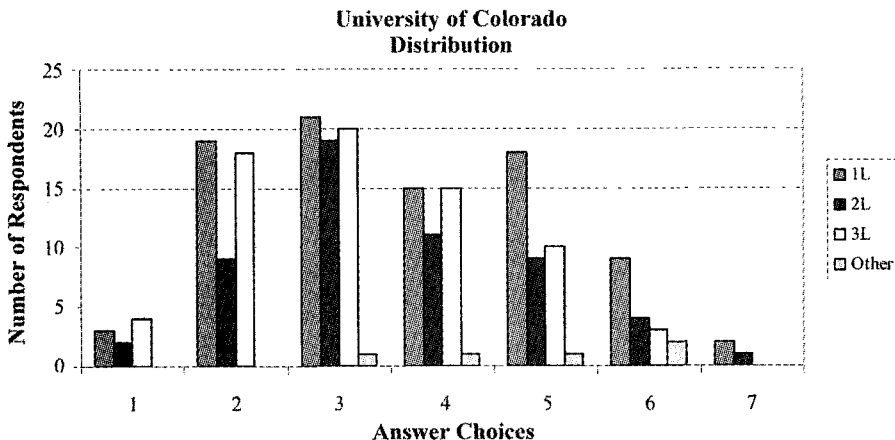
explain to students and answer *their* questions.” A 3L student said bluntly, “don’t use the Socratic method.” While it is difficult to generalize the few volunteered comments to all upper-class students, they are consistent with earlier research done by the ABA Research Foundation, which found that students generally disfavor use of the Socratic method after the first year.<sup>97</sup>

- 2) *This question asks about the appropriate balance teachers should strike between responding to all student questions during class versus getting through the material. On the scale below, please circle the number that reflects your opinion about where teachers should strike this balance.*

1-----2-----3-----4-----5-----6-----7

Teachers should get through the material

Teachers should respond to all student questions

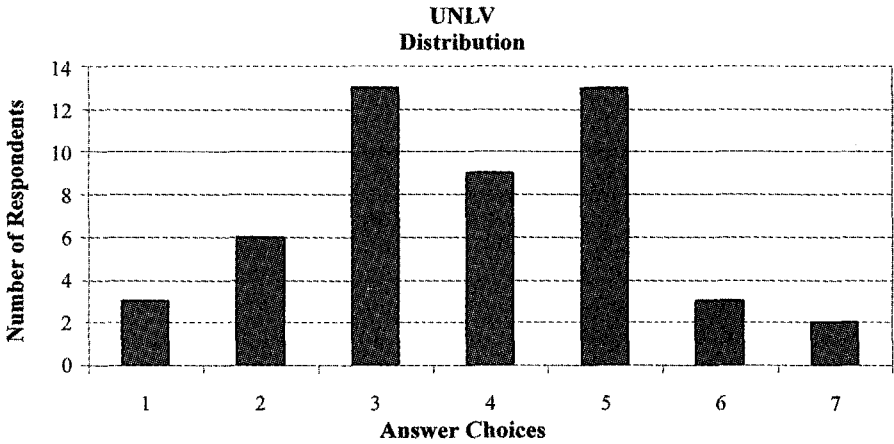


Students	1	2	3	4	5	6	7
1L	3%	22%	24%	17%	20%	10%	2%
2L	4%	16%	35%	20%	16%	7%	2%
3L	6%	25%	28%	21%	14%	4%	0%

**Responses by Percentage**

97. Pipkin, *supra* note 14, at 1186





Students	1	2	3	4	5	6	7
1L	6%	13%	27%	19%	27%	6%	4%

**Responses by Percentage**

This question was intended to solicit student opinion about a classroom management issue many teachers, especially new ones, often struggle with: finding the right balance between covering the material and responding to student questions. Although at first blush this question does not seem to fall under the rubric of effective teacher personality traits or behaviors, it is a key aspect of a teacher’s classroom management style and thus relates to her classroom relationship and rapport with students.

The distribution of responses above shows that students varied in their opinions about the appropriate balance teachers should strike between covering the material versus responding to student questions. Among 1L students, the majority of responses reflected a more even distribution between those who favored coverage of the material versus those who preferred that the teacher take the time to respond to student questions. Among 2L and 3L students, however, the responses were slightly skewed in favor of course coverage over responding to all student questions.

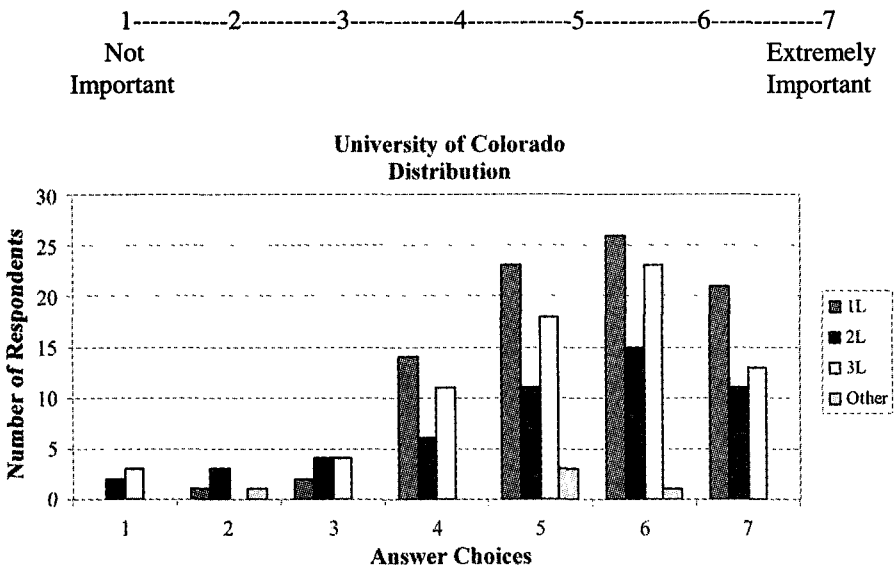
In response to the open-ended questions at the end of the survey, this issue provoked among the greatest number and most passionate responses from students. Students from both schools, at all levels, expressed frustration at teachers who allowed class discussion to drift by indulging irrelevant student questions. A Colorado 1L said that “an ineffective law school teacher allows particular students to speak every single day and the student regularly sends the conversation on a tangent. At this point, many don’t pay attention; it wastes class time, and the inattention may spill over to important points the [professor] wants to get to.”

Similar comments from other students included that an effective professor is one who is “willing and able to answer questions, but also knowing [sic] which students have poor comments and insuring [sic] when to move on. Being clear about the material and not expecting more than we know.” Another said that an effective teacher has the “ability to recognize when a student’s repeated comments fail to contribute to the learning process and prevent[s] them from wasting everyone’s time with subjective

drivel.” A third student volunteered that ineffective teachers allow the “class to get way off track by entertaining unrelated questions or allowing students to take up class time by posing outrageous hypos.”

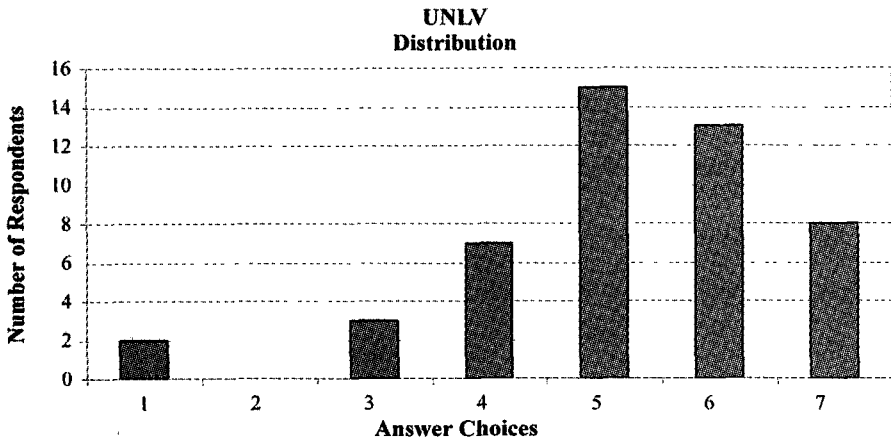
Several student comments confirmed what the data already indicates: the best classroom manager is a teacher who strikes a reasonable balance between answering questions and getting through the material. As one part-time UNLV student put it, “I prefer a class where there is a balance between [the] teacher talking and [the] students talking.” A 3L Colorado student provided sound advice that all teachers should strive to follow: “A teacher that has firm control over the class, but is respectful in doing so, who invites and answers questions but discourages mere opinions or irrelevant questions or questions going off on a tangent” is effective. On the other hand, the student cautioned the teacher not to rush “to get through too many things” or choose “speed over substance . . . Professors need to find a balance where they can get through the material, but in a coherent way.”

3) *How important is it to you that your teachers set high academic standards in class?*



Students	1	2	3	4	5	6	7
1L	0%	1%	2%	16%	26%	30%	24%
2L	4%	5%	7%	11%	20%	27%	20%
3L	4%	0%	6%	15%	25%	32%	18%

Responses by Percentage



Students	1	2	3	4	5	6	7
1L	4%	0%	6%	15%	31%	27%	17%

#### Responses by Percentage

All students no matter their level or school, rated this very highly as the distribution of responses, above, shows. Expressed as a percentage of the overall responses, the distribution was very similar for students in all three graduating classes. These results are consistent with similar research involving undergraduate students, suggesting that they tend to rate more highly those teachers who set high standards.<sup>98</sup>

A 1L Colorado student succinctly responded to the open-ended question about what makes an effective law professor by saying: “Low expectations have no place in law school.” Other students left similar comments, such as: “Set high standards—school is [a] low risk environment; mistakes in the real world can be costly.”

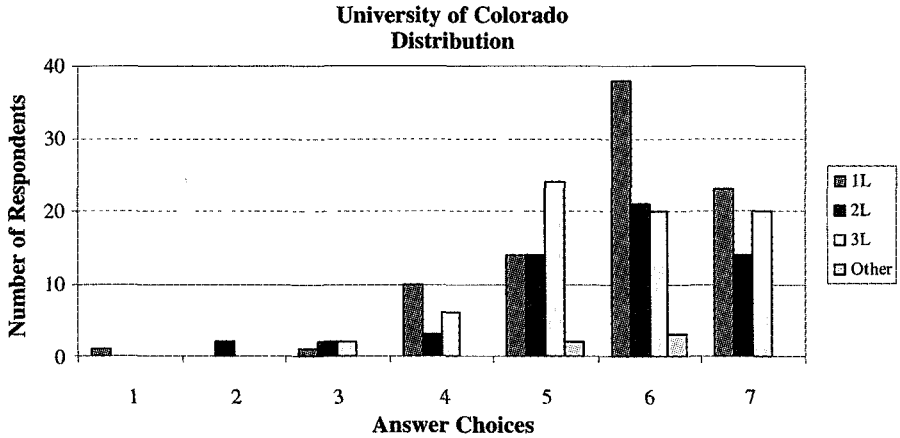
The students who participated in this survey are telling us that they want their teachers to set high standards, while the work of researchers studying the effects of self-fulfilling prophecies tells us that when we do, students tend to produce their best work.<sup>99</sup>

98. BAIN, *supra* note 7, at 73 (stating that a hallmark of outstanding teachers is that they set high standards); Feldman, *supra* note 2, at 257 (same); Glesner Fines, *supra* note 10, at 126 (noting a positive correlation between student teaching evaluations and course rigor). See also FORD, *supra* note 56, at 111 (noting that there is a “robust” set of empirical data showing that when teachers set an optimally challenging level of difficulty—that is, a level that is “hard” but attainable—students reach higher levels of achievement); Sorcinelli, *supra* note 42, at 20-21 (stating that decades of research consistently show, contrary to faculty belief, that students give higher ratings to difficult courses in which they have to work hard); Hess, *supra* note 11, at 90-91 (students consistently give high ratings to teachers who hold them to high standards by making them work hard).

99. See *supra* notes 46-52.

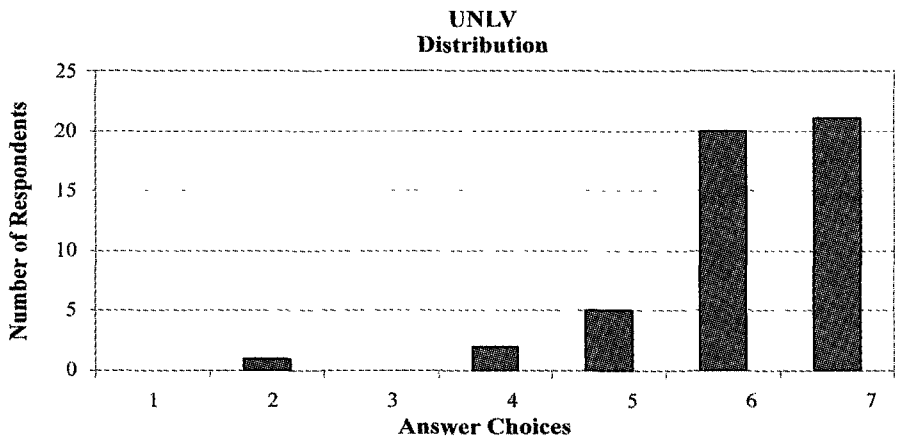
4) *How important is it to you that your teachers are experts in their fields?*

1-----2-----3-----4-----5-----6-----7  
 Not Important Extremly Important



Students	1	2	3	4	5	6	7
1L	1%	0%	1%	11%	16%	43%	26%
2L	0%	4%	4%	5%	25%	38%	25%
3L	0%	0%	3%	8%	34%	28%	28%

**Responses by Percentage**



Students	1	2	3	4	5	6	7
1L	0%	2%	0%	4%	10%	42%	44%

**Responses by Percentage**

All students, regardless of class or school, rated this very highly. As the above chart shows, the distribution of responses was similar among all three classes and both schools. Indeed, it was identified by responding students as one of the most important traits of effective teachers. This is consistent with research by Professor Feldman and others showing that undergraduates place a high value on teachers who are experts in their chosen field.<sup>100</sup> The results here also make good common sense because it stands to reason that students are more likely to pay attention in class when they have faith in their teacher's knowledge and expertise. Of course, the importance of teacher expertise is relative, as this comment from a 2L Colorado student makes clear: "I would choose a personable, value-centered professor over an expert who is a jerk any day of the week."

Related to the issue of teacher expertise, several students volunteered comments expressing their desire that professors have practical experience working as attorneys prior to joining academia. For example, one student said: "[Teachers] should have experience as a practitioner . . . at least [five] years worth." Another student noted the importance of teachers "having practiced in the area they teach and sharing knowledge from a practical perspective." Yet another said it is "very important that [professors] thoroughly understand the material they are teaching!" and that "they have EXPERIENCE practicing what they teach!" (emphasis in original). "We need more teachers who are experienced in their field, not just academia." Finally, there was this observation: "The effective law school teacher can offer a *practical* perspective to classes, mainly stemming from actual experience in the field she/he teaches." (emphasis in original).

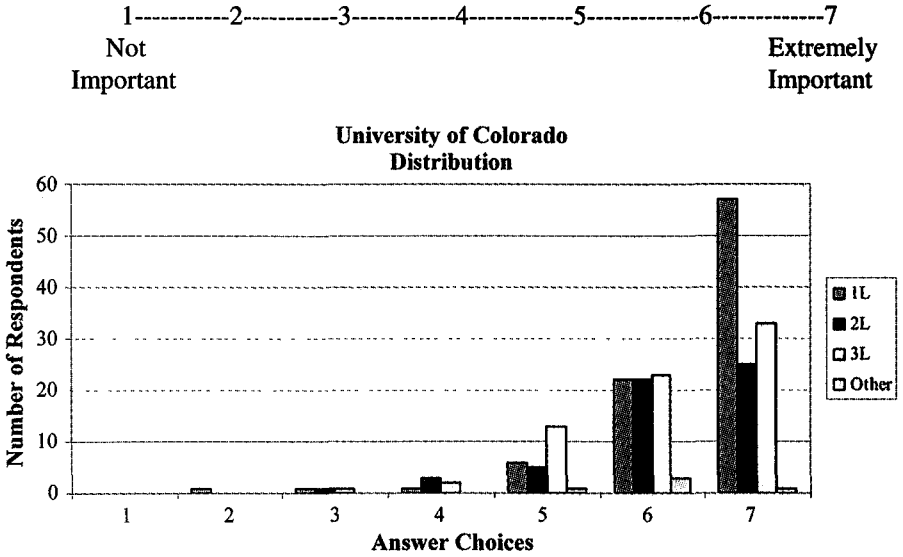
At least one professor has gone further by arguing that law school teachers have an ethical duty to their students to obtain practical experience so they are more knowledgeable about the profession they are training their students to enter.<sup>101</sup> Several students who responded to the survey are telling us they want that as well.

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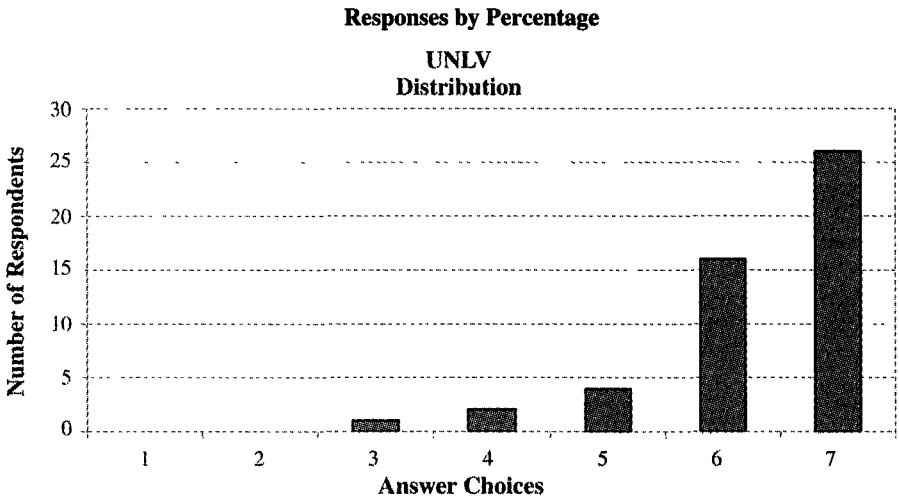
100. CAINE & CAINE, *supra* note 8, at 144-45; Feldman, *supra* note 2, at 263. "Expertise in the field of instruction is critical in order to build the necessary trust with students to ensure learning." *Id.* at 145. Although there has been little of this kind of empirical research in the law school context, the results here are also consistent with Professor David Walter's observation that students are desirous of teachers who are experts in their fields. David D. Walter, *Student Evaluations—A Tool for Advancing Law Teacher Professionalism and Respect for Students* 7 LEGAL WRITING 177, 202 (2000).

101. Amy B. Cohen, *The Dangers of the Ivory Tower: The Obligation of Law Professors to Engage in the Practice of Law*, 50 LOY. L. REV. 623 (2004). See Richard K. Neumann, Jr., *Donald Schon, the Reflective Practitioner and the Comparative Failure of Legal Education*, 6 CLINICAL L. REV. 401, 426 (2000). "Among the professions, legal education stands nearly alone in its contempt for the reflective practicum." *Id.*

5) *How important is it to you that your teachers are confident in their knowledge of the material being taught?*



Students	1	2	3	4	5	6	7
1L	0%	1%	1%	1%	7%	25%	65%
2L	0%	0%	2%	5%	9%	40%	45%
3L	0%	0%	1%	3%	18%	32%	46%



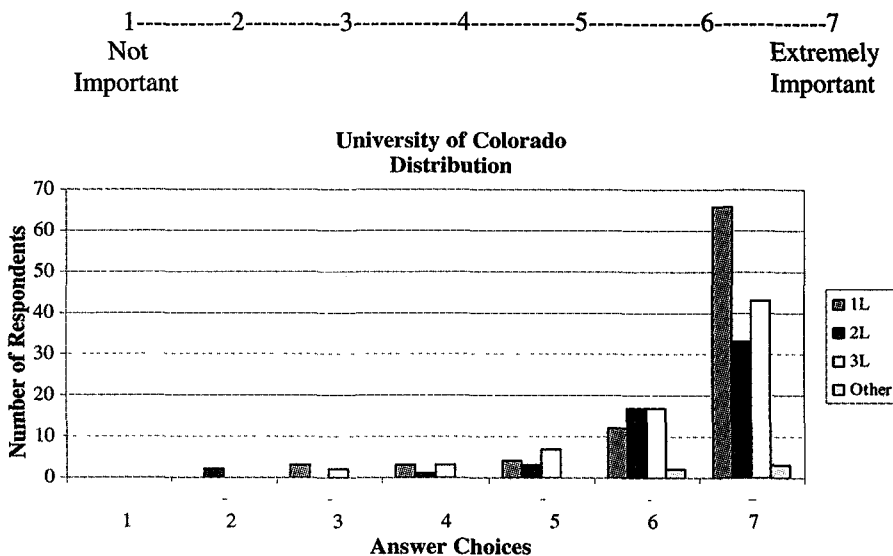
Students	1	2	3	4	5	6	7
1L	0%	0%	2%	4%	8%	33%	54%

**Responses by Percentage**

During several focus groups held to obtain feedback on an early draft of the survey, several students mentioned that it was important to them that their teachers project confidence about the material they teach. As a result of that feedback, the above question was included in the survey and thus we should not be surprised that it turned out to be one of the most important traits of effective teachers identified by students at both schools. The enthusiastic response to this question certainly makes intuitive sense because students will presumably have more confidence in their own knowledge of the material if the teacher projects confidence about it during class.

One educational scholar has coined the term “teacher prestige” to refer to the authority a teacher projects in class about her expertise and knowledge of the subject matter.<sup>102</sup> This scholar argues that “teacher prestige” is a critical trait of effective teachers because it makes students more receptive to the instruction they offer.<sup>103</sup> The students who responded to this survey certainly agree.

- 6) *How important is it to you that your teachers treat students with respect during class?*

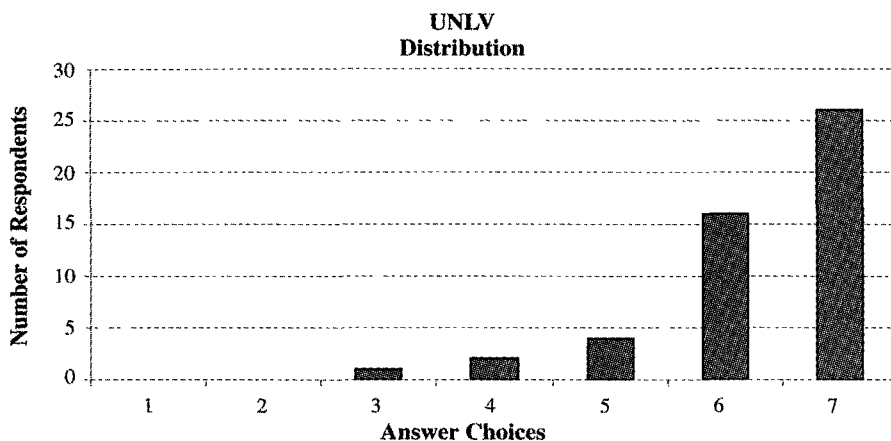


Students	1	2	3	4	5	6	7
1L	0%	0%	3%	3%	5%	14%	75%
2L	0%	4%	0%	2%	5%	31%	60%
3L	0%	0%	3%	4%	10%	24%	61%

**Responses by Percentage**

102. CAINE & CAINE, *supra* note 8, at 144-45.

103. *Id.* See also WEIMER, *supra* note 19, at 94. This is also consistent with the findings of Professor Kanter of the Harvard Business School who concluded that “confidence” is the single most important personality trait for success in almost any endeavor including school, business, and athletics. ROSABETH M. KANTER, CONFIDENCE *passim* (2004).



Students	1	2	3	4	5	6	7
1L	0%	0%	2%	4%	4%	27%	65%

#### Responses by Percentage

We have always assumed that showing respect for students is important to them and the responses here certainly confirm that.<sup>104</sup> Students across the board identified this as a key trait of effective law school teachers. In fact, the distribution of responses suggests it is among the teacher traits students value most.<sup>105</sup> The strength of the results were the same regardless of class or school.

The importance of teacher respect for students was also reflected in the comments left in response to the open-ended questions at the end of the survey. One Colorado 1L explained rather succinctly: “Once a teacher loses the respect of the students, the class becomes less and less of a quality learning experience.” A 2L student volunteered that “regardless of how academic or expert a professor is; if he or she is anti-social, disrespectful, unapproachable, condescending or dismissive, students tend to not only dislike the professor, but also develop a degree of animus to the area of law being taught by such a professor.”

Other comments reflected student sensitivity to real or perceived “rudeness,” “aloofness,” “arrogance,” “condescension,” “inflexibility,” “holier-than-thou” attitudes, or the perception that a teacher takes pleasure in humiliating or shaming students for giving wrong answers. “Don’t take pleasure when students give the wrong answer; assume the student has made a good faith effort” is the advice offered by a 3L student. “Dismissing a student’s question. This can make the student feel dumb or keep them from asking other questions.” Finally, one student noted: “I think several teachers

104. See BAIN, *supra* note 7, at 18; Hess, *supra* note 11, at 87; Syverud, *supra* note 12, at 248, 250-51

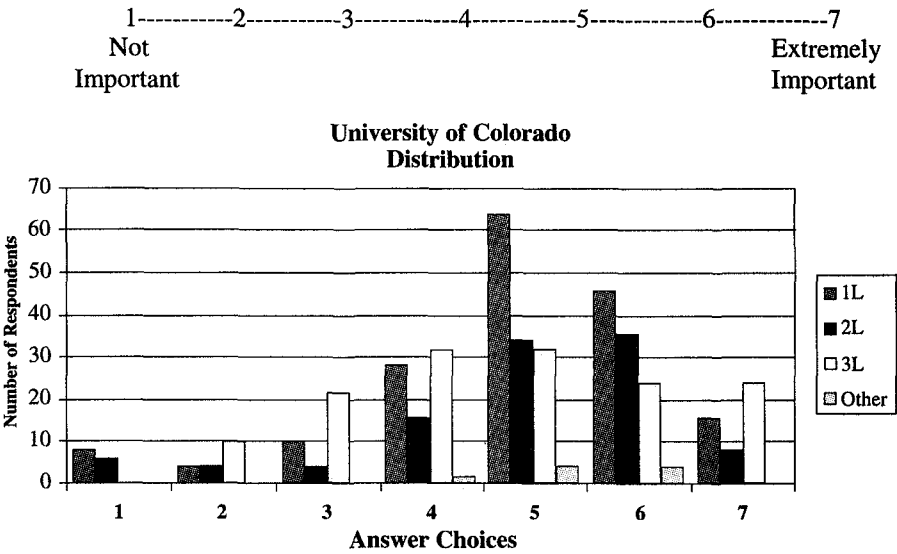
105. The student responses here are also consistent with research at the undergraduate level identifying teacher respect for students as a key personality trait. Walsh & Maffei, *supra* note 7, at 31, 34. See Feldman, *supra* note 2, at 264. Moreover, in terms of effective pedagogy, respecting people is one of the best ways to motivate them. FORD, *supra* note 56, at 218.



take real joy in making us feel terrible. I don't think it's appropriate to make jokes at students' expense just to get a laugh from the class."

Evening students at UNLV make us aware that respecting them means not just treating students with dignity in class, but also recognizing the special sacrifices they have made just to attend law school.<sup>106</sup> Comments from these two students make the point: Teachers need to "respect[] the constraints and limits for students who are balancing work, family and school" and "understand that classmates and I put in eight hours a day in professional careers before coming to class each night."

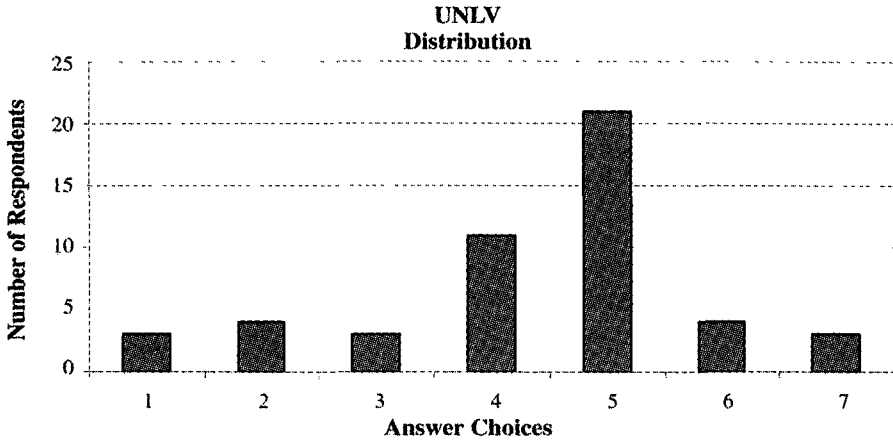
7) How important is it to you that your teachers are entertaining during class?



Students	1	2	3	4	5	6	7
1L	5%	2%	6%	16%	36%	26%	9%
2L	5%	4%	4%	15%	31%	33%	7%
3L	0%	7%	15%	23%	23%	17%	17%

Responses by Percentage

106. See Hess, *supra* note 11, at 89 (suggesting that one of the ways we show students respect them is by acknowledging their busy schedules and by treating their time like a precious commodity).



Students	1	2	3	4	5	6	7
IL	6%	8%	6%	23%	44%	8%	6%

#### Responses by Percentage

This question was included in the survey because it is generally believed that students place a very high value on their teacher's ability to entertain them during class. That is presumed to be especially true of "Generation X" students, which happens to be the demographic of many who responded to this survey.<sup>107</sup> Interestingly, students did not rate this teacher trait as highly as the anecdotal evidence suggests. While it was important to students, it was less so than several other factors, such as teacher expertise or teacher confidence.

In response to the open-ended questions at the end of the survey, students identified "humor" and making the material "fun" as specific characteristics they sought in an "entertaining" teacher. For instance, a Colorado student said: "Teachers that are funny, friendly, make sarcastic comments, etc. . . . are more real and it makes class more interesting which facilitates learning." Several others said things like: the "best way to keep students' attention is to try to make class fun or entertaining." "Be a dynamic lecturer" was another comment echoed by several students. "If a teacher is entertaining, knows the material and enjoys teaching, then learning is so much easier" nicely summarizes what many students value in a good teacher.

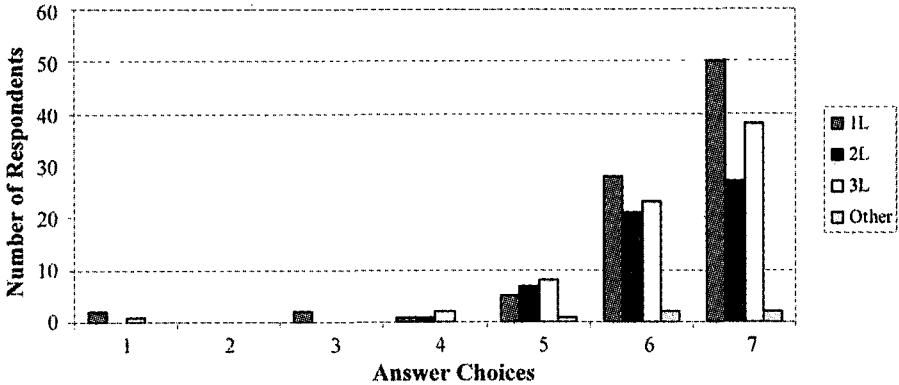
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107. "Generation X" refers to students born between 1961 and 1981. See Tracy L. McGaugh, *Generation X in Law School: The Dying of the Light or the Dawn of a New Day?*, 9 LEGAL WRITING: J. LEGAL WRITING INST. 119, 120, 124 (2003). Professor McGaugh suggests that, with respect to Generation X-ers, the teacher needs to be entertaining since "[f]or Xers, education and entertainment are inextricably intertwined. They are not asking for entertainment instead of education, they are asking for more of the same entertaining education that they began receiving as preschoolers in the form of Sesame Street, The Electric Company, Zoom, and Schoolhouse Rock." *Id.* at 124. See also SACKS, *supra* note 79, at 55 (recounting how the author gave his journalism students at a community college a questionnaire on teaching in which they rated that the thing "most important" to good teaching is that the teacher be "entertaining").

8) How important is it to you that your teachers enjoy teaching?

1-----2-----3-----4-----5-----6-----7  
 Not Important Extremly Important

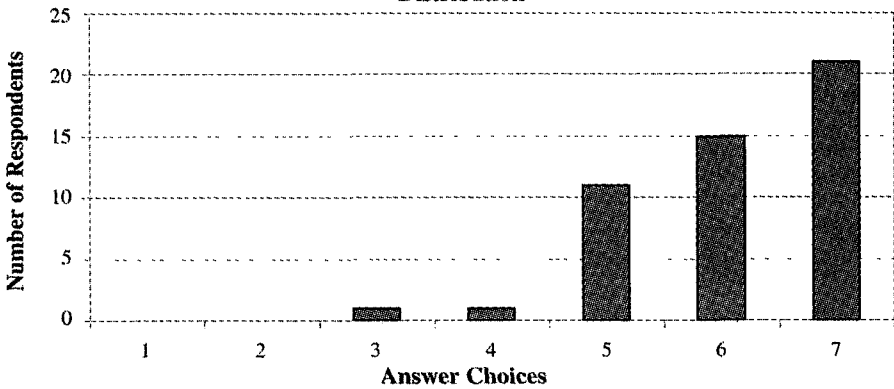
University of Colorado Distribution



Students	1	2	3	4	5	6	7
1L	2%	0%	2%	1%	6%	32%	57%
2L	0%	0%	0%	2%	13%	38%	49%
3L	1%	0%	0%	3%	11%	32%	53%

Responses by Percentage

UNLV Distribution



Students	1	2	3	4	5	6	7
1L	0%	0%	2%	2%	23%	31%	44%

Responses by Percentage

Based on the distribution of responses above, this was among the top three teacher characteristics identified as important by the students, along with respect for students and the teacher projecting confidence in her knowledge of the material. The results were the same regardless of class or school. The results are also consistent with research involving undergraduates showing that they rate teacher enthusiasm as one of the most important traits of effective teachers.<sup>108</sup>

Typical of the comments students left were these remarks: "It is important professors like what they are teaching & like teaching & are capable teachers (not just capable lawyers)." And, "My favorite professors seem to be glad they're here. They are enthusiastic about the material and keep class engaged without being mean." Another said what makes someone an effective teacher is: "Basically just enjoying teaching & their subject."

### B. Questions on Teacher-Student Rapport

As discussed at length in Section II of this article, teacher-student rapport is believed by researchers to be key to effective teaching. With the following questions, I wanted to identify which aspects of teacher-student contact, both inside and outside the classroom, matter most to them.

- 9) *How important is it to you that your teachers are friendly and approachable during class?*

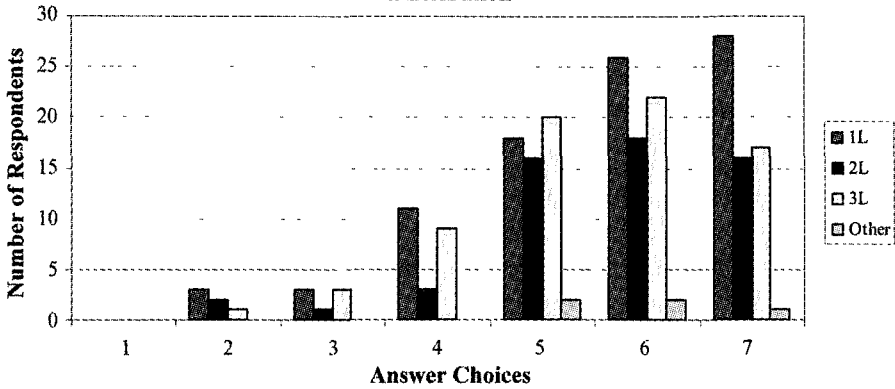
1-----2-----3-----4-----5-----6-----7
Not <span style="float: right;">Extremely</span>
Important <span style="float: right;">Important</span>

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108. See HAMACHEK, *supra* note 33, at 430-31 (noting empirical research suggests that teacher enthusiasm is a highly rated, effective teaching characteristic that has a positive effect on student learning); Feldman, *supra* note 2, at 263; MURRAY, *supra* note 19, at 142-43, 155-59 (noting several studies found a positive correlation between teacher enthusiasm and encouragement to perceived teacher effectiveness in the college classroom). Some studies have suggested that teacher enthusiasm, expressiveness, and clarity are *the most important* teaching traits at the undergraduate level. *Id.* at 147. See LOWMAN, *supra* note 7, at 41; Hess, *supra* note 11, at 104.

Teacher enthusiasm has always been rated highly by students outside the law school context as critical to effective teaching. See WEIMER, *supra* note 19, at 19. Professor Weimer has qualified the specific behaviors that convey teacher enthusiasm to include speaking in a dramatic or expressive way, moving around while lecturing, gesturing with hands or arms, and using facial expressions. *Id.* at 20-21. According to Professor Weimer, enthusiastic teachers also walk up the aisles, use humor, laugh, and smile while teaching. *Id.*

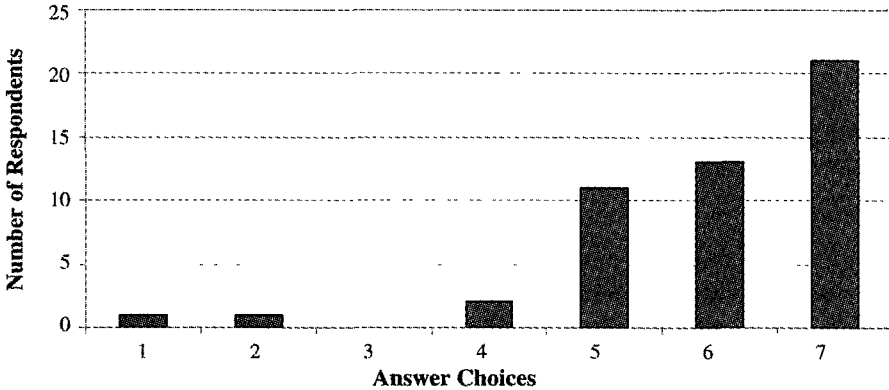
**University of Colorado  
Distribution**



Students	1	2	3	4	5	6	7
1L	0%	3%	3%	13%	20%	30%	32%
2L	0%	4%	2%	5%	29%	33%	29%
3L	0%	1%	4%	13%	28%	31%	24%

**Responses by Percentage**

**UNLV  
Distribution**



Students	1	2	3	4	5	6	7
1L	2%	2%	0%	4%	23%	27%	44%

**Responses by Percentage**

Not surprisingly, this characteristic received high marks from all students, with 1L students at both schools seeming to rate this slightly more highly than upper class

students based on the distribution of responses, above.<sup>109</sup> Teacher friendliness is synonymous with teacher warmth, which we know to be important to good teaching.<sup>110</sup> Some of the manifestations of teacher “friendliness” include eye contact, smiling, positive use of gestures, vocal variety, forward body leans, and a relaxed body position.<sup>111</sup> As noted earlier, these behaviors can and need to be learned by teachers interested in improving their classroom effectiveness.<sup>112</sup>

It is important to remember, however, that teacher friendliness must be authentic to be effective.<sup>113</sup> No matter how much we claim to like the students, if our true feelings are otherwise, subtle clues that often operate below the level of consciousness will betray those feelings and can in fact undermine our effectiveness.<sup>114</sup> Indeed, research shows that patronizing students by falsely praising them actually diminishes their motivation because they feel manipulated.<sup>115</sup>

Several students left comments like the following regarding their view of the importance of teacher friendliness: “An easy going nature is conducive to effective student-professor relationships. A good professor is someone who has good personal skills—being able to interact with students in class effectively.”<sup>116</sup> Although the importance of teacher friendliness may be obvious, many students made it clear how detrimental to learning it can be when their teachers are not friendly. Several students warned that teachers should not be “intimidating,” “hostile,” or “unfriendly and aloof.” Another student said: “A stiff, cold, unapproachable personality makes someone an ineffective teacher.” Yet another said: “Poor social skills inhibit learning in an interactive classroom.” Finally, a part-time UNLV student said that “when the [professor] is unapproachable and barely human, the class is truly brutal.”

10) *How important is it to you that your teachers are friendly and approachable outside of class such as during office hour visits?*

1-----2-----3-----4-----5-----6-----7
Not <span style="float: right;">Extremely</span>
Important <span style="float: right;">Important</span>

109. The results here are consistent with empirical findings based on surveys of college students. See LOWMAN, *supra* note 7; MURRAY, *supra* note 19, at 161-62; Feldman, *supra* note 2, at 264; Walsh & Maffei, *supra* note 7, at 38, table 4, 37.

110. See *supra* notes 56, 57.

111. A.B. Frymier, *The Impact of Teacher Immediacy on Students' Motivation: Is it the Same for all Students?*, 41 COMM. Q. 454, 454-64 (1993). These physical behaviors fall under the rubric of “teacher immediacy” and have tremendous impact on student motivation. *Id.* See Hess, *supra* note 11, at 101.

112. See *supra* notes 19-20.

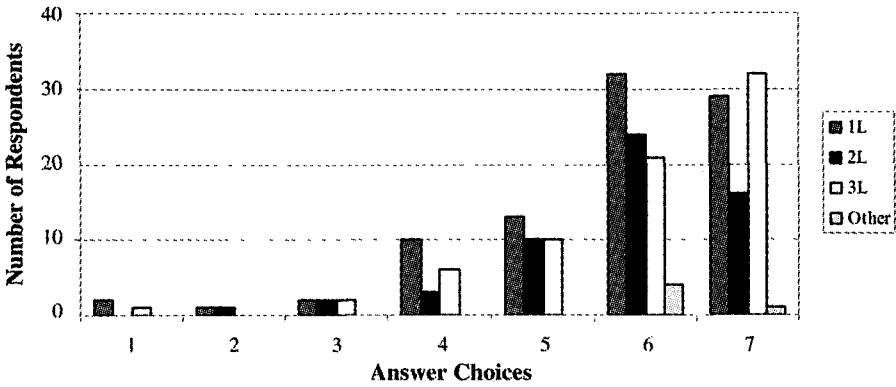
113. CAINE & CAINE, *supra* note 8, at 45.

114. *Id.*

115. FORD, *supra* note 56, at 204.

116. This is consistent with comments Professor Hess received from students about what hindered or helped them learn in law school. See Hess, *supra* note 11, at 89. As one student he interviewed said: “I guess the single most important piece of advice I would give to a brand new law professor is to do whatever it takes to create a positive learning environment where people aren't afraid to speak up.” *Id.* at 82.

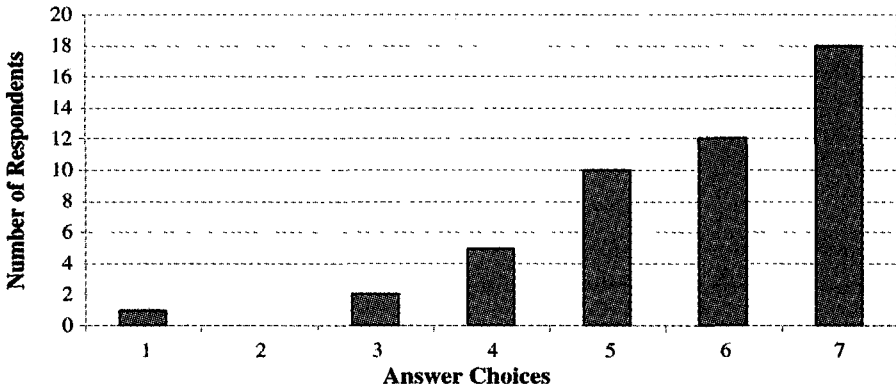
**University of Colorado  
Distribution**



Students	1	2	3	4	5	6	7
1L	2%	1%	2%	11%	15%	36%	33%
2L	0%	2%	4%	5%	18%	44%	29%
3L	1%	0%	3%	8%	14%	30%	45%

**Responses by Percentage**

**UNLV  
Distribution**



Students	1	2	3	4	5	6	7
1L	2%	0%	4%	10%	21%	25%	38%

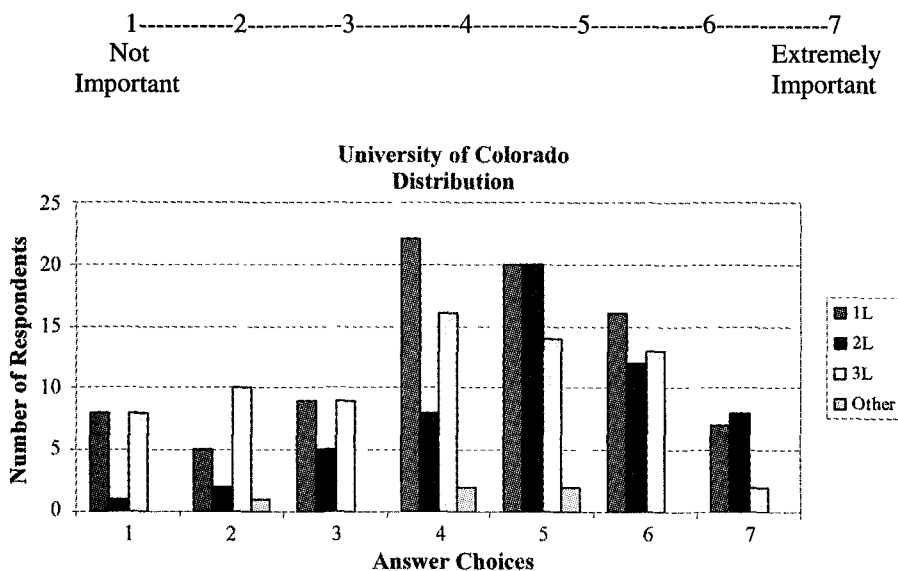
**Responses by Percentage**

It should also come as no surprise that students want their teachers to be friendly and approachable outside of class too. This is consistent with the advice from Professor Light, and others, who have found that appropriate, supportive relationships outside of the classroom can build the kind of rapport that aids learning inside the

classroom.<sup>117</sup> Not just educators, but the students themselves have expressed a similar opinion in previous studies involving undergraduates.<sup>118</sup>

Interestingly, the little research done in this area involving law students suggests that their interest in contact with teachers outside the classroom increases after the first year as the students' antagonistic feelings towards faculty tend to wane.<sup>119</sup> It may also be that students want more contact with faculty after the first year because they are more interested in seeking out faculty for mentoring and career advice.<sup>120</sup> Although the responses of the 3L students support this contention (expressed in percentage terms, above), it is difficult to generalize these results beyond the population surveyed here.

11) How important is it to you that your teachers know your name?



Students	1	2	3	4	5	6	7
1L	9%	6%	10%	25%	23%	18%	8%
2L	2%	4%	9%	15%	36%	22%	15%
3L	11%	14%	13%	23%	20%	18%	3%

Responses by Percentage

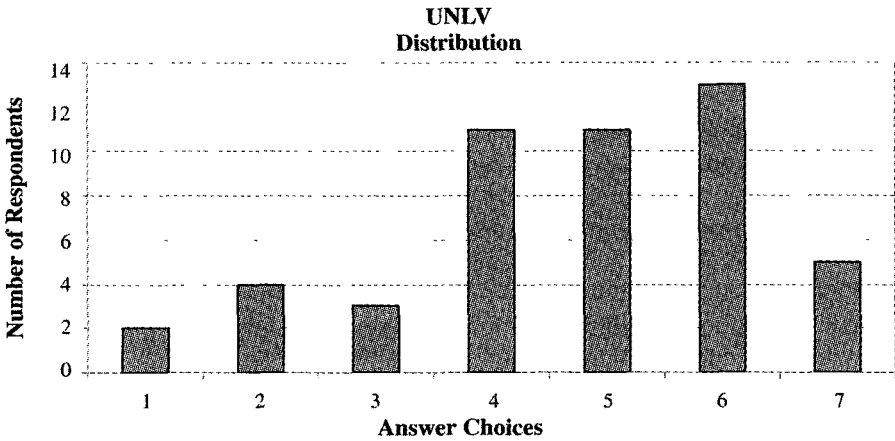
117. See *supra* notes 53-54; LOWMAN, *supra* note 7 at 65; MURRAY, *supra* note 19, at 161-62; Sorcinelli, *supra* note 42, at 4; Hess, *supra* note 11, at 93; Syverud, *supra* note 12, at 253.

118. Walsh and Maffei found that students rated this aspect of student-teacher relations important, whereas faculty perceived that students would think it was unimportant to effective teaching. Walsh & Maffei, *supra* note 7, at 31, 34. See Iijima, *supra* note 11, at 533 (suggesting such relationships are critical to student success)

119. Soonpa, *supra* note 91, at 369 (referencing study based on interviews with law students reported in James B. Taylor, *Law School Stress and the "Deformation Professionelle,"* 27 J. LEGAL EDUC. 251, 262 (1975)).

120. See Sorcinelli, *supra* note 42, at 14-15





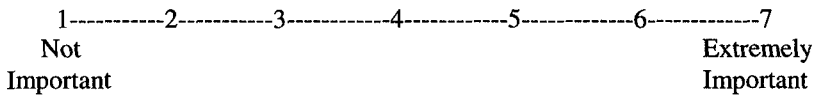
Students	1	2	3	4	5	6	7
1L	4%	8%	6%	23%	23%	27%	10%

**Responses by Percentage**

The results to this question somewhat confound the often heard advice to new law school teachers that the most important thing they can do to establish good rapport with their students is to learn their names.<sup>121</sup> Although the students surveyed said this was fairly important to them, it clearly was not among the top three teacher behaviors identified in this survey.

One possible explanation for the results here is that students are telling us that learning their names, as an abstract proposition, is not particularly important. Rather, what we can glean by reading between the lines of students' responses to several of the survey questions is that they want their teachers to respect them and care that they learn.<sup>122</sup> Learning students' names is only important to them to the extent it reflects a manifestation of authentic warmth and caring.

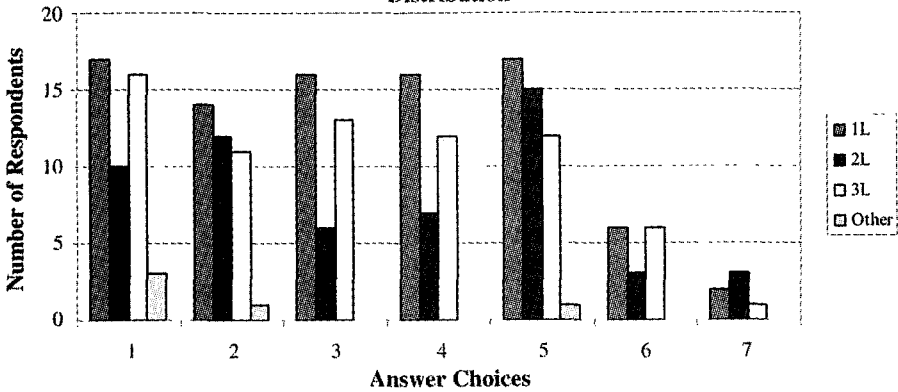
- 12) *How important is it to you to have contact with your teachers during on-campus social functions such as receptions, FACs and similar events?*



121. See Hess, *supra* note 11, at 88; Syverud, *supra* note 12, at 248-49.

122. See *infra* Part IV.C.

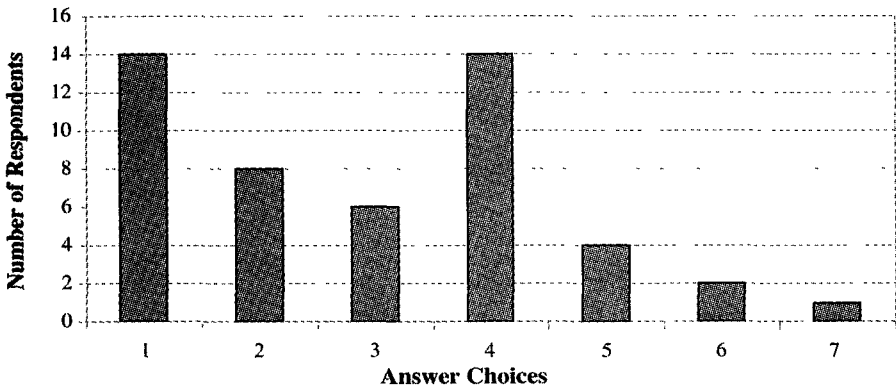
**University of Colorado  
Distribution**



Students	1	2	3	4	5	6	7
1L	19%	16%	18%	18%	19%	7%	2%
2L	18%	22%	11%	13%	27%	5%	5%
3L	23%	15%	18%	17%	17%	8%	1%

**Responses by Percentage**

**UNLV  
Distribution**



Students	1	2	3	4	5	6	7
1L	29%	17%	13%	29%	8%	4%	2%

**Responses by Percentage**

The benefits of teacher-student contact outside the classroom in a professional context such as office visits, conferences, and the like, are both obvious and well-

established.<sup>123</sup> With the next four questions, I wanted to solicit student opinion about whether it is also important to them that they have contact with teachers outside the classroom in a purely social context. Some evidence suggests that such contact is valuable in terms of boosting student morale and motivation.<sup>124</sup> Other evidence suggests that students are simply not interested in having contact with their professors in a purely social context.<sup>125</sup> New teachers might be especially interested in the responses here because they may feel the need to ingratiate themselves with students by attending several social functions in response to pressure from administrators—whether real or perceived—to obtain good student evaluations of their teaching.

Consistent with the existing research, the distribution of responses shows that students hold a variety of opinions about how much social contact outside of the classroom they want to have with their professors. Although many students indicated such contact was not important to them, several others thought it was important, although not essential.<sup>126</sup>

Among the students who volunteered comments about this aspect of student-teacher relations, there was surprising consistency. All comments reflected the notion that some appropriate contact is desirable but that the line between professor and student should be maintained. As one 2L Colorado student noted: “Disregarding the line between student and professor” makes someone an ineffective professor. “Those professors who date students and conduct themselves inappropriately at social functions create a hostile atmosphere for students at the school.” According to a part-time UNLV student, professors are ineffective when “[they] overly try to be your friend.”

One student nicely summarized the appropriate balance teachers should seek to achieve in their extra-classroom social relationships with students: “An easy going nature is conducive to effective student-professor relationships.” On the other hand, that same student noted: “some faculty get too close to students—a certain distance is required.” In a similar vein, another student said: “It improves student/teacher relations but the line between teacher and student should be maintained and the teacher should conduct themselves professionally.”

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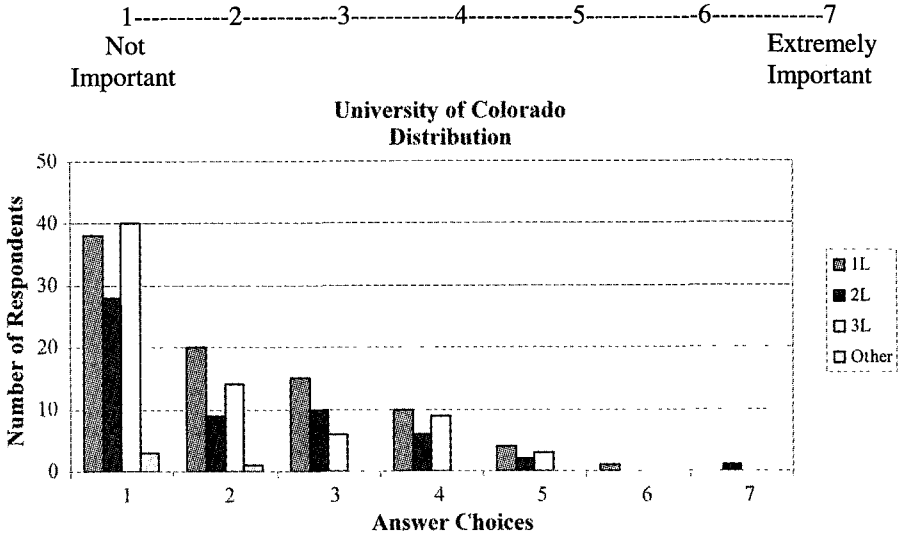
123. See Hess, *supra* note 11, at 92-93; Sorcinelli, *supra* note 42, at 14-15; Syverud, *supra* note 12, at 253-54.

124. Apel, *supra* note 12, at 374. Some research suggests a positive correlation between teacher-student contact and intellectual and personal development, and persistence. *Id.* at 379. Accord Hess, *supra* note 11, at 89 (quoting student interviewed by Professor Hess who said “[i]t does a world of good” to see a professor at a school related social function).

125. Apel, *supra* note 12, at 381.

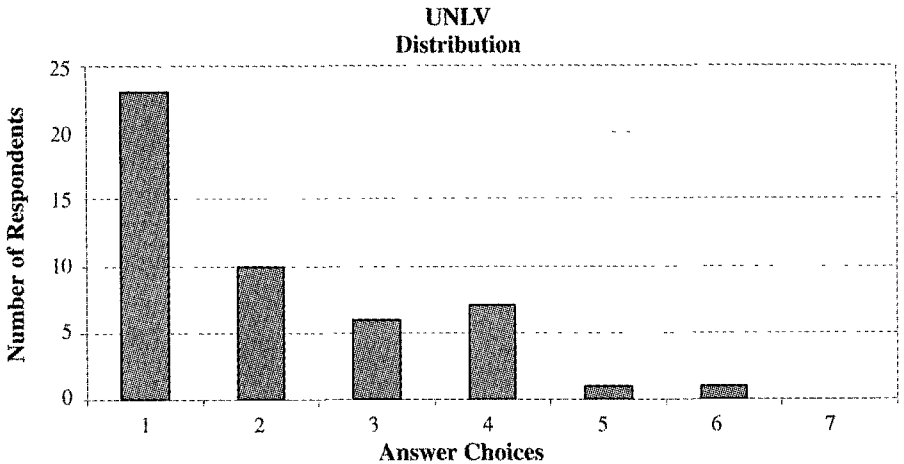
126. Walsh & Maffei, *supra* note 7, at 38, tables 4, 39, 41 (revealing that students expressed preference for reducing social distance between professors and students, meaning more availability in and out of class).

13) *How important is it to you to have contact with your teachers during off-campus social functions such as student parties?*



Students	1	2	3	4	5	6	7
1L	48%	23%	17%	11%	5%	1%	0%
2L	51%	16%	18%	11%	4%	0%	2%
3L	56%	20%	8%	13%	4%	0%	0%

**Responses by Percentage**



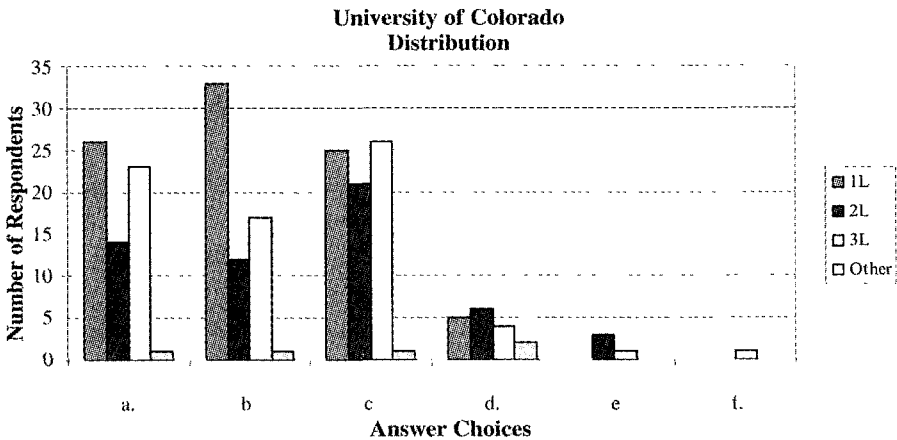
Students	1	2	3	4	5	6	7
1L	48%	21%	13%	15%	2%	2%	0%

**Responses by Percentage**

Some teachers suggest this kind of student contact is important to building classroom rapport.<sup>127</sup> However, the students who responded here felt that, unlike campus contact which has a closer nexus to their education, off-campus contact with professors is not particularly important to them.

14) Which statement most accurately reflects your opinion about teacher-student contact outside of the classroom?

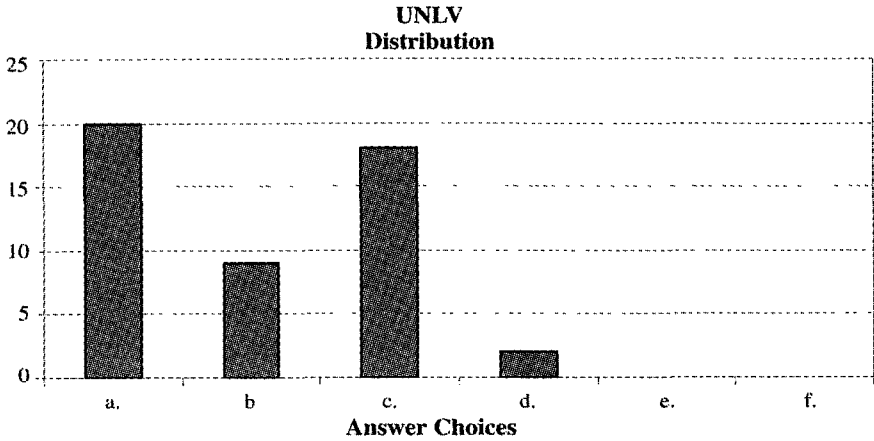
- a. I have little or no contact with my teachers outside the classroom and am satisfied with that.
- b. I have little or no contact with my teachers outside the classroom but would like to have more.
- c. I have moderate contact with my teachers outside the classroom and am satisfied with that.
- d. I have moderate contact with my teachers outside the classroom but would like to have more.
- e. I have a lot of contact with my teachers outside the classroom and am satisfied with that.
- f. Other: \_\_\_\_\_



Students	A	B	C	D	E	F
1L	30%	38%	28%	6%	0%	0%
2L	25%	22%	38%	11%	5%	0%
3L	32%	24%	37%	6%	1%	1%

**Responses by Percentage**

127. See *supra* note 10. Whether teachers think contact with students outside of the classroom is important to students may depend on the faculty member's teaching philosophy. Apel, *supra* note 12, at 372. Teachers who see education as an interactive process between student and teacher believe that student contact outside of the classroom is educationally important to the establishment of a "community of learners." *Id.* On the other hand, some teachers view education as more hierarchical with well-defined roles for teacher and student. Those teachers are more likely to view education as a process of transmitting knowledge—the sage on the stage, if you will—and thus view teacher-student interaction as less important to their teaching effectiveness. *Id.* at 372-73.



Students	A	B	C	D	E	F
IL	42%	19%	38%	4%	0%	0%

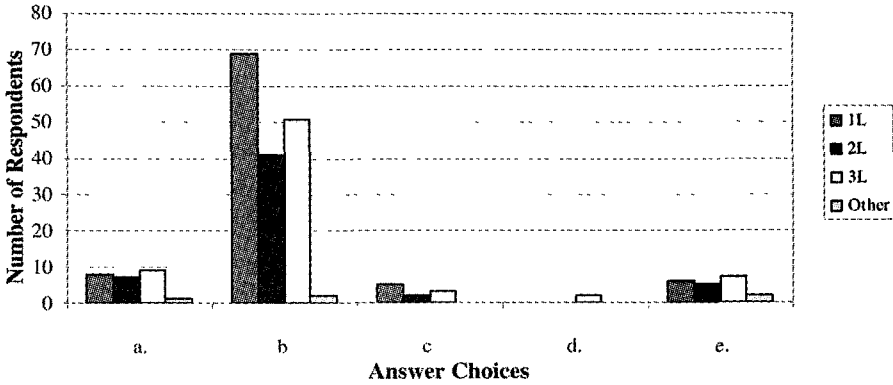
**Responses by Percentage**

The purpose of this question was to find out, in general, whether students were satisfied with their level of social contact with professors outside the classroom. The distribution of responses is consistent with those for Question # 12, establishing that several students are happy with their present level of little to moderate contact with professors outside of the classroom while others would like to have “moderate,” rather than “little,” contact with them.

15) *Which statement most accurately reflects your opinion about teachers attending off-campus social events such as student parties?*

- a. I do not want teachers attending these events.
- b. It makes no difference to me whether or not my teachers attend these events.
- c. It is important to me that my teachers attend these events.
- d. It is very important to me that my teachers attend these events.
- e. Other: \_\_\_\_\_

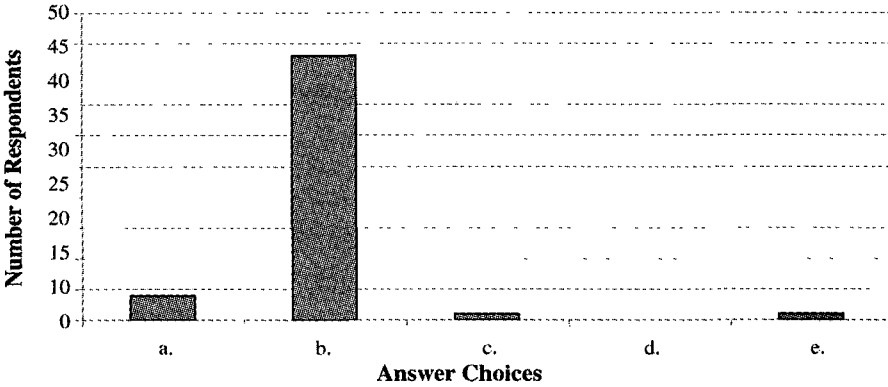
University of Colorado  
Distribution



Students	A	B	C	D	E
1L	9%	78%	6%	0%	7%
2L	13%	75%	4%	0%	9%
3L	13%	78%	4%	3%	10%

Responses by Percentage

UNLV  
Distribution



Students	A	B	C	D	E
1L	8%	88%	2%	0%	2%

Responses by Percentage

Consistent with the previous responses, the majority of students at both schools, at all levels, did not seem to care one way or the other whether teachers attended their off-campus social events. Expressed as a percentage of overall responses, the distribution of answers was nearly identical among all three classes of CU students. To the extent teachers believe that attending these events is important to classroom rapport building, the students who responded here are telling us that is not the case. The distribution of responses is virtually the same for both schools.

### C. General Comments

The final questions in the survey were open-ended, or “unstructured” questions, that allowed students to explain in their own words what classroom behaviors and teacher traits make someone an effective, and conversely ineffective, teacher. Some of the student responses to this series of questions have already been incorporated into the earlier discussion of survey results, above. The remaining, pertinent responses are discussed below.

- 16) *Any other comments you would like to make about the behaviors, characteristics, or personality traits that make someone an effective law school teacher?*

This question gave students the opportunity to elaborate on any of their previous answers or provide additional comments about what they believe are the traits of an effective law school teacher. Based on the number and consistency of responses to this question, one significant trend emerged: students want their teachers to care that they learn. Although students expressed this sentiment in different ways, they clearly wanted their teachers to be sensitive to whether they are “getting it” or not. Several students left comments such as these: “Being smart/intellectual quick enough to get what students ask and see what they have/haven’t grasped. I have a [professor] who knows a lot but doesn’t seem to follow students’ questions.” From another student: effective teachers are those “that care if the class is following the lecture.” Yet another said: “Be engaged and demanding but also somewhat sensitive to different student personalities. A law professor who can make an extremely shy student comfortable in class is more effective than one who lets a person sit in silence, embarrassed, searching for an answer.” Other comments included:

- “I think it is extremely important to listen and consider student questions in class.”
- “Take time to review when everyone [is] lost. Rather, clear things up then move through material.”
- “A willingness to use different teaching styles to meet different learning styles (i.e. auditory, visual, telekinesthetic, etc.).”
- Have a “desire for students to succeed.” “I prefer professors who structure class time effectively so that when the class is over, I feel I’ve learned something I could not have learned by reading the text.”
- “Whether they care doesn’t matter, but they should seem like they do.”

These comments are consistent with studies of undergraduate students who, when asked to describe their “ideal” college professor, said they wanted someone who possessed “concern and respect for students,” and was available, helpful, and encouraging.<sup>128</sup> In short, the students who responded here are saying that they simply want teachers to do their jobs—which is to help them learn.

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128. See BAIN, *supra* note 7, at 163-64; LOWMAN, *supra* note 7, at 31-33; Feldman, *supra* note 2, at 243-88; Walsh & Maffei, *supra* note 7, at 26.



- 17) *Any other comments you would like to make about the behaviors, characteristics, or personality traits that make someone an ineffective law school teacher?*

This question provided students with another opportunity to elaborate on any previous answer, or provide new comments, about the traits they think make someone an ineffective teacher. There was tremendous consistency in the comments that students left. The vast majority of students who responded to this question said that lack of respect for students is the number one characteristic that makes someone an ineffective teacher. Other comments included concerns about rushing through the material at the expense of student understanding, lack of preparedness, and allowing the class discussion to drift. Here is a sampling of how students, primarily 1L's, responded to this open-ended question:

- "Getting frustrated at student questions, any tension in a class makes it harder to absorb what's being said."
- "Some [professors] have a tin ear for when students aren't getting the material—or don't make an effort to figure it out. Also, talking down to us really puts us off."
- "Dismissing a student's question. This can make the student feel dumb or keep them from asking other questions."
- "Professors who are degrading to individuals or classes of persons are not appreciated."
- "Rude to students. More concerned about the schedule than student understanding of the material."
- "I think several teachers take real joy in making us feel terrible. I don't think it's appropriate to make jokes at students' expense just to get a laugh from the class. Mean, spiteful, not open-minded, not respectful, does not communicate well, poor social skills."
- "Intimidation, patronizing, vagueness, rushing through material, dismissing students' questions."
- "An ineffective law school instructor is more concerned with scaring and embarrassing students, and less concerned about whether students are actually learning."

- 18) *Any other comments you would like to add?*

This was a catch-all question intended to allow students to volunteer any comments not covered by the previous questions. However, no significant, additional comments were left here suggesting that students said all they had to say in response to earlier questions.

## V. CONCLUSION

When it comes to teaching, it is not enough that law professors be experts in their fields, possess skill in Socratic instruction, or know how to use classroom technology to the best effect. Just as important, if not more so, is that professors understand how much their classroom relationship with students influences whether or not students

learn. Our expectations of students, our interactions with them both inside and outside the classroom, and our enthusiasm for teaching them can greatly enhance or hinder their learning. Research from a variety of fields establishes beyond doubt the truth of these observations.

We have been remiss in not making more of an effort to understand the ways in which our interactions with students affect their learning. And we have been remiss in not including students more often in the dialogue about that aspect of our teaching. The students who were asked here said they wanted teachers to be experts in their fields and hold students to high academic standards. They also want teachers who are empathetic and can read whether the class is understanding the material or not. In short, students said they wanted a teacher who cares whether they are learning the material. Part and parcel to that, the students said they want teachers who treat them with respect, who are friendly inside and outside the classroom, but who recognize appropriate boundaries in their social interactions with students.

These students are also telling us that the surest way to disrupt their learning is to treat them with disrespect. And although students want us to hold them to a high standard, they are also telling us that threatening them with a penalty for lack of preparation does more harm than good in terms of their learning. These students want their teachers to create a classroom environment where they can take risks without fear of penalty or reprisal from the teacher. Further, they are telling us we need to make sure we keep class discussion on track.

Finally, our students are saying they want teachers to enjoy coming to class each day and to not be shy about demonstrating that to them. Ironically, one of the best ways we can demonstrate to students that we respect them, like them, and love to teach them, is by simply acknowledging their opinions and the role they should play in determining how best to teach. Unlike the old adage about doctors only asking patients for their opinions as a "last resort," law professors may want to start with their students if they want to create the best classroom environment for learning.

# PARSING PERSONAL PREDILECTIONS: A FRESH LOOK AT THE SUPREME COURT'S CRUEL AND UNUSUAL DEATH PENALTY JURISPRUDENCE

*Susan M. Raeker-Jordan*

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