

## TEACHING LAW IN THE AGE OF GENERATIVE AI

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**ABSTRACT:** With the rise of large language models capable of passing law school exams and the Uniform Bar Exam, how should legal educators prepare their students for an age of transformative technological change? As text-generating AI is being integrated in legal research platforms and word processing software, which automate the drafting of legal documents based on human prompts, lawyers are increasingly adopting this technology as a standard tool of legal research and writing. This Article explores the implications of these developments for legal education, focusing on pedagogy, curriculum, and assessment.

The Article draws from four key perspectives relevant to the use of generative AI in legal education: a survey of law students who participated in an AI-integrated course; a national survey of law faculty; an overview of the current state and projected future of AI in the legal profession; and a summary of lessons from the global literature exploring the use of ChatGPT in different teaching contexts. These perspectives tend to support the development of an AI-integrated legal education. Yet, most surveyed law faculty, even those who strongly agreed that students should be prepared to use and critically evaluate generative AI, emphasized that they were uninformed about this technology and unsure how to proceed.

This Article provides guidance, recommending that legal educators begin teaching with emerging AI tools, while exploring how implementation might vary across the legal curriculum. These recommendations are based on an analysis of how AI-integrated teaching may affect emerging technological competencies, traditional learning goals, academic integrity, and equity among students. The Article concludes by providing practical suggestions for AI-integrated assignments, exercises, and course policies. This includes detailed examples of exercises where students learn to collaborate with generative AI, evaluate AI-produced research and writing, create their own AI tutors and debate partners, role-play with chatbots in classroom simulations, and reflect on the responsible use of generative AI in the legal profession.

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Today's law students face an unfamiliar world. For the first time in history, a nonhuman appears to have passed, by a comfortable margin, law school exams and the Uniform Bar Exam.<sup>1</sup> That nonhuman was GPT-4, a large language model released in March 2023. These exam performances are all the more impressive given that GPT-4 is a "horizontal" chatbot, which has not been fine-tuned for "vertical," industry-specific applications such as legal analysis.<sup>2</sup> Legal research platforms (including LexisNexis and Westlaw) and a growing field of legal tech start-ups have given GPT-4 and similar models access to legal data and training, enabling these models to produce well-cited legal documents of increasing quality.<sup>3</sup> Although any forecasting of the future of AI is deeply uncertain, it is likely that the years to come will see significant and possibly quite dramatic growth in the capabilities of "generative AI" systems like GPT-4 that produce text and other outputs in response to human prompts.<sup>4</sup> In the legal field, new law-specific applications will continue to be built on top of these increasingly sophisticated foundation models.

For law students, who will inhabit the legal profession of the coming decades, these technological advances are already raising profound questions about the changing nature of legal practice and the lawyer role. These questions include whether AI will replace or augment lawyers in different capacities and how this shifting landscape will impact access to justice and the ethical dimensions of legal practice.<sup>5</sup> Some students are beginning to ask whether a traditional

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1. See Jonathan Choi & Daniel Schwarcz, *AI Assistance in Legal Analysis: An Empirical Study* (Univ. of Minn. L. Sch. Legal Studs., Rsch. Paper No. 23-22, 2023), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4539836](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4539836) (finding that GPT-4, when prompted well, passed law exams above the median, achieving an A- and an A under the best-performing prompts); Jonathan H. Choi et al., *ChatGPT Goes to Law School*, 71 J. LEGAL EDUC. 387, 388 n.5, 391 (2022) (finding that GPT 3.5 passed law exams with a grade of roughly C+); Daniel Martin Katz et al., *GPT-4 Passes the Bar Exam*, PHIL. TRANSACTIONS ROYAL SOC'Y A, Apr. 15, 2024, art. no. 20230254, at 1, 1; Eric Martínez, *Re-Evaluating GPT-4's Bar Exam Performance* (Legal Priorities Project, Working Paper No. 2-2023, 2023), <https://ssrn.com/abstract=4441311>.

2. See Taryn Plumb, *Horizontal vs. Vertical AI: What Do Enterprises Need to Know?*, SDX CENTRAL (Oct. 16, 2023, 1:55 PM), <https://www.sdxcentral.com/articles/analysis/horizontal-vs-vertical-ai-what-do-enterprises-need-to-know/2023/10/> [<https://perma.cc/ZP5S-7LR8>].

3. Tools using GPT-4 and similar systems based on large language models are assisting with legal research and analysis (e.g., Harvey, Casetext Co-Counsel, LawDroid, and Helm360), contract drafting and analysis (e.g., Ironclad, Agiloft, Lexion, Spellbook, Robin AI, Lawgeez, Evisort), discovery (e.g., Logikbot), intake (e.g., Smith.ai, Gideon), due diligence (e.g., Diligen), litigation preparation (e.g., LitiGate), personal injury claims (Evenup), and practice management (e.g., Opus2 and CARET). See *infra* Part I; Bob Ambrogi, *LexisNexis Enters the Generative AI Fray with Limited Release of New Lexis+ AI, Using GPT and Other LLMs*, LAW SITES (May 4, 2023), <https://lawnext.com/2023/05/lexisnexis-enters-the-generative-ai-fray-with-limited-release-of-new-lexis-ai-using-gpt-and-other-llms.html> [<https://perma.cc/6VAT-XWF9>]; Carrie Brooker, *Generative AI in Action: Product Demos for Thomson Reuters Suite of Legal Solutions*, LEGAL CURRENT (June 15, 2023), <https://legalcurrent.com/generative-ai-in-action-product-demos-for-thomson-reuters-suite-of-legal-solutions/> [<https://perma.cc/NY4H-3SGQ>].

4. *GPT-4*, OPENAI (Mar. 14, 2023), <https://openai.com/research/gpt-4> [<https://perma.cc/9E9N-C834>].

5. See *infra* Part I. See generally Benjamin Alarie et al., *How Artificial Intelligence Will Affect the Practice of Law*, 68 U. TORONTO L.J. 106 (2018); Benjamin H. Barton, *The Future of American Legal Tech: Regulation, Culture, Markets, in* LEGAL TECH AND THE FUTURE OF CIVIL JUSTICE 21

legal education will adequately prepare them for careers in a profession that is increasingly embracing generative AI as an everyday collaborative tool in research, writing, and other tasks.<sup>6</sup>

These questions are complex and largely contingent on how AI develops in the years to come. Nevertheless, law faculty and administrators already face pressing decisions about whether to permit students to use text-generating AI and whether and how to incorporate this technology into the teaching of law. This Article provides guidance drawing from surveys of law students and law teachers, scholarship on AI and the future of the legal profession, and the global educational literature exploring the use of ChatGPT in teaching.

Part I provides an overview of the current state and projected future of generative AI in the legal profession. Legal scholars have long suggested that AI may eventually grow proficient at most or all tasks that lawyers traditionally perform.<sup>7</sup> But this literature has never suggested that we were already in a world of AI tools capable of conducting legal research and drafting legal documents—and where law students might use these tools in their coursework and exams. But perhaps we are now, or will soon be, entering such a world. Elite law firms are flocking to legal tech start-ups with cutting-edge tools based on GPT-4 and other large language models.<sup>8</sup> There is some evidence that using generative AI can improve the quality of legal work, and strong evidence that it can reduce the time required.<sup>9</sup> This technology is poised to enter the mainstream of legal practice with the release of applications like Lexis+ AI, which use large language models to answer legal research questions and produce legal documents with

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(David Freeman Engstrom ed., 2023); Milan Markovic, *Rise of the Robot Lawyers?*, 61 ARIZ. L. REV. 325 (2019); John O. McGinnis & Russell G. Pearce, *The Great Disruption: How Machine Intelligence Will Transform the Role of Lawyers in the Delivery of Legal Services*, 82 FORDHAM L. REV. 3041 (2014); Dana Remus & Frank Levy, *Can Robots Be Lawyers? Computers, Lawyers, and the Practice of Law*, 30 GEO. J. LEGAL ETHICS 501, 505, 508 (2017); Drew Simshaw, *Ethical Issues in Robo-Lawyering: The Need for Guidance on Developing and Using Artificial Intelligence in the Practice of Law*, 70 HASTINGS L.J. 173, 189 (2018) [hereinafter Simshaw, *Ethical Issues in Robo-Lawyering*]; Drew Simshaw, *Access to A.I. Justice: Avoiding an Inequitable Two-Tiered System of Legal Services*, 24 YALE J.L. & TECH. 150 (2022) [hereinafter Simshaw, *Access to A.I. Justice*]; RICHARD SUSSKIND, *TOMORROW'S LAWYERS: AN INTRODUCTION TO YOUR FUTURE* (3d ed. 2023) [hereinafter SUSSKIND 2023]; RICHARD SUSSKIND, *THE END OF LAWYERS? RETHINKING THE NATURE OF LEGAL SERVICES* (2008) [hereinafter SUSSKIND 2008]; W. Bradley Wendel, *The Promise and Limitations of Artificial Intelligence in the Practice of Law*, 72 OKLA. L. REV. 21 (2019).

6. See Andrew Perlman, *The Implications of ChatGPT for Legal Services and Society*, PRACTICE (Mar.–Apr. 2023), <https://clp.law.harvard.edu/knowledge-hub/magazine/issues/generative-ai-in-the-legal-profession/the-implications-of-chatgpt-for-legal-services-and-society/> [<https://perma.cc/P4VW-BL9N>].

7. See McGinnis & Pearce, *supra* note 5; SUSSKIND 2008, *supra* note 5; SUSSKIND 2023, *supra* note 5, at 256; Wendel, *supra* note 5.

8. Sara Merken, *Legal AI Race Draws More Investors as Law Firms Line Up*, REUTERS (Apr. 26, 2023, 3:49 PM), <https://www.reuters.com/legal/legal-ai-race-draws-more-investors-law-firms-line-up-2023-04-26/> [<https://perma.cc/ZN83-6ZRM>]; see Julie Sobowale, *Law's AI Revolution Is Here*, CAN. BAR ASS'N NAT'L. MAG. (Mar. 27, 2023), <https://nationalmagazine.ca/en-ca/articles/legal-market/legal-tech/2023/law-s-ai-revolution-is-here> [<https://perma.cc/F8V2-VFP5>].

9. Jonathan H. Choi et al., *Lawyering in the Age of Artificial Intelligence* 4 (Univ. of Minn. L. Sch. Legal Studs., Rsch. Paper No. 23-31, 2023), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4626276](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4626276).

hyperlinked citations.<sup>10</sup> Although the future is uncertain, the trajectory decisively points toward increasing AI capabilities. Such advancements may suggest the need for legal educators to start teaching students how to effectively collaborate with generative AI tools and critically evaluate their outputs.

Part II details findings from a survey of students in an AI-integrated first-year Property course taught by the author of this Article. This course featured several assignments and exercises in which students assessed AI-generated content or used emerging AI tools themselves. Most students emphasized that these exercises were helpful both for learning how to use the technology and sharpening their understanding of the underlying legal materials. On their first impression of generative AI, these students tended to express a mix of fear and excitement about the implications of this technology for the legal profession, including the possibility that AI would hurt their job prospects. But these initial perceptions tended to change significantly once students gained first-hand experience with AI applications and learned more about their capabilities and limitations. The surveyed students overwhelmingly expressed a demand for further opportunities to learn with generative AI during law school.

Part III describes faculty perspectives based on a national survey of law teachers. Similar to the students, most of the surveyed faculty agreed that legal education should begin incorporating generative AI, and many expressed an interest in bringing AI into their own courses. Yet, the surveyed faculty tended to acknowledge that they were uninformed about this technology and unsure about how to design AI-integrated class exercises and assignments. Unlike the students, who generally reported that using generative AI was helpful in their legal learning, the faculty respondents emphasized grave concerns that students might “outsource” their studies to AI and thereby miss important learning opportunities. The faculty also described uncertainties about how to approach traditional assessments, such as setting AI policies for exams.

Part IV summarizes the vast educational literature on the use of ChatGPT in various teaching contexts. This literature consists of case studies of early pedagogical experiments as well as theoretical analyses applying educational theory to AI-integrated teaching applications. Collectively, these studies present a favorable view of generative AI in education, which can facilitate personalized, active, self-paced, student-centered learning experiences. However, the literature also explores challenges relating to misinformation, overreliance on AI outputs, and academic dishonesty. A central focus throughout this literature is the indispensable role of (human) instructors in guiding students’ effective and ethical use of generative AI. This Part also considers how these educational recommendations, which are largely rooted in undergraduate learning, might apply to the distinctive context of legal education.

Part V outlines a set of key factors that tend to support the integration of generative AI in law teaching, along with counterarguments on each point. These factors include the need to prepare practice-ready graduates, the importance of helping students critically evaluate AI outputs, the rising student

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10. See Ambrogio, *supra* note 3; Brooker, *supra* note 3.

demand to learn about AI tools, the need for equitable access to leading legal technology among students, the learning benefits associated with AI-integrated teaching, the role that tomorrow's lawyers can play in shaping AI policy, the potential benefits for academic integrity, the potential benefits to the quality of legal instruction, and the feasibility of teaching with AI. Legal educators may fall on different points on the spectrum of AI-integration, from those who favor an immersive approach throughout the curriculum to those who favor comprehensive bans on student use of AI. This Part recommends keeping an open mind on this issue. It emphasizes the importance of revisiting these factors and updating one's views as the technology advances and new insights are gained from the experience of teaching with emerging AI tools.

Part VI discusses the implementation of an AI-integrated legal education. This includes questions about whether to bring AI tools into the first-year curriculum, which could send an important signal to students about the value of AI technology. However, some law faculty suggest that students should first learn "by hand" during the 1L year before they supplement their legal skillset with text-generating AI. This Part also discusses how this technology might fit in doctrinal, research and writing, clinical, and experiential courses, in addition to the growing field of seminars focused on law and AI.

Part VI also offers suggestions for specific assignments and approaches to assessment (e.g., exam policies). It provides examples of exercises where students learn to collaborate with generative AI, evaluate AI-generated documents, create their own AI tutors and debate partners to assist in their studies, role-play with AI in classroom simulations, and reflect on the responsible use of generative AI in the legal profession.

## **I. THE CURRENT STATE AND PROJECTED FUTURES OF GENERATIVE AI IN THE LEGAL PROFESSION**

"Generative AI" is a catchall term referring to artificial intelligence that produces original content in response to human prompting.<sup>11</sup> Since the November 2022 release of ChatGPT, generative AI applications have shown remarkable proficiency at textual tasks, including writing essays, news copy, articles for law reviews and other journals, and novels. These same applications have also shown proficiency at writing code and creating mobile applications and websites.<sup>12</sup> Text-generating systems like ChatGPT rely on large language models

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11. Kim Martineau, *What Is Generative AI?*, IBM (Apr. 20, 2023), <https://research.ibm.com/blog/what-is-generative-ai> [<https://perma.cc/DFP2-PM39>].

12. See Stephen L. Carter, *Can ChatGPT Write a Better Novel Than I Can?*, DECCAN HERALD (Feb. 13, 2023, 2:25 PM) [<https://perma.cc/CL9W-57A7>]; Gemma Conroy, *Scientists Used ChatGPT to Generate an Entire Paper From Scratch—But Is It Any Good?*, NATURE, <https://www.nature.com/articles/d41586-023-02218-z> (July 11, 2023); Benjamin Mullin & Nico Grant, *Google Tests A.I. Tool That Is Able to Write News Articles*, N.Y. TIMES (July 19, 2023), <https://www.nytimes.com/2023/07/19/business/google-artificial-intelligence-news-articles.html>; Perlman, *supra* note 6; Chris Stokel-Walker, *ChatGPT Listed as Author on Research Papers: Many Scientists Disapprove*, NATURE (Jan. 18, 2023), <https://www.nature.com/articles/d41586-023-00107-z>.

trained on datasets drawn from a variety of sources.<sup>13</sup> Developers then fine-tune the models through different methods, including reinforcement learning with human feedback, a process of labeling and ranking AI outputs.<sup>14</sup> Much of the recent progress in AI capabilities is owed to the advent of transformers and neural networks over the past decade,<sup>15</sup> as well as earlier AI developments and theory dating back nearly a century.<sup>16</sup>

Generative AI applications are rapidly proliferating in the legal profession. A recent survey found that seventy-three percent of lawyers plan to incorporate these tools in their practice over the next year.<sup>17</sup> Legal tech start-ups with generative AI applications have claimed waitlists of thousands of law firms.<sup>18</sup> One of these startups, Harvey,<sup>19</sup> aspires to build “legal AGI” (legal artificial general intelligence) and currently uses GPT-4 to conduct legal research and analysis. Some firms have already deployed tools like Harvey in their practices and their training of associates.<sup>20</sup> LexisNexis has offered a limited number of law firms access to a generative AI system (Lexis+ AI) that answers legal research questions and produces legal documents with hyperlinked citations.<sup>21</sup> Westlaw is developing similar technology, including its integration of Casetext’s Co-Counsel, which uses GPT-4 to answer legal research questions at, according to Casetext, roughly the quality of an entry-level associate.<sup>22</sup> In addition to these law-

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13. *GPT-4*, *supra* note 4; Dennis Layton, *ChatGPT—Show Me the Data Sources*, MEDIUM (Jan. 30, 2023), <https://medium.com/@dlaytonj2/chatgpt-show-me-the-data-sources-11e9433d57e8> [<https://perma.cc/TX9C-E8Y2>].

14. *See* OPENAI, GPT-4 TECHNICAL REPORT (2023), <https://arxiv.org/pdf/2303.08774.pdf> [<https://perma.cc/PA77-EQ97>].

15. *See* Noam Kolt, *Algorithmic Black Swans*, 101 WASH. UNIV. L. REV. (forthcoming 2023), <https://ssrn.com/abstract=4370566> (discussing the origins of transformer technology around 2017 as developed by Geoffrey’s Hinton’s team at the University of Toronto, as well as major breakthroughs in 2012).

16. *See* Roberto Cordeschi, *AI Turns Fifty: Revisiting Its Origins*, 21 APPLIED A.I. 259 (2007), <https://www.tandfonline.com/doi/pdf/10.1080/08839510701252304> [<https://perma.cc/J4UY-QEQL>] (dating the origins of artificial intelligence to 1956, but noting that important developments in computer science and theory can be traced to the 1930s and 1940s).

17. WOLTERS KLUWER, 2023 FUTURE READY LAWYER SURVEY REPORT: EMBRACING INNOVATION, ADAPTING TO CHANGE 5 (2023), [https://images.go.wolterskluwerlr.com/Web/WoltersKluwerLRSUS/%7B0d5f497f-68b8-4d60-9dc4-6013e0528a9f/%7D\\_FRL\\_LR\\_white\\_paper\\_FINAL\\_10-25-23\\_single.pdf](https://images.go.wolterskluwerlr.com/Web/WoltersKluwerLRSUS/%7B0d5f497f-68b8-4d60-9dc4-6013e0528a9f/%7D_FRL_LR_white_paper_FINAL_10-25-23_single.pdf) [<https://perma.cc/6LZJ-N5YC>].

18. Merken, *supra* note 8; *see* Sobowale, *supra* note 8.

19. Leigh McGowan, *Open AI Invests in Legal AI Market Though Harvey* (Apr. 27, 2023), SILICON REPUBLIC, <https://www.siliconrepublic.com/machines/openai-harvey-legal-ai> [<https://perma.cc/F7V8-8BHP>].

20. Jack Womack, *How’s Harvey? The Pros and Cons of A&O’s Audacious AI System*, LAW.COM (Mar. 6, 2023, 5:41 AM), <https://www.law.com/international-edition/2023/03/06/howsharvey-the-pro-and-cons-of-aos-audacious-ai-system/>; Stephanie Wilkins, *Orrick Trains Summer Associates in Prompt Engineering with New Course from AltaClaro*, LAW.COM (Aug. 9, 2023, 12:20 PM), <https://www.law.com/therecorder/2023/08/09/orrick-trains-summer-associates-in-prompt-engineering-with-new-course-from-altaclaro>.

21. *See* Ambrogio, *supra* note 3.

22. Matt Reynolds, *Thomson Reuters Announces New AI Initiatives and CoCounsel Integration*, AM. BAR ASS’N J.: A.I. & ROBOTICS (Nov. 15, 2023, 11:07 AM), <https://www.abajournal.com/web/article/thomson-reuters-to-launch-cocounsel-integration-after-650-million-casetext-buyout> [<https://perma.cc/Y7T9-ZGGW>]; *see* Brooker, *supra* note 3.

specific applications, lawyers are using ChatGPT, which can be effective at some legal tasks. When provided with legal source material (e.g., cases, statutes, and class notes) and model documents (e.g., a sample memo or exam answer), it appears that GPT-4 can outperform most law students on exams.<sup>23</sup> A recent study showed that using GPT-4 significantly reduced the time required to complete a range of real-world legal tasks.<sup>24</sup>

It is unknown and likely unknowable whether generative AI applications will plateau at the level of competent legal assistants or whether they will ascend closer to full-fledged robot lawyers. The most transformative AI advances in the near future might come from the ongoing efforts to provide existing large language models with legal data, training, and guardrails.<sup>25</sup> These emerging tools will almost certainly go beyond what AI systems have already done for lawyers in the past, for example, the systems used in technology-assisted review, e-discovery, and due diligence.<sup>26</sup> Some commentators have suggested that the advent of generative AI may mark the “beginning of the revolution” for the legal profession,<sup>27</sup> as machines increasingly carry lawyers’ heavily linguistic workload.<sup>28</sup> Generative AI systems arguably show their greatest proficiency in the realm of text. As commentators have noted, this would seem to overlap with the work of lawyers, who are “word merchants” within a field where “language is the coin of the realm” and “every road leads to a document.”<sup>29</sup> Two recent studies examining how different occupations might be disrupted by generative AI place the legal industry at or very near the top of the list.<sup>30</sup>

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23. See Choi & Schwarcz, *supra* note 1, at 6.

24. See Choi et al., *supra* note 9.

25. Stephanie Wilkins, *LexisNexis and Thomson Reuters Weigh in on the Future of AI in Legal Research*, LAW.COM (June 30, 2023, 1:10 PM), <https://www.law.com/legaltechnews/2023/06/30/lexisnexis-and-thomson-reuters-weigh-in-on-the-future-of-ai-in-legal-research/>.

26. Julija Kiršienė et al., *Digital Transformation of Legal Services and Access to Justice: Challenges and Possibilities*, 15 BALTIC J.L. & POL. 141, 148 fig.1 (2022).

27. See Perlman, *supra* note 6.

28. See, e.g., Katz et al., *supra* note 1, at 1 (“It is difficult to imagine a professional field for which natural language is more integral than the law.”); Michael J Bommarito II & Daniel Martin Katz, *GPT Takes the Bar Exam 1* (Dec. 29, 2022) (unpublished manuscript), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4314839](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4314839) (“[L]aw is heavily reliant on the use of language, producing massive volumes of textual data. Documents such as briefs, memos, statutes, regulations, contracts, patents, and judicial decisions are continuously authored by lawyers, judges, and regulators.”).

29. Tate Ryan-Mosley, *AI Might Not Steal Your Job, But It Could Change It*, MIT TECH. REV., (Apr. 3, 2023), <https://www.technologyreview.com/2023/04/03/1070750/ai-jobs-legal-field-gpt-4/>; Katz et al., *supra* note 1, at 1–2 (“As part of their daily activities, legal professionals like judges, regulators, legislators, and lawyers spend countless hours consuming and/or producing a wide variety of legal documents. The document types are varied but include legal texts such as statutes, regulations, judicial decisions, contracts, patents, briefs, opinion letters, memos, and other related materials.”); Steve Lohr, *AI Is Coming for Lawyers, Again*, N.Y. TIMES (Apr. 10, 2023), <https://www.nytimes.com/2023/04/10/technology/ai-is-coming-for-lawyers-again.html> (suggesting that because lawyers are “essentially word merchants” they are at risk of being replaced by AI that can “recognize and analyze words and generate text in an instant,” and thus seem “ready and able to perform tasks that are the bread and butter of lawyers”).

30. See Lohr, *supra* note 29; Jan Hatzius et al., *The Potentially Large Effects of Artificial Intelligence on Economic Growth*, GOLDMAN SACHS ECON. RSCH. 6, 7, 10 (Mar. 26, 2023, 9:05

Legal scholars have long contemplated whether AI will one day be capable of replacing lawyers in different capacities, and whether this replacement would be a good thing.<sup>31</sup> Much of this literature suggests that we should not rule out transformative futures of superintelligent legal AI, but neither should we overstate certainty about such advances in the near term. Some scholars have contemplated a world of robot lawyers, noting that if AI grows capable of performing legal tasks at the level of a human lawyer, such systems may also be capable of improving well beyond the human level, approaching a “legal singularity.”<sup>32</sup> But other scholars argue that AI may be limited to only the most routine and repetitive legal work, since AI systems have, at least in the past, lacked problem-solving ability and an appreciation of new issues and the indeterminacy of legal standards.<sup>33</sup>

Even if AI eventually grows capable of competently performing most legal work, some scholars suggest that the organized bar might slow or prevent the replacement of human lawyers. The ABA has formed a task force on generative

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PM), [https://www.key4biz.it/wp-content/uploads/2023/03/Global-Economics-Analyst\\_-The-Potential-Large-Effects-of-Artificial-Intelligence-on-Economic-Growth-Briggs\\_Kodnani.pdf](https://www.key4biz.it/wp-content/uploads/2023/03/Global-Economics-Analyst_-The-Potential-Large-Effects-of-Artificial-Intelligence-on-Economic-Growth-Briggs_Kodnani.pdf).

31. See SUSSKIND 2008, *supra* note 5; SUSSKIND 2023, *supra* note 5, at 255; Wendel, *supra* note 5. See generally Alarie et al., *supra* note 5; Barton, *supra* note 5; Markovic, *supra* note 5; McGinnis & Pearce, *supra* note 5; Remus & Levy, *supra* note 5, at 502; Simshaw, *Ethical Issues in Robo-Lawyering*, *supra* note 5, 189–90.

32. McGinnis & Pearce, *supra* note 5, at 3041, 3064 (“And when machine intelligence becomes as good as lawyers in developing some service or some factor of production that contributes to a service, it does not stop improving. Intelligent machines will become better and better, both in terms of performance and cost. . . . [T]he exponential development of machine intelligence in legal services is inevitable. . . .”); Wendel, *supra* note 5, at 28 (suggesting that AI may one day outperform human lawyers at a wide range of legal tasks, including “[r]eviewing tens of thousands of pages of documents for privileged communications, scanning hundreds of contracts for relevant provisions, generating legal documents in response to user input, and assessing the decided cases in a jurisdiction to determine the likelihood of prevailing on a motion are all functions that human lawyers have traditionally performed, but computers may do better”); Ralph Losey, *Start Preparing for “THE SINGULARITY.” There Is a 5% to 10% Chance It Will Be Here in Five Years. Part 2*, JDSUPRA (Mar. 31, 2023), <https://www.jdsupra.com/legalnews/start-preparing-for-the-singularity-2078451/> [<https://perma.cc/5U3H-YBJH>] (forecasting a 5–10% chance that over the next five years we will see super-intelligent AI that fundamentally transforms legal research, writing, dispute resolution, and other aspects of legal practice). See generally ABDI AIDID & BENJAMIN ALARIE, *THE LEGAL SINGULARITY: HOW ARTIFICIAL INTELLIGENCE CAN MAKE LAW RADICALLY BETTER* (2023).

33. See Debanjan Mandal, *However Advanced It Is, AI Cannot Replace a Human Lawyer: Debanjan Mandal of Fox & Mandal*, BAR & BENCH (Feb. 15, 2023, 11:34 PM), <https://foxandmandal.co.in/news-and-media/however-advanced-it-is-ai-cannot-replace-a-human-lawyer-debanjan-mandal-of-fox-mandal/> [<https://perma.cc/6V4T-4NGS>] (arguing that AI lacks the ability to deal with new issues where there is a lack of available data); Markovic, *supra* note 5, at 333, 349 (arguing that the “rise of intelligent machines should induce anxiety only among segments of the legal profession that provide routinized and formulaic solutions for clients” and that AI cannot handle “legal indeterminacy” and the “fact-intensive nature of most legal disputes”); Wendel, *supra* note 5, at 25 (suggesting that in spite of advancing AI capabilities, clients who are risk averse will continue to prefer human lawyers for their complex and high-stakes legal needs); McGinnis & Pearce, *supra* note 5 (observing that current AI systems seem unable to replace lawyers in many capacities, including client relations and court appearances).



AI,<sup>34</sup> and a number of state bar associations have formed committees, issued ethical guidelines, and proposed ethics opinions.<sup>35</sup> Already lawyers have run into ethical issues, including lawyers who submitted court filings with false citations based on AI hallucinations.<sup>36</sup> It is likely that many lawyers have used ChatGPT in the course of their legal work, and thus may have inputted confidential information into an AI system that does not offer privacy protections.<sup>37</sup> These ethical concerns, combined with lawyers' long history of jealously guarding their monopoly over legal services, may suggest that bar regulators will attempt to prevent the rise of robot lawyering.<sup>38</sup> In Richard Susskind's terms, lawyers who oppose legal AI may tend to "enclose" rather than "liberate" legal expertise.<sup>39</sup> Moreover, lawyers might be slow to adopt AI because of the legal profession's conservative orientation and general skepticism toward emerging technology.<sup>40</sup>

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34. *ABA Forms Task Force to Study Impact of Artificial Intelligence on the Legal Profession*, AM. BAR. ASS'N (Aug. 28, 2023), <https://www.americanbar.org/news/abanews/aba-news-archives/2023/08/aba-task-force-impact-of-ai/?login>.

35. STATE BAR CALIF., *GENERATIVE AI AND THE PRACTICE OF LAW*, <https://www.calbar.ca.gov/Portals/0/documents/ethics/Generative-AI-Practical-Guidance.pdf> [<https://perma.cc/9SY4-RZZ6>]; *Proposed Advisory Opinion 24-1 Regarding Lawyers' Use of Generative Artificial Intelligence—Official Notice*, FLA. BAR (Nov. 13, 2023), <https://www.floridabar.org/the-florida-bar-news/proposed-advisory-opinion-24-1-regarding-lawyers-use-of-generative-artificial-intelligence-official-notice/> [<https://perma.cc/VEZ6-V7ZD>].

36. Pranshu Verma & Will Oremus, *These Lawyers Used ChatGPT to Save Time. They Got Fired and Fined*, WASH. POST (Nov. 16, 2023), <https://www.washingtonpost.com/technology/2023/11/16/chatgpt-lawyer-fired-ai/> [<https://perma.cc/952Y-YV9U>]; see Matt Novak, *Lawyer Uses ChatGPT in Federal Court and It Goes Horribly Wrong*, FORBES (May 27, 2023, 6:11 PM), <https://www.forbes.com/sites/mattnovak/2023/05/27/lawyer-uses-chatgpt-in-federal-court-and-it-goes-horribly-wrong/?sh=440d4afe3494>.

37. See Ivey Fidelibus, *Can AI Take Over the Practice of Law?*, WAKE FOREST L. REV. (Jan 26, 2023), <http://www.wakeforestlawreview.com/2023/01/can-ai-take-over-the-practice-of-law/> [<https://perma.cc/2LV8-B6EE>] (noting that confidentiality concerns are heightened with chatbots because a lawyer using these systems may need to offer highly specific inputs to achieve high-quality outputs); Simshaw, *Ethical Issues in Robo-Lawyering*, *supra* note 5, 199–200 (noting that clients might tend to share too much confidential information with an AI chatbot lawyer).

38. See Barton, *supra* note 5, at 21 (noting that the "American lawyer's monopoly has historically been capacious and jealously guarded" and suggesting that "America's market for legal services is among the most tightly regulated in the world" with the "world's most robustly protect lawyer monopoly"); but see McGinnis & Pearce, *supra* note 5, at 3042–43 (noting that bar regulation will not be effective in preventing automated legal services largely due to market pressures).

39. RICHARD SUSSKIND & DANIEL SUSSKIND, *THE FUTURE OF THE PROFESSIONS: HOW TECHNOLOGY WILL TRANSFORM THE WORK OF HUMAN EXPERTS* 303 (2015) (advocating for the "removal of current and future gatekeepers" so that a broader public has greater access to legal information, which would liberate rather than enclose the domain of legal expertise); *id.* at 307 (suggesting that we face a choice between a society where expertise is shared freely and one where it is owned and controlled by a small elite); Melissa Castro Wyatt, *Why Lawyers Won't Be Entirely Replaced by Robots*, UNIV. VA. SCH. L. (Dec. 5, 2022), <https://www.law.virginia.edu/news/202212/why-lawyers-wont-be-entirely-replaced-robots> (suggesting that AI may move us from a system where only specialized experts can access legal information to a system where anyone using a natural language chatbot can acquire valuable legal information and advice).

40. See Simshaw, *Access to A.I. Justice*, *supra* note 5, at 179 (describing the legal profession's "conservatism and pessimism" regarding emerging technology, and the traditional presumption among lawyers that the "old ways are best").

Separate from the question of AI replacing the work of human lawyers, perhaps the more pressing and practical issue for lawyers today is how they can collaborate with AI to enhance their efficiency. As already noted, recent research shows that lawyers can complete some tasks much more quickly when using generative AI.<sup>41</sup> Some commentators suggest that the legal profession is approaching a point when lawyers will need to use generative AI to satisfy their duties of competence and diligence, as these tools will make lawyers more effective and efficient.<sup>42</sup>

What are the implications of this emerging technology for legal education? Given the growing significance of generative AI in legal practice, it may be time for at least some adaptation in legal education. Reasonable minds can disagree about how this adaptation should look—as explored through the surveys and recommendations in the remainder of this Article. But, even if one only considers the state of the technology as reviewed in this Part, there may be a compelling case for AI-integrated legal education. Students should be equipped with an understanding of both the efficiencies and ethical pitfalls presented by AI tools that are poised to become an everyday part of legal work. More generally, students are the future of the legal profession. They are the lawyers who will help determine the proper role of generative AI in legal practice, including questions of legal ethics, automated legal services, and the boundaries of the professional monopoly. Although the future is uncertain, students should be prepared to enter a profession where the use of generative AI is already widespread and the trajectory is clearly toward greater legal AI capabilities.

## II. STUDENT PERSPECTIVES: REFLECTIONS ON AN AI-INTEGRATED COURSE

This Part describes the perspectives of students who participated in an AI-integrated first-year Property course taught by the author of this Article. Section A describes the class exercises and Section B reports student responses to a survey following these exercises. It is worth noting that the integration of generative AI is not unique to this course, as other U.S. legal educators have begun to adopt this technology in their teaching.<sup>43</sup> The faculty survey discussed in Part III offers several examples of courses where students assessed ChatGPT outputs, most commonly in upper-level seminars focused on technology. What is perhaps uncommon about the pedagogical experiment described in this Part is that it took place in a first-year doctrinal course and the students not only commented on AI outputs but also used generative AI tools to complete their assignments. Although it is not discussed here, the author of this Article also used a generative

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41. Choi & Schwarcz, *supra* note 1, at 34.

42. Perlman, *supra* note 6 (arguing that using AI tools will soon be required of lawyers to “satisfy their duty of competence, just as we would question the competence of a lawyer who Shepardizes citations using only books or prepares a legal document on a typewriter”).

43. See Jason Pohl, *From Tort Law to Cheating, What Is ChatGPT's Future in Higher Education?*, BERKELEY NEWS (Mar. 13, 2023), <https://news.berkeley.edu/2023/03/21/from-tort-law-to-cheating-what-is-chatgpts-future-in-higher-education/> [https://perma.cc/X76J-887B] (noting that several Berkeley Law professors have encouraged students to use AI tools for law school assignments).

AI application to demonstrate a chatbot legal aid interaction for a group of students in the University of Denver's 1L Public Good Program.<sup>44</sup>

### A. An Early Pedagogical Experiment with Generative AI in a 1L Course

This Part focuses on a Property course taught at the University of Denver Sturm College of Law in the Spring 2023 semester. The AI-based materials had low stakes, with most students receiving full credit, and made up only a small fraction of class time and assignments. Students were not permitted to use AI tools for the midterm or the final exam.<sup>45</sup> The exercises involving generative AI were designed to serve a traditional pedagogical purpose, aiming to teach doctrine and skills of legal analysis and writing, while also helping students understand and assess the capabilities of emerging legal AI tools.

The first assignment asked students to assess ChatGPT's answers to a short-essay quiz on trespass law. Students were asked to identify errors and omissions in the AI responses. The instructions read as follows:

This quiz contains the questions from the first quiz administered to last year's property class. I have now asked each of these questions to ChatGPT. For each of the AI answers, very briefly describe what (if anything) you think ChatGPT is missing.

The quiz contained several questions paired with ChatGPT responses. An example is reproduced below:

#2. Using *Magadini* as precedent, briefly apply the elements of the necessity defense to Stanley's situation. Assume that there is no statute that forbids the necessity defense.

#### ChatGPT's answer:

*The elements of the necessity defense as established in Commonwealth v. Magadini are:*

- *A defendant must prove that the harm they sought to prevent was greater than the harm caused by their illegal action.*
- *A defendant must prove that they reasonably believed that the conduct was necessary to prevent the harm.*

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44. For this exercise, the students collectively played the role of a hypothetical tenant facing eviction who had turned to ChatGPT for legal advice and ultimately to produce a letter that could be sent to the landlord. This exercise served as the basis for a discussion of emerging technology and access to justice. To prepare ChatGPT for this exercise, the first prompt read: "Play the role of a lawyer and I will play the role of a client in an eviction defense context." The next prompt read: "My landlord wants to evict me from my apartment. They didn't give me a reason. They posted a note on the door saying I'm evicted, effective immediately. Please advise." Students then asked for advice about what they (as the hypothetical tenant) should do in this situation, and ultimately asked ChatGPT to draft a demand letter.

45. See discussion on the issue of setting policies for assessments *infra* Part VI.

- *The defendant must prove that no legal alternative was available to prevent the harm.*

*Applying these elements to Stanley's situation:*

- *Stanley may be able to prove that the harm of starvation was greater than the harm caused by entering the store without permission.*
- *He may be able to prove that he reasonably believed that entering the store was necessary to prevent starvation.*
- *He may be able to prove that no legal alternative was available to him as the store was the only one within 5 miles.*

*It's important to note that the application of the necessity defense will depend on the specific laws of the state and the specific facts of the case.*

Students received credit if they identified that ChatGPT omitted the “clear and imminent danger” standard. Students would also receive credit for noting that requiring the defendant to prove “no legal alternative was available,” as phrased in the ChatGPT answer, omits the words, “reasonably available,” as in, “no *reasonably available* legal alternative.”

The next assignment was a short-essay quiz that asked students to submit verbatim answers they obtained from ChatGPT or similar AI applications.<sup>46</sup> Students were encouraged to iterate with the chatbot to improve the essay it produced. The instructions read, in part: “Your assignment is to make the [generative AI] give the best answer.” Students revised their prompts at least five times, while checking their notes and readings to identify inaccuracies in the AI outputs. Students had the option to complete an alternative to this assignment, and they were informed of ethical concerns about OpenAI and the process of creating large language models (e.g., issues of privacy and intellectual property and charges of exploiting workers who contributed to reinforcement learning with human feedback). None of the students (at least openly) opted out of using AI tools for this assignment. For another writing assignment later in the semester, students were given the option to use AI to assist in their writing and many students reported that they took this option.

The instructor also brought generative AI into the classroom for brief simulation exercises, where, for example, the AI played a client, and the class collectively played a lawyer asking the client about the factual basis for the client's nuisance claim. At the start of this dialogue, the instructor prompted the AI system in a way that explained the AI's role and asked the AI to adopt an “informal and slightly skeptical and humorous tone without using swear words or inappropriate language.”<sup>47</sup> Designing this exercise, including this introductory

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46. Students were advised to use GPT-3, GPT-3.5, Bing Chat (powered by GPT-4), or WriteMat (a Google Chrome plug-in using ChatGPT).

47. This introductory prompt read: “Hey ChatGPT, let's have a conversation where you use a very informal and slightly skeptical and humorous tone without using swear words or inappropriate

prompt, took the instructor roughly two hours of trial and error. As reflected in the below excerpts, the students asked their hypothetical client discerning questions reflecting the key points of the doctrine they had been studying, and the AI client responded with plausible factual details. The students' questions reflect factors summarized in their property casebook relating to the character of the harm (affecting health rather than aesthetic preferences), the social value of the use, the cost and fairness to either party to lessen the harm, whether the plaintiff is unduly sensitive, and whether the plaintiff came to the nuisance.<sup>48</sup>

Dialogue:

- Lawyer:* Have you had any physical reactions to the light such as not being able to sleep?
- Client:* Yeah, it's like trying to sleep with the sun shining in my face. Insomnia has become my middle name.
- Lawyer:* Do you have blinds in your windows?
- Client:* Of course I do, but it's like trying to block out the sun with tissue paper. The light still seeps through.
- Lawyer:* Has the light actually provided security in the area?
- Client:* I highly doubt it, last time I checked the light is pointed straight at my bedroom window. No criminal is going to be deterred by that.
- Lawyer:* Do you feel like your privacy is violated?
- Client:* I feel like I'm living in a fishbowl. I can't even walk around my own house without feeling like I'm being watched.
- Lawyer:* Do you need perfect dark for sleep?
- Client:* I don't need perfect darkness but this light is like sleeping next to a lighthouse.
- Lawyer:* Was the light there when you moved in?
- Client:* Nope, it was installed right after I moved in. Coincidence? I think not.

## **B. Survey Findings**

Below is a summary of survey responses from students who experienced this AI-integrated Property class. Participation in the survey was voluntary and anonymous. In keeping with the ethical practices of research involving one's

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language. Keep all responses to fewer than four sentences. You play the role of someone who is suing your neighbor because they have a bright security light outside of their house...I play the role of your lawyer... I don't know many of the facts about the situation, so you'll have to tell me more. Please be creative and make up interesting facts. Ready?"

48. See JOSEPH WILLIAM SINGER ET AL., *PROPERTY LAWS: RULES, POLICIES AND PRACTICES* (8th ed. 2021).

own students, the instructor informed students that they should not feel any obligation to complete the survey and that the instructor would not know whether they completed the survey. Roughly one fourth of the class (20 out of 78 students) completed the survey. This would generally be considered a good response rate for social scientific surveys, although it raises important questions about nonresponse bias (i.e., how the nonresponders differ from the responders). The survey elicited responses across a wide spectrum, from those who were very satisfied with the AI experiments to those who were very dissatisfied. Yet, it is important to note that this survey should not serve as the basis for statistical inferences about law students in general. The primary purpose of the survey was to collect student voices through open-ended questions and to report multiple-choice questions that provide an overall picture of this sample.

Most of the surveyed students (80%) had not used generative AI systems like ChatGPT before the Spring 2023 semester. This introduction to text-generating AI was something that we, as a class, largely experienced together at a remarkable moment of technological advancement. In a sense, the AI systems were improving in their legal abilities just as the students were improving. As already noted, at the beginning of the semester, ChatGPT (powered by GPT-3.5) had not yet surpassed the 1st percentile on bar exam performance.<sup>49</sup> By the end of the semester, an improved version of ChatGPT (powered by GPT-4) had reached the 68th percentile.<sup>50</sup> Many of the students first encountered generative AI systems through the instructor's brief demonstration on the first day of class. In response to the survey question about their first impressions, the students described ChatGPT with amazement, as "scary," "freaky," "exciting," and "unsettling," as they were "surprised by what it knew and how it operated." One student reported feeling "shock at how well the AI systems were able to answer complex questions." Another student described generative AI as "half exciting, half terrifying!" This astonishment extended to students' first impressions when they used the AI themselves. As one student noted: "I downloaded ChatGPT for the first time . . . and was blown away."

After gaining more experience with these AI systems through our quizzes, and after some brief class discussions of current AI limitations, students reported that they grew far less impressed with the AI capabilities. As one student explained, "I am not as awestruck as I was. I have been slightly disappointed." Another student was initially impressed with ChatGPT but "quickly learned its limits." Some students mentioned that their initial awe was mixed with fear about AI replacing lawyers and having untold effects on society, but learning about ChatGPT's limitations ameliorated these concerns. For example, one student noted: "While I was intimidated by their capabilities at first, we have also discussed their flaws aplenty which made me feel better over time."

This transition from being "blown away" to being "slightly disappointed" was, for many students, followed by a third step in the timeline when they learned the "art and skill" of prompting the system to get better answers. These

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49. Martínez, *supra* note 1, at 8.

50. *Id.* at 6.

students found that the AI served as a powerful legal assistant even if it is not quite the omniscient legal expert that it seemed on first impression.

On the question of whether AI could threaten students' future employment prospects in the legal profession, students had a mix of concerns. One student suggested that AI systems may become "so advanced that people will just be able to search their own problems and lawyers will be obsolete." Others worried that AI's writing quality was improving to the point that these systems would soon be able to "write briefs without assistance," leaving far less room for the labor of human lawyers. Some expressed concern that the work of junior associates would soon be largely taken over by AI, which would limit the opportunities to obtain entry-level jobs. However, as already noted, these concerns somewhat abated as students used generative AI themselves and saw its limitations. As one student noted, the AI seemed to write in a "robotic" fashion. Others noted that some aspects of legal practice might not be easily replaced by even highly advanced legal AI, as these systems "cannot go to court or replace human connection necessary for client interactions." While some students suggested the possibility that robot legal advisors would undermine important aspects of the lawyer-client relationship, other students saw automated legal advising as a major opportunity to enhance access to justice. These sophisticated reflections by the students mirror the professional responsibility literature, where scholars have contemplated AI and the future of the legal profession.<sup>51</sup>

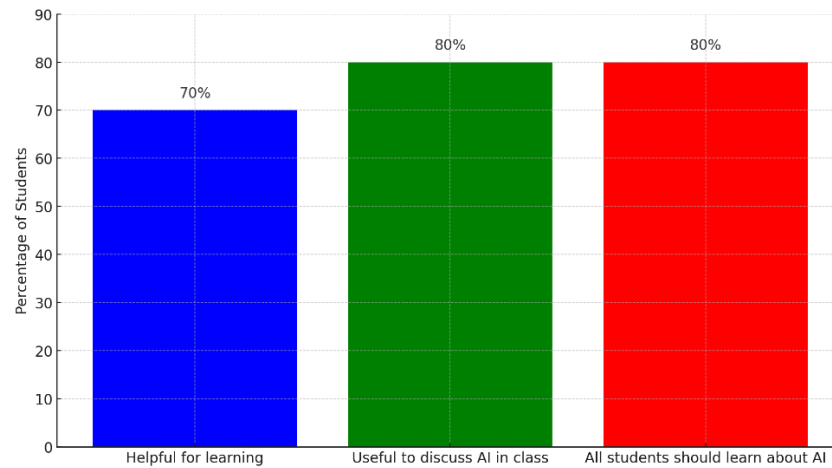
On the question of how AI might serve as an aid for human lawyers, some students were hopeful for more efficient and rewarding legal careers, where AI applications "help craft documents and save time." When reflecting on their use of AI for class assignments, students emphasized that the AI was most helpful as a sounding board and writing assistant, a source of endless creative suggestions. One student described the AI as a "resource to bounce ideas off of when there are limited resources for collaboration" and as "another brain to help construct new thoughts that may have been overlooked." Another student expressed hope that AI would enhance the quality of legal services, where AI systems might "improve a lawyer's writing and even their overall ability to help their client." If AI is able to take over some of the "boring brainless mundane tasks," as one student noted, this might lead to more "fun" legal careers with a focus on the "intellectually challenging aspects." These sentiments echo the literature on "tech-enhanced lawyers," who might be more efficient and more satisfied with their careers.<sup>52</sup>

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51. See discussion *supra* Part I.

52. See discussion *supra* Part I.

Figure 1. Student Survey



As represented in Figure 1, most of the surveyed students responded favorably to the integration of AI in their Property course. Most found that the use of AI was helpful for their learning (70%).<sup>53</sup> Most reported that it was useful to have brief in-class discussions about emerging AI technology (80%).<sup>54</sup> And most agreed that “all law students should be aware of and learn to use the kind of AI systems we used this semester” (80%). Students noted that the AI-based assignments forced them to be “more precise” in their legal analysis, where the AI raised novel arguments, counterarguments, and interpretations of law and facts, or where the student had to carefully rephrase questions and parse the AI’s responses in order to improve the AI output. Students emphasized the creativity of the AI—a perhaps surprising theme given that creativity is often thought to be a quintessentially human domain—where it helped with “brainstorming how to approach a problem,” “brainstorming creative solutions for issue-spotting,” and “generating ideas.”

The dissenting views here are instructive as well. Some students were frustrated by using these AI tools for assignments because they felt the technology was “not there yet,” such that it required too much effort to obtain quality outputs. Other students expressed the opposite view, noting that the AI system exceeded the students’ own legal abilities, which seemed to dishearten them and de-motivate their efforts. Two respondents expressed the concern that AI may function as a “crutch,” where students rely on the AI to do work for them and fail to learn how to reach an answer themselves.

In sum, these students are already thinking deeply about AI and the future of the legal profession, echoing themes explored by legal scholars. They are pondering how AI might grow in legal capabilities, possibly rendering lawyers

53. This question asked, “Were the AI systems this semester (in Property) helpful for your learning? Please elaborate in the space below your response.” (yes or no).

54. This question asked, “Did you find it useful that we had brief discussions this semester about emerging AI technology?” (yes or no).



“obsolete” or perhaps providing a powerful aid in legal practice and expanding access to justice. Students revealed that generative AI tools can assist in their legal learning, although some dissented from this view. Most students voiced a demand for more AI integration in their legal studies. They generally seemed eager for an education that prepares them for the legal world of the near future, which will be the legal world of their careers. One student explained: “I think it’s important that law schools introduce AI to students, even if the ramifications have not been fully explored yet.” Another argued that forbidding generative AI tools in law school would be “stubborn and old fashion[ed]” and a sign that law schools are failing to “move forward with the times.” Some students emphasized their fear of being left behind in a rapidly changing legal profession. As one student concluded: “[I]t’s not that AI will be replacing lawyers, but it’s that lawyers who use AI will replace lawyers who don’t.”

### **III. FACULTY PERSPECTIVES: A NATIONAL SURVEY OF LAW TEACHERS**

The faculty survey asked a national sample of law teachers whether and how generative AI might be integrated in legal education, as well as questions concerning the future of AI and the legal profession. The 149 responding faculty members were recruited through faculty listservs.<sup>55</sup> This approach is meant to produce a relatively large sample size in order to collect a variety of faculty voices. But it does not yield a clear sample rate, and so the findings reported here are limited in their generalizability. The participants represented a mix of teaching areas, with roughly half teaching doctrinal courses (49%), and a significant number teaching in research and writing (19%) and clinical programs (13%).<sup>56</sup> Most respondents were not particularly tech oriented, with seventy-four percent of the sample indicating that they were only “slightly” or “moderately” familiar with emerging AI technology.<sup>57</sup>

When asked about the future of AI in the legal profession, faculty respondents tended to anticipate that generative AI would soon grow pervasive in legal practice. These respondents estimated, on average, a seventy-one percent chance that within the next decade “the majority of U.S. lawyers will use AI systems to assist them with the majority of their professional tasks.” These respondents were less confident about the rise of “robot lawyers,” AI that reaches human-level proficiency at legal tasks. Respondents estimated, on average, a thirty-two percent probability that AI would achieve human-level capabilities

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55. The recruitment process started with several listservs, and some of the author’s faculty contacts were asked to forward the survey to the full-time faculty email lists at their law schools.

56. Ten percent of the sample reported that they teach courses categorized as “interdisciplinary (e.g., Law and \_\_).”

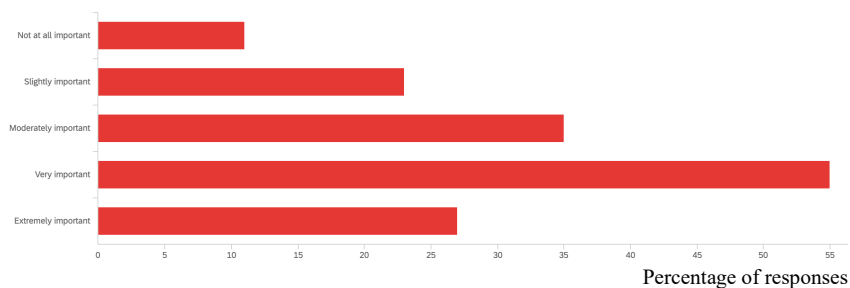
57. This question asked: “How familiar are you with emerging AI technology?” Of the respondents, 2.8% answered “not familiar at all,” 33.8% answered “slightly familiar,” 40.1% answered “moderately familiar,” 15.5% answered “very familiar,” and 7.8% answered “extremely familiar.”

over the next decade.<sup>58</sup> On the one hand, a thirty-two percent estimate suggests substantial doubt about the rise of robot lawyers. On the other hand, these faculty are far from dismissive of this radically transformative future. It is striking that the average response suggests a nearly one-in-three chance that human lawyers will be joined by proficient robot lawyers within just the next decade—relatively early in the careers of today’s law students. Moreover, twenty-three percent of respondents believe that this impending arrival of human-level legal AI is more likely than not.<sup>59</sup> Only 5.5 percent of respondents entirely dismissed the possibility of robot lawyers in the next decade by offering a zero percent probability.

In response to open-ended questions on the future of AI, the faculty emphasized their uncertainty. As one respondent explained: “I just don’t know where this [will] go but there is no doubt that it will come at us faster than we can react.” Given this uncertainty, faculty emphasized the need for a “balanced response” such that law schools neither “overreact” nor “ignore AI’s influence.” As one respondent noted, legal educators must “thread the needle between dismissiveness and hype.” Some faculty doubted whether powerful AI systems would be able to perform much of the work of lawyers, because AI lacks the “wisdom” and “inescapably human” dimension of lawyering. And some expressed concerns about AI replacing lawyers in ways that spread legal misinformation and diminish the quality of legal services.

**Figure 2. Faculty Responses on AI in Legal Education**

“How important do you think it is for law schools to offer opportunities for students to use text-generating AI systems in their coursework?”

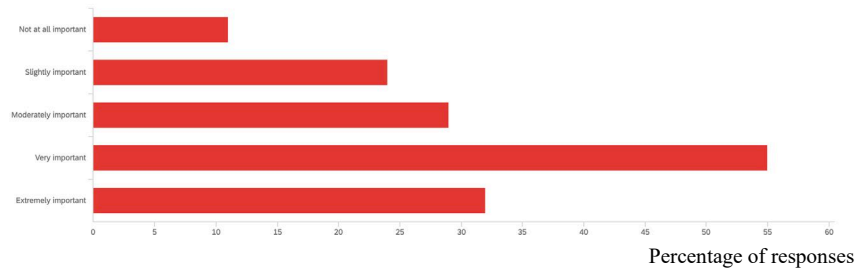


“How important do you think it is for law schools to offer courses focusing on emerging AI?”

58. This question read: “Forecasting AI’s ability to replace lawyers: Please estimate the likelihood (as a percentage) that we will reach a point in the next decade when AI systems, acting without lawyer supervision, will be able to competently carry out most tasks currently performed by U.S. lawyers. Note that this question asks whether a future AI system could complete legal tasks, not whether AI would or should replace lawyers in different capacities.”

59. Thirty-three out of 145 responses reported a greater than 50% likelihood on the question of forecasting AI’s ability to replace lawyers.

## Teaching Law in the Age of Generative AI



In light of their general sense that powerful AI is coming to the legal profession, and in spite of uncertainty about whether this will be a good thing, most faculty suggested that law schools should begin integrating AI into the legal curriculum. As represented in Figure 2, a majority of respondents agreed that it is important for “law schools to offer opportunities for students to use text-generating AI systems in their coursework.” Consistent with this finding, most faculty respondents also agreed that it is important for law schools to offer courses focusing on emerging AI.<sup>60</sup>

In their open-ended responses, some faculty suggested that we “wait and see,” as the current moment of “exploding” technological innovation may “settle in a few years.” However, most faculty respondents expressed urgency for legal educators to “adapt” and “start teaching AI appropriately now,” noting that generative AI “is here, and we cannot ignore it,” and that we are already “beyond the point of wait and see.” As one respondent summed up the point: “don’t wait. get going.” For some faculty, this urgency is driven by the concern that law firms are already moving quickly to adopt generative AI tools and these firms will “want associates to know how to use AI.” Thus, students should learn to use emerging tools so that they are “practice ready.” As one faculty respondent explained, if AI is “coming to the profession” then it should be “coming to the law school classroom.” Some faculty tied their sense of urgency to the potential for automated legal aid and the role that students could play in exploring “how AI could help bridge the justice gap.”

Some of these comments were framed as a concern about leaving students behind the times. As one respondent noted, “Students should learn the technology, just as we wanted them to learn Lexis and Westlaw, rather than flipping through paper copy books.” Some respondents explained that students are already using the technology enough that it would be “silly for us to say ‘don’t use it.’” However, others suggested that students are woefully unfamiliar with emerging AI, and therefore law schools should “make sure that students understand what [emerging AI] really is, how it works, and how they can keep up with it.”

One of the most salient themes among faculty respondents was the need for students to learn the limitations and risks of using legal AI tools. Some faculty

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60. This question read: “How important do you think it is for law schools to offer courses focusing on emerging AI?”

worried that students' naïve use of these tools could lead to substandard work product and risks of professional discipline. The key, as framed by one respondent, is that students "need to learn what AI is best at and what it is not good at." Thus, students should appreciate how AI is helpful in, for example, "generating ideas, identifying sources, synthesizing text," while also learning that AI-generated documents should not be trusted without a careful validation process. The student must "guide, verify, and craft" AI outputs, and should not "just cut and paste without understanding."

Although most of the surveyed faculty agreed that legal education should incorporate generative AI, many of these respondents also raised concerns that AI might "hinder" the teaching of law and "compromise the learning process." Some worried that students would become "heavily reliant on AI" rather than developing their own skills of legal writing, research, and analysis. As one faculty respondent explained, it is vital that "students learn the hard way," and that they master basic legal skills before they begin to use AI as a "supplement." Otherwise, students might use AI as a "shortcut" or a "crutch."<sup>61</sup> Some faculty described these concerns as part of a long-running trend where students turn in assignments based on the "first result from Google, Westlaw, [or] Lexis." As one respondent concluded, "I teach them writing, not use of a program that writes for them."

This faculty emphasis on learning impediments contrasts sharply with the surveyed students, most of whom found generative AI helpful for their legal learning. The faculty perspective may be well founded, given their greater pedagogical expertise and experience. However, the students may have greater insight based on their direct experience with AI-integrated teaching. Surveyed faculty generally had not used ChatGPT and other AI tools in their teaching.

The surveyed faculty expressed a wide range of ideas about how generative AI could be useful in class exercises, class preparation, exam writing, and providing feedback and assessment. For example, a clinical instructor described plans to have students use AI applications to "help draft routine legal documents, conduct legal research, or summarize lengthy legal texts." But these ideas had not yet been put into practice. The faculty overwhelmingly emphasized that they were uninformed about emerging AI and unsure about how to proceed with an AI-integrated curriculum. Their responses often began with statements like "I am still exploring [but] I am not at all sure" and "[I am] on the fence" or "I don't know enough." Many acknowledged that they are just beginning to consider generative AI and are "not informed enough about the technology" and "need to have a better understanding" before changing their approach to teaching.

Some faculty acknowledged that transformative legal AI capabilities may be on the horizon but suggested that, rather than teaching with AI, law schools should "pivot" toward the "soft skills" that AI is less likely to replace. This was framed by one respondent as a recommendation for a "more human-centric, skills-based training," emphasizing client interaction, negotiation, problem-solving, strategic advising, and the ability to analyze complex fact patterns with

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61. Note that a student cited in Part II also framed AI as a "crutch."

indeterminate legal standards—tasks that “AI will not be able to do.” Another participant suggested that law schools should convey to students the notion that legal practice is a human endeavor and lawyers are more than “memo-producers and issue spotters.” This respondent noted that medical fields and other professions are already ahead of legal education in developing “human-centered” and “practical” education.

The faculty seemed especially concerned with exam policies and the use of text-generating AI in law school assignments. When asked about this topic, the top response (39%) was that faculty had not yet established any policy as of the Spring 2023 semester.<sup>62</sup> Of those who had established a policy, the most common approach was to forbid text-generating AI (23%). Only fourteen percent had a policy permitting the use of text-generating AI.<sup>63</sup> Although some respondents noted that they were required to follow an institutional policy about generative AI, most were allowed to set their own policies. Some permitted text-generating AI in limited ways, such as allowing it to be used for quizzes but not for final exams. Others permitted AI tools if they were cited and attributed.

In sum, the surveyed faculty tended to predict that transformative change is coming to the legal profession amid advances in generative AI. Most surveyed faculty and students agreed that law schools should begin providing an AI-integrated curriculum. Students will need to acquire new technological competencies, including an appreciation of the risks and limitations of emerging legal AI tools. Nevertheless, faculty diverged from students in their concern about traditional legal learning goals. Most students emphasized that using generative AI applications aided in their legal learning, while the faculty tended to worry that students would rely too heavily on AI and thus fail to develop foundational legal skills. Many of the faculty respondents acknowledged that they were uninformed about generative AI and deeply uncertain about how law schools should adapt.

#### **IV. EDUCATIONAL LITERATURE ON TEACHING WITH CHATGPT**

Since ChatGPT’s November 2022 release, there has been an explosion of educational literature on the use of generative AI in teaching. In the English language, thousands of articles have been published on this topic from around the globe.<sup>64</sup> Already there are systematic reviews of this literature.<sup>65</sup> Much of

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62. This question read: “What (if any) policies have you established that address your students’ use of text-generating AI systems? This could include policies covering particular assignments or applying more broadly. (check all that apply).”

63. Another 3.6 percent had a policy requiring the use of text-generating AI systems, and 20.5 percent selected “other.” Many of the other policies involved permitting AI for some but not all assignments, while others didn’t have their own policy but followed their institution’s policy.

64. A search on Google Scholar using the Boolean terms “chatgpt” AND “education” AND “teaching” AND “students,” yielded 10,300 results when searched on December 11, 2023.

65. See, e.g., Ziyaeddin Halid İpek et al., *Educational Applications of the ChatGPT AI System: A Systematic Review Research*, 12 EDUC. PROCESS INT’L J. 26 (2023); Irfan Jahic et al., *Harnessing the Power of Artificial Intelligence and ChatGPT in Education—A First Rapid Literature Review*, in

this work is theoretical, but the numerous empirical studies of early adopters examine how students and faculty perceive AI-integrated teaching.<sup>66</sup> In general, this literature paints a positive picture of ChatGPT's potential to aid in student learning. This suggests the personalized nature of chatbot interactions can foster critical thinking, active learning, and a new era of pedagogical innovation.<sup>67</sup> However, these benefits are tempered by concerns about potential overreliance on AI, misinformation, and academic integrity.<sup>68</sup> This literature almost unanimously recommends that instructors work with ChatGPT, rather than suggesting a world where emerging AI replaces human teachers.<sup>69</sup>

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PROCEEDINGS OF EDMEDIA+ INNOVATE LEARNING 1489 (2023); Chung Kwan Lo, *What Is the Impact of ChatGPT on Education? A Rapid Review of the Literature*, 13 EDUC. SCIS. Apr. 2023, art. no. 410, at 1; Marta Montenegro-Rueda et al., *Impact of the Implementation of ChatGPT in Education: A Systematic Review*, COMPUTERS, Aug. 2023, art. no. 153, at 1; Mahir Pradana et al., *Discussing ChatGPT in Education: A Literature Review and Bibliometric Analysis*, 10 COGENT EDUC., no. 2, 2023, art. no. 2243134, at 1.

66. See, e.g., Noura Abouammoh et al., *Exploring Perceptions and Experiences of ChatGPT in Medical Education: A Qualitative Study Among Medical College Faculty and Students in Saudi Arabia*, MEDRXIV (July 16, 2023) (preliminary report not certified by peer review), <https://www.medrxiv.org/content/10.1101/2023.07.13.23292624v1.full.pdf>; Reza Hadi Mogavi et al., *ChatGPT in Education: A Blessing or a Curse? A Qualitative Study Exploring Early Adopters' Utilization and Perceptions*, COMPUTS. HUM. BEHAV.: ARTIFICIAL HUMS., Jan.–July 2024, art. no. 100027, at 1; Mostafizer Rahman & Yutaka Watanobe, *ChatGPT for Education and Research: Opportunities, Threats, and Strategies*, APPLIED SCIS., May 2023, art. no. 5783, at 1; Ahmed Tili et al., *What If the Devil Is My Guardian Angel: ChatGPT as a Case Study of Using Chatbots in Education*, 10 SMART LEARNING ENV'TS, no.1, 2023, art. no. 15, at 1.

67. See STEPHEN ATLAS, *CHATGPT FOR HIGHER EDUCATION AND PROFESSIONAL DEVELOPMENT: A GUIDE TO CONVERSATIONAL AI* 79–88 (2023), [https://digitalcommons.uri.edu/cgi/viewcontent.cgi?article=1547&context=cba\\_facpubs](https://digitalcommons.uri.edu/cgi/viewcontent.cgi?article=1547&context=cba_facpubs) (discussing ChatGPT's value as an educational aid that provides individualized feedback); Yun Dai et al., *Reconceptualizing ChatGPT and Generative AI as a Student-Driven Innovation in Higher Education*, 119 PROCEEDIA CIRP (SPECIAL ISSUE) 84, 88 (2023); Mohanad Halaweh, *ChatGPT in Education: Strategies for Responsible Implementation*, CONTEMPORARY EDUC. TECH., Apr. 2023, art. no. ep421, at 1 (arguing for the incorporation of ChatGPT across educational contexts); Will Douglas Heaven, *The Education of ChatGPT*, MIT TECH. REV., May–June 2023, at 42, 44–45 (suggesting that large language models can provide asynchronous learning opportunities that enhance student engagement); Enkelejda Kasneci et al., *ChatGPT for Good? On Opportunities and Challenges of Large Language Models for Education*, LEARNING & INDIVIDUAL DIFFERENCES, Apr. 2023, art. no. 102274, at 1, 2 (noting that ChatGPT can provide personalized learning experiences so long as teachers gain AI literacy and have a clear pedagogical strategy for the use of the technology); Pongsakorn Limma et al., *The Use of ChatGPT in the Digital Era: Perspectives on Chatbot Implementation*, 6 J. APPLIED LEARNING & TEACHING 64, 65 (2023) (drawing from qualitative research showing that using ChatGPT in teaching benefited the students by providing immediate feedback and instructors by reducing their workload); Xiaoming Zhai, *ChatGPT User Experience: Implications for Education* (Dec. 27, 2022), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4312418](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4312418) (unpublished manuscript).

68. See, e.g., Debby R.E. Cotton et al., *Chatting and Cheating: Ensuring Academic Integrity in the Era of ChatGPT*, 61 INNOVATIONS EDUC. & TEACHING INT'L 228, 230 (2024); Damian Okaibedi Eke, *ChatGPT and the Rise of Generative AI: Threat to Academic Integrity?*, J. RESPONSIBLE TECH., Apr. 2023, art. no. 100060, at 1; Teo Susnjak, *ChatGPT: The End of Online Exam Integrity?*, ARXIV (Dec. 20, 2022) (unpublished manuscript), <https://arxiv.org/pdf/2212.09292.pdf> [<https://perma.cc/43GW-9R42>].

69. See, e.g., Abu Muna Almaududi Ausat et al., *Can Chat GPT Replace the Role of the Teacher in the Classroom: A Fundamental Analysis*, 5 J. ON EDUC. 16100 (2023); David Baidoo-

The primary educational advantage highlighted in this literature is that ChatGPT enables a more personalized, self-paced, and self-directed educational experience with instant feedback tailored to individual learning styles.<sup>70</sup> Chatbots can present a sharp contrast to traditional classroom environments, especially large classrooms, where instructors have a limited capacity to provide individualized attention.<sup>71</sup> For example, students using ChatGPT can ask their own follow-up questions and take a deeper dive into topics that spark their interest or clear up aspects they find confusing. When students use ChatGPT to assist in writing assignments, they can receive immediate responses to substantive questions as well as feedback on their writing.

Much of this literature explores how these self-directed learning experiences are supported by educational theory, including the “student-centered learning” model, which aims to empower students to control their own learning process.<sup>72</sup> Interacting with a chatbot engages students in “active learning,” in contrast to the passivity that students experience in many classroom settings.<sup>73</sup> Instructors can guide students in the effective use of ChatGPT by emphasizing the quality of their inquiries and the importance of validating AI outputs.<sup>74</sup> When ChatGPT is brought into the classroom for full-class exercises, such as simulations, role-playing dialogues, and group analysis of exemplar writing, researchers note that this can entertain students in ways that spark engagement and curiosity.<sup>75</sup> Some of this literature looks to a potential future of student-centered learning where generative AI tools provide tailored assignments and feedback to each student based on the student’s prior writing, learning style, and individualized learning goals.<sup>76</sup> This technology could be especially beneficial for neurodiverse students and those who lack fluency in the language of instruction.<sup>77</sup>

When ChatGPT is used effectively, the emerging educational studies suggest that it can enhance knowledge retention and the understanding of complex

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Anu & Leticia Owusu Ansah, *Education in the Era of Generative Artificial Intelligence (AI): Understanding the Potential Benefits of ChatGPT in Promoting Teaching and Learning*, 7 J. A.I. 52 (2023); Dai et al., *supra* note 67, at 86; Lo, *supra* note 65, at 7.

70. See, e.g., Dai et al., *supra* note 67, at 86; Kasneji et al., *supra* 67; Fernando Antonio Flores Limo et al., *Personalized Tutoring: ChatGPT as a Virtual Tutor for Personalized Learning Experiences*, 23 PRZESTRZEN SPOLECZNA [SOC. SPACE] 293 (2023); Rahman & Watanobe, *supra* note 66, at 18; Xiaoshu Xu et al., *Applying ChatGPT to Tackle the Side Effects of Personal Learning Environments in Higher Education: A Teacher and Teaching Perspective*, in 374 MACH. LEARNING & A.I. 73 (2023) (ebook); Zhai, *supra* note 67.

71. See ATLAS, *supra* note 67, at 5; Dai et al., *supra* note 67, at 86; Zhai, *supra* note 67, at 3.

72. See Dai et al., *supra* note 67, at 85.

73. See Lo, *supra* note 65, at 10.

74. See Dai et al., *supra* note 67, at 87–88.

75. See Sabahattin Yeşilçınar, *Personalized Learning Through Gamification: A ChatGPT Approach to English Language Learning*, in TRANSFORMING THE LANGUAGE TEACHING EXPERIENCE IN THE AGE OF AI 44, 48 (Galip Kartal ed., 2023).

76. See Dai et al., *supra* note 67, at 86.

77. See Simone Grassini, *Shaping the Future of Education: Exploring the Potential and Consequences of AI and ChatGPT in Educational Settings*, EDUC. SCIS., July 2023, art. no. 692, at 1, 4; Zhai, *supra* note 67, at 4.

concepts.<sup>78</sup> Thus, teaching with generative AI might help address the long-running concern that students too often acquire a superficial understanding of material, even as they give the impression that their understanding is more comprehensive and durable—that is, “the illusion of explanatory depth.”<sup>79</sup> To attain a deeper level of comprehension, students must engage in “interleaving,” which involves revisiting previously covered material in different ways over time, and “transfer,” the application of knowledge to new contexts.<sup>80</sup> ChatGPT can facilitate these educational strategies by generating a variety of examples that review past lessons and ask students to explore concepts in analogous contexts.<sup>81</sup> Provided that the AI’s responses are sufficiently accurate, these exercises can help clarify students’ conceptual understandings.<sup>82</sup>

Based on these optimistic findings and theoretical arguments about the use of ChatGPT in education, this literature suggests that instructors who teach with generative AI can pivot toward higher-order learning objectives. For example, instructors might spend less time teaching the mechanics of writing, such as grammar, paragraph structure, and citation, and instead concentrate on fostering critical thinking, persuasiveness, and the development of engaged, informed citizens.<sup>83</sup> The ubiquitous historical analogy is to the introduction of calculators (along with analogies to the advent of word processors, internet search, Wikiped-

78. See Radha Firaina & Dwi Sulisworo, *Exploring the Usage of ChatGPT in Higher Education: Frequency and Impact on Productivity*, 2 BULETIN EDUKASI INDONESIA [EDUC. BULL. INDON.] 39, 40–41 (2023); Ethan R. Mollick & Lilach Mollick, *Using AI to Implement Effective Teaching Strategies in Classrooms: Five Strategies, Including Prompts* (Mar. 16, 2023) (unpublished manuscript), <https://ssrn.com/abstract=4391243>.

79. Ethan R. Mollick & Lilach Mollick, *New Modes of Learning Enabled by AI Chatbots: Three Methods and Assignments 7* (Dec. 13, 2022) (unpublished manuscript), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4300783](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4300783).

80. See Nizar Becheikh et al., *How to Improve Knowledge Transfer Strategies and Practices in Education? Answers from a Systematic Literature Review*, RSCH. HIGHER EDUC. J., May 2010, at 1, at 4–8; İpek et al., *supra* note 65; Mollick & Mollick, *supra* note 78.

81. See Ilka Kostka & Rachel Toncelli, *Exploring Applications of ChatGPT to English Language Teaching: Opportunities, Challenges, and Recommendations*, ELEC. J. FOR ENG. AS SECOND LANGUAGE, Nov. 2023, at 1, 4–5, <https://tesl-ej.org/pdf/ej107/int.pdf> [<https://perma.cc/4MYJ-THGS>]; Mollick & Mollick, *supra* note 78; Thuy Nguyen et al., *Capabilities, Benefits, and Role of ChatGPT in Chemistry Teaching and Learning in Vietnamese High Schools*, EDARXIV PREPRINTS 5 (July 20, 2023), <https://osf.io/preprints/edarxiv/4wt6q> [<https://perma.cc/C5FG-VRL9>] (suggesting that ChatGPT can aid student learning by its “ability to generate examples, analogies, and hypothetical scenarios”).

82. Nguyen et al., *supra* note 81, at 7.

83. See Molly Roberts, *AI Is Forcing Teachers to Confront an Existential Question*, WASH. POST (Dec. 12, 2023, 5:45 AM), <https://www.washingtonpost.com/opinions/2023/12/12/ai-chatgpt-universities-learning/> [<https://perma.cc/N369-GGEX>] (describing AI tools that assist in student writing, including tools that provide citations and bibliographies); Jürgen Rudolph et al., *Personal Digital Assistant or Job Killer? Generative AI and the Teaching Profession in Higher Education*, 6 J. APPLIED LEARNING & TEACHING 7, 10 (2023) [hereinafter Rudolph et al., *Personal Digital Assistant or Job Killer?*] (suggesting a shift from “rote learning” to curriculum that prioritizes “critical thinking and interpretation within traditional subjects”); Jürgen Rudolph et al., *ChatGPT: Bullshit Spewer or the End of Traditional Assessments in Higher Education?*, 6 J. APPLIED LEARNING & TEACHING 342, 355 (2023); Zhai, *supra* note 67. General writing skills may no longer be considered essential career skills. *See id.* at 70.



dia, and other technological developments).<sup>84</sup> For instance, calculators were initially prohibited by many educators but later embraced under the notion that students should focus less on arithmetic to accelerate their learning in higher-level mathematics and real-world applications in sciences and engineering.<sup>85</sup> By analogy, encouraging students to use generative AI in the writing process may help them focus on more advanced materials and applications.

Many articles acknowledge the challenges in evaluating student work when students use generative AI heavily for writing and other assignments. Instructors may find it difficult to determine the extent to which a student's work reflects the student's understanding and ability. To address this issue in the context of writing assignments, instructors can place a greater emphasis on assessing the writing process rather than focusing exclusively on the final product.<sup>86</sup> Thus, students can be asked to detail the steps they took in interaction with generative AI throughout the process of outlining and drafting, along with the final writing product. Additionally, some articles recommend a shift toward in-person assessment through oral debate, presentations, experiential tasks, and collaborative group work.<sup>87</sup> These methods could enable instructors to more effectively assess students' comprehension and their ability to transfer their knowledge to new contexts, offering a more accurate perspective on student performance than a paper produced with AI assistance.<sup>88</sup>

This body of literature, while generally optimistic about the incorporation of ChatGPT in educational practices, also underscores the importance of cautious implementation. Some recent articles express concerns about inhibiting critical thinking, especially where students use ChatGPT in a way that "simplifies the acquisition of answers or information."<sup>89</sup> To address this, researchers recommend instruction in "critical AI literacy," so students are taught to scrutinize the validity and quality of AI outputs.<sup>90</sup> Some recommend limiting students'

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84. See Halaweh, *supra* note 67, at 2; Rahman & Watanobe, *supra* note 66, at 2, 5.

85. See Grassini, *supra* note 77, at 8; Halaweh, *supra* note 67, at 2; Rahman & Watanobe, *supra* note 66, at 5.

86. See Beth McMurturie, *AI and the Future of Undergraduate Writing*, CHRON. HIGHER EDUC. (Dec. 13, 2022), <https://www.chronicle.com/article/ai-and-the-future-of-undergraduate-writing>.

87. Marian Daun & Jennifer Brings, *How ChatGPT Will Change Software Engineering Education*, in ITICSE: PROCEEDINGS OF THE 2023 CONFERENCE ON INNOVATION AND TECHNOLOGY IN COMPUTER SCIENCE EDUCATION 110, 110 (2023) (recommending oral exams, group projects, and presentations "where students need to explain and justify their solutions and ideas"); Michael R. King & ChatGPT, *A Conversation on Artificial Intelligence, Chatbots, and Plagiarism in Higher Education*, 16 CELLULAR & MOLECULAR BIOENGINEERING 1, 2 (2023) (suggesting a "variety of assessment methods that go beyond traditional essay writing," including "oral presentations, group projects, and hands-on activities that require students to demonstrate their knowledge and skills in a more interactive and engaging way"); Tlili et al., *supra* note 66, at 19 (recommending the use of oral debate "as the old stoics and Greeks did . . . to assess students' logical and critical thinking" and "teaching [that] should go beyond traditional methods to incorporate a variety of assessment methods, such as group projects, hands-on activities, and oral presentations").

88. Daun & Brings, *supra* note 87, at 110; King & ChatGPT, *supra* note 87, at 2; Tlili et al., *supra* note 66, at 19.

89. Kasneci et al., *supra* note 67, at 5.

90. Rudolph et al., *Personal Digital Assistant or Job Killer?*, *supra* note 83; Stefan Strauß, "Don't Let Me Be Misunderstood": *Critical AI Literacy for the Constructive Use of AI Technology*, 30 TATUP, no. 3, 2021, at 44, 45.

use of generative AI to preliminary stages in assignments, such as brainstorming and exploring different viewpoints, while discouraging its use in a manner that seems to produce “generative answers.”<sup>91</sup> This literature also places a great emphasis on upholding academic honesty, in light of the dramatic rise in students submitting AI-generated work when they are not permitted to do so.<sup>92</sup>

Although many educators may have reservations about permitting the use of ChatGPT, banning it could prove impractical. Students are increasingly incorporating generative AI into various academic tasks, such as automatic notetaking, creating tables and charts, receiving writing feedback, brainstorming, preparing for class, and simplifying explanations.<sup>93</sup> Large language models are already integrated in essential tools for student work, such as word processing software and internet search. The prevailing scholarly view suggests that this pervasive technology cannot be ignored.<sup>94</sup> Rather than shunning generative AI, much of the literature advocates for a new era of pedagogical innovation with a focus on optimizing the learning environment.<sup>95</sup>

These insights from educational literature might have limited application in the context of law teaching. Legal education in the U.S. is highly distinctive in its focus and methodology, aiming to instill professional training, identity formation, and a particular form of reasoning, that is, learning to think like a lawyer. In doctrinal courses, students generally read cases, attend large classes, participate in Socratic cold calling, and are assessed largely by scenario-based essay exams. In some respects, these characteristics distinguish legal education from the undergraduate learning environments, which are the main focus of the educational literature reviewed above. It may be the case that generative AI is especially useful at lower levels of education, such as high school and undergraduate courses. However, it may be less effective at higher levels of education, such as graduate programs, which deal with more complex information and require more sophisticated reasoning skills. Recall that the research on the

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91. Kasneci et al., *supra* note 67, at 5; Limna et al., *supra* note 67, at 70.

92. Jeremy Davis, *Happy (?) First Birthday to ChatGPT*, INSIDE HIGHER ED (Nov. 30, 2023), <https://www.insidehighered.com/opinion/views/2023/11/30/chatgpt-complicates-education-versus-assessment-opinion> (“I’m currently managing a tenfold increase in suspected academic integrity violations this semester—all due to ChatGPT.”); see Cotton et al., *supra* note 68; Eke, *supra* note 68; Mike Perkins, *Academic Integrity Considerations of AI Large Language Models in the Post-Pandemic Era: ChatGPT and Beyond*, 20 J. U. TEACHING & LEARNING PRAC., no. 2, 2023, art. no. 7, at 1; Miriam Sullivan et al., *ChatGPT in Higher Education: Considerations for Academic Integrity and Student Learning*, 6 J. APPLIED LEARNING & TEACHING 31, 33 (2023); Susnjak, *supra* note 68, at 2.

93. See Owen Kichizo Terry, *I’m a Student. You Have No Idea How Much We’re Using ChatGPT*, CHRON. HIGHER EDUC. (May 12, 2023), <https://www.chronicle.com/article/im-a-student-you-have-no-idea-how-much-were-using-chatgpt>.

94. See Beth McMurtrie, *ChatGPT Is Everywhere: Love It or Hate It, Academics Can’t Ignore the Already Pervasive Technology*, CHRON. HIGHER EDUC. (Mar. 6, 2023), <https://www.chronicle.com/article/chatgpt-is-already-upending-campus-practices-colleges-are-rushing-to-respond>; see also Kevin Roose, *Don’t Ban ChatGPT in Schools. Teach with It.*, N.Y. TIMES (Jan. 12, 2023), <https://www.nytimes.com/2023/01/12/technology/chatgpt-schools-teachers.html> [<https://web.archive.org/web/20240223023807/https://www.nytimes.com/2023/01/12/technology/chatgpt-schools-teachers.html>].

95. Heaven, *supra* note 67, at 45 (noting that ChatGPT is disrupting a “system with too much focus on grading and not enough on learning,” and thereby “forcing a debate that is overdue”).

use of GPT-4 in law exams shows strong performance on multiple choice questions but weaker performance on essays and analysis of complex fact patterns.<sup>96</sup>

Yet, it is possible that this notion of legal exceptionalism is overstated. Legal education places a strong emphasis on developing writing abilities, which is a central focus in the literature on teaching with ChatGPT. Moreover, generative AI's legal capabilities are advancing,<sup>97</sup> which may help reduce concerns about errors and low-quality legal outputs.

## **V. RECOMMENDATIONS: THE CASE FOR AI-INTEGRATED LEGAL EDUCATION**

The perspectives reviewed in Parts I through IV collectively point toward the same conclusion: the time has come to begin incorporating generative AI in law teaching. Part I suggests that generative AI is already being adopted widely in the legal profession and transformative change is likely on the horizon. Most of the surveyed law students and faculty highlighted the need to develop AI-integrated curriculum, although with important caveats and limitations. The educational literature cited in Part IV paints a highly favorable portrait of teaching with ChatGPT and describes AI-integrated exercises that enhance traditional learning goals and develop technological competencies.

This Part includes nine key considerations and counterarguments that are decision-relevant for legal educators across teaching contexts. Legal educators may hold diverse views about these considerations, and some may feel that additional relevant considerations have been omitted. Moreover, analysis of these considerations should evolve as the technology advances in unpredictable ways. Thus, this Part may be best understood as a starting place for discussions of whether to incorporate generative AI for specific educational uses. These considerations may also serve as a helpful reference for instructors explaining AI policies to students.

### **A. Emerging Technological Competencies of Practice-Ready Graduates**

As reviewed in Parts I through IV, one of the leading arguments for incorporating generative AI in legal education is that lawyers are adopting this technology in practice. LexisNexis has already released a system that uses large language models (including GPT-4) to assist in legal research and automate the drafting of legal documents.<sup>98</sup> Lawyers are eagerly subscribing to new generative AI applications, with some start-ups claiming to have thousands of law

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96. See Choi & Schwarcz, *supra* note 1, at 6 (finding that students who used GPT-4 did not, on average, obtain any advantage in essay questions, where GPT-4 tends to struggle with “difficult issue-spotter questions,” although they did obtain an advantage in multiple choice questions); Martínez, *supra* note 1, at 3 (finding that GPT-4 scored roughly in the sixty-eighth percentile among July takers of the Unified Bar Exam, and its performance on the essay portion of the exam was substantially weaker at roughly the forty-eighth percentile).

97. See discussion *supra* Part I.

98. See Ambrogio, *supra* note 3.

firms on their waitlists.<sup>99</sup> As these legal AI applications improve, they may soon lead to a world where using generative AI becomes a standard part of legal research and writing tasks. The surveyed faculty estimated an average seventy-one percent likelihood that the next decade will see generative AI assisting in most of what lawyers do.<sup>100</sup> Some surveyed faculty emphasized that teaching students to use generative AI is now crucial to the goal of preparing practice-ready law graduates.<sup>101</sup>

This notion that legal educators should teach AI literacy as a core professional competency may align with the trend toward experiential learning and calls for a more practical legal education.<sup>102</sup> Some legal employers are already beginning to expect that students know how to use generative AI tools. Senior attorneys may look to their young associates in hopes that they, owing to their youth, have special insight into emerging technology. From the student perspective, learning to use AI tools may enhance job security and competitiveness in a changing profession. As one surveyed student noted, “[I]t’s not that AI will be replacing lawyers, but it’s that lawyers who use AI will replace lawyers who don’t.” Faculty respondents offered nearly the exact same line, which is becoming a trope throughout the legal profession.<sup>103</sup> An AI-integrated curriculum might help produce lawyers who are less likely to be replaced. This notion that teaching with generative AI can help to future-proof students is being raised across educational contexts.<sup>104</sup>

Preparing practice-ready graduates requires not only instructing students in the proficient use of AI tools but also instilling in them a commitment to use these tools responsibly. Already, there are several instances of lawyers submitting AI-generated legal documents that contained hallucinated case citations.<sup>105</sup> Instructors can help students identify ethical pitfalls in using generative AI be-

99. See Merken, *supra* note 8; Sobowale, *supra* note 8.

100. See full discussion of survey findings *supra* Part III.

101. *Generative Legal Minds: How ChatGPT and Other Technologies Might Change Legal Research and Writing*, PRACTICE (Mar.–Apr. 2023), <https://clp.law.harvard.edu/knowledge-hub/magazine/issues/generative-ai-in-the-legal-profession/generative-legal-minds/> [<https://web.archive.org/web/20230327112026/https://clp.law.harvard.edu/knowledge-hub/magazine/issues/generative-ai-in-the-legal-profession/generative-legal-minds/>] (“If lawyers start using these tools in their own practice, because we’re a professional school, it would be incumbent on us to adapt the ways that we teach, to reflect the ways that our students will practice in real life.” (quoting Jon Choi, McKnight Land-Grant Professor, Univ. of Minn. L. Sch.)); Perlman, *supra* note 6 (“[L]awyers will soon need to use these new tools if they hope to remain competitive.”).

102. Margaret E. Reuter & Joanne Ingham, *The Practice Value of Experiential Legal Education: An Examination of Enrollment Patterns, Course Intensity, and Career Relevance*, 22 CLINICAL L. REV. 181, 183–84 (2015).

103. See Interview by David Wilkins with Jason Boehmig, CEO, Ironclad, *Assisting Knowledge Workers*, PRACTICE, Mar.–Apr. 2023, <https://clp.law.harvard.edu/knowledge-hub/magazine/issues/generative-ai-in-the-legal-profession/assisting-knowledge-workers/> [<https://perma.cc/7P WM-K24J>].

104. See Roose, *supra* note 94 (“[T]oday’s students will graduate into a world full of generative A.I. programs. They’ll need to know their way around these tools—their strengths and weaknesses, their hallmarks and blind spots—in order to work alongside them. To be good citizens, they’ll need hands-on experience to understand how this type of A.I. works, what types of bias it contains, and how it can be misused and weaponized.”).

105. See Novak, *supra* note 36.

fore students encounter the pressures of legal practice. Students can be taught to evaluate AI outputs for the accuracy and quality of information, a crucial skill as generative AI is incorporated in the legal research platforms that lawyers use on a regular basis. Students can also learn how AI tools enhance efficiency and reduce the tedious aspects of legal practice. This could lead to more effective lawyering and possibly enhanced well-being in a profession afflicted with mental health struggles.<sup>106</sup>



**Counterarguments.** Some of the surveyed faculty were skeptical that generative AI will soon have a transformative impact on the legal profession, and thus disagreed that teaching with AI is an important way to prepare students for their careers. Although most lawyers say they plan to use generative AI in their practice over the next year, a recent survey found that many have not yet done so.<sup>107</sup> Perhaps we should wait and see how the technology develops, particularly as we are still making our initial encounter with the new wave of text-generating AI systems. We may be caught up in a moment of hype. As one student described in an emotional response to the release of ChatGPT, it is “half exciting, half terrifying!” It may be prudent to prepare students for the legal profession of today, rather than trying (and perhaps failing) to anticipate where the profession may be headed tomorrow.

Other surveyed faculty who believe that transformative AI is coming to the legal profession nevertheless disagreed with the notion that AI-integrated teaching is the best way to prepare practice-ready graduates. Some suggested that legal education should instead shift to an emphasis on the more “human-centric” aspects of legal practice—those aspects that AI is less likely to replace. These respondents framed this shift as an emphasis on “soft skills,” including negotiation, strategy, ethics, judgment, client collaboration, leadership, interaction, cultural competence, problem solving, and dispute resolution. Thus, legal educators should help students “move up the skills ladder,” focusing on higher-level strategic and interpersonal aspects of legal practice, while generative AI increasingly assists in the technical aspects of legal research and writing.<sup>108</sup> As one faculty respondent noted, limiting the focus of legal education to the efficient production of AI-assisted legal documents may convey the notion that lawyers are “memo-producers and issue spotters,” rather than protectors of clients, the

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106. See *Report from the National Task Force on Lawyer Well-Being*, AM. BAR ASS'N (Nov. 9, 2018), [https://www.americanbar.org/groups/lawyer\\_assistance/task\\_force\\_report/](https://www.americanbar.org/groups/lawyer_assistance/task_force_report/).

107. See WOLTERS KLUWER, *supra* note 17, at 5.

108. Lohr, *supra* note 29; Mimi Zou, *The AI Revolution Demands Radical Change to Law Curricula*, TIMES HIGHER EDUC. (Dec. 23, 2022), <https://www.timeshighereducation.com/blog/ai-revolution-demands-radical-change-law-curricula> (“Legal education across the board will need to focus more on developing students’ social intelligence, creativity, empathy, adaptive capability and collaboration skills, alongside critical thinking—all framed around a learning culture that cultivates a growth mindset. These should no longer be described as ‘soft skills’ but as ‘must-haves’ for survival in these times.”).

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legal system, and the public interest. As Professor Milan Markovic has observed: “We can’t act like robots and not expect to be replaced by robots.”<sup>109</sup>

## B. Inviting Students into Discussions About the Future of the Profession

Students are the future of the legal profession and should be invited into discussions about the emerging integration of machine and human intelligence in the practice of law. As the technologists in Part I suggest, we can expect continued progress in AI’s legal capabilities. At a minimum, the likely near future includes powerful legal AI assistants, which are already being deployed. The upper bound of possible futures includes robot lawyers who perform most legal tasks at or above the proficiency of human lawyers. As discussed in Part II, students are already asking what it means to be a lawyer when core legal skills may be on the verge of AI replacement. Many students feel disoriented by the past year, when AI went from scoring below the first percentile on the bar exam to passing it comfortably.<sup>110</sup>

Students should be prepared for their role in shaping how generative AI is used in the legal profession. This includes questions of ethics, the possibility of automated legal services, threats to the rule of law, and the changing nature of the lawyer role.<sup>111</sup> Some students may embrace the notion of “liberating professional expertise” (to quote Susskind) through automated legal agents, although this could lead to a sense of self-contradiction. Students’ support for the development of powerful legal AI tools might be driven by public-interest ideals, but they may also perceive these tools as a threat to their livelihoods and their self-conceptions as lawyers.<sup>112</sup> Professionals in other fields have already experienced significant disruption from generative AI (e.g., artists, journalists, and programmers) and have reported feeling dejected and somewhat mystified when AI accomplishes much of what they understand to be their craft.<sup>113</sup> Students are hungry for guidance and informed conversations about these issues.



**Counterarguments.** It may be prudent to wait until there is more certainty that generative AI will play a major role in legal practice before engaging students in conversations about future worlds of transformative AI. As discussed in Part I, some legal scholars are skeptical that AI will be capable of taking over most of what lawyers currently do. It is also possible that the use of powerful

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109. Luke Henkhaus, *Will AI Put Lawyers Out of Work? A Texas A&M Expert Says It’s Unlikely*, TEX. A&M TODAY, (Feb. 9, 2023), <https://today.tamu.edu/2023/02/09/will-ai-put-lawyers-out-of-work-a-texas-am-expert-says-its-unlikely/> [<http://perma.cc/6WZL-UN6H>].

110. See Katz et al., *supra* note 1, at 12 n.5. *But see* Martínez, *supra* note 1, at 10.

111. See Kevin Frazier, *Updating the Legal Profession for the Age of AI*, YALE J. ON REGUL. (Dec. 6, 2023), <https://www.yalejreg.com/nc/updating-the-legal-profession-for-the-age-of-ai-by-kevin-frazier/> [<https://perma.cc/FHM2-2QF8>] (quoting Milan Markovic, Tex. A&M Univ. Sch. of L.).

112. See John Bliss, *Divided Selves: Professional Role Distancing Among Law Students and New Lawyers in a Period of Market Crisis*, 42 LAW & SOC. INQUIRY 855 (2017).

113. Josie Cox, *AI Anxiety: The Workers who Fear Losing Their Jobs to Artificial Intelligence*, BBC (July 13, 2023), <https://www.bbc.com/worklife/article/20230418-ai-anxiety-artificial-intelligence-replace-jobs> [<https://perma.cc/DWG8-HALV>].

legal AI will be constrained by bar regulators. Moreover, many students are focused on more immediate objectives, such as seeking employment and passing the bar exam. These students might prefer to limit discussions about the future in the legal curriculum.

### C. Legal Learning

A key finding from the pedagogical experiment described in Part II is that AI-integrated teaching can support traditional legal learning goals. For example, students tasked with using generative AI in their writing can be encouraged to converse with the AI rather than relying on the AI's first response to a prompt. This iterative process requires students to carefully reformulate their prompts, ask follow-up questions, and identify the often subtle errors and omissions in seemingly polished AI responses. Some of the surveyed students noted that this process required greater attention to detail, knowledge, and discernment when compared to their approach to traditional law school quizzes and assignments.

The new educational literature on teaching with ChatGPT has emphasized similar learning benefits, as reviewed in Part IV. By iterating with generative AI, students can receive personalized feedback through an active learning process.<sup>114</sup> This contrasts with law school classrooms, where each student generally has only occasional opportunities to engage in dialogue with the instructor.<sup>115</sup> Students can ask AI applications to provide hypotheticals that help “transfer” their knowledge to new contexts, a crucial step in the process of understanding difficult concepts.<sup>116</sup> By permitting students to use these tools, educators may be able to elevate their learning goals with a greater focus on critical thinking and more advanced legal concepts. Like a calculator in a mathematics class, generative AI can help with some technical aspects of a student's legal work so that the class can move on to deeper understandings and real-world applications.



**Counterarguments.** A few of the surveyed students and many of the surveyed faculty expressed concerns about how AI-integrated teaching might inhibit traditional learning goals, such as lessons in legal reasoning, language, writing, and advocacy. Current generative AI applications might not (yet) be good enough to provide law students with high-quality tutoring and sufficiently accurate legal information and analysis. Or the AI might be too good. Students might use generative AI as a shortcut to complete assignments rather than learning the material themselves. For example, a student could use AI to distill key points from a difficult judicial opinion in the casebook, rather than reading the case. This could undermine the learning benefits that come from struggling through the complexity of legal texts—which reflects the complexity of legal

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114. Tlili et al., *supra* note 66, at 9. While ChatGPT does not require many technical or Information and Communication Technology (ICT) competencies, it requires more critical thinking and question-asking competencies to get the best results. *Id.* at 20.

115. Daniel Schwarcz & Dion Farganis, *The Impact of Individualized Feedback on Law Student Performance*, 67 J. LEGAL EDUC. 139 (2017).

116. See Becheikh et al., *supra* note 80, at 8.

disputes. Another example would be students relying on AI-generated writing uncritically without putting in their own work to challenge, validate, and revise (or reject) the AI output. If AI serves as a “crutch,” to cite the term used by surveyed students and faculty, students might be left unprepared for the bar exam and for competent legal practice.

#### D. Equality Among Students

To quote a surveyed law teacher, incorporating generative AI in the legal curriculum may help to “level the playing field” among students. If law schools do not offer instruction in the use of emerging legal AI tools, some students might be left behind. A subset of students who are tech oriented and have available time and resources will gain a head start in using legal AI—before they meet with potential employers and start their legal careers. This inequality might be mitigated if law schools assure that all students have a basic familiarity with the leading AI tools.

The use of generative AI in legal pedagogy could also help address other issues of equality in the learning process. The educational literature on teaching with ChatGPT suggests that the personalized learning experience of interacting with conversational AI can help students who learn in different styles and at a different pace than the majority of their peers—and in a way that differs from the instructor’s approach. Moreover, recall that the research on student use of GPT-4 in law school exams found that students who are generally the lowest academic performers experience the greatest benefit from using AI.<sup>117</sup> These students rose, on average, forty-five percentile points when they used GPT-4.<sup>118</sup> The authors of the study suggest that generative AI may have an “equalizing effect on the legal profession,” with a more uniform distribution of legal proficiency.<sup>119</sup> It is not clear what implications this finding has for learning. It is possible that collaborating with generative AI may have revealed latent potential in otherwise low-performing students, who might have a deep understanding of legal concepts yet struggle to adapt to the format of legal instruction and assessment.



**Counterarguments.** While an AI-integrated curriculum would ensure that all students have some exposure to emerging AI, it could conceivably widen inequalities by prioritizing technological abilities that favor some students over others. If students are permitted to use generative AI in graded assessments, the students who are most proficient with AI applications may gain a grading advantage. Considering that the use of generative AI is emerging as a valued professional skill, perhaps it is fair for this professional competency to factor into grading criteria. However, it is also plausible that technological abilities would

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117. Choi & Schwarcz, *supra* note 1, at 6.

118. *Id.* at 1.

119. *Id.*



play an outsize role in academic performance, leading to assessments that fail to accurately measure students' legal knowledge and capabilities.

These equity concerns may be exacerbated in the context of rapid change and innovation in the field of legal AI. Instructors might struggle to keep up with the AI applications that are available to students, making it difficult to ensure that students have access to the same technology. An instructor could conduct a thorough review of the current legal AI offerings, although this task required several months for the author of this Article, along with a dedicated research assistant, attending trainings and demonstrations and experimenting with various applications. This scan of current technology may need to be updated over the course of an academic term as legal AI applications continue to be released and improved. Thus, it is difficult for an instructor to establish a consistent policy about the use of specific applications at the beginning of the term. For example, at the time of this Article was written, just before the Spring 2024 semester, it was not clear when Lexis+AI and Microsoft 365 Co-Pilot would offer a wide release of the powerful new generative AI tools that they have developed. Should these tools become available midterm, disparities may arise if some students gain access earlier than others due to prohibitive cost or differing levels of engagement with emerging technology. In light of these uncertainties about student access to the technology, it may be wise to prohibit the use of generative AI in certain aspects of the legal curriculum and assessments.

### **E. Academic Integrity**

Another argument for permitting students to use generative AI is that, in some contexts, perhaps no feasible alternative exists. Students have physical access to generative AI tools in many traditional law school assessments, such as take-home writing assignments and open-internet exams. Even if educators attempt to ban the use of emerging AI tools, students may continue to submit AI-generated work in violation of course policies.

Students have always had means to cheat in law school, including talking or messaging with classmates, paying someone to do the work, copying and pasting materials without citation, sharing exam questions with students who have not yet taken the exam, or consulting with other acquaintances who have legal expertise (e.g., lawyers in the family).<sup>120</sup> However, such methods of cheating necessitate the involvement of co-conspirators, a requirement that not only introduces significant difficulties and risks but may also provoke particularly intense ethical qualms for the student engaging in the cheating.

In contrast, cheating with AI is as easy as opening an application that many students use on a daily basis. This does not require conspiring with another person, who might decline the request and shame or even report on the attempted cheater. The temptation to use generative AI, even when prohibited, may grow as students become increasingly accustomed to using this technology in internet searches (e.g., Bing powered by GPT-4), legal research (e.g., Lexis+ AI pow-

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<sup>120</sup> Margaret Ryznar, *Exams in the Time of ChatGPT*, 80 WASH. & LEE L. REV. ONLINE 305, 309 (2023).

ered by GPT-4 and other large language models), and word processing (e.g., Microsoft Co-Pilot 365 powered by GPT-4). The ubiquity and normalcy of using these tools may diminish the student's ethical imperative to comply with a course policy prohibiting the use of generative AI. Moreover, cheating with AI carries minimal risk of being caught, as AI-detection software is far from perfect, offering a significant rate of false positives and false negatives.<sup>121</sup> Even if AI-generated text is "watermarked," students can evade detection by using "rewriting" software, which replaces some text with synonyms. Or students can use AI outputs as a reference without verbatim copying and pasting.

If many students use generative AI in spite of prohibitions, a blanket ban could prove ineffective—essentially rewarding those students who ignore the ban. To uphold academic integrity, it may be more practical to allow all students to use generative AI. Under this permissive approach, instructors may wish to provide students with instructions on the use of generative AI so that they are on a more equal footing with the technology. As discussed further in Part VI, a permissive policy can be accompanied by explicit guidelines about how students should cite their use of AI applications.



**Counterarguments.** If one considers AI-facilitated cheating a grave threat to academic integrity, one might favor assessments where students cannot physically access generative AI applications. This can be accomplished through in-person, closed-network exams.<sup>122</sup> This approach reinforces the notion that integrity matters and that dishonesty will not be tolerated in legal education, just as it is not tolerated in the profession.<sup>123</sup>

Interactive assessments, such as debates and presentations, also limit the direct application of AI-generated content. Although students may use AI to assist in their preparation, they must still demonstrate their own knowledge and abilities in responding to questions and opposing arguments.

## F. Student Demand for AI-Integrated Instruction

The survey presented in Part II indicates strong student interest in learning about emerging legal AI applications. The majority (80%) of surveyed students agreed that "all law students should be aware of and learn to use" generative AI applications.<sup>124</sup> As this technology becomes more deeply embedded in the legal research and writing workflow, the student demand for AI-integrated instruction is likely to grow. For example, if students become accustomed to prompting Lexis+ AI and Microsoft Word to generate drafts—and if these students know that lawyers are using this technology—instructors who ban these applications

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121. See, e.g., Benj Edwards, *Open AI Discontinues Its AI Writing Detector Due to "Low Rate of Accuracy,"* ARS TECHNICA (July 26, 2023), <https://arstechnica.com/information-technology/2023/07/openai-discontinues-its-ai-writing-detector-due-to-low-rate-of-accuracy/>.

122. See discussion *supra* Section VI.B.

123. See MODEL RULES OF PRO. CONDUCT R. 8.4(C) (AM. BAR ASS'N 2023).

124. See *supra* Part II.

may seem out of touch with current practices.<sup>125</sup> Already, educational literature suggests that high school and undergraduate students are using generative AI in their class preparation, notetaking, and essay writing. This trend of “self-initiated adoption” among students, increasingly supported by instructors, may lead to a new generation of law students who expect to use these tools in their academic and professional lives.<sup>126</sup>

If students feel that their instructors are failing to meet demand for AI-integrated curriculum, this could add a new layer to the long-running criticism of U.S. legal education for its outdated and untested curriculum, grading system, and pedagogy, as well as globally unprecedented high tuition rates.<sup>127</sup> Moreover, free and low-cost Socratic chatbot tutors are being developed in partnership with leading AI laboratories.<sup>128</sup> As already noted, these tools have received significant support in the educational literature for providing personalized instruction and adapting to individual learning needs.<sup>129</sup> If generative AI is already, or will soon be, effective at teaching legal doctrine and skills, it may be reasonable for students to expect these technologies to be integrated in their legal education.



**Counterarguments.** The enthusiasm for AI-integrated legal education was not universal among the surveyed students, with some reporting that the use of generative AI was distracting and unhelpful. Moreover, the scope of the student survey was confined to a select group of students from a particular law course, which limits the generalizability of the findings. Further empirical research is needed to accurately gauge the extent of student demand.

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125. See Michael C. Dorf, *Is Resistance to AI in the Law School Classroom Futile*, VERDICT (July 19, 2023), <https://verdict.justia.com/2023/07/19/is-resistance-to-ai-in-the-law-school-classroom-futile> [<https://perma.cc/595V-YWVW>] (arguing that prohibiting students from using generative AI during exams will “make less and less sense” as the technology becomes integrated in the tools that lawyers “routinely use”).

126. See Dai et al., *supra* note 67, at 85.

127. See Paul Hodkinson, *The Cost of Becoming a Lawyer*, LAW.COM (Nov. 15, 2022, 5:53 PM), <https://www.law.com/international-edition/2022/11/15/the-cost-of-becoming-a-lawyer-how-countries-compare> (“The cost in the U.S. was more than three times higher than any other country, at \$245,700, the ranking by mobile bank N26 found. The UAE ranked second with a cost of \$71,820, followed by Canada, England, Singapore, Wales and Israel.”); Steven R. Smith, *The Fourth Industrial Revolution and Legal Education*, 39 GA. ST. U. L. REV. 337, 376 (2022) (“The real threat to law schools is not the commonly identified suspects (high tuition, loans, too few law jobs), but schools’ failure to adequately prepare their graduates for the new environment in which they will practice.”); Zhiqiong June Wang, *Between Constancy and Change: Legal Practice and Legal Education in the Age of Technology*, 36 LAW CONTEXT, no. 1, 2019, at 64, 65 (“It may seem alarmist, but it is not unreasonable to ask whether legal practice and, by implication, legal education, is doomed, as a result of the application of modern technologies. The answer will very much depend on how the legal profession adapts to the new environment.”).

128. See Natasha Singer, *New A.I. Chatbots Could Upend Student Learning*, N.Y. TIMES (June 8, 2023), <https://www.nytimes.com/2023/06/08/business/khan-ai-gpt-tutoring-bot.html> [hereinafter Singer, *New A.I. Chatbots*]; Natasha Singer, *In Classrooms, Teachers Put A.I. Tutoring Bots to the Test*, N.Y. TIMES (June 26, 2023), <https://www.nytimes.com/2023/06/26/technology/newark-schools-khan-tutoring-ai.html>.

129. See Dai et al., *supra* note 67, at 86.

Even if it can be shown that most students desire AI-integrated learning, this demand does not necessarily resolve the question of whether legal educators should bring generative AI significantly into their teaching. Although educational theory has emphasized collaboration with students, who are cast as “partners” or “clients” of instructors, this literature does not recommend that instructors acquiesce to every student demand, “succumbing to all of [students’] wishes and wants.”<sup>130</sup> Surrendering too many pedagogical decisions to students can risk reducing education to a “consumer model,” undermining the notion that educators impart new information and broaden perspectives.<sup>131</sup> Teachers may have greater insights into educational goals and methods relative to students, who are encountering the course content for the first time and generally lack pedagogical expertise. An educator who, upon consideration of all relevant factors, decides not to incorporate generative AI may be justified in overriding student demand.

### G. Engaging Students in the Law and Regulation of AI

Many of the technologists, students, scholars, and teachers cited in this Article suggest that we are entering a transformative age of AI innovation. Some argue that generative AI will have greater implications for society than the advent of the internet or perhaps any other technological development in human history. Even the notion that AI might surpass human intelligence or pose a threat of human extinction has moved from science fiction to mainstream political discourse.<sup>132</sup> These concerns for the future are inherently speculative, but generative AI also raises immediate regulatory challenges, including concerns about privacy, intellectual property, bias and discrimination, misinformation (including legal misinformation), the integrity of elections and other political processes, and safety considerations relating to use in weaponry and other hazardous applications.<sup>133</sup> If generative AI is as important and potentially perilous as many believe it to be, perhaps law schools have an obligation—under the longstanding commitment to “train cross-disciplinary societal problem solvers”—to engage students with cutting-edge AI so that these future lawyers can

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130. Ketevan Kupatadze, *Challenging the Consumer-Based Model of Education*, CTR. ENGAGED LEARNING (Aug. 29, 2017), <https://www.centerforengagedlearning.org/challenging-the-consumer-based-model-of-education/> [<https://perma.cc/RWA2-BQYC>]; Catherine Bovill et al., *Addressing Potential Challenges in Co-Creating Learning and Teaching: Overcoming Resistance, Navigating Institutional Norms and Ensuring Inclusivity in Student-Staff Partnerships*, 71 HIGHER EDUC. 195 (2016).

131. Kupatadze, *supra* note 130.

132. See John Bliss, *Existential Advocacy: The Legal Movement Addressing Existential Threats from AI and Other Emerging Technology*, GEO. J. LEG. ETHICS (forthcoming 2024), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4217687](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4217687); TOBY ORD, *THE PRECIPICE: EXISTENTIAL RISK AND THE FUTURE OF HUMANITY* (2020); *How Concerned, If at All, Are You About the Possibility That AI Will Cause the End of the Human Race on Earth?*, YOUNGOV (Apr. 3, 2023), <https://today.yougov.com/topics/technology/survey-results/daily/2023/04/03/ad825/3> [<https://perma.cc/VP26-DQ9P>] (finding that 46% of survey respondents are somewhat or very concerned that AI “will cause the end of the human race on Earth”).

133. See Kolt, *supra* note 15 (reviewing the track record of AI harms ranging from criminal justice to health care and the economy).

play important roles in shaping the regulation of this powerful and ever-evolving technology.<sup>134</sup>



**Counterarguments.** Some of the surveyed faculty expressed doubts regarding the assertion that we are living in a time of transformative AI development. Consequently, they argued that AI should have little influence on the nature of legal education. In contrast, others acknowledged the advent of transformative AI but suggested that there will only be a small subset of self-selecting law students whose careers will focus on AI law and policy. This subset might not require AI-integration across law courses in order to pursue impactful careers dedicated to AI regulation. Moreover, reorienting the curriculum to support this small subset might fail to serve the majority of students in the pursuit of their diverse interests.

## H. The Feasibility of Teaching with Generative AI

Most of the surveyed faculty concluded that legal education should start incorporating generative AI, although they acknowledged the need for training to familiarize themselves with the technology and its educational applications. The task of teaching with generative AI might be less daunting than initially perceived. A number of academic fields have already demonstrated the feasibility of teaching with AI.<sup>135</sup> One of the striking features of current generative AI applications is their accessibility. Rather than command lines, programming languages, and complex graphical user interfaces, generative AI operates through natural language conversations with the user. The students in the AI-integrated course described in Part II seemed to require minimal instruction to begin using these tools effectively. Similarly, faculty can gain proficiency in these tools, and brainstorm educational uses, through first-hand experimentation.



**Counterarguments.** Despite the relative ease of using current AI applications, some legal educators may be hesitant to adopt this technology in their teaching, owing to tech aversion or specific reservations about generative AI.<sup>136</sup> Many of the surveyed faculty emphasized that they had only just begun thinking

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134. Christopher Edley, Jr., *Fiat Flux: Evolving Purposes and Ideals of the Great American Public Law School*, 100 CALIF. L. REV. 313, 313 (2012).

135. See Tyler Cowen & Alex Tabarrok, *How to Learn and Teach Economics with Large Language Models, Including GPT* (Geo. Mason Univ., Working Paper No. 23-18, 2023), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4391863#](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4391863#) (describing how GPT systems can be used in teaching economics, including exercises where students dialogue with the AI's approximation of famous economists); Drew Harwell, *Tech's Hottest New Job: AI Whisperer. No Coding Required*, WASH. POST (Feb. 25, 2023, 7:00 AM), <https://www.washingtonpost.com/technology/2023/02/25/prompt-engineers-techs-next-big-job/> [<https://perma.cc/SK7N-V8CF>] (describing the use of generative AI in a business school class where students were writing and "co-editing" with AI).

136. See Wang, *supra* note 127 (noting that for "legal educators, teaching technological competencies is a tall order, as few of our current legal academics are well acquainted themselves with technologies").

about this technology and were not familiar with the tools available. Some suggested that it would be better for students to explore AI on their own, since students are likely to be more adept with emerging technology relative to their instructors. It may be unrealistic to expect faculty to keep up with their students on the latest AI advances. If instructors tend to lag behind students, it may be difficult for them to teach about the technology and to assess student use of AI in graded assignments.

Even if legal educators are willing to learn about generative AI, some may be unwilling to change their course plans, which have solidified over years of careful consideration and refinement. Legal education is notoriously slow to change and steeped in pedagogical tradition—although recent decades have shown movement toward more inclusive, formative, experiential, and tech-integrated teaching methods.<sup>137</sup>

## I. Secondary Benefits for Effective Pedagogy

Incorporating generative AI in their teaching might lead instructors to find other beneficial uses of the technology across different aspects of their professional duties. As the surveyed faculty emphasized, generative AI can reduce an instructor's "rote activities," such as creating slides, writing teaching notes, and formulating exam questions. It has the potential to assist with administrative duties, from composing recommendation letters to crafting remarks for events and organizing notes for committee meetings.<sup>138</sup> The adoption of AI tools for some teaching purposes may inspire other ideas for the use of educational technology, such as AI-based feedback mechanisms, interactive educational games, debate exercises, and simulated dialogues with virtual characters.



**Counterarguments.** Some of the surveyed faculty suggested that AI applications are not yet capable of aiding law teachers effectively. Current generative AI applications may provide flawed teaching materials and substandard feedback on student work. Moreover, perhaps the question of whether to bring AI into coursework should be kept separate from the question of how AI might be useful to teachers in other respects. Law schools can, for instance, provide regular training to update instructors on new educational tools, as well as the use of generative AI for some administrative work, without necessarily integrating AI throughout the legal curriculum.

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137. See Jamie R. Abrams, *Legal Education's Curricular Tipping Point toward Inclusive Socratic Teaching*, 49 HOFSTRA L. REV. 897 (2020); Roberto L. Corrada, *Formative Assessment in Doctrinal Classes: Rethinking Grade Appeals*, 63 J. LEGAL EDUC. 317 (2013); Joanne Martin & Bryant G. Garth, *Clinical Education as a Bridge Between Law School and Practice: Mitigating the Misery*, 1 CLINICAL L. REV. 443 (1994); Russell G. Pearce & Hema Lochan, *Legal Education and Technology: The Potential to Democratize Legal Knowledge and Power*, 10 LATIN AM. L. REV. 63 (2023); Etienne C. Toussaint, *The Miseducation of Public Citizens*, 29 GEO. J. ON POVERTY L. & POL'Y 287 (2021).

138. See Tammy Pettinato Oltz, *ChatGPT, Professor of Law*, 2023 U. ILL. J.L. TECH & POL'Y 207 (2023).

## VI. IMPLEMENTATION: DESIGNING AN AI-INTEGRATED LEGAL CURRICULUM

This Part discusses the integration of generative AI in specific law school courses, exercises, and assignments. If one concludes that the factors presented in Part V make an especially strong case for AI-integrated legal education, one might favor an “immersion” approach, in which students use AI tools throughout the curriculum.<sup>139</sup> Some legal scholars have long called for a “coupling” of legal learning and emerging technology.<sup>140</sup> But Part V also raised significant downsides associated with bringing AI into legal education, including concerns about learning, equity, and feasibility, as well as a general sense that we should wait and see how the technology develops. These considerations might support AI integration in some but not all law courses. Section A takes up this question of where in the legal curriculum generative AI might be most effectively integrated. Section B then discusses specific assignments and course policies.

### A. Where Should Generative AI Be Incorporated in the Legal Curriculum?

#### 1. *First-Year Doctrinal Courses*

The surveyed faculty were split on whether the use of generative AI is appropriate in the first-year doctrinal curriculum. Some argued for a traditional approach, forbidding AI assistance as students learn their foundational lessons in “thinking like a lawyer.” As one faculty respondent put it, first-year students must acquire the “critical thinking skills necessary for crafting well-structured arguments and analyses,” which would be undermined if students were to rely on AI systems to summarize readings, draft papers, and write exams.

Moreover, some faculty suggested that first-year doctrinal courses should be taught without AI because these courses cover material tested on the bar exam, which is unlikely to allow AI access for the foreseeable future. Others emphasized academic integrity concerns, which might be heightened in the first year when grades are especially determinative of students’ job prospects, scholarships, and other opportunities. As already noted, research suggests that some students, especially those who would otherwise score near the bottom of the class, gain an enormous grading advantage when using generative AI on exams.<sup>141</sup> On these grounds, one suggestion that emerged from the faculty survey was to save AI-integrated teaching for upper-division courses, where students would supplement the legal skillsets acquired during a more traditional 1L year.

Yet, other faculty respondents favored bringing generative AI into the first year because this would signal to students the importance of this technology for legal practice. Moreover, teaching with generative AI can support first-year

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139. See Kate Galloway, *A Rationale and Framework for Digital Literacies in Legal Education*, 27 LEGAL EDUC. REV. 117, 118 (2017) (arguing for an “immersion[] approach” to teaching about digital technologies across the legal curriculum).

140. E.g., Dan Jackson, *Human-Centered Legal Tech: Integrating Design in Legal Education* Dan Jackson, 50 LAW TCHR. 82 (2016).

141. Choi & Schwarcz, *supra* note 1, at 6.

learning goals, as reflected in the Property course described in Part II and the broader educational literature on teaching with ChatGPT described in Part IV.

## 2. Legal Research and Writing

Some surveyed faculty suggested that generative AI should play a significant role in first-year legal research and writing (LRW) courses.<sup>142</sup> Large language models are already being integrated in legal research platforms, such as LexisNexis, and word-processing software, such as Microsoft Word. As lawyers gain access to these tools, the standard process of legal research may increasingly shift to a question-and-answer format—where the user asks the AI application (e.g., Lexis+ AI) to answer a question or produce a legal document. Lawyers using this technology may tend to start their writing process with an AI-produced draft rather than a blank page. For example, Microsoft Word with Co-Pilot can produce a draft memo based on prompts and background research materials. These applications can also be helpful in the revision process, suggesting edits and providing alternate phrasings. Given these implications for research and writing, perhaps LRW is an appropriate place in the legal curriculum for students to learn about this technology.

In an LRW course, generative AI could be utilized throughout the writing process, from research to outlining, drafting, and revising, as well as in preparation for oral arguments. Students could receive some training in the effective use of legal AI tools, including the framing of prompts and the importance of thoroughly validating and improving upon AI outputs. To reduce overreliance on AI, students could begin each step of the process on their own before turning to the AI for additional insights. Alternatively, the instructor could assess not only the final product, such as a legal memo, but also the students' process of interacting with and responding to generative AI. Students can be required to "show their work," providing the instructor with a record of prompts and a reflection on how they incorporated AI-generated materials in their final product.

LRW instructors could also advise students to seek writing feedback from a generative AI application. While the expert comments and guidance from instructors may be irreplaceable, instructors have limited time. Generative AI can serve as a useful supplement owing to its indefatigable ability to provide immediate responses to student questions.<sup>143</sup> In the terms of educational scholarship, AI can play a crucial role as an educational "interlocutor,"<sup>144</sup> which in the writing process could help students to overcome writer's block, develop ideas through conversation, and consider different ways of framing and structuring arguments.

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142. Joseph Regalia, *ChatGPT and Legal Writing: The Perfect Union?*, WRITE.LAW, <https://write.law/blog/chatgpt-and-legal-writing-the-perfect-union> [<https://perma.cc/K5H2-MDYG>].

143. See Lara Freed & Joel Atlas, *Teaching Students to Use Feedback to Improve Their Legal Writing Skills*, SECOND DRAFT, Spring 2019, at 4 (2019).

144. See Jaeho Jeon & Seongyong Lee, *Large Language Models in Education: A Focus on the Complementary Relationship Between Human Teachers and ChatGPT*, 28 *EDU. & INFO. TECH.* 15873 (2023).



Even if an instructor is not convinced of these learning benefits, banning generative AI might prove infeasible in the context of LRW. Unless these courses shift to in-person writing assignments (i.e., exams), it may be difficult to prevent students from using AI applications. As discussed in Part V.E above, take-home assignments present students with a great temptation to use this technology, which is nearly ubiquitous and difficult to detect. If instructors cannot effectively prevent the use of AI in critical LRW assignments, perhaps they should permit it as a matter of policy—to avoid rewarding AI-facilitated cheaters. And if instructors permit this technology, perhaps they should train students in the use of emerging AI to ensure that all students have at least a basic competency.

### 3. *Courses on Law and AI*

It may be unrealistic to expect a great number of law teachers to incorporate an ever-evolving field of legal AI tools within their often firmly established teaching plans. The educational literature recommends providing teacher trainings on generative AI, which could help foster a culture of pedagogical innovation among faculty.<sup>145</sup> These efforts are important but may yield limited returns when faculty lack technological proficiency, are reluctant to alter their teaching methods, or have reservations about the role of AI in legal education.

A more practical approach may be for a small, specialized group of instructors to teach courses focused on emerging AI. The surveyed faculty overwhelmingly supported the notion that law schools should offer such courses.<sup>146</sup> A growing number of law teachers across the country (including the author of this Article) are beginning to teach seminars on AI in the legal profession, as well as curriculum for practicing lawyers, and are building a cohort of faculty to share advice and information for teaching in this area. These efforts are finding support among law schools developing new initiatives, centers, and programs on artificial intelligence.<sup>147</sup> If the ability to use generative AI continues to grow into an important legal competency, law schools and even the ABA might consider mandating that all students complete a certain number of credit hours with a focus on legal AI applications.

AI-focused courses offer an opportunity for students to gain familiarity and proficiency with leading legal AI applications. For instance, students who learn effective prompt engineering techniques may be able to enhance the efficiency

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145. See Kostka & Toncelli, *supra* note 81, at 12.

146. This question read: “How important do you think it is for law schools to offer courses focusing on emerging AI?” More than half (58%) answered that this is “very important” (the most common response) or “extremely important,” and another twenty-three percent answered that it is “moderately important.”

147. See Cassandre Coyer, *Back to School: 5 Ways Generative AI Is Finding Its Way into Law School*, LAW.COM (Aug. 4, 2023, 4:25 PM), <https://www.law.com/legaltechnews/2023/08/04/back-to-school-5-ways-generative-ai-is-finding-its-way-into-law-school/> (describing new AI centers in law schools including the Harvard Law Initiative on Artificial Intelligence and the Law, new courses on emerging AI in J.D. programs and executive education, and new partnerships between law schools and legal technology start-ups who train students on generative AI applications).

and quality of their legal work.<sup>148</sup> When GPT-4 was prompted well, researchers have shown that it could achieve as high as an A- or an A on law exams.<sup>149</sup> To further explore the ceiling of AI's legal capabilities, students in an advanced AI seminar can even develop their own AI applications for specific legal use cases through highly accessible API and customization platforms. To take an example at the time of this writing, OpenAI's custom GPTs can be created without any coding.

These courses can also teach students how legal AI tools operate, which may enhance their understanding and appreciation of the technology's strengths and weaknesses. The students in Part II, who took a (lightly) AI-integrated course, were able to disabuse themselves of initial misunderstandings, including their initial impression that ChatGPT was a near omniscient legal mind. Teaching students about the inner workings of emerging AI has important implications for legal ethics, including concerns about competency (e.g., awareness of hallucinated materials) and confidentiality (e.g., inputting client information).<sup>150</sup>

Equipped with a deeper understanding of the technology, students will be better prepared for discussions about how generative AI can and should be used in legal practice, and how this technology may affect the future of the legal profession. These courses can provide a venue for informed discussions on these topics. The instructor may wish to contextualize this material with coverage of related issues in AI law and policy, including intellectual property, emerging regulation, discrimination, and use in the judiciary, criminal law, and other aspects of the legal system.

#### 4. Clinics and Experiential Programs

Generative AI could play a significant role in law school clinics and experiential programs, where students can gain firsthand experience with the efficacy and ethics of these tools as applied in practice. Students could use generative AI for a wide array of clinical tasks, including legal research, drafting pleadings, motions, and other documents, communicating with clients, and planning for meetings, depositions, and court proceedings. Instructors can create AI-based simulation exercises to prepare students for client interactions. For example, the AI can play the role of a client in a typical clinic practice scenario, and the student can rehearse asking questions and providing advice and information. Students could also use generative AI during client meetings, where the AI's efficiency can help students respond in a timely fashion while taking the time to carefully validate AI outputs. Clients could also be encouraged to create their own AI-generated documents, which could be refined and improved by clinic students.

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148. Choi & Schwarcz, *supra* note 1, at 34.

149. *Id.* at 25.

150. Amy Jane Longo et al., *Bar Association Begin to Tackle AI & the Practice of Law*, BLOOMBERG LAW (Dec. 2023), <https://www.bloomberglaw.com/external/document/XB5VKSPG000000/legal-profession-professional-perspective-bar-associations-begin> (describing bar committees' discussions of ethical regulation of generative AI) [<https://perma.cc/289G-L5NY>].

Clinics may also be well positioned to help develop legal AI in a way that enhances access to justice. To date, most legal AI is aimed at elite law firms.<sup>151</sup> If the market is not producing applications that explore AI's potential to make legal services more accessible, law school clinics can help to address this gap. For example, students in Suffolk's Legal Innovation & Technology Lab have already been instrumental in developing technology for nonprofit organizations and other Suffolk clinics, including tools that assist in pro se representation and eviction defense.<sup>152</sup> Clinics can help ensure that these tools align with the standards of legal ethics. The most prominent automated legal aid platform currently available, DoNotPay, has been the subject of ethical controversy, highlighting the need for cautious implementation.<sup>153</sup> Clinics can provide a public-interest voice in the development of legal AI and in weighing its benefits and risks. They can also advocate with bar regulators for the appropriate regulatory innovations that may be needed to facilitate (and perhaps limit in some respects) the rise of automated legal aid applications.<sup>154</sup>

## B. How Should Generative AI Be Incorporated in Legal Education?

### 1. Assignments and Exercises

Some legal educators have taken an early step toward AI-integrated teaching by having students evaluate AI-generated legal writing. Typically, the instructor would bring to class a ChatGPT-generated response to a legal question relevant to the course content. Students would then be tasked with identifying errors, omissions, and other weaknesses in the AI's writing. As a variation on this exercise, the AI output can be produced as a live demonstration. For example, an instructor at the University of Wisconsin Law School led a class where ChatGPT was first asked to list the elements of a claim for age discrimination under Wisconsin law, then cite leading cases and suggest defenses, and then draft a complaint to the Wisconsin Equal Rights Division.<sup>155</sup> At each step of the process, students assessed and discussed the AI outputs. For a variation of this exercise, students can be asked to compare their own writing to an AI-generated response to the same question. Or students can be asked to rank different AI responses to a question, for example, from most incorrect to most correct.<sup>156</sup>

Educational scholars emphasize that having students assess AI-generated writing can offer significant learning benefits.<sup>157</sup> This literature recommends

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151. See discussion *supra* Part I.

152. *Legal Innovation & Technology Lab*, SUFFOLK L. SCH., <https://suffolkclitlab.org/> [http://perma.cc/WPN3-ZJZS].

153. See Bobby Allyn, *A Robot Was Scheduled to Argue in Court, Then Came the Jail Threats*, NPR (Jan. 25, 2023), <https://www.npr.org/2023/01/25/1151435033/a-robot-was-scheduled-to-argue-in-court-then-came-the-jail-threats> [https://www.npr.org/2023/01/25/1151435033/a-robot-was-scheduled-to-argue-in-court-then-came-the-jail-threats].

154. See Simshaw, *Ethical Issues in Robo-Lawyering*, *supra* note 5, at 182.

155. *Law Students Assess Pros and Cons of ChatGPT as a Legal Research Tool*, WISBLAWG (Jan. 23, 2023), <https://wisblawg.law.wisc.edu/2023/01/23/law-students-assess-pros-and-cons-of-chatgpt-as-a-legal-research-tool/> [http://perma.cc/2WB5-RTZ8].

156. Mollick & Mollick, *supra* note 79.

157. See Dai et al., *supra* note 67, at 88.

that teachers introduce these exercises with transparent communication about learning objectives, followed by student feedback and reflection on the use of generative AI and its limitations.<sup>158</sup> Students can also be tasked with taking the AI-generated writing as a first draft and then making it their own through revision. This workflow reflects what may soon become a typical use of generative AI in legal practice, where lawyers may begin by asking AI to produce a draft and then working to validate and refine it.

An instructor can also bring generative AI into the classroom through lawyer-client simulations, as discussed in Part II, where the AI played a client and the class collectively played the lawyer inquiring about the factual basis of the client's nuisance claim. The class can then ask the AI to produce variations on this fact pattern or suggest a similar hypothetical in a very different factual context, such as moving from rural neighbors with a bright security light to apartment neighbors with loud music. By producing immediate and detailed changes to the fact pattern, the AI can facilitate the key educational goal of training "transfer," that is, it can help students apply knowledge to analogous contexts to better understand the underlying concepts.<sup>159</sup>

An alternative to this simulation exercise would be to have the students prompt the AI to write a story, perhaps in the style of an essay exam question. The students can volunteer different facts to be used in the story, while the instructor inputs the prompts in full view of the class. The facts should reflect key points of legal doctrine. For example, under nuisance law, this would include the extent and character of the harm, the social value of the uses, and the cost and fairness to either party of lessening the harm. The class can then analyze the story and ask the AI to regenerate it using modified or additional facts.

For a more creative version of this exercise, the AI can be tasked with producing a poem, song, image, or video based on the facts suggested by students. These artistic outputs may open up different questions or different ways of thinking about, synthesizing, and remembering the doctrine under study. The interactive nature of these exercises can be highly engaging, bringing the class together to collaborate in the creation of prompts and then reacting collectively to the AI's often humorous and unexpected artistic renditions. To maximize learning benefits, instructors should actively guide discussion around core doctrinal lessons and other learning goals, avoiding the potential for entertaining but off-topic digressions.

The exercises proposed thus far, where the instructor controls the AI interaction, offer considerable advantages. In their preparation for class, instructors can experiment with different prompts to understand how the exercise might best fulfill learning objectives and avoid tangential or low-quality AI outputs. They can design initial prompts to be inputted before the class exercise begins, which direct the AI to keep a focus on learning objectives and avoid inappropriate language. This instructor-led approach also minimizes any burden on students, eliminating the need for them to learn new software. For instructors who

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158. Kostka & Toncelli, *supra* note 81, at 9 tbl.2 (showing how students create a Venn diagram to compare their knowledge with ChatGPT output, focusing on similarities and differences).

159. See Becheikh et al., *supra* note 80, at 15; Mollick & Mollick, *supra* note 78.

favor a minimal integration of generative AI, these exercises can offer an occasional and brief departure from usual teaching methods.

But the greatest value from an AI-integrated curriculum may come from putting emerging legal AI tools directly in the hands of students. One of the central findings of the pedagogical experiment discussed in Part II was that first-hand experience is crucial for helping students understand the practical value of this technology and correcting their misunderstandings about AI's legal capabilities. As students employed generative AI in their class assignments, they described moving from initial awe to disappointment, followed by a more pragmatic appreciation for how these tools can assist in their work.<sup>160</sup>

Instructors who mandate the use of generative AI may wish to provide a brief training on legal AI tools, particularly if students have not previously received such instruction. This training could be conducted by the instructor or an outside speaker, supplemented by resources for self-study.<sup>161</sup> Some educators have provided students with guidelines to enhance the effective use of AI tools. An example is a "ChatGPT learning code," which encourages students to hypothesize about how AI might respond to a prompt, reframe prompts, and then validate outputs.<sup>162</sup>

For writing assignments, instructors can direct students to use generative AI at distinct stages in the writing process, including outlining, drafting, and revision. At any of these stages, students should be encouraged to iterate with the AI application rather than accepting its first response. Instructors can ensure that students engage in meaningful dialogue with the AI by requiring students to summarize this dialogue or even submit their full record of prompts and AI responses.

One approach to writing assignments would be to have students create their own outlines, to ensure that they think through legal issues on their own before being assisted by AI. Students could then turn to the AI application for suggestions for improving the outline, including help with brainstorming arguments and counterarguments. The students could then ask the generative AI to create a draft based on the outline.

Generative AI can also be a powerful aid in the revision process. Students can request feedback on their writing, identifying issues with grammar, structure, and argumentation. Perhaps the greatest benefit to student writing, based on the capabilities of current generative AI, comes from the AI's capacity for instant brainstorming and proposing alternate phrasings. Students can prompt the AI to

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160. Choi & Schwarcz, *supra* note 1 (describing a one-hour online training on the effective use of GPT-4 for legal analysis). *Cf.* Wilkins, *supra* note 20 (describing a leading law firm's program to train young associates in prompt engineering, including short videos, assessments, practical exercises, and live feedback from expert instructors).

161. *See, e.g., Prompt Engineering*, OPENAI, <https://platform.openai.com/docs/guides/prompt-engineering> [<https://perma.cc/4947-T7SQ>]; Choi & Schwarcz, *supra* note 1, at 12, 13.

162. Jack Dougall, *Help Students Think More Deeply with ChatGPT*, ISTE (July 10, 2023), <https://iste.org/blog/help-students-think-more-deeply-with-chatgpt> [<https://perma.cc/C2E8-KE9E>] (describing a "ChatGPT learning code" reminding students to "converse" with the AI rather than treating it like a search engine, "hypothesize" by predicting responses and then seeking to identify errors, and "adapt" by iterating and reframing questions to ChatGPT).

refine rough drafts of sentences, paragraphs, or even full papers. The students can ask for several options, selecting the most suitable AI-generated text or creating their own variant based on the AI's suggestions.

Or this feedback process could be reversed. Some educators have described an exercise where the student plays the role of the teacher providing feedback to the AI (playing the role of a student) on the AI's writing.<sup>163</sup> This approach aligns with research indicating that teaching others is an effective way to solidify one's own understanding.<sup>164</sup> For example, an instructor might give students a standard initial prompt to submit to the AI application such as the following: "Write an essay for me about [class concept]." This prompt could be accompanied by guidelines about the style and structure of the essay.<sup>165</sup> Students, in their role as the AI's teacher, would then offer the AI detailed feedback and suggested revisions. For assessment of the exercise, students would submit to the instructor their prompts, drafts, feedback, and final AI-generated essay.<sup>166</sup>

These exercises that put AI tools in the hands of students may help foster more personalized learning. Educational research on ChatGPT recommends that students engage with generative AI as an "interlocutor" in their studies, for example as a debate partner or tutor who provides feedback and illustrations of concepts. If students are able to use generative AI effectively in their preparation for class, this might aid in fostering a "flipped classroom" dynamic, where students come to class with a firm understanding of the basic course materials so that class time can be spent on more advanced topics. Generative AI can help overcome a key obstacle to flipped classrooms, which is that pre-class learning is traditionally difficult for students to accomplish on their own.<sup>167</sup>

In the near future, a promising avenue for AI-integrated legal education may involve "adaptive learning systems," which adjust to an individual student's learning pace and style.<sup>168</sup> For example, Khan Academy has taken the lead in developing these systems, including a chatbot tutor ("Khanmigo") covering a wide range of subjects, although not (yet) covering typical law school subjects.<sup>169</sup> OpenAI also provides instructions for users to create their own tailored AI tutors powered by GPT-4.<sup>170</sup> These instructions advise the AI tutor to

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163. See Mollick & Mollick, *supra* note 79, at 6 (describing an exercise where students are assigned to iterate with a generative AI application advising the AI on how it can improve its writing, and then submitting to the instructor "the prompt, the first essay, all the suggestions for improvement you gave the AI and the final essay").

164. *Id.*

165. *Id.* at 7 (These guidelines included style suggestions, like varying the length of sentences and structuring suggestions, such as including "an introductory paragraph with a thesis statement, a body with examples, good transitions from one paragraph to the next, and a final closing paragraph summarizing the essay.").

166. *Id.* at 6.

167. Chung Kwan Lo & Khe Foon Hew, *A Critical Review of Flipped Classroom Challenges in K-12 Education: Possible Solutions and Recommendations for Future Research*, 12 RSCH. PRACT. TECH. ENHANCED LEARNING, 2017, art. no. 4, at 1.

168. Baidoo-Anu & Ansah, *supra* note 69, at 56.

169. See KHAN ACADEMY, <https://www.khanacademy.org/> (last visited Mar. 24, 2024); Singer, *New A.I. Chatbots*, *supra* note 128.

170. OpenAI, *Teaching with AI*, OPENAI BLOG (Aug. 31, 2023), <https://openai.com/blog/teaching-with-ai> [<http://perma.cc/268A-9UJX>].

ask students what they want to learn, provide “explanations, examples, analogies” and other responses tailored to the student’s “learning level and prior knowledge,” and to take a Socratic questioning approach to “help students generate their own answers.”<sup>171</sup> Law students can further adjust how their AI tutor functions, for example by using OpenAI’s customizable GPTs.

AI tutors may hold great educational potential, though empirical research is needed to examine their ability to provide sufficiently accurate legal information for instructional purposes. In the near future, we may see the development of commercial AI tutoring applications designed specifically for legal education. Students could be encouraged or even required to use such tools in their legal studies. This could prove a powerful supplement to traditional pedagogy. It is also possible that the potential affordability and personalized instruction offered by a legal AI tutor could disrupt and threaten the conventional model of human-led J.D. education, which is often costly and less personalized. Consequently, it may be prudent for legal educators to teach in collaboration with AI tutors, and to demonstrate that this hybrid (or human-machine-cyborg) teaching model provides the highest quality legal education.

Integrating generative AI tools in legal education, through the methods outlined above or others, can serve as a springboard for class discussions about AI’s role in the legal profession. Students can engage in critical reflections on the technology’s capabilities and limitations, as well as ethical pitfalls. Instructors can assign readings or bring in guest speakers to discuss how lawyers are using emerging AI tools. These conversations can also provoke deeper contemplation about the future of AI, addressing the widespread student uncertainty and anxiety about how AI might alter or displace the work of lawyers. As discussed in Part I, legal educators should “teach to the uncertainty,” encouraging students to adopt the forward-looking but uncertain mindset of a forecaster, while avoiding the tendency to dismiss or overhype future AI advances.<sup>172</sup>

## 2. Assessments

One of the most pressing issues for legal educators is whether to permit generative AI in assessments, such as exams, papers, and other assignments. Instructors can take a wide range of approaches to this issue, including efforts to find a golden mean between a fully permissive policy and a fully prohibitive policy. For example, some instructors may permit the use of generative AI under specific circumstances and for specific assignments but not others. Thus, a syllabus informs students when and how AI tools can be used. Instructors might take a segmented approach, authorizing the use of generative AI for only some segments of an assignment. For instance, AI might be permitted during an initial brainstorming process when creating an initial outline, but expressly prohibited during drafting and revision. Or the policy may permit consulting with AI but not copying text directly from an AI output into the student’s own work.

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171. *Id.*

172. I owe gratitude to Drew Simshaw for introducing this phrase when commenting on this paper at an AALS workshop.

Some educators have permitted students to use generative AI on the condition that it is properly acknowledged and cited. This approach roughly mirrors the policies of some judges, who require lawyers appearing in their courts to disclose the use of text-generating AI.<sup>173</sup> A parallel trend can be seen with academic journals that have required explicit acknowledgement of applications like ChatGPT.<sup>174</sup> Class policies under this framework could ask students to share their interaction with the AI application, including their prompts, the AI's outputs, and how the students incorporated those outputs in their writing. For some applications (including ChatGPT), this can be accomplished very conveniently by exporting the full user-AI dialogue. Instructors can also offer guidance on the citation format, such as a requirement that citations include the name of the AI tool, the date of the AI interaction, and the wording of prompts.

Requiring students to document their use of generative AI could enhance academic integrity by providing instructors with a clear delineation of the AI's contribution and the student's contribution to a graded assignment. This approach may help foster a more process-based approach to assessment, as the instructor would gain a window into the student's thinking process along the way to the final product. This form of assessment may also help to ensure that students iterate with the AI, rather than relying on an initial AI output, because the students would face the accountability of submitting their AI dialogues to the instructor. Absent a requirement that students detail their AI interactions, an instructor might unwittingly assess, grade, and provide feedback on works that were entirely AI-generated with little student input.

Although requiring students to acknowledge the use of AI may hold great potential benefits, practical challenges will arise as generative AI becomes increasingly intertwined with the everyday technological tools, including legal research, internet search, and word-processing applications. As this technology becomes more ubiquitous, it may be more analogous to the air that students breathe rather than a single application (e.g., ChatGPT) that students might consult from time to time. Asking students to cite every step in their process that involved generative AI, as this technology permeates routine functions like typing in Microsoft Word or searching for case law in LexisNexis, might prove impractical. For example, if AI tools provide advice or automate revisions without any prompting from the student (e.g., Grammarly, which currently operates as an add-in in Microsoft Word), it may grow difficult or tedious for the student to document these interactions.

Since the release of ChatGPT, some instructors have proposed the idea of "AI proofing" their exams. One such strategy involves devising exam questions that are tailored to the specific course content presented by the instructor. For

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173. See, e.g., Order on Artificial Intelligence at 2, *Atlas Power LLC v. United States*, No. 1:23-cv-00084-SAV (Ct. Int'l. Trade June 8, 2023), ECF No. 13 (requiring lawyers to disclose "text drafted with the assistance of a generative artificial intelligence program").

174. See, e.g., *Information for Authors*, PNA NEXUS, <https://academic.oup.com/pnasnexus/pages/general-instructions> [<http://perma.cc/4JP8-ATD2>] ("Use of artificial intelligence (AI) software, such as ChatGPT, must be noted in the Materials and Methods (or Acknowledgments, if no Materials and Methods section is available) section of the manuscript and may not be listed as an author.").



example, an exam question could ask about a particular class discussion or a distinctive theoretical framework used by the instructor, which is not in the large language model's training data. However, this approach may inadvertently play into the strengths of generative AI. As already noted, researchers have shown that GPT-4's highest performance on law exams (in the A- to A range) comes from "grounded prompting," where the AI is given teaching notes as a reference when answering questions.<sup>175</sup> Given the increasing context length available for consumer generative AI applications, students can input an extensive portion of class notes, including verbatim transcripts of what was said in a class, or a full outline of a course. Grounded in these background materials, a generative AI application may give especially strong exam answers.

Another AI-proofing strategy would be to exploit current limitations of generative AI, such as its potential lack of access to legal research and its struggles with complex legal reasoning. But these efforts aim at a moving target due to the rapidly evolving nature of legal AI technology. Already, some suggestions for this form of AI-proofing appear to be obsolete, such as framing exam questions around recent or relatively obscure cases that are not in the AI training data.<sup>176</sup> This approach may be undermined by the development of applications that provide large language models access to world-leading legal research databases (e.g., Casetext's CoCounsel and Lexis+ AI).

Perhaps a more promising approach is to craft exam questions that surpass the legal reasoning capabilities of generative AI, although instructors relying on this approach should verify that the leading legal AI applications—in an ever-changing field of legal technology—cannot provide a high-quality exam answer with minimal student contribution. This verification process would be greatly aided by continued empirical research on generative AI's performance in law exams, in the exemplary manner of studies led by Professors Jon Choi and Daniel Schwarcz in the first year of ChatGPT.<sup>177</sup>

For instructors who deeply integrate generative AI in their teaching, designing more difficult exams may serve another function in addition to AI-proofing. The educational literature reviewed in Part IV suggests that teaching with generative AI can lead to more sophisticated class discussions covering more advanced material. Referencing the analogy to the initial reception to calculators within mathematics education, law teachers might consider allowing students to use generative AI as an aid in basic reading, research, and writing tasks, thereby elevating the in-class focus to the equivalent of more advanced calculus. It remains to be seen if these findings from educational research are applicable in the context of legal education. If so, law teachers can accordingly shift their grading criteria upward with a greater focus on the factors that traditionally distinguish the top exams in a law school class, such as quality of argumentation and nuanced understandings of complex doctrines.

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175. Choi & Schwarcz, *supra* note 1, at 16.

176. See Marjan Ajevski et al., *ChatGPT and the Future of Legal Education and Practice*, 57 LAW TCHR. 352 (2023).

177. See, e.g., Choi & Schwarcz, *supra* note 1; Choi et al., *supra* note 1.

Instructors who permit generative AI in exams and other assessments should establish a clear AI policy. Ideally, this should be promulgated from the beginning of the term in the course syllabus, detailing the conditions under which AI is permitted and the manner in which the use of AI will be assessed for grading purposes. It is essential to define the contexts in which these tools can be used. Students should be reminded that they are responsible for the accuracy of their work, with guidelines about citing AI applications. Instructors may also wish to caution students against sharing any identifiable information or sensitive data when inputting prompts. Students can be encouraged to review and understand any AI application's terms of use, especially regarding data privacy, to prevent unintended storage or misuse of their information.

For instructors who opt to ban student use of generative AI for some or all assessments, this may require a traditional in-person, closed-network exam format. As discussed in Section V.E, any format that stops short of blocking access to the internet may present students with a great temptation to use generative AI in violation of restrictions. Further measures, such as confiscating students' phones, could help prevent AI access, where a student might otherwise surreptitiously run an AI application on a phone or use the phone as a "hotspot" to provide internet access to a computer. An even more comprehensive safeguard would involve video proctoring.<sup>178</sup>

These protective measures may prove inadequate as the technology advances and students gain new ways to access generative AI, which may include, for example, future developments in augmented reality embedded in smart glasses or smart contact lenses, new means of connecting student computers to the internet in spite of restrictions, or AI that does not rely on cloud computing. Moreover, extensive policing of student behavior during exams may promote an atmosphere of mistrust among students. Perhaps the only unassailable method of preventing AI use, without resorting to extreme surveillance, would be to give either handwritten or oral exams. Most faculty are unlikely to desire a return to handwritten exams due to the illegibility of student writing. Oral exams, as practiced in many European universities, can provide the instructor a direct opportunity to inquire about each student's depth of knowledge, understanding, and ability.<sup>179</sup> But instructors may consider this approach overly time-consuming and worry that it shifts focus away from legal writing, a crucial skill for legal practice and preparation for the bar exam.



Generative AI has already shown impressive legal capabilities. The near consensus among students and faculty surveyed for this Article is that law schools should begin adapting now, ensuring that students learn to use and critically evaluate the AI applications that are rapidly becoming a standard feature

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178. Ryznar, *supra* note 120.

179. See Allison S. Theobald, *Oral Exams: A More Meaningful Assessment of Students' Understanding*, 29 J. STAT. & DATA SCI. EDUC. 156 (2021); András Jakab, *Dilemmas of Legal Education: A Comparative Overview*, 57 J. LEGAL ED. 253 (2007).

of legal practice. Educational scholars have identified a wide range of innovative pedagogical uses for this technology. Drawing from these perspectives, this Article has advocated for the integration of generative AI in legal education, citing a number of factors including preparing practice-ready graduates, improving legal pedagogy, enhancing equity, and inviting students into broader discussions about the changing legal profession that they will inhabit.

However, there is considerable room for debate about the specific courses and assignments where generative AI is most appropriate. This Article is an early step in a larger conversation that is just beginning. Legal educators should continually update their views as the technology develops and new insights are gained from the experience of teaching with generative AI. It may be prudent for administrators to permit individual faculty members to set their own course-specific AI policies.<sup>180</sup> This could allow law schools to somewhat hedge on the question of AI's proper role in the legal curriculum, as some faculty will maintain traditional pedagogies while others draw more heavily on emerging technology. The resulting diversity of teaching methods could serve as a laboratory in the collective effort to find best practices for teaching law in the age of generative AI.

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180. Some institutions have set a default policy regarding student use of generative AI, while noting that faculty are permitted to deviate from the rule. See Karen Sloan, *University of California Berkeley Law School Rolls Out AI Policy Ahead of Final Exams*, REUTERS (Apr. 20, 2023), <https://www.reuters.com/legal/transactional/u-california-berkeley-law-school-rolls-out-ai-policy-ahead-final-exams-2023-04-20/> (describing the Berkeley Law default policy forbidding students from using generative AI “for any purpose in an exam situation” and “to compose any part of [a] submitted assignment”).